

Another point which I have not been able to follow is that although we have got what is known as the Armed Constabulary in Assam, there is, however, no such special Act for them. It is regulated by the Act of 1888. Has this been purposely omitted, behind by back or without the knowledge of the Members of this House? I want to be enlightened on this point: why there is no State Constabulary Act in Assam or whether the Bengal Act is followed there or whether that omission has been purposely made in this Bill or there is some other reason for doing so. With these words I support the motion.

श्री नन्द लाल शर्मा (सीकर) :

उपाध्यक्ष महोदय, मेरा निवेदन है कि मैं इस पर कोई लम्बा चौड़ा भाषण देने वाला नहीं हूँ। केवल एक आध शंकायें विद्यमान हैं उनको मैं स्पष्ट करना चाहता हूँ। सभी सज्जनों ने जितने भी यहां पर हैं अपने अपने भाषण दिये हैं और हमारे माननीय गृह मंत्रों महोदय को साथ लेकर, केवल डिसिप्लिन, अनुशासन, शब्द पर ही अपना भाव रखा है। परन्तु इस में अनुशासन की तरह एक उत्तरदायित्व भी विद्यमान है अर्थात् लाइबिलिटी। एक पुलिसमैन के दूसरे प्रान्त में जाने पर कितनी ही प्रकार की लायबिलिटी हो सकती है। उसका दायित्व साधारण सामाजिक क्षेत्र में रहे वह सिविल लाइबिलिटी रहे, डिपार्टमेंटल लाइबिलिटी रहे, यह कई प्रकार की उस की लाइबिलिटी हो सकती है। और इन सब के सम्बन्ध में यह कहा जा रहा है कि उस पर अपने प्रान्त का, अपने प्रदेश का जो कानून है वह लागू होगा। इस सम्बन्ध में एक विचार करने की बात यह है कि यदि उस ने वहां के नियमों के अन्तर लाइबिलिटी स्वीकार कर ली अब जो सम्बन्ध दो व्यक्तियों के बीच में है उस के लिए एक व्यक्ति को तो कानून लागू होगा उस प्रदेश का और जो पुलिसमैन दूसरे प्रदेश से चल कर वहां कार्य करने गया है उस पर कानून लागू होगा अपने प्रदेश का। ऐसी अवस्था में दो कानूनों में एक के

अधिकार का और दूसरे के उत्तरदायित्व का जो आपस में मत भेद होगा उसका समाधान गृह मंत्री महोदय कर दें यही मेरे मन में शंका है। वैसे तो मैं जानता हूँ कि इस में न कोई अधिकार देने की बात है और न अधिकार लेने की बात है। एतावत इस बिल में कोई विरोध नहीं है। गृह मंत्री महोदय इस बात को स्पष्ट कर दें।

Dr. Katju: Mr. Deputy-Speaker, I have nothing to add. I suggest that the Bill be passed without any further delay.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

#### PREVENTION OF CORRUPTION (SECOND AMENDMENT) BILL

The Minister of Home Affairs and States (Dr. Katju): I beg to move:

"That the Bill further to amend the Prevention of Corruption Act, 1947, be taken into consideration."

Mr. Deputy-Speaker, in my name stood, when we started with this legislative business, five Bills. I thought all of them were of an innocuous description. We have dealt with three, two remain. This is the fourth one and the fifth, I hope, will also have an equally satisfactory passage.

This Prevention of Corruption (Amendment) Bill aims at having some amendments to the parent Prevention of Corruption Act (Act II of 1947). The amendments are three or four in number. I shall tell the House as briefly as I can the nature of these amendments. One amendment which is sought to be introduced in this Bill is this. Under the parent Act power to investigate was given to the Deputy Superintendents of Police. It is a cognizable offence and normally any police officer in charge of a police station can start an investigation, but Bakshi Tek Chand Committee report when going into it thought that it was desirable that the senior police officer should do it, and in 1947 the Legislature had thought it fit that the police officer starting investigation should be of the rank of a Deputy Superintendent. In actual practice it was found that it caused some obstruction in the way of the Special Enforcement Branch

[Dr. Katju]

which has been established for taking cognizance of these matters throughout India. Their staff is not excessive and they have got very few Deputy Superintendents of Police. This matter was gone into and Bakshi Tek Chand Committee report has suggested that the police officers empowered to start investigation might well be inspectors of police, fairly senior inspectors, specially empowered in that behalf and they might be entrusted with the task of investigation into these cognizable offences. That is one amendment which is sought to be introduced in this Bill.

The other amendment sought to be introduced is this. In the Presidency town of Calcutta there are no police officers of the designation of Deputy Superintendents of Police. There they have got officers known as Deputy Commissioners of Police or Assistant Commissioners of Police. So, to fill that lacuna it is being provided that in such areas the police officer competent to start investigation shall be those officers.

Then the House has, under the Criminal Law Amendment Bill, created a new offence under section 165A to deal with bribe-givers. In the main Prevention of Corruption Act, hon. Members would recollect, the Act provides for a new rule of evidence, that is to say, where something is offered to an officer which is, having regard to its bulk or quantity or value, of an enormous description, then the presumption may well arise that it was intended to be a bribe unless and until an explanation to the contrary was forthcoming from the officer concerned. Now inasmuch as we have enacted this section 165A which is calculated to bring into the net also bribe-givers the same sort of presumption should apply to these people and therefore this Bill provides that if the accused who is charged with giving a bribe is proved to have offered something, say Rs. 10,000 or Rs. 50,000, to an officer, entirely inconsistent with his position or entirely inconsistent with the purpose for which the sum was offered, the presumption should be that it was intended to be a bribe unless he gave a proper explanation to the contrary. That is to say, the presumption which was to apply under the Act to bribe-takers should now also be extended to bribe-givers.

One of the learned Judges of the Punjab High Court has held that a new offence has been created which is called an offence of criminal conduct. The House would recollect that if somebody is found to be in possession of enormous

property entirely inconsistent with his resources, the presumption would be that he has been guilty of reprehensible conduct till he gave an explanation to the contrary. The Punjab High Court expressed the view that that virtually resulted in the repeal of section 409 of the Indian Penal Code. I do not know by what process that conclusion was reached. Section 409 refers to a criminal breach of trust. So a section has been introduced in this Bill to say quite definitely that that is not so and in no way is any section of the Penal Code affected by this new offence.

Lastly the House would recollect that in section 6 of the parent Act provision was made as to the sanction-giving authority. There has been some doubt raised as to the practical operation of that section and now it is provided that wherever any doubt arises as to the sanction-giving authority the authority should be the one which would be competent to remove the public servant from the office at the time when the offence is deemed to have been committed.

These are the four or five amendments which this Bill seeks to introduce into the Prevention of Corruption Act. Two of them are caused by the enactment of the new section 165A, another because of the difficulty in finding sufficient Deputy Superintendents of Police to start these investigations and two others of a very minor nature.

I move that the Bill be taken into consideration.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Prevention of Corruption Act, 1947, be taken into consideration."

Shri Raghbir Sahai (Etah District—North-East *cum* Budaun Dist.—East): I rise to offer my congratulations to the hon. Home Minister and through him to the Government for having shown great keenness in suppressing corruption and bribery which are prevalent in our country especially amongst public servants. From the amendments that have been tabled in regard to this Bill I find that perhaps in this big House there is no opposition with regard to the object which this Bill has in view. The amendments are to the effect that the effectiveness of this Bill should be enhanced. But I submit that in order to judge the effectiveness of a Bill it is not sufficient simply to go through the statement of objects and reasons appended to the Bill. We

should see whether the Act has functioned effectively or not. My own impression is that the parent Act to which the present Bill is an amendment has not been functioning in an effective manner. If we peruse the Tek Chand Committee's report, we find that in most—or to be more correct—in many cases the prosecution launched by the Special Police has failed. The number of cases sent up for trial in 1951 was 242. Convictions took place only in 112 cases and the balance of 130 cases resulted in acquittal. That shows that the prosecution failed in those 130 cases. When the state of things is like that, we are led to doubt the effectiveness of the Bill. I do admit that by the present amendment its effectiveness will be increased to a certain extent, but I am afraid it will not be to the extent which Government or the hon. the Home Minister hopes for.

A number of changes have been effected in the previous Act in regard to prevention of bribery and corruption. For instance, a new offence called "criminal misconduct" has been created, and it has been provided that any person who habitually takes illegal gratification or who happens to possess resources or property disproportionate to his sources of income for which he cannot satisfactorily account shall be presumed to be guilty of criminal misconduct. But my point is: how are you going to prove that he is in the habit of taking bribes habitually.

**Mr. Deputy-Speaker:** That is not necessary. There is no question of habitual bribe-taking. Even individual cases are enough.

**Shri Raghurir Sahai:** The word "habitual" has been mentioned in the case of criminal misconduct. We are familiar with it in the Criminal Procedure Code. There it is specifically provided that in cases where a person is alleged to be habitually doing a criminal thing or committing an offence, evidence with regard to his general reputation can be offered. The Tek Chand Committee has recognised—and the shrewd lawyer that the hon. the Home Minister is, I am sure he will also recognise—that it is very difficult to prove offences committed under Section 161 or 165 or 165A. The Criminal Law Amendment Bill adopted this morning goes to increase the powers of the court and make the Act more effective, but still I feel that unless and until you provide that evidence can be adduced in regard to the general reputation of that person, this legislation will not be the success we desire it to be.

In this connection, I would like to draw the attention of the House to certain remarks made by Shri A. D.

Gorwala in his Report on Public Administration. On page 16, he recognises that "it is often difficult to produce sufficient proof of corruption to obtain a conviction in a court of law and yet there may be strong and reasonable suspicion coupled with persistent public talk. Here too effective action is essential." He goes on to say:—

"It should take the lines suggested in the extract below from Chapter XV of the Hyderabad Economy Committee Report:

'Corruption, it is said, is often difficult to prove. All the more reason why there should not be the least hesitation in investigating every matter in which there is ground for complaint. Punishment, too, for corruption should be exemplary, the least being dismissal from service. There is, in this matter of corruption, one clear criterion which can be of great assistance in assessing the possibility or otherwise of its existence. Reputation can be taken as almost conclusive. It may be said of an officer who has not that particular fault, that he is harsh or rude or lazy, but it may be laid down almost as a rule that, over a period, it will not be said, of an officer who is honest, that he is dishonest. Consequently, when a strong aroma of corruption has gathered round an officer, very rarely will it be wrong specially and thoroughly to investigate his action, his financial position and the financial position of such of his relatives and close friends as seem to have acquired a somewhat large share of the good things of the world. No such officer should, in any case, be kept in any position of responsibility or influence.'

With your permission, I would read the last sentence also:—

"There is very little doubt that corrupt public servants often escape detection because the machinery for detection is not sufficiently able and wide awake."

So, having before us the observations and remarks of the Tek Chand Committee to the effect that the previous Act was not as effective as the Government wished it to be, and also bearing in mind the remarks made in the Gorwala Report with regard to the prevention of bribery and corruption and the significant suggestion that in such cases evidence regarding general reputation of the officer concerned should be taken, I suggest that

[Shri Raghubir Sahai]

the hon. Minister will consider making a suitable provision in this Bill. My humble submission is that it should be permissible for the prosecution to adduce evidence with regard to the general reputation of the public servant who is charged with the offence of either taking bribe or who has accumulated property disproportionate to his resources. I do not wish to be very long in my remarks, but I would request the hon. Minister to take the suggestion seriously.

**Mr. Deputy-Speaker:** It has been brought to my notice by Mr. Ramaswami that the inclusion of section 165A here is a little too premature. It is only just now that this House passed and made 165A a substantive offence. The Council of States has yet to pass it; it has to receive the assent of the President; then alone will it become law. Till then I am afraid this Bill has to stand over.

**Dr. Katju:** I would like to leave this matter entirely in your hands. I should have thought that both these connected Bills might go to the Council of States. But if you think that there should be a substantive section 165A almost of a cast iron nature, then these sections cannot be taken into consideration.

**Mr. Deputy-Speaker:** After all it is no good assuming that this will be accepted by the Council of States. Are we to pass legislation which will become infructuous? The President may not give assent to it—then there will not be section 165A.

**Dr. Katju:** Then, it may stand over, Sir.

**Mr. Deputy-Speaker:** Then this Bill, will stand over for consideration to some other date, until after the other one is passed.

#### INDIAN TEA CONTROL (AMENDMENT) BILL

**Mr. Deputy-Speaker:** The House will now take up the Indian Tea Control (Amendment) Bill.

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** I beg to move:

“That the Bill further to amend the Indian Tea Control Act, 1938, be taken into consideration.”

It may be explained that the Indian Tea Control Act of 1938 has been brought into being pursuant to the In-

ternational Tea Agreement which was signed by the producing associations in India, Ceylon, Indonesia and Pakistan (or undivided India in those days) with the aim of equating the world supply to the world demand of tea in the interest of avoiding a serious situation which threatened the tea industry in the early thirties. The main object of the agreement was to regulate the acreage under tea cultivation and export of tea from a producing country. Recognising the usefulness of the agreement brought about by the co-operative effort of the producing interests, the Governments of the countries had lent support to the agreement and agreed to facilitate its implementation by means of necessary legislation. The legislation in the case of India was the Tea Control Act of 1938.

The Indian Tea Control (Amendment) Bill, which the House is now asked to consider, does not seek to amend the provisions of the parent Act, either by way of relaxation or tightening up of the provisions relating to regulation of acreage under tea cultivation or export of tea. The provision of this Bill merely seeks to amend such provisions of the parent Act as have been found to be administratively defective, judged by the experience gained during the course of the administration of the Act during the many years that have passed since 1938.

The Indian Tea Licensing Committee, to which is entrusted the administration of the majority of the provisions of this Act came to be constituted as far back as 1938 and has not been reconstituted till now. The tea producing interests in certain cases, namely, Assam Valley, Cachar district in Assam and Tripura, South India excluding Travancore-Cochin, Kangra, Dehra Dun and Bihar are required to return after election under section 3 of the Indian Tea Control Act three representatives as members of the Indian Tea Licensing Committee. The holding of elections for the purpose was considered very difficult if not impossible during the war and section 3 of the Act had, therefore, to be amended in 1943. As a result section 3(2) of the Act allowing the members of the Committee to continue to hold office for the duration of the war came to be incorporated. Such a provision apart from its being in the nature unnecessary has proved liable of being misused and that a member representing certain interests may cling to office even though the interest concerned may no longer wish him to continue as its representative. There is no gainsaying that the tea producing interests should be allowed to be repre-