

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Tariff Act, 1934."

The motion was adopted.

Shri T. T. Krishnamachari: I introduce* the Bill.

**STATE ARMED POLICE FORCES
(EXTENSION OF LAWS) BILL.**

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

"That the Bill to provide for the extension of disciplinary laws in force in any State relating to the armed police force of that State to members of the said force when serving outside that State, be taken into consideration."

Very few words are necessary in respect of this motion. The House is aware that in several States both in Part A and Part B, armed constabularies exist, and for their maintenance, discipline and various other matters there are statutes in existence. Recently when one State sent for the assistance of the armed constabulary in the neighbouring district (belonging to another State) the question has arisen as to how this loan of constabulary is to be governed, and this Bill provides that when any members of any armed constabulary force go elsewhere they would continue to be governed in relation to matters of discipline and other liabilities by their own laws. That is the object of this Bill. There is nothing else.

Mr. Speaker: Motion moved:

"That the Bill to provide for the extension of disciplinary laws in force in any State relating to the armed police force of that State to members of the said force when serving outside that State, be taken into consideration."

Dr. S. P. Mookerjee (Calcutta South-East): May I just ask one or two questions—I do not want to make any long speech.

What exactly was the provision of section 3 which is sought to be amended now? Secondly how will co-ordination be obtained if some portion of the police force working in a particular province is under the disciplinary jurisdiction of another authority? Does not the hon. Minister feel that it may lead to practical complications? Uptil now the practice has been that if any police force from one State is

sent to another State, then all the police forces in the latter State work under one disciplinary jurisdiction. How exactly will those details be worked out? Were there any practical difficulties in giving effect to the provisions of the law which have been in existence for the last sixty years, or is it that this demand has just been made on account of the old Indian States coming into the Indian Union? The hon. Minister may explain how this co-ordination will be obtained under the proposed amendment.

Dr. Katju: There would be no difficulty. The question arose in this way. The police forces were governed by their own laws. When they were lent, and they went outside, you had to amend the statutes in this way that either you provide that they would for as many days as they remained outside their own States be governed by some other laws, or you provide that they would be governed by their own laws. I am speaking, not with exact knowledge, but I imagine it is true that when Armed Forces go outside and go for assistance to other countries they continue to be governed by their own laws. That is my impression. But so far as this is concerned I do not think there will be any difficulty whatsoever because we have considered the matter and we thought that when these armed constables go elsewhere they should continue to be under their own officers—they are for purposes of service, subject to the direction of the other Inspector-General—but so far as the internal management is concerned, the observance of discipline and other things, they continue to be subject to their own officers. And there should be no difficulty in the working of this.

Shri Punnoose (Alleppey): I wish to make a few observations on this matter. The object of the Bill as stated by the hon. the Home Minister is that with regard to the armed police forces that are moved out from one province to another the laws of discipline of the particular force will govern them and not the laws of discipline of the State to which they go. That is what I understand.

In the first place there is no indication as to why this new extension has been sought for. What exactly has been the difficulty felt in the past and what have been the conditions that persuaded the Government to bring in this extension, have not been explained.

I would also request this House to take into consideration the whole mental attitude of our people with regard to these things. The forces

*Introduced with the previous recommendation of the President.

referred to in this Bill are known to every Indian: the Bengal Military Police, the Eastern Frontier Rifles, etc. Of course the Malabar Special Police is not included in the schedule. They have been very well known to our people, and their past is such a black past, such a repulsive past that any sort of extension or amendment or change with regard to these forces is always likely to be looked upon with very great suspicion. Probably due to the long years of generations of foreign rule in this country our people have that mental attitude and that mental climate in which they look with very great suspicion on anything that is likely to add to the powers of these forces. That is one thing.

Secondly, it is very clear that the Home Minister is bringing before this House a fairly large number of amendments, Bills, etc., for arming himself; for what, I do not know. He entirely denies that there is any sort of emergency here in this country today. He goes to the extent of losing his temper when.....

Mr. Speaker: Order, order. He should not make such remarks. He will be inviting something in return. It does not add to the dignity of the House.

Shri Punnoose: Yes; I withdraw. For example, the other day, when the Bill for the employment of the Navy and Air Force to disperse unlawful assemblies was discussed, he emphasised that there was no sinister motive behind that. But, what exactly are the circumstances that persuade the Home Minister to make this extension is not very clear. That is a matter on which I shall make some observations for clarification. In the Police Act of 1888, it is clearly stated that these forces that move from one province to another province will be governed by the discipline and the laws of the province to which they go. That is very clear. Here it is said that what is sought for is that those forces will be governed by their own rules irrespective of the province to which they go. What exactly is the result of this? That is the point on which clarification is needed. For example, the Bihar Special Police is taken to Hyderabad. Are we to understand that they will be under the discipline, and under the laws of that particular force and that the rules and discipline of the Hyderabad police force are not binding on them? If the answer is that they will be under their own rules and discipline, that is a very serious matter.

On 3rd April, 1951, when the Demands for the States Ministry were being discussed in this House, an hon. Member of the Congress party had this to say about the Special Police that was working in Hyderabad at that time:

".....but two more battalions of Armed Police have been brought from Bihar, for it is contended that all this is necessary to combat communism. It may be so. I can only express my fervent hope that the new battalions from Bihar will not live up to the unenviable reputation for brutality that has been established by armed units from other States, notably the infamous Malabar Police."

Of course, she had something good to say about the U.P. Armed constabulary.

Shri C. D. Pande: Repeat that also.

Shri Punnoose: What is relevant is the other thing. Any way, it continued:

If the armed police that is transferred to another State is going to be governed by its own discipline, what does it mean? The Bengal Police Act is here. It is stated there that a particular offence can be tried only by an officer of such and such rank of that particular police force. An armed police force is called in at a time when there is some emergency. The conditions will be abnormal. Whether the calling in of that force is justified or not, that depends upon the judgment of the authorities. At a time when abnormal conditions are prevailing, if the police force that is taken to that particular State is not under the control of the officers, of the Inspector-General of Police, of that particular State, if the Ministry for Law and Order in that State has no control over this force, what does it mean to the people of that State? That is what I ask. I believe it means a lot. There is no instance of a force moving out and serving in another province without giving rise to bad reputation. There is always a complaint, and that is natural, because these forces are strangers there. They do not know the conditions that exist there. They have no ties with the people there. With the result, that they move about with the temperament of an Army of occupation. On that occasion, if the officers of that particular State, if even the

[Shri Punnoose]

Ministry of Law and Order in that State have nothing to do, and have no control over these forces, it means that the people will be left at the mercy of those police forces. If my reading of the amendment or extension of the law is correct, I wish to oppose it very strongly, because that is adding to the miseries of the people. The Members of this House and the people at large have every right to expect from a Government that calls itself, national, from the Congress Government, a law disbanding all these Special police establishments. The National Movement has demanded it. With regard to the Malabar Special police force of one province shall not put forward by the National Movement for the disbandment of these forces. We should have at least expected an amendment that limits the power of these forces. At least we could have expected, and we should have expected that the Congress Government would say that the Special police force of one province shall not be taken out to another province. On the other hand, today, more extensive powers are demanded in fact, though in wording, it is not so. As such I strongly oppose this extension and call upon this House and appeal to this House to look very seriously into this matter.

Shri S. S. More (Sho'apur): May I rise to a point of order, Sir? It appears that by this piece of legislation, certain enactments which have application within the territorial limits of certain States, may be extended in their operation to another State. Let me take an instance. A contingent of the Bombay Special police is sent to Bengal. There is the Bombay Act applicable to this contingent. Will that Act get operational extension to Bengal? My submission is, can we validly do that sort of extension? The necessary result of this piece of legislation will be that sort of extension. We have got some personal laws. Wherever a Hindu goes, his personal laws pursue him. It appears in this case that the Government is committed to give a sort of a personal feature to the particular enactment which may be operative in that State. Can we validly do it?

Mr. Speaker: In this respect, while Mr. Punnoose was speaking, I looked into the provisions of the Bill and I wanted a clarification from the hon. Home Minister. He may say whether I am thinking on right lines. If I express that, perhaps, the point of order raised by the hon. Member Mr. More will also be disposed of on the

merits. Of course, that point of order can be disposed of without going into the question of merits by simply saying that so long as the legislation that is now proposed is within the competence of the Government of India, it certainly has jurisdiction to amend the laws of the whole of the Indian Union. The difficulty which he points out will not come in so far only as the legal jurisdiction of the House is concerned. That is not the principal point to my mind. He raises an objection on merits which also is the objection of Mr. Punnoose in another way. But I find that in line 16 the phraseology is that the members of the various Police Forces in different States "shall continue to be subject to the same laws in respect of discipline and liabilities as would have been applicable to them, if they had been discharging those functions within the State to which the said forces belong". So, I say this phrase "continue to be subject to" implies that, by being sent outside the territorial limits of the State, the laws of which have constituted that particular Police Force, he does not cease to be subject to those laws, though he will be serving some other Government and will also be subject to the discipline in another State not so far as service conditions are concerned, but so far as execution of orders given by that State are concerned, to the laws of the other State. That is how I feel about it. Am I right in that presumption? Because, the words are "continue to be subject to". It is not attempted to interfere with the laws existing in the parent State, nor is it an attempt to enforce those laws in the other State. The only question is that the personnel does not get free from its obligations, from its discipline in the original State.

Dr. Katju: That is true so far as it goes. The words are "in respect of discipline and liabilities". If he commits any offence in another State, of course, he will be liable to be punished. If there is any offence covered by the laws of that State, he will be punished.

Dr. S. P. Mookerjee: Before you give any ruling.....

Mr. Speaker: I am not giving a ruling.

Dr. S. P. Mookerjee: May I draw the attention of the Home Minister to one matter? In the Seventh Schedule to our Constitution, No. 80 in List No. 1 which is the Union List, is as follows:

"Extension of the powers and jurisdiction of members of a police force belonging to any State to

any area outside that State, but not so as to enable the police of one State to exercise powers and jurisdiction in any area outside that State without the consent of the Government of the State in which such area is situated;"

and the next is:

"extension of the powers and jurisdiction of members of a police force belonging to any State to railway areas outside that State."

That is unconditional. That is not relevant here. Thus if we desire to extend the powers and jurisdiction of members of a police force of one State to another, and enact a law for the purpose, it is only Parliament, because it is a Union List subject, which can legislate. From that point of view, this Bill is in order, but it is for consideration whether the clause mentioned here should not include some such phraseology as given in No. 80, viz., whatever is done must be done with the concurrence of the Government of the State concerned where a police force is being transferred for temporary use.

Mr. Speaker: That will automatically follow, because when the transfer is made, it will be at the request of that State; and again, the distinction which I feel still is that, by this Bill, the police force which is going to be imported into another State is not called upon to exercise powers and jurisdiction in that area which vest in that police force in pursuance of the laws under which they exercise powers in the original State. No. They will be there only for certain orders to be received and carried out by them, and they will be under the laws of the State to which they go. The only clarification which this Bill seeks to make, it seems to me, is that by the mere fact of being drafted for service in another State, they do not lose all the responsibilities that they have for discipline and other subjects as a force of the parent State.

Dr. Katju: That is so.

Shri S. S. More: As the House is being called upon to extend the area of certain enactments which are of a State nature to other States, shall we be entitled to go into the particular enactments which come to be extended if we pass this piece of legislation? Because, otherwise, we shall not be in a position to go into the particular merits or demerits of the enactments.

Mr. Speaker: The hon. Member will see that there is no case of extension

so far as I can see from the structure of this Bill. If he sees now, for example, the wording:

"The Central Government may, by notification in the Official Gazette, add to, or omit from the Schedule any enactment and on the publication of such a notification, the Schedule shall be deemed to be amended accordingly."

Now, that refers to.....No, that is a different provision. I am referring to.....

Shri S. S. More: I am not questioning the sovereignty of Parliament.

Mr. Speaker: Apart from the sovereignty of the House, I was just trying to find out the particular part which refers to the Schedules. There is a provision under Section 3 of the Police Act of 1888. I have not looked into that Act, but it appears to be a supervening clause, and it is possible and I am inclined to think that these various enactments that are mentioned in the Schedule perhaps run counter to the provisions of Section 3 of the Police Act. We are removing that Section. That is how I feel about the construction of the Bill. When the police force is obviously outside the State, the question that really arises is, whether the Police Act of that State should be considered to have extra-territorial jurisdiction when the Police force is outside the territory of that State. Obviously, it should be governed by the Police Act when it is outside so far as matters of discipline go. The hon. Minister even will bear me out. When it is outside the State limits, it is to be governed by the Police Act, but under its own constitution, it is not that the force is disbanded or ceases to be a force under the special Act by the mere fact of being drafted in another State. The police force continues to be under the same Act by which it was constituted in the particular parent State. A possible conflict may arise. Therefore, so long as the force is outside the limits of the parent State, then, so far as the inconsistencies go, it is necessary to say that, that Act will not apply in matters other than discipline, jurisdiction etc. That is how I believe the structure appears to be.

Pandit Thakur Das Bhargava (Gurgaon): Will there be then two disciplines, two liabilities, one in respect of the local Police Act and the other pertaining to the Act of the State from which the different forces come. Supposing he commits an offence, will he be subject to two penalties?

Mr. Speaker: I do not think it is that; but I think the Home Minister will be better able to explain. I have not studied the subject, but my impression is that it is much more to co-ordinate or avoid the conflict of the situation. It is not that there are two disciplines, two powers to be invested. No. There is some conflict between the duties of that police force and its discipline and all that, outside the State and inside the State; and in order to bring them into line, it may be necessary for the time being to suspend the operation of the discipline etc., in the parent State and still continue it for all substantive purposes. But it is for the hon. Minister to explain in greater detail.

Dr. S. P. Mookerjee: Sir, it will be better if the hon. the Home Minister looks into the Indian Police Act of 1888. So far as it appears to me, it is one-co-ordinated Act. In Section 2, it starts with the proposition that

"The Central Government may, by notification in the Official Gazette, create a special police district embracing parts of two or more provinces and extend to every part of the said district, the powers and jurisdiction of members of a police force belonging to a province specified in the notification."

Apparently, the object was that with regard to districts in two provinces adjoining each other, it is only the Central Government which may direct that the police force belonging to one province may go and work in the adjoining province.

Further, it is said that when such police officer goes to a province which is not his own, then, for all purposes, he takes charge of the areas which are to be under his control. That is subsection (iii). Then Section 3 lays down—as you have just indicated, it is sought to be amended—that they will be subject to the disciplinary jurisdiction of the province where they work for the time being. Thus, it is one complete and co-ordinated scheme that was contemplated in the Act of 1888.

Here all that we are doing is this—we are not altering the first two provisions; even now I suppose, if these police forces are required, the Central Government's permission will be necessary; we are also not altering subsection (iii), because when they go to a sister province, they will have to take charge completely of a particular area which may be allotted to them. The question put by my hon.

friend Pandit Thakur Das Bhargava is that when they go there obviously they will have to be subjected to the discipline of the authorities in that province. But so far as certain other matters are concerned, under the new Bill before us, we are declaring that they will be subject to the discipline of their parent province. This is a matter which requires some looking into, so that we may not pass a law which will be inconsistent with another Act of which may defeat the very object which the hon. the Home Minister may have in view.

Mr. Speaker: Let us hear what the hon. the Home Minister has to say

Dr. Katju: Sir, the Bill has been examined with great care by the Law Ministry, and legal advice has been obtained. It is not quite correct to say that an armed constabulary is only used for quelling disturbances, out of political considerations.

Dr. S. P. Mookerjee: Leave aside that matter.

Dr. Katju: As has been pointed out to me, there are the joint anti-dacoity staff, the enforcement staff consisting of forces of two or more neighbouring States, to check smuggling and to ensure strict observance of law in that behalf. Then there may be emergencies. All these armed constabularies have been established under special laws. The House will recollect that in this Police Act which was referred to just now, i.e. the Police Act of 1888, in paragraph 2 of that Article, these are called special police forces. It may be a matter of doubt whether this Police Act would be applicable to the armed constabularies because in respect of the armed constabularies, in every State, special laws have been passed. And as you were pleased to point out just now, in paragraph 2 it is said that 'armed force' means any police force constituted by any of the enactments specified in the Schedule. If now, armed constabularies at the present moment have been constituted in Bengal, Bombay, Central Provinces (Madhya Pradesh), Orissa, Rajasthan and the Uttar Pradesh, it may be that such constabularies may be constituted in other States later on. It is open to the Central Government to add the armed forces constabularies of those States also by a notification, to this article. The question arose viz., that when those people go to other States, a difficulty may arise. It may be argued that the Police Act of 1888 is not applicable to them, because they are armed constabularies. It may be further argued that inasmuch as they are serving outside their State, they

are not subject to the discipline of that State, because they are serving outside its jurisdiction. It may be argued that they are not subject to the jurisdiction of the Armed Constabularies' Acts of the States in which they are serving because they are not members of the forces to which those Acts apply. In order to obviate those difficulties—as you were pleased to remark, it is not a question of functions or powers or privileges, but what has been made clear is with regard to discipline and liabilities particularly—it is proposed that they will be subject to the rigours of their own laws, and punishable accordingly, if they commit any offences or in any way disobey the State laws. The only question is, who will be the officer who will hold a jurisdiction over them? I respectfully submit that it is a very plain-sailing thing which is not likely to cause any difficulty in working. And no constabulary (armed) can go across from one State to another, unless it is requisitioned by that neighbouring State; therefore it will go there with its concurrence. Therefore I do not foresee any special difficulty in any shape or form in the working of this Bill, which was really proposed in order to obviate any possible legal difficulties that may arise in future.

Dr. S. P. Mookerjee: Have the State Governments been consulted, and if so, have they agreed to this Bill being passed?

Dr. Katju: This Bill has been under consideration for a long time. If I am not mistaken, I think every State has very likely consented to it. The Bill was framed last year, and so is it not a product of this year. Therefore, let not the hon. Member put it on me.

Mr. Speaker: I think practically it appears to me at least that, the view I was holding from the very beginning has been more than confirmed by what the hon. the Home Minister has said. But it seems that some Members of the Opposition are not yet able to clear up their doubts.

Dr. S. P. Mookerjee: The hon. the Home Minister was not very clear as to whether the Police Act of 1888 applies to these forces or not. I could have understood if the Bill had said that the Police Act of 1888 would not apply at all to these forces. But it refers only to Section 3 of that Act, which means that other Sections of the Police Act 1888 may apply.

Mr. Speaker: Order, order. I have got one suggestion to make. It appears to me that this kind of contro-

versy will take up more time of the House. So, we may just postpone the consideration of this Bill at this stage, in order that the hon. the Home Minister may also, if he so likes, re-examine any legal niceties, and the Opposition also may go into legal niceties. We shall take up this Bill tomorrow.

Meanwhile, we may proceed with the other Bills. In a way, we have to devote our time to one measure or the other. From what I have heard, I feel that this Bill is more or less a formal one, which does not require much of discussion. However, in order that it can be said to be formal, it is necessary that the doubts raised which have finally been reduced to legal doubts now are cleared. Therefore, I am suggesting this course, that we take up this Bill for consideration tomorrow, if the hon. the Home Minister is agreeable.

Dr. Katju: I am agreeable, Sir.

Mr. Speaker: So, we shall now proceed with the further legislative business.

CRIMINAL LAW AMENDMENT BILL

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

“That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, and to provide for a more speedy trial of certain offences, be taken into consideration.”

I hope this measure will find general acceptance in this House because it deals with a matter about which we hear a great deal, namely, the checking of corruption. Under the present law, a bribe-taker is punished because he is guilty of a substantive offence. The bribe-giver is punished because he is considered to be an abettor. But an abetment means that the main offence should be punished. If he offered a bribe which was not accepted, then it was open to argument whether the intending bribe-giver had committed any offence at all, and then there was the question of speedy trials. All this subject was examined by a very competent Committee which was presided over by an eminent Judge of the Lahore High Court who was a Member of the last Parliament. This Committee is known as the Bakhshi Tek Chand Committee. This Committee went into all these matters at very great