in which the Evidence Act is not applicable, but there are appeals—first appeal, second appeal, etc.

Shri Raghubir Sahai (Budaun): They are not appealable; they are only revisable.

Shri A. K. Sen: I do not know about this case, but majority of panchayat laws provide for a revision and not an appeal.

Shri Raghubir Sahai: Yes; only revision is provided; there is no appeal.

Mr. Deputy-Speaker: The Law Minister's appeal has had no impression on Mr. Raghunath Singh? Shall I put it to the House or is he withdrawing it?

Shri Raghunath Singh: It should be put to the vote of the House.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Arbitration Act, 1940 be taken into consideration."

The motion was negatived.

16·27 hrs.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL (*Amendment of sections of 342 and 562*).

Shri Raghubir Sahai (Budaun): I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be referred to a Select Committee consisting of Shri Sinhasan Singh, Shri Upendranath Barman, Shri Shree Narayan Das, Pandit Munishwar Dutt Upadhyay, Shri Raghubar Dayal Mishra, Shri Jaganatha Rao, Shri Khushwaqt Rai, Shri Yadav Narayan Jadhav, Shri Resham Lal Jangde, Shri Ganpati Ram, Shri Satyendra Narayan Sinha, Shri K. T. K. Tangamani, Shri Sumat Prasad, Shri Raghunath Singh, Shri Uma Charan Patnaik, Shri Naushir Bharucha, Shri Harish Chandra Mathur, Shri Radeshyam Ramkumar Morarka, Shri Shivram Rango Rane, Shri Vutukuru Rami Reddy and the Mover, with instructions to report by the last day of the second week of the next session."

This Bill was introduced on 7th March, 1958 and on 5th September, 1958, after discussion in the House, a motion was adopted for its circulation. It was provided that opinions may be invited till the 31st December, 1958. Opinions have been received and are now available to the hon. Members of this House. I take this opportunity of expressing my gratitude to the Secretariat of the Lok Sabha for promptly executing this onerous task of securing opinions from almost all the States, tabulating them, publishing them and supplying them to hon. Members with the greatest possible expedition.

I am making this motion because it is provided in the Rules of Procedure that after the opinions have been received the Mover of the Bill should make a motion for its reference to a Select Committee. 181 opinions have been received from 13 States and five Territories. It is only Andhra, opinion from where has not so far been received. I am told that they are in transit. Out of these opinions.....

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Then why not we wait?

Shri Raghubir Sahai: Because I learn that they have been despatched by the Andhra Government. They might have been received by now or they might be received in the course of a day or two and they can then be made available to us.

Mr. Deputy-Speaker: How did this news reach the hon. Member?

Shri Braj Raj Singh (Firozabad): Was it intuition?

Shri Raghubir Sahai: When this matter was discussed in the Business Advisory Committee there was a note that opinions have been received from all the States.

Out of these, 103 opinions are in favour of the Bill. The rest are against the amendments proposed in the Bill. Thus more than half the opinions are in favour of the amendments that have been proposed in the Bill. Out of these 103 opinions that have been received in favour, 55 have agreed with both the amendments, that is, the amendment proposed under section 342, sub-section (2), of the Criminal Procedure Code as well as the amendment proposed under section 562, while 34 have favoured the amendment proposed under section 342(2) with a comment that the necessary change be made in the Production of Offenders Act wherever the provision under section 562 has been replaced by that provision.

Now, if we add all these opinions, we would find that in favour of the amendment proposed under section 342(2) only and 14 with the amendment under section 562 Cr P C. the total number of opinions would be 54 plus 34, that is, 88 and in favour of the amendment proposed under section 562 the total number of opinions would be 54 plus 14, that is, 68. I may also state that these opinions have been received from 13 States and five Territories.

With regard to these opinions that have been received in favour of the amendments I might say that these opinions have been received from very eminent persons—the State Governments, judges of the High Court, District and Sessions Judges, District Magistrates, I G s of Police, Commissioners of Police, Bar Associations, eminent advocates, advocates-general, individual advocates and so many others.

Shri Braj Raj Singh: Since when did the district magistrate become eminent persons?

Shri Raghubir Sahai: There might be two opinions.

In fact, these opinions have been received from all those competent to express opinions on such a legal subject. From these opinions that have been supplied to us, I can say that a very encouraging response has been made. I am sorry, more opinions could not have been offered by interested persons. But, everybody knows that the difficulty with the lawyers and Bar Associations always is that they do not take seriously proposed legislations when they are on the anvil either of Parliament or of State legislatures seriously. It is only when a legislation has become an Act that they take it seriously.

Mr. Deputy-Speaker: Does he also hold the same view when he is there in the Bar?

Shri Raghubir Sahai: With regard to the supporters of the Bill, I can only say that they have appreciated the spirit of the Bill and have thoroughly understood it. Because, it was never suggested in my Bill that after these amendments have been accepted, prejury would be wiped out altogether. It was never my contention. Nor was it the contention of those who were pleased to speak in favour of this Bill last time. All that was submitted was that telling the truth in the courts should be encouraged and, in no circumstances, telling a falsehood should be encouraged The suggested amendments are merely a step in that direction. Other such steps may follow in due course.

With your permission, I would like to say a few words about those who have opposed these amendments.

Mr. Deputy-Speaker: They may not have understood the provision.

Shri Raghubir Sahai: Yes, exactly. At the time when the Bill was being discussed here, altough a large number of Members were pleased to offer their

support to the Bill, there were a handful who opposed.

Shri Braj Raj Singh: Handful?

Shri Raghubir Sahai: At that time, when I was winding up....

Shri Braj Raj Singh: Last time, could we know the number who spoke for and against this Bill?

Shri Raghubir Sahai: You may consult the proceedings of the debate. But, they were quite a few and the hon. Member Shri Braj Raj Singh was one among them.

I said at that time, let us wait till opinions have arrived from all over the country and then, perhaps, it may be time for them to reconsider their views. I will make that submission again. After receipt of these opinions, I will beg of those who opposed my Bill last time to go through them and revise their opinions. I admit that those who have opposed these amendments also are very eminent persons. For instance, one ex-Judge of the Federal Court, who was pleased to offer his opinion about this Bill says that the burden of proof in any criminal case lies wholly on the prosecution, and that the accused is under no obligation to help the court. It is possible to agree with the first part of his contention. When the ex-Judge of the Federal Court says that the accused is under no obligation to help the court I respectfully submit that it is a very pre-posterous and fantastic proposition to be agreed to.

Why then has Section 342 been enacted? What is the need of it if the accused is under no obligation to help the court? It may not be a legal obligation; it is a moral obligation. After the entire prosecution evidence has been recorded, it is definitely stated in Section 342 that the court will ask the accused to make a statement and it is for him either to make a statement or not to make a statement. (*An Hon. Member:* But what is the purpose)? The purpose is to help the court to arrive at the truth. Otherwise what is the court therefor? The prosecution says that it is under no obligation to help.

Mr. Deputy-Speaker: The law as it stands secures the accused against all moral obligations.

Shri Raghubir Sahai: With due respect, my own interpretation is that there is clearly a moral obligation on the part of the accused to help the Court in arriving at the truth, because there can be instances....

Mr. Deputy-Speaker: Not in the law.

Shri Raghubir Sahai: Otherwise, according to my own interpretation there would have been no necessity to enact a provision like Section 342. It was entirely unnecessary. This is my submission.

Mr. Deputy-Speaker: Does it put a moral obligation on him? Rather, it gives him freedom from that obligation.

Shri Raghubir Sahai: There is moral obligation as well. There may be fabricated cases where the prosecution concocts a cent per cent false case against the accused.

Mr. Deputy-Speaker: In that case the accused would not come to the help of the court.

Shri Raghubir Sahai: That is what I say. If he keeps mum, it means, he gets his own fate sealed. I say that there are occasions when the accused should come to the rescue of the court. The court is there to find out the truth. Therefore, I submit that I can not appreciate this contention that the accused is under no obligation to help the court.

There are some persons who say that if the word 'false' is removed from Section 342 of the the Criminal Procedure Code, then Article 20, subclause (3) of the Constitution would

[Shri Raghubir Sahai]

be violated. I cannot possibly understand how the Constitution would be violated. The provision in the Constitution says:

> "No person accused of any offence shall be compelled to be a witness against himself."

I cannot possibly understand how if the word 'false' is removed from section 342, this sacred article of the Constitution would be violated. It appears that all these eminent persons who have expressed their opinions against the suggested amendments....

Shri Easwara Iyer (Trivandrum): All the Bar associations also have done so.

Shri Raghubir Sahai: ....are tied up with words; they are not prepared to consider a single changes in the law as it stands at present. Some of them have objected to the amendment of section 562 as well, and they say that if the suggested amendment is accepted, then the court will be under an obligation to discharge every accused and to let him off after admonition on probation. Others say that if this amendment is accepted, then so many confessions would be forthcoming because of police intervention. I appeal to you, Sir....

Mr. Deputy-Speaker: I expreased the same view last time.

Shri Raghobir Sahai: So many confessions are coming forth every day, but every confession is not being accepted by the court. The court is there to sift whether the confession coming from the accused is a *bona fide* confession or a genuine confession or not. What is the court there for?

Even after the suggested amendment is accepted, if these confessions are coming, the court is not bound to accept every such confession. Section 562 is not mandatory; it is discretionary, and it will be one of the extenuating circumstances such as age, character, antecedents, and also the fact whether he has stated the truth or not. So, where is the harm?

Shri Easwara Iyer: Does it not fetter the discretion of the court?

Shri Raghubir Sahai: Certainly not, even after his having made a completely true statement, the court can say that it is not going to release him on probation. This is no mandatory provision.

I am not going to discuss each and everyone of the opinions. But these are some of the positions that they have taken up, and I cannot possibly appreciate them.

On the other hand, those who have supported the Bill have put forward very cogent and very convincing reasonings. For instance, I might quote the opinion of the Director of Public Prosecution, Bombay.

Shri Braj Raj Singh: A policeman?

Shri Raghubir Sahai: Let my hon. friend not be afraid of a policeman.

Mr. Deputy-Speaker: The only fear with Shri Braj Raj Singh is that the policeman would be interested in getting these confessions.

Shri Raghubir Sahai: Now, let hon. Members judge these opinions on merits. The Director of Public Prosecution, Bombay, says:

> "I agree generally, with my experience of a long time as an advocate and a judge, with the observations made by the Mover of the amending Bill. The proposed amendment in no way impinges on these two principles. All that it seeks to do is to take away a statutory invitation to the accused coupled with an assurance of complete immunity to make a false statement. I am at a loss to understand how a feeling of safety and security can be created in the minds of the accused by permitting him to

make a false statement. Is falsehood so very essential for creating a feeling of safety and security?".

This is what he says; he is not only a policeman but an ex-judge as well. Then, there is the opinion of the District Judge of Poona.

The District Judge of Poona says:

"In order to inspire confidence in the accused that justice will be meted out to him, the legislature have given him not only immunity but a sort of encouragement to speak falsehood. A statutory provision that the accused may give false replies is likely to undermine the confidence of the public in the administration of justice. It will thus be seen that the provision is not merely redundant, but is mischievous and repugnant to the modern notions of jurisprudence. By deleting the same provision, the legislature will not in any way deprive the accused of any of his legitimate protection and at the same time rehabilitate the confidence of the public in the administration of justice."

I will quote only one more opinion, that of the Chief Secretary of the Delhi Administration.

Shri Braj Raj Singh: Is he also an ex-Judge?

Shri Raghubir Sahai: He says:

"The word false occurring in section 342, sub-clause (2) is, I have no doubt, jarring to modern ears, and the objective can be met by substituting the words 'or by giving such answers to the questions as he considers, necessary'."

Shri Subiman Ghose (Burdwan): It is not to modern ears, it is to Macaulay's ears.

Raghubir Sahai: I have only quoted a few opinions. There is no time for me to quote other opinions, and the hon. Members would be well-advised to go through the papers that have been supplied to us.

The only conclusion to which we can come is that the amendments are really very necessary, and by accepting the amendments we shall be removing this jarring word "false" from our legislation. In fact, many eminent persons who have offered their opinions have suggested that the word "false" should be removed.

It might be said that there are State Governments which are stoutly opposing these amendments. I went through their opinions again, and I find that out of so many State Governments who have been pleased to supply their opinions, four State Governments, namely, U.P., Madhya Pradesh, Orissa and Bombay, are entirely in favour of the spirit of the Bill. There are other States, Kerala, Bihar, West Bengal, Mysore, Rajasthan, Madras and Punjab, who have opposed these amendments. While these State Governments have opposed the amendments, very powerful support has come from these States, for instance from Kerala,—from District Magistrates, District Judges, Bar Associations. It will be worth while for hon. Members to go through the opinions received from Kerala.

Similarly, although the Government of Bihar has opposed these amendments, the entire High Court, all the Judges of the High Court, have supported these amendments. The District Judges, Bar Associations and District Magistrates have supported the amendments.

Shri Easwara Iyer: What about the Bombay High Court?

Shri Raghubir Sahai: It is really a matter of misfortune that so many State Governments have not seen eye to eye with these amendments.

[Shri Raghubir Sahai]

Out of five Territories, as many as four have entirely accepted the spirit of the amendments. There are two other Territories, the Laccadive and Miricoy Islands.

Mr. Deputy-Speaker: Then, the Territories are more far-sighted than the States!

Shri Raghubir Sahai: Opinions were invited from them as well, and we might attach whatever value we may like to them. So in fact the consensus of opinion is in favour of these amendments. I would simply wish that the hon. Minister would take a sympathetic view, as he did last time. Let it be referred to a Select Committee. Even after these amendments I have proposed are considered, there will be some other consequential amendments also to be made. But that will be only in the Select Committee itself where they can be drawn up. I would request the hon. the Home Minister to be good enough to accept the motion that I have moved.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be referred to a Select Committee consisting of the following members namely: Shri Sinhasan Singh, Shri Upendranath Barman, Shri Shree Narayan Das, Pandit Munishwar Dutt Upadhyay, Shri Raghubar Dayal Mishra, Shri Jaganatha Rao, Shri Khushwaqt Rai, Shri Yadav Narayan Jadhav, Shri Resham Lal Jangde, Shri Ganpati Ram, Shri Satyendra Narayan Sinha, Shri K. T. K. Tangamani, Shri Sumat Prasad, Shri Raghunath Singh, Shri Uma Charan Patnaik, Shri Naushir Bharucha, Shri Harish Chandra Mathur, Shri Radhesham Ramkumar Morarka, Shri Sivram Rango Rane, Shri Vutukuru Rami Reddy, and the Mover, with instructions to report by the last day of the second week of the next Session".

May I know from the Minister what is to be his statement in regard to section 342? Are Government agreeing to reference to a Select Committee?

The Minister of State in the Ministry of Home Affairs (Shri Datar): No. I am put in the position of accused under Section 342. You are giving me an opportunity to explain whatever appears against me in the speech of the hon. Mover.

Shri Tangamani (Madurai): I support the motion of my learned friend that this Bill be referred to a Select Committee.

Shri Subiman Ghose: He is a Member of the Select Committee. How can he speak?

Shri Tangamani: When this was taken up during the last session, I was one of those who opposed it, though I did not have the opportunity to oppose it openly in the House.

Mr. Deputy-Speaker: What has happened in the meanwhile? Only the inclusion of the hon. Member on the Committee?

Shri Tangamani: The circulation of the Bill for eliciting public opinion has shown how divergent are the views of very eminent Judges and other legal luminaries.

My main point in supporting the motion is briefly this. For some time, the Code of Criminal Procedure is being taken for granted. There are many sections—obnoxious sections at that—which need drastic revision also—section like 144, 107, 151 etc. These were the sections which were used in the past against political opponents and these are the sections which are being used even to this day. When we have been opposing preventive detention, we find that power is given to detain a person for 15 days by a sub-inspector under

section 151. Section 144 has gained notoriety. Section 107 is also one of the sections which is being abused to this day. I know many of the hon Members here would have been caught by any or all of these sections. I am mentioning this to show how there are sections in the Criminal Procedure Code itself which need drastic revision.

So far as section 342 is concerned, my personal opinion is—and it is also the opinion of some of the Judges of the Madras High Court—that it is more an ornamental section. The evidentiary value of section 342 is practically nil. If a particular District Judge or Sessions Judge fails to observe rigorously the procedure laid down in section 342, it is not going to materially affect the case one way or the other

17 hrs.

The whole question is, the prosecution has got to prove its case beyond all reasonable doubt; and the defence establishes its case by cross-examination, by admissions from the witnesses And, now, it is given colour by the accused when he gives a statement under section 342, and when some defence witnesses are examined. So, a pattern has grown that the suggestions made in the cross-examination or the admission of witnesses in cross-examination will have to be supported by the witness himself under Section 342.

Sir, you know very well that this section 342 is a departure from English law under which it is not permissible to ask the accused any questions other than questions incidental to the trial in court. Here he is asked whether he wants to cross-examine the witnesses or whether he has got any witnesses to be examined. These are the questions which are posed before him Here now, it is incumbent on the Sessions Judge to draw the attention of the accused to the evidence which has been tendered and the accused is asked to say 'Yes' or 'No'. The questions are so framed that they are not in the nature of cross-examination All that the Judge does is to invite the attention of the accused to the evidence against him. So, naturally, whether he says 'Yes' or 'No', it is not going to materially alter the conviction that he is going to face. The answer given by the accused in this case has little evidentiary value, if at all it has got any. That being the case, it would be welcome if the whole of section 342 is deleted.

Section 342A which has now come gives authority to the accused himself to go into the witness box and give evidence on oath. So, 342 is redundant. Till freedom the accused was not a compellable witness. He was not a competent witness against himself In British courts, even to this day, a spouse is not a witness who can be compelled to give evidence against the husband or the wife. Sub-section (4) of section 342 says that the accused is not to be examined on oath This is an ornamental section and having this will have to be canvassed and people told also Eminent Judges and practitioners have given their opinion I am at a disadvantage because the entire Bar Association of Madras and the Judges of the Madras High Court and also the Sessions Judges have opposed it. But, there is one Mr V T Rangaswamy Aiyangar, who was Public Prosecutor for some time, who has given his opinion. He says:

> "In my opinion the amendment proposed for omission of the words 'or by giving false answers to them' in Section 342(2) Criminal Procedure Code is a salutary and necessary one for there could not be any provision in any statute countenancing or encouraging perjury when on the other hand there is the endeavour to put down perjury in courts of law."

It may be argued that any statement under 342 will not come under 199 I.P.C. because it will not be perjury as it is not evidence on oath. At the same time must we have on the

[Shri Tangamani]

Statute book that we will give statutory protection to a person for making a false statement knowing it to be false? If I am asked to make a false statement that will not help to raise the moral standard of the people. So this has got much wider scope. I believe the object which my hon. friend has given may not be the correct one. The object, he has stated is to stop perjury. No lawyer will argue that any statement made under 342 will constitute perjury. But for many years the Britishers wanted to din into our ears that we are a people who would generally go even into the witness box and commit perjury. If it is not on oath statutorily, we will be giving anything which we know to be false. It is really not in consonance with the honour of our country. A section like this should be deleted and suitably amended also. There are certain suggestions made by those who have given their opinion at least to delete the word 'false' and replace it by 'any statement'.

About the second point on the question of probation, I am not in full agreement with this agreement.

Mr. Deputy-Speaker: He may be brief; there are a large number of hon. Members.

Shri Tangamani: It is for this reason that when we are going to give admonition or excusing them with a warning for the first offence for such an offence we need not extract a confession from them. The view has also been expressed that these two sections deal with the character of the individuals and a procedure laying down a criminal law cannot be separated from the society. It is really focussing the attention of the public to certain things which are now developing in this country. Although the scope is very limited, I do believe that if it is referred to the Select Committee, the opinions and the report of the Select Committee will certainly help the House to direct its attention to further amendment of the Criminal Procedure Code.

Pandit K. C. Sharma (Hapur): Sir, I rise to support the amendment on the simple principle that the Fundamental Rights in our Constitution are the cornerstone of the structure of our State.

Mr. Deputy-Speaker: Hon. Members shall be very brief.

Pandit K. C. Sharma: Those Fundamental Rights have implied duties or liabilities on the citizens. There is no right, rather nothing in relation to human way of doing things, where a man can enjoy a right without any corresponding duties or liabilities as against it. So, when we have got the Fundamental Rights and the freedom enumerated in article 19, there are fundamental duties cast on the citizen in apposition to rights that he can claim. For instance, the right to freedom of speech and expression is there but there is a duty that he will not speak or express himself in a way which may endanger the security of the State or friendship with foreign States or public order, decency, morality or contempt of court or defamation or incitement to offence. These are the limitations. He will not so behave as in any way to help in the commission of these injuries which may be harmful. This section in the Criminal Procedure Code has its origin and birth at a place where the notion or idea of a State has not been in the form as it exists today. The individual has a right to freedom but the State too has a right to stability and that implies that its important institutions would be helped and respected and a sort of a dignity and honour would be given thereto. There is the remedy; under article 32 there is the right to constitutional remedies. This right of constitutional remedy has to be guaranteed by the Supreme Court. If the judges of the courts go to help the citizen in guaranteeing the fundamental rights and also help him by the establishment of judicial courts in getting a fair and independent justice, then the citizen has to help the courts. It is a simple principle "Ye shall water the tree whereof Ye will

eat the fruit". If the courts and judges are to administer and guarantee justice to the citizen, the citizen on his part has to help the court and not abuse the process of the court. My respectful submission is that speaking a lie or making a false statement is an abuse of the process of court. Therefore, this abuse of process of court should in no way be allowed to any citizen whatsoever.

It is a wrong notion to say that a citizen has a right to freedom or to security, and even on making a false statement he can get out of the clutches of law. Because he owes a duty to that very court, he owes a duty to the administration of law that he would be helpful and would give a true statement of facts so that justice could be meted out to him as a person and the administration of justice as an instrument of the State would be helped.

My humble submission, therefore, is that every citizen owes a duty to the State so far as the administration of justice is concerned, that justice should be free and independent and he will claim the justice in accordance with the law whether against himself or in favour of himself.

With these remarks, Sir, I support the motion moved by my hon. friend

Pandit Munishwar Dutt Upadhyay (Pratapgarh): Mr. Deputy-Speaker, Sir, in stating the objects of the Bill the Mover really laid emphasis on certain points and it is on that account, I feel, that there has been so much opposition to this Bill as I find from the opinions that I have seen. In the Statement of Objects and Reasons, he has said:

> "A statutory guarantee to the accused for making a false statement as provided for in section 342 of the Code of Criminal Procedure, 1898 is repugnant to modern notions of jurisprudence and should be deleted."

This is, of course, all right. But in the very beginning he says:

> "The object of the Bill is to eliminate perjury from law courts...."

I should say, he has undertaken a difficult task. Having stated that he was trying to eliminate perjury from law courts, which appears almost impossible, he has put himself against so many people who think that it is impossible for him to achieve this object. That is why so many opinions have come up against him.

He has stated the other object later, that it is repugnant to modern notions of jurisprudence. It is only on that account that I want to support this Bill, this part of the Bill. In fact, it is not so easy. Although we might try to create an atmosphere so that people may tell the truth in the court, yet it is not so easy. Of course, the atmosphere that is created by this word "false" is that it is a statutory provision for a person to tell lies in the court. It is almost obnoxious, abominable, that the word "false" should remain on the statute book and one should be allowed, encouraged as a matter of fact, or given liberty to tell lies and it should be provided in a section of the Cr. P. C. Our hon. friend on the other side was posing a point and he said that it was an ornamental section. As a matter of fact, this section is not going to serve any purpose according to him, and is not going to help either this way or that way. Even then, where no purpose is served, when nothing is gained by it, still, if we keep that word "false" on the statute, how far that would be justified. That is the aspect which I want to consider.

I was looking into the opinions that we have received. We have received a number of opinions no doubt including opinions from prominent judges and also administrators and others. From these opinions, as I could sift them, I find that the opinions generally are that no useful purpose would be served by removing this word, because the object of removing this word, in the mind of the mover, could

[Pandit Munishwar Dutt Upadhyay]

be that the accused should be exposed to prosecution for making a false statement. The accused would not be exposed to prosecution even if he makes a false statement and even after the removal of the word "false". Therefore, the very intention of the mover is being misunderstood. The whole thing appears to be shrouded in misunderstanding. As a matter of fact, I find from the opinions, almost all the opinions, that the persons who have given the opinions feel that the mover means, firstly, perjury should be eradicated. That by itself is not so easy. Secondly for that accused *should be exposed to punishment.* Really, the mover of course has made his points. I find from his speech—all that he has said today and also on the other day—that his intention was not the same that has guided these opinions in the case. Some of the opinions are such that they support the mover, but they support the mover on quite a different ground. As a matter of fact, I do not think that those opinions should really be acceptable to the mover himself. Some of those opinions, as I found them here, say that because the circumstances have changed now the accused should feel the responsibility; that we are now independent, and because it is now an independent country, nobody should tell lies and, therefore, the accused also should not tell lies and so on. But that is not the meaning.

The meaning of the mover is, that the accused is absolutely at liberty to say whatever he likes to say. What he probably wants to say is that this word "false" is obnoxious and objectionable and it is not consistent with the dignity of the nation. It is not consistent with the dignity of our statutes and, therefore, that word should not be there. It creates a bad atmosphere. That is what the mover means.

Those who have followed that view and understood him properly have said, instead of 'false', why not have 'any'? They had asked that that word could be substituted by some other word. They appeared to have understood the meaning, but I do not know why they make that alternative suggestion that instead of "false" the word "any" could be substituted. Of course, some people who have misunderstood him have made the suggestion.

I was reading the opinions of some of the judges of the high courts. As regards the opinions of others, I did not very much care to go into them, because they are too many and I did not have much time.

Reference was made to Madras and to an ex-Judge of the Federal Court. I would like to read a few sentences from these opinions. I would refer to the opinion of one of the judges of the Rajasthan High Court. His opinion seems to be based only on this ground that the lower courts shall be misled by it; they will think there is some change in the law and so we should be strict against the accused, because the word 'false' is now removed. He says:

> "By the proposed amendment, subordinate courts are likely to get the erroneous impression that there has been a change in law, whereas in fact, there is no intention to make any change in the existing law."

Even if this word 'false' is removed, there shall be no change because no oath is administered to the accused and any statement made without oath will not be punishable and there can be no prosecution. Section 193 will not apply there. He goes on to say:

> "The subordinate courts are likely to get the impression that the mere fact that the accused pleads guilty is sufficient to entitle him to release on probation of good conduct."

He has gone to the other point and says the lower courts are likely to be

misguided. I do not think so. The lower courts consist of learned people —double and triple graduates—and many of the opinions of lower courts given here are very sound.

An ex-Judge of the Federal Court has said:

> "No purpose will be served by amending clause 2 alone because a false statement by the accused will not be punishable even after the amendment as long as clause 4 prohibiting the administration of oath stands."

It is a sort of misunderstanding under which he is labouring; otherwise he would not give an opinion like this. The object is not that the accused should be exposed to prosecution. The opinion says by removing the word 'false', the accused shall not be exposed. The purpose of the mover will not be served then.

One or two more judges of the High Courts have argued on the same lines. One of them has said:

> "I am opposed to the amendment proposed in section 342 of the Code of Criminal Procedure, as, in my opinion, it is one of the cardinal principles in the administration of criminal justice that an accused person should not render himself liable to punishment even if he gives false answers when he is questioned generally on the case against him."

That is the impression that the judges have been carrying and that is why they have given these opinions. Most of the judges have said, the object appears to be laudable, *viz.*, the atmosphere of the courts should be such that the people tell the truth, but really the purpose of the mover would not be served. So far as these opinions go, the purpose itself is being misunderstood; that is the whole trouble.

So, according to these opinions, mere change of the word will not do and it does not expose the accused to prosecution because it is a statement not made on oath. I have also gone through some of these opinions from Kerala and Madras. I would refer only to the Madras opinion, to which reference was made.

> "In the opinion of this Government....".

It is the opinion of the Government. I am now talking of the opinions of the Governments because it was said that some of the Governments were opposed—rather most of the Governments are opposed. It is about the Madras Government:

> "In the opinion of this Government the object of the Mover of *the Bill, namely, to eliminate* perjury is not likely to be achieved by merely dropping the words 'or by giving false answers to them' from section 342(2) of the Criminal Procedure Code. There is not going to be any change in the legal position even after the amendment proposed."

So, that is the impression under which the Government was labouring and that is why they gave this opinion.

Then, there is the Government of Assam also. There also appears to be some sort of a misunderstanding. They say:

> "....amendments are not necessary at this stage and such piecemeal amendments also are not advisable in any case. Under the Criminal Procedure Code, as it now stands, though the accused is a competent witness for the defence and may give evidence on oath in disproof of the charges against him, it is specifically provided that he shall not be called as witness except on his own request in writing and his failure to give evidence shall not be made the subject of any comment by any of the parties or the court or give rise to any presumption against himself or any person charged together with him at the same trial."

[Pandit Munishwar Dutt Upadhyay]

This Government is also labouring under the same impression.

Shri Braj Raj Singh: It is very difficult to understand the hon. Mover.

Pandit Munishwar Dutt Upadhyay: Yes. I do not know, but really from the opinions it appears that if there had been no misunderstanding, there would not have been very many opinions against the removal of this word 'false'. This word 'false' to remain on the statute, I would submit, is not very desirable and some of the opinions have also been quite strong on this point that this word is not desirable and that this should be removed.

So far as the other point goes—I will not take much of your time—my submission is that this word 'false' should be removed from the statute. I think that much must be done to maintain an atmosphere of truthfulness in the courts and also to give the statute the dignity that it deserves.

Shri Easwara Iyer: Mr. Deputy-Speaker, Sir, in speaking on this Bill, I would like to be understood as voicing my own opinion on this matter. Of course, I have no objection for this Bill to be considered by the Select Committee but I would like to submit my observations on the provisions of this Bill.

The hon. Mover of the Bill seems to be having a sort of righteous indignation of the amount of perjury that is prevailing in this land, and rightly so. Because, I could only learn the object of the Bill from the statement of objects and reasons contained therein, and the object of the Bill seems to say that there must be a move for eliminating perjury. Of course, my hon. friend on the other side seems to be labouring on the point that it is not the object. Then what is the object? I could only say that heaven only knows if it is not the object that is contained in the statement of objects and reasons. What does it say? I am reading.

> "The object of the Bill is to eliminate perjury from law courts and encourage among the litigant public the habit of speaking truth."

Certainly, it is a very laudable object, but I regret to say that his righteous indignation seems to have been unburdened on the shoulders of the accused in a criminal case. On the point whether section 342 is an ornamental section or not, I would hold a difference of opinion; I would rightly say that it is not an ornamental section, particularly after the decision of the Supreme Court very recently, saying that statement under section 342 is a very vital statement in the conduct of a criminal case. Quite apart from that, when an accused is questioned under section 342, that very section says that oath shall not be administered. So, if by the deletion of the words "or give false answers to them" the object of the hon. Mover of the Bill is to render the accused open for prosecution for perjury, then I would take him to section 191 of the Indian Penal Code.

Shri Raghubir Sahai: It is never the object of the Bill.

Shri Easwara Iyer: Then I cannot understand as to what the object of the Bill is. If the hon. Mover of the Bill corrects me by saying that it is not the object but it is some other object, I do not find that in the statement of objects and reasons. If his object is founded on mere sentimental reasons of having the word 'false' therein, I would say, the amendment is not expedient as my hon. friend put it; it is most innocuous and futile.

Coming to section 342, sub-section (4), it is said that the accused shall not be examined on oath. Section 191 of the Indian Penal Code, which

deals with prosecution for perjury, deals with the categories of persons who could be proceeded against under the law. It takes into consideration—subject to correction by the hon. Minister of Home Affairs on the other side, I am saying—all persons who make a statement under an obligation to speak the truth under an oath or are legally bound to speak the truth on oath and takes into consideration also persons who are statutorily enjoined to speak the truth. Also section 191 deals with persons who by law are declared to speak the truth. Whether an accused examined under section 342 comes under these categories of persons may be examined.

Under section 342(4), an accused is not examined on oath. The first part of prosecution for perjury under section 191 goes to the wall. Whether the removal of these words "or by giving false answers" occurring under section 342, will render it obligatory on the accused to speak the truth by virtue of the removal is also open to question. An accused is not by necessary implication bound to speak the truth. So that, there is no statutory obligation on his part to speak the truth, to come within the ambit of section 191. Neither is there any declaration contained in the Criminal Procedure Code on the part of the accused to speak the truth.

What exactly is speaking the truth, is the matter. Supposing an accused is charged with murder or robbery or dacoity and the prosecution case is that he has committed robbery or dacoity or murder, what is truth? Supposing the accused denies and the court on shifting the evidence before it finds that he has committed robbery or theft, does it mean that the truth is that he has committed robbery or theft? Let us assume for the sake of argument that truth is the prosecution story when he has been convicted of the offence. What is the scope of the amendment proposed? Supposing the words, "or giving false answers to the questions put by the court", are deleted, so that the accused may be rendered liable for prosecution for perjury, what will be the effect of this? Supposing the prosecution is found by the court to be true and a conviction is entered and the accused has pleaded not guilty to the charge, under section 342, he can be proceeded against for perjury, over again, on the very same set of evidence. On the very same evidence the trial will proceed and on the same evidence, he will be put on the dock. Again, in the statement, he says, "I have not committed the offence." Again, he can be proceeded against for perjury. There will be a chain of prosecutions against the accused with the result that he will not find himself anywhere.

My respectful submission before this House is, if it is only a question of sentiment as my hon. friend would say, that the word 'false' should be removed, to say, "any answers", I have practically no objection. If it is a legal obligation of the accused not to commit perjury and speak, only the truth and nothing but the truth, then, certainly, I would oppose this Bill on the ground that, if at all, there is one golden thread throughout the criminal law of this country, that is that the accused is presumed to be innocent until the prosecution has beyond reasonable doubt established his guilt. If any more amendment to the Criminal Procedure Code is attempted or is sought to be attempted to whittle down this presumption which is existing in the country for the last so many years, it is certainly something which is against the fundamental principle of Criminal jurisprudence The accused is presumed to be innocent and it is for the prosecution to prove beyond reasonable doubt that the person is guilty. Take for example the proposed amendment under section 562 If the person makes full disclosures without concealing any facts, that has to be taken into consideration for releasing him on probation. Now, the question of releasing him on probation comes into existence only after the Court has heard the evidence and convicted the accused. His age, his character, his antecedends are all being examined. The court is also enjoined to examine.

[Shri Easwara Iyer]

the question whether he is speaking the truth or not. There may be over-zealous police officers who will go about asking him to confess as being guilty. The police officers may stand on the shoulders of the accused and make the accused confess the prosecution case. Such instances cannot be overlooked in the state of affairs in which our police is being managed.

Another point which goes against the amendment that is proposed is this. This relates to the question of assessment as to whether the accused is speaking the truth or not. Who is to decide whether the accused is speaking the truth or not? The Court may come to the conclusion on prosecution evidence that the accused may be guilty or not guilty. How does it in fact establish the truth or otherwise of the stand? After the passing of Probation of Offenders Act, 1958, Section 20, this Section 562 itself becomes innocuous. In the light of the opinion that comes up on this matter, this requires to be studied. The opinion is divided. There are some legal luminaries who are in favour of this Bill. There are some legal luminaries who are against this Bill. But I would frankly submit for the consideration of the House that the preponderance of legal opinion from the Bar Council or the Bar Associations or the High Court Judges is against the proposed amendment. That is also a fact which may be taken into consideration by the Select Committee, if the Bill is referred to it.

Shri Datar: Mr. Deputy-Speaker Sir, I have to sympathise with the hon. Mover of this Bill. When this Bill was circulated for eliciting public opinion, he was presumably under the impression that he would be getting a preponderating opinion in his favour. Unfortunately for him, the opinions that we have received are, both in volume as well as in substance, entirely against him. I should like to point out that so far as Section 342 and the amendment is concerned, there are as many as nine out of fourteen States which are opposed to it. Secondly, there are only two States which have supported his amendment to section 342(2), namely the Government of Bombay and the Government of Madhya Pradesh, though here also, I may point out that the Bombay High Court have not seen their way to accept this particular amendment.

Shri Raghubir Sahai: What about U.P.?

Shri Datar: Then, may I point out that nine important States, including U.P.—let my hon. friend remember that—have expressed their opinion *against this amendment? So far as* those who are in favour are concerned, may I correct myself by saying that three Governments are in his favour, and they are Bombay, Madhya Pradesh and Orissa? Let us for the time being keep aside the Territories. There are three Territories which agree, and there ere some others which do not agree at all.

Shri Tangamani: Government may oppose, but many judges have supported.

Shri Datar: Let my hon. friend allow me to speak.

Then we might also note that so far as the State of Jammu and Kashmir is concerned, the Code of Criminal Procedure does not apply. The Andhra Pradesh Government have not favoured us with their opinion.

Thus, you will find that there is a large preponderance of opinion, so far as the States are concerned, against this particular amendment.

So far as the other amendment to section 562 is concerned, there also, the strength of opposition is more voluminious. 10 States have not agreed to this amendment at all, while, with great deference to my hon. friend, there is only one State which has agreed, and that is the Orissa State. The Kerala State has not given any comments at all, and

the comments of the Andhra Pradesh State have not been received.

So, you will find that we have the largest preponderance of opinion of the States against both the amendments that are sought to be introduced in the Code of Criminal Procedure.

Let us also understand one more circumstance. So far as the Code of Criminal Procedure is concerned, it is in the Concurrent List, and naturally, the administration of the criminal law has to be carried on almost completely by the various State Governments, and, therefore, we are bound to accept the views of the State Governments, so far as any amendment in Parliament is concerned, for, as I have stated, they are the authorities wh ch have to administer the law.

So far as the Bombay State is concerned, may I point out that though the Government of Bombay are in favour of the first amendment, the Bombay High Court are not in favour of it? In respect of the High Courts, I may point out that a number of High Courts like Madras, Bombay and Kerala and others....

Shri Easwara Iyer: And Mysore.

Shri Datar.....have expressed their opinion which has to be taken into account.

In these circumstances, so far as the first point is concerned, the position is entirely against my hon. friend. There might be a few judges here and there, and there might be some officers here and there who must have taken a v ew like that of the hon. Mover that perjury has got to be removed from our courts.

Therefore, as I have stated, both in quality as also in the strength of public opinion, the nation is not in favour of these amendments.

Then, I would pass on to the next point. It was pointed out rightly by a number of hon. Members that there ought to be an atmosphere of truthfulness in our courts. That is certainly a matter which has to be taken into account. So far as the maintenance of an atmosphere of truthfulness is concerned, there are two factors to be taken into account. One is the statements that are made on oath by the various witnesses. Hon. Members are aware that we have tightened the law to a large extent when we had a general amendment of the Code of Criminal Procedure about three years ago, when we introduced certain provisions for making the offence of perjury as summarily cogn zable as possible. All the same, there a.e a number of factors which are against us so far as truthfulness is concerned, and truthfulness in courts will increase accordingly as we have truthfulness in the country around. That also has to be taken into consideration.

The hon. Member wants the inculcation of truthfulness by removing the word "false" from sect on 342(2), as Pandit Thakur Das Bhargava and Dutt Upadhyay rightly pointed out, there is a considerable misunderstanding about the manner in which the hon. Mover has expressed himself. He desired that there should be no perjury at all. For the sake of argument, let us follow this particular line. If perjury has to go, it has also to d sappear from the statements of the accused persons according to him, because he is laying in this case the greatest stress upon firstly removal of the word "false", and incidentally upon the inculcation of the principle of truthfulness, or, in ordinary language, the giv ng of true information whether it is in his favour or against him, by an accused person.

May I point out that he has stopped just in the middle? He has not followed it up. If the particular line that he has n view of having truthful statements from the accused is followed up, he will have to make any untruthfulness or falsity and offence by the law itself. In other words, he will have also to make it compulsory for an accused person to go into the witness box, and naturally if he goes into the witness box, the other results

[Shri Datar]

follow as a matter of course when he is telling lies

I may point out here that even in a number of western countries, where the law has been developed to a very large extent, it is not necessary for an accused person compulsorily to go into the witness box. I have read a number of professional biographies of great advocates and there you will find, as for example in Marshal Hall's case, that the advocate for the defence considers hundred times before putting the accused in the witness box, though there is a provision to that effect, as we have also introduced one in the Code of Criminal Procedure

Shri Raghubir Sahai: May I ask the hon Minister if there is any specific provision in any other country for the accused to make a false statement?

Shri Datar: In dealing with the question of defence, certain principles have been laid down We are bound by certain principles of criminal jurisprudence, and these principles have been noted by some of the Judges as also others, including Shri Varadachari, one of the most brilliant Judges not only of the Madras High Court, but of the Federal Court of India as well He has pointed out the various principles One principle is that the accused should have no obligation to give any particular version that might be against him He owes no duty to the prosecution at all It is entirely 100 per cent the duty of the prosecution to prove their case, and that is the reason why we have got here a provision in section 342 where it is not compulsory for the accused to give the information But, as I shall point out by reading it, it is open to him to give an explanation because this is an opportunity offered to him, and therefore, only for the purpose of having an opportunity to himself, to explain certain circumstances that are *prima facie* against him, section 342 has been introduced in the Code of Criminal Procedure

Shri Tangamani suggested that so far as section 342 is concerned, it is not a compulsory provision May I bring it to his notice that we have got two parts of that provision? In the earlier part, it has been stated that the Magistrate or the Judge may, and in the latter portion after the prosecution evidence is over, he shall put questions to the accused for the purpose of giving him an opportunity to explain the circumstances against him Thus that is a compulsory provision, an imperative provision, which the courts of criminal law have got to follow

Therefore, the whole scheme of the defence is that the accused should, in the first place, be not subjected to another prosecution after he has undergone this particular prosecution Otherwise, if for example, he has the Sword of Damocles hanging over his head, naturally he will not be in a position to defend himself properly in this prosecution, because if whatever he says is likely to lead to another prosecution for perjury, he would not be in a position to defend himself effectively, as under criminal jurisprudence he has the unrestricted right to defend himself as he likes, and this right naturally includes no obligation on him necessarily to tell the truth That is a point we have to understand very clearly Here, for example, there are two obligations one is the obligation of truthfulness and the other is the right to defend himself as he pleases Under this criminal jurisprudence, we have to allow him the absolute right to defend himself

Therefore, it would not be proper to put one thing against the other, because it is likely to cause prejudice to his right to defend. What is necessary is that nothing should be there to prejudice him, and secondly, nothing should be done to create an impression in the mind of the accused that thereby he is likely to be prejudiced in his defence This is the most important point which has been stated by a number of High Court

Judges and a number of State Governments also. Now, if we analyse the various expressions of opinion, we shall find that the largest number of opinions say that it is unnecessary. Some opinions go further and say that it is inadvisable. Certain members of the Bar or Judges of the High Court have also gone to the extent of pointing out that this would create a dangerous precedent, and two or three opinions are there which say that it would be mischievous to take away this right, as it has been understood down the century.

Even though the hon. Mover has a laudable object in view, namely, to introduce truthfulness to the largest extent possible, that particular object will not be achieved at all merely by removing the word 'false'. As I have stated, I do not agree with it, to go to the extreme length of making untruthfulness an offence or of making it obligatory on the accused person to be put into the witness box. If he is put into the witness box, he has naturally to face the consequences that flow from any statement he makes which is untruthful, that is, prosecution for perjury. My hon. friend is not prepared to go to that extent. Neither is it advisable to go to that extent. Therefore, Pandit Munishwar Dutt Upadhyay was perfectly right in pointing out that the objection that is there is largely due to the pious or perhaps—with due deference to my hon. friend—impracticable, desire of my hon. friend to have truthfulness by merely removing the word 'false' from section 342.

We are anxious, and almost all the State Governments are anxious, that the rights of the accused, as they have been understood nearly over 100 years, should be maintained as they are.

It is not necessary to bring in here British Imperialism or other ideas as one hon. Member needlessly brought in. This is a system which has been perfected to a large extent; and, so long as we are bound to have the Criminal Procedure Code on the basis of hallowed principles, principles hallowed by time and by experience, I believe, we have to maintain this principle of giving unfettered freedom to the accused to defend himself effectively according to his likes—it does not matter even if for the sake of his defence he has to depart from truth.

I may point out to my hon. friend that even in our moral code, even in our ancient texts, it has been stated that there are circumstances where a man is entitled to depart from truth. If a man is after a cow to kill it and if one knows where the cow has gone, in that case he is not bound to tell the truth at all. Therefore, let the hon. Member understand that even in the moral and spiritual code that has been developed, we have got certain exceptions to truth. It is stated that if a man states something other than the truth, then, he will not be liable for untruthfulness or for the sin of untruthfulness. This is an exception and I am, therefore, going to defend the provision on moral ground, though it is not necessary. The highest objective that we should have is the protection of the accused and the feeling of confidence in the accused that he is entitled to protect himself in any manner he likes. This right should not at all be affected in any manner because we are anxious that the fundamental principles of criminal jurisprudence are properly maintained. That is the reason why Government oppose even the reference to a Joint Committee.

When is reference to a Joint Committee to be allowed? When we accept the principle of the Bill. Here, in this case, with due deference to my hon. friend—though the object is perfectly laudable—it is impracticable in the manner he has put it; and, therefore, I have to oppose the reference to a Joint Committee, not only so far as 342 is concerned but also as far as 562 is concerned.

In 562 also, he has said 'completely true statement'. He has put in some

[Shri Datar]

expressions which it is very difficult to understand 'Completely true' means there can be 'partially true' or something else Based on 562, there is also a new section which has been introduced in the Probation of Offenders Act We have laid down a number of circumstances to be taken into account and, therefore, we have got his antecedents, his way of life and all these things even put in These are the words.

> "Regard being had to the age, character and antecedents of the offender and to the circumstances in which the offence was committed".

These words are wide enough to include also the enquiry by the magistrate as to whether the accused has been a truthful person or whether he has departed vitally from truth That cannot also be taken into account But, let us take into account the other side

If, for example, this amendment is accepted and a provision is made for the insertion of 'complete truthfulness on the part of the accused', as the hon Member wants us to have it, then, in that case, there are occasions which we have to take into account Sometimes, the accused is in a position which is not necessarily normal There are occasions where he commits an offence and after committing the offence, with a view to protect himself *bona fide* he does not necessarily follow the rule of complete truthfulness Should that be a disqualification? Should that be a handicap disentitling him to get the benefit that has been laid down in section 562? Therefore, may I point out that the object of the framers of the Criminal Procedure Code was more human than academic or—I would not say anything further—theoretical. I would not say, unreal. My friend has a good object in view

18 hrs.

Lastly, I may also point out that when we had a thorough amendment of the Code of Criminal Procedure, about three years ago, my hon friend had moved an amendment, if I mistake not, to section 324 and also perhaps to section 562 I am not sure

Shri Raghubir Sahai: Yes, I did

Shri Datar: Possibly, he is an active Member and he must have moved it After a full discussion, both these amendments were negatived During the last three years nothing has happened for the Parliament to make a change from the view that it has taken Therefore, I oppose reference to the Select Committee

Mr. Deputy-Speaker: Shri Sahai may have a couple of minutes ..... *(Interruptions.)*

Shri Raghubir Sahai: Sir, you will allow me to say that I am not disappointed with the speech of my friend Shri Easwara Iyer, but I am really disappointed with the speech the hon Minister has made

Mr. Deputy-Speaker: In one's life, disappointment often comes

Shri Raghubir Sahai: I am not going to place him in an embarrassment but he would bear with me when I say that some of his remarks were not correct

Shri Datar: I forgot to say that I request him not to proceed with this Bill

Shri Raghubir Sahai: While he was dealing with the opinions offered by the State Governments, he tried to create an impression that almost every State Government was opposed to these amendments and he included the name of U.P also.

Mr. Deputy-Speaker: The hon Member stated that he would not embarrass the Minister; now he is going to embarrass him.

Shri Braj Raj Singh: Is he withdrawing or not? Let us know.

Shri Raghubir Sahai: I only wanted that the wrong impression created by the Minister's speech should be removed. The U.P. Government has, in the course of this memorandum, said that the purpose can be achieved by the substitution of the word 'any' for 'false' occurring in that section.

Shri Datar: Sir, my hon. friend is almost like an advocate here. They have said that any policy likely to prejudice the accused of his defence..

Shri Raghubir Sahai: After that paragraph, this is what is said.

Mr. Deputy-Speaker: Now, Shr. Sahai and the hon. Minister both agree that there is no difference of opinion; both are right. What is the ultimate objective?

Shri Raghubir Sahai: The other point.. ...

Shri Braj Raj Singh: The real point is whether he is going to withdraw or not.

Shri Raghubir Sahai: Wait and see. The hon. Minister has said that the object of the Bill would not be achieved. I had stated in the very beginning that the object of my Bill was not to eliminate perjury at the very start. It is to make a beginning. On the one hand everybody is anxious that perjury should be eliminated and on the other hand there is a specific provision in the Code that false statement can be made. I beg to submit that this is a contradiction in terms and I only want by this amendment that this contradiction in terms should be removed.

Again. my hon. friend the Home Minister says.....

Mr. Deputy-Speaker: Is it necessary to meet every argument that he has advanced?

Shri Raghubir Sahai: .....that if I want that the word 'false' should be removed and the accused may be expected to tell the truth, I should go to the logical limit that if he speaks untruth he should be punished. I say this is not a logical corollary. This was never my contention. Even if the accused makes a false statement, according to Shri Datar himself in his previous speech he says that he is not liable for any conviction. Shri Easwara Iyer has placed forward a preposterous proposition that he would be liable to so many convictions and so many prosecutions. This is preposterous, fantastic. It is not possible. When the statement is not under oath, how can he be prosecuted, how can he be punished? Therefore, the suggestions of my hon. friends from this side as well as from the other side are misplaced.

Now, I quite agree.....

Mr. Deputy-Speaker: If he is to have much more time.....

Shri Raghubir Sahai: I am finishing, Sir. I quite agree that the local administration is responsible for working out this Act. I entirely agree with him, and if most of the local administrations are opposed to it, of course, there is a lot of weight in that argument and we ought to consider whether these amendments should be carried out or not. After all, this is a Government of India Act—the Indian Penal Code and the Criminal Procedure Code—and it was time for the Minister to have considered these amendments rather sympathetically. I am really surprised that this previous speech was more sympathetic than his latest speech. But, as I said in the beginning, I do not want to create embarrassment for him. I am prepared to withdraw the Bill.

The Bill was, by leave, withdrawn.

18.08 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, April 20 1959/Chaitra 30, 1881 (Saka).