PROBATION OF OFFENDERS BILL

Mr. Speaker: The House will now resume further consideration of the following motion moved by Shri Datar on the 14th November, 1957, namely:—

"That the Bill to provide for the release of offenders on probation or after due admonition and for matters connected therewith, be taken into consideration."

Shri Datar may continue his speech.

The Minister of State in the Ministry of Home Affairs (Shri Datar): Yesterday I pointed out how the question of the reform of an offender has to be approached from certain modern and human points of view. Now I shall give the history of this legislation.

So far as England is concerned, they had an Act known as the Probation of Offenders Act in 1907. In India in 1925, long before the advent of power, this question was taken into consideration, and a conference of the Inspectors-General of Prisons was held at which they suggested that in India also we should have an Act on the model of the British Act. The then Government of India prepared a draft Bill in 1931 but subsequently they dropped this matter as they found their hands were full with other legislative business. Then in 1934 this question was again taken up, and a conference of the Inspectors-General of Prisons recommended that immediately some action might be taken for the purpose of bringing on the statute-book a law regarding the probation of offenders. Then the Government of India informed the then provincial Governments that inasmuch they had no time to take up this question, the provincial Governments might pass legislation in their own legislatures. Accordingly, it will be found that Madras and then Central Provinces had legislations in 1936 and the then United Provinces and Bombay had legislations in 1938. Mysore and Bengal also had their own Acts. But these Acts were incomplete in themselves, and a large number of States had no Acts in this respect at all, and therefore the question was taken up again after the advent of power in 1952. We had a conference of Inspectors-General of Prisons in 1952, and they recommended that something had to be done in order to improve the position of an offender, and if it were possible he should either be released after admonition or released on probation, and therefore this question ought to be taken in hand as early as possible.

By that time the United Nations expert on criminology, Dr. Reckless, came to India. He toured in different parts and he made a report which laid down a number of very good and salutary principles in regard to this question, and his specific recommendation was that there ought to be a uniform and complete law in India generally on the model of what we had in U.P. namely the U.P. First Offenders Act.

This question was also considered by a conference of probation officers held in the same year, and they also desired that this question should be taken into account. They made a number of suggestions which have been incorporated in this Bill, and thus we have the Bill before us.

The question was also considered as to whether we should modify or expand the provisions of section 562 of the Code of Criminal Procedure. There also, as you are aware, so far as the first offenders are concerned, it is open to the court to admonish him or to pass an order for probation, and therefore, the question arose whether it would be sufficient to add more provisions to the Criminal Procedure Code, or we should have a seperate Bill dealing with all the different aspects of the question. Naturally, the Criminal Procedure Code could not deal with certain other aspects to which I shall draw the attention of the House.

This question was referred to the State Governments, and they were of the view that it is better to have a comprehensive law on the subject under a separate Act instead of adding

some more sections to the Code of Criminal Procedure. That is the reason why we have brought forward this Bill which has been generally accepted by all the States.

The principles laid down in this Bill may be briefly summarised by me here. The present Bill deals not only with the question of releasing a person who has been convicted, on probation, but it is possible to deal with this case from a different point of view and perhaps at an earlier stage.

If, for example, a man has committed an offence, there is a trial and the court comes to the conclusion that he is an offender, but before actually and formally convicting him and sentencing him to a term of imprisonment or fine as the case may be, is it possible or would it be desirable to release him after admonition? That is the first new principle introduced in this Bill. We have this principle accepted in some of the former provincial legislations. However, in respect of certain offences which have been mentioned in clause 3—certain forms of theft, criminal misappropriation of movable property, cheating etc.,—for which punishment under the Indian Penal Code does not exceed two years, if there is no previous conviction, it is open to the court to consider the question whether instead of sentencing him to a term of imprisonment or fine, it would not be better to release him on probation of good conduct, or after due admonition.

Incidentally, I would point out that we have purposely used the expression "held guilty", which is not a formal expression, and not the expression "convicted" which is the legal expression. Conviction carries certain disabilities, there are certain subsequent disqualifications. There is also a certain stain on the character of a person if he is convicted and sentenced. Therefore, the principle that has been followed is that the benefits need not necessarily be confined to those who are below 21 years of age or who are generally known as juvenile offenders. In spite of age, a man might commit a particular offence, not necessarily wilfully but under circumstances that require sympathetic consideration, and hence you will find that a very careful phraseology has been used.

A considerable extent of discretion is allowed to the magistrate. In fact, after the magistrate comes to the conclusion that a man is guilty of a particular offence of the nature and in the circumtances that I have already explained, certain points have to be taken into account. If the judge is satisfied that apart from the criminal acts that the man has committed, it is expedient to do so—and the provision in the clause has been clearly stated as follows:

> "....and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to do so....."

—then, instead of sentencing him to imprisonment, he can follow either of the two modes of dealing with the case.

The first is that the man may be released on probation of good conduct. So far as this aspect of the case is concerned, here the man is held guilty, and here the man is released, but he has to satisfy the court that within a particular specified period, he would be of good behaviour. For that purpose, under the Code of Criminal Procedure also, there is a similar provision, according to which he has to furnish securities or sureties to ensure that he would continue to be of good behaviour. This is a punishment; but it need not necessarily be called a punishment; this can be called a mode of treatment, which has been referred to in section 562 of the Code of Criminal Procedure, to which I shall be making a reference again.

Another mode of treatment that has been introduced is that he can be released after due admonition, that is,

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a gentle warning should be given to him that he ought not to have committed that sort of offence, that he was entirely wrong, that he ought to reform himself, and that a chance would be given to him to reform himself to be a peace-loving and proper citizen of the society, and that he should behave himself better in the future. It is for that purpose that this opportunity is given to him. This is what is provided for in clause 3.

Then, in respect of *all* offences, except those which are punishable with death or imprisonment for life—these are the two cases which have to be kept aside—if, for certain similar reasons, the court comes to the conclusion that 'it is expedient to release him on probation of good conduct' (again, you will find that the same expression has been used), then the man is to be released on probation of good conduct. This is not a case of release after due admonition, in which case you will find that there is no conviction as such. But this case is taken further backwards. In this case, the man is to be released on probation of good conduct. He has to satisfy the authorities that he will continue to maintain a good character. How he has to maintain, what the procedure to be followed in this case is, etc. have also been laid down in this particular clause, where it is stated:

> "....notwithstanding anything contained in any other law for the time being in force, the court may....."

—the wording may be noted—

> "....instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties....."

Therein, it has also been stated that the period should not exceed three years, for, after all, when sureties are to be offered for ensuring good character on the part of the offender, it ought not to hang indefinitely on the head of the man. Therefore, the scheme of this Bill is that in all such cases, the period should not exceed three years.

Then, certain other provisions have also been made in this clause. Before making any such orders, the court can take into account the report of an officer known as the probation officer. Such officers have been appointed in some States, and in others, they will be appointed. How they are to be appointed has been dealt with in the Bill.

A probation officer is one who has to look after the conduct of such persons as have been held guilty and have been released on probation. He has also to advise them to behave properly.

Now, after taking into account his report, an oder to the effect that I have pointed out is to be made. In a proper case, if the court comes to the conclusion that the man need not be sentenced to imprisonment but he should be released on probation of good conduct, but there are certain circumstances in the character or in the antecedents of this man which call for a greater scrutiny, then the court can pass an order which is known as a supervision order namely, that the man has to maintain himself under the supervision of the probation officer for a particular period. This procedure has been introduced in certain serious cases, but cases which are not serious enough for the purpose of sentencing the man to imprisonment for life.

The object is that as far as possible we should take a lenient view, consistently with the requirements of the security of the land, and with the peace of the land that such persons should be allowed to have an opportunity to reform themselves; either by their own methods or with the help of an officer, who is not necessarily an officer in the technical sense of the term, but who would be a friend to these erring persons, for the object is

that they ought to reform themselves. For this purpose, such a probation officer ought to give them proper guidance, ought to check them in as gentle and proper a manner as possible and to a certain extent, those persons can look up to the officer for proper guidance and for proper correction as well. That is the reason why, in this particular case, provision has been made for the purpose of supervision.

If, in spite of the human treatment that has been offered to such a person or that will be offered to such a person under this Bill after it is passed into an Act, the man misbehaves or violates or does not care to fulfil certain conditions, then it is open to the court to take proper action, and the court can impose, in some cases, even a fine for the purpose of preventing a repetition of the same offence.

Then, there is another aspect of the case also to be taken into account. So far as the commission of offences is concerned, in all these cases, the court has come to the conclusion that the man is guilty. If the man is guilty, or if the accused is guilty, then it does mean that so far as the complainant is concerned, he is the person who has suffered, and as such, he is also entitled to some compensation. Therefore, here a provision has been introduced that when any orders of the nature that I have pointed out just now are to be passed, it would be open to the court, under clause 5, to ask this particular offender to pay 'such compensation as the court thinks reasonable for loss or injury caused to any person by the commission of the offence', and also such costs of the proceedings as the court thinks reasonable.

These are the provisions which we generally find in connection with the law of civil wrongs or torts. But here the whole matter has to be considered as equitably, as justly and as humanely as possible. While the accused person or the guilty person has to be treated with a certain amount of fairness, that fairness also requires that the complainant who has been the aggrieved person should also receive some compensation, from him. That is the reason why an equitable provision has been made that in all such cases, the court can direct the offender to pay compensation.

It is also open to the court to vary these conditions. The court can extend or diminish the period of the surety, which as I have pointed out, should not exceed three years. Similarly, when a guilty person has been released on probation of good conduct, say, for a period of two years, if he behaves so well and so correctly that the court thinks it can waive the fulfilment by him of the remaining period, then it is open to the court to discharge him altogether from the liability of the bond or bonds that he passes.

These are the two provisions with which I have dealt just now. One is the release of the offender after admonition, without any technical conviction so-called, and without any punishment. The second is that he would be released on probation of good conduct. In the former case, a larger opportunity is awarded to the man. In the latter case, in the interests of the society, and in the interests of the security and peace of the society, the man is called upon to be of good behaviour. This is a part of the rule.

But so far as juvenile offenders are concerned, a further step has been taken. In all cases where it is found that a person has been found guilty, but he is under 21 years of age, as you are aware, the question of age is taken into account, to a certain extent, as a mitigating factor.

This is inasmuch as normally he is of a tender and immature age when his intelligence or intellect has not sufficiently developed so as to enable him to understand the nature and consequences of the bad acts that he has committed. Then the law steps in for the purpose of giving some aid. In all such cases, the rule is that so far as such offenders under 21 years

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is concerned, normally the court should have recourse to the provisions of clauses 3 or 4, that is, that he should be released either after admonition or on probation of good conduct. But there may be cases where the man may have prematurely developed. Precociousness is also there, but precociousness on the wrong side. Therefore, in such cases it is desirable that the man should receive proper sentence and proper punishment. In that case, the court has to give reasons why it makes an exception so far as that person is concerned. That is the reason why the wording has been put in a different way. When any person under 21 years of age is found to be guilty, the court shall not sentence him to imprisonment, unless it is satisfied that having regard to the circumstances of the case including the nature of the offence and character of the offender, it would not be desirable to deal with him under sections 3 or 4. If the court passes any sentence, it has to give reasons.

So you will find that certain circumstances have to be considered judicially by the Judge When a magistrate or sessions judge comes to the conclusion that the man is guilty, under the ordinary law, what is donse that the man is immediately convicted and sentenced. But in such a case, the procedure is different. The court should look at the sentences from the points of view or criteria that I have just mentioned. What is the nature of the offence, what is the character of the man, why did he commit this offence—these are the various considerations which, at present, are not generally taken into account under the law as it stands. But now it is considered necessary that the Judge should also, after coming to the conclusion that the man is guilty, take into account these human or humane considerations and satisfy himself that though he deserves regular punishment according to law, he should either be released after admonition or should be released on probation of good conduct.

Here, as I have stated, the process has been reversed because there is some presumption that when such a person is under 21 years of age, that person has not attained such a maturity of understanding as to realise fully not only the consequences but the implications of the act that he has committed. For this purpose, in the interest of a person below 21 years of age, this particular provision has been laid down.

Then as regards clause 8, if, for example, it is found that the man has not behaved properly and he has failed to observe any of the conditions, then a warrant can be issued or summons can be issued. Then when the court finds that the man has committed the act wilfully, that he has not cared to follow the particular conditions laid down subject to which he was released, then, in addtion to sentencing him for the original offence, it is open to the court to subject him to a penalty not exceeding Rs. 50.

Then further consequential provisions have been laid down. One is that such orders can be passed not only by the trial court but also by the High Court or the appellate court in proper cases.

Then there is also another side of the question to be taken into account. We have to take into account the security of the society. There are certain offences of an individual character so far as the aggrieved person or complainant is concerned. But there are other offences which have a social aspect which also have to be taken into account. Naturally, when there is a social aspect, all these offences are generally known as cognisable offences where in the interest of the society, it ought to be open to the governmental machinery to take action without any private complaint. Therefore, if any equity or human considerations are to be shown to the accused, the interests of the society also have to be kept safe.

It is quite likely that in a particular case an order may be passed, either under clause 3 or clause 4, but it may not be a proper judicial order. In such a case, it has to be made possible under the provisions of this Bill to have the whole matter properly considered when there is an appeal so far as this question is concerned. Therefore, you will find that the higher courts, the hierarchy of criminal justice, might go into the question and consider whether in taking action under clause 3 or 4, the magistrate or the Judge has acted properly or has used or exercised his discretion properly. It is open to the higher court to come to a concrete conclusion. In view of the circumstances that are there and in view of the different assessment of the offence, it would be open to the higher courts, appellate or other courts, to go into the question and to cancel such orders because they may come to the conclusion that the man does not deserve such a fair or equitable order and that the interests of society require that he should pass through a regular period of punishment as laid down by the common law of the land. This has also been provided for. But it has been stated that in all these cases that the appellate or higher court shall not inflict a greater punishment than might have been inflicted by the court which found the offender guilty.

After dealing with the main purpose of the law, certain consequential provisions have to be made. One is regarding the appointment of a probation officer. The circumstances under which a probation officer has to be appointed have been made clear in clause 11. He will be working under the control of the District Magistrate. His duties also have been fully explained in clause 12.

Then there is clause 13. It is a very important clause. Ordinarily, what happens is that when a man commits a crime and he has been convicted and punished in one of the modes mentioned in the Indian Penal Code, naturally that serves as a disqualification or disability on account of which he is not entitled to the normal right of appointment under Government; because when a man has been found to have committed an offence generally involving moral turpitude, he undergoes certain consequential punishments. For example, he would not be considered for appointment under Government.

Now, such a ban might work rather unjustly so far as the special cases covered by clauses 3 and 4 and 7 are concerned. Therefore, it has been said in clause 13:

> "Notwithstanding anything contained in any other law, a person found guilty of an offence"—

we have purposely used the words 'found guilty of an offence' not 'conviction' because conviction is a regular term which has certain implications; 'conviction' and 'sentence' are special terms used in the criminal law and, therefore, we have used the common expression, namely, found guilty of an offence'——

> "and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law".

We have purposely gone out of the way here because the man should have the full benefits.

But, in case it is found that the person has not behaved properly after release and if he is subsequently sentenced for the original offence, then, this particular benefit of exemption from disqualification will not be available to him at all.

Certain other consequent provisions have been laid down. The rule-making powers in clause 16 have been given to the State Governments. So many amendments that have been tabled suggest that such rules should be made by the Central Government. In this case, the position we have taken is this. Conditions are different in different parts of India and, therefore, we are leaving the making of rules to the various State Govern-

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ments. But, in order to secure uniformity, it has been laid down that the State Governments may make rules but with the previous approval of the Central Government so that we can look into those rules proposed to be made by the different State Governments from a common angle. The object is that as far as possible, these rules should be uniform and should be complete in themselves. For that purpose the previous approval of the Central Government has been laid down.

It has been stated that certain laws will have to be saved so far as juvenile offenders are concerned or persons effected by the Suppression of Immoral Traffic in Women and Girls Act of 1957 are concerned These Acts are more or less complete in themselves and, therefore, the provisions of this need not necessarily affect them.

Section 562 of the Code of Criminal Procedure which deals with the identical subject will not continue to apply where this Act will be made applicable. It has been stated in clause 18 that section 562 of the Cr. P. C. will cease to apply to the States or parts thereof in which this Act will be brought into force.

It has also been pointed out that this Act might come into force in different States according as they decide. It need not come into force in all the States on a particular date because one State might move perhaps fast and the other States might have certain difficulties for rules to be made. For that purpose, it has been definitely stated in clause 1(3) that it shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different parts of the State. Such a different application need not necessarily be considered not proper because so far as this law is concerned, it applies within the limits of a particular State and if the State desires that it should apply from a particular date, then, there ought to be no objection.

An attempt has been made to humanise the law to the extent that it is necessary. All proper safeguards have been taken so far as the interests of the society are concerned. A machinery has been provided according to which a Probation Officer might be appointed and he will have to carry on his duties with a view to see that the person under his charge is properly improved and becomes a useful citizen of the country. It is for this purpose that this Bill has been brought forward. It is on the principles which have been accepted not only in India but are being implemented in other parts of the world. The main principles have been accepted by the United Nations Organisation also.

We have taken into account the various recommendations made by the Officer who was here on their behalf and we have tried to make the law as upto date and, I may also add, safe in the interests of society and as modern as the present conditions are concerned, as it is possible to do.

Therefore, I believe that the provisions of this Bill will commend themselves to this hon. House.

Mr. Speaker: Motion moved:

> "That the Bill to provide for the release of offenders on probation or after due admonition and for matters connected therewith be taken into consideration".

There are some amendments also. I would like to know from hon. Members who have tabled two sets of amendments to this motion, one set for circulating it for eliciting public opinion and the other for referring it to a Select Committee, whether they want to move them.

Shri Naushir Bharucha (East Khandesh): Sir, I beg to move:

> **"That the Bill be circulated for the purpose of eliciting opinion thereon till the 31st March, 1958."**

Mr. Speaker: There are two amendments of Pandit Thakur Das Bhargava, one for circulation and the other for reference to Select Committee. Is he moving them?

Pandit Thakur Das Bhargava (Hissar): I propose to move both.

Mr. Speaker: We will take the circulation motion first.

Pandit Thakur Das Bhargava: Sir, I beg to move:

> "That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1958."

Mr. Speaker: Shri Pangarkar, is he here?

No; he is not here; the amendment is not moved.

Shri Shree Narayan Das (Darbhanga): I am not moving my amendment.

Mr. Speaker: Then there is the amendment of Pandit Thakur Das Bhargava for reference to Select Committee He may give the names of the Members.

Pandit Thakur Das Bhargava: I have given them already. I beg to move:

"That the Bill be referred to a Select Committee consisting of—

> Shri Naushir Bharucha, Shri Bimal Comar Ghose, Shri Frank Anthony, Shri Mulchand Dube, Shri J. M. Mohamed Imam, Shri Narendra Bhai Nathwani, Shri Narendra Bhai Nathwani: Shri S. R. Banani, Shri Banarsi Prasad Jhunjhunwala, Shri Rameshwar Tantia, Shri Amjad Ali, Shri Achint Ram, Shri Ajit Singh Sarhadi, Shrimati Renuka Rao, Shri S. R. Damani, Shri Banarsi Prasad Goray, Shri C. R. Narasimhan, Shri C. D. Pande, Dr. Ram Subhag Singh, Shrimati Renu Chakravartty, Shri B. N. Datar and The mover.

with instructions to report by the 10th December, 1957."

Mr. Speaker: All these amendments, Nos. 24, 38 and 25 are before the House.

Shri Naushir Bharucha: Mr. Speaker, Sir, I rise to oppose this Bill both on principle as well as on account of the operative causes which, I find, go far beyond the requirements of the present case and our Indian society.

Shri Mohamed Imam (Chitaldrug): May I know how much time has been allotted for this Bill? It was not settled yesterday.

Shri Naushir Bharucha: We are meeting at 3 o'clock today in the Business Advisory Committee. So, we shall continue till 2.30 and then we can decide it in the Committee.

Mr. Speaker: Some six hon. Members have sent in their names for taking part in the general discussion. If it is possible to conclude the general discussion by 2.30, well and good.

Pandit Thakur Das Bhargava: It is not possible.

Shri Easwara Iyer (Trivandrum): In view of the importance of the Bill, may I suggest that some time more be given?

Mr. Speaker: We have got 1½ hours now. I think 3 hours, 1½ hours more—will be sufficient

Pandit Thakur Das Bhargava: This Bill is very important. The Chair might have noticed that there are motions for circulation and for reference to Select Committee. So, I will respectfully submit that the time should not be three hours only. The general discussion for the Bill if it is not circulated or sent to a Select Committee should be given at least six hours.

Mr. Speaker: I will consider it. The Business Advisory Committee will consider this. But we carry on till 2.30 and then take up the Private Members' Business. I hope hon. Members will take 15 to 20 minutes each.

Shri Naldurgker (Osmanabad): There are amendments tabled by me but the name of Shri Pangarkar was called.

Mr. Speaker: That is with respect to clauses. We have not yet come to the clauses.

Shri Naushir Bharucha: As I was saying, I rise to oppose this Bill because I feel that it goes far beyond the requirements of the case and it is unsuited to the present conditions in several States and to our present conditions in society.

13 hrs.

The hon. Minister in charge of the Bill enumerated certain reasons with regard to the underlying principle. The objects of punishment should be four, as mentioned by Salmond in his book on Jurisprudence, a book which is a textbook for colleges There, it has been mentioned that punishment should be deterrent, preventive reformative or restrictive.

In regard to the objects of punishment, he says something which is very relevant to the present Bill and I propose to read out a few sentences. On page 141 he says that of these four aspects, the first is essential—that is to say, deterrent aspects—and the most important one, the others being merely secondary. He says:

> "Punishment is before all things deterrent, and the chief end of the law of crime is to make the evildoer an examp'e and a warning to all that are like-minded with him. ..It is the object of criminal law to counteract this inducement by making every offence obviously, in Locke's words 'a bad bargain for the offender'."

With regard to the preventive aspect that gets the second place, he says that not only do we endeavour to deter offenders. where we find they are incurable, but we subject them to preventive punishment.

With regard to the reformative aspects of punishment, he says that it occupies the third place. About this he says:

> "In recent years, under the stimulus of criminological theories and humanitarianism, which regard crimes largely as a disease, this function has been regarded as of increasing'y great importance....".

But theory alone is not sufficient. A compromise is necessary in which, he says, the deterrent theory must have the last word, for this is the primary and essential end of criminal law. In the past mere deterrence was allowed to play too large a part, and the treatment of criminals insufficiently 'individualised'. He goes on to say:

> "In spite of this it may be argued that although the complete acceptance of the reformative theory as the only one to be applied would be disastrous, yet it might be extended to the treatment of others than the very young and the actua'ly insane."

13.02 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

In other words, what the hon. Minister has done is to go whole hog for the reformative theory of punishment My submission is that which we should not discard the reformative aspect, it must be relegated to the secondary place. The deterrent aspect must be there. Without that, I do not know what would be the condition of law and order.

In the Bombay legislature, we were discussing the question of prohibition, whether crime has lessened as a result of the introduction of prohibition. There from the Police Commissioner's report, it said that between the years 1948 and 1953—in five years—the crime had gone up in the case of cognizable offences by 300 per cent. and in case of non-cognizable offences by 1100 per cent. I am asking the hon. Minister whether he is so much satisfied with the state of law and order

in the various States that he is by a stroke of the pen sweeping away all the deterrent aspect of punishment.. I am afraid that the Ministry has not applied its mind properly to the implications of the Bill. One can understand the application of reformative principle in case of persons under twenty-one years of age or some such categories where the offences are committed not by pre-determination and pre-planning.

The basic principles of the Bill are that in the case of such offences as are considered minor by the hon. Minister—offences under Section 379 and 380 of the IPC and also 420 IPC cheating—the offenders may be released after an admonition. Does the hon. Minister appreciate the fact that even in cheating, there are very nasty type of cases where deterrent sentences are called for. I know the case of a man who habitually practised cheating as a travel agent. He took money from the pilgrims who wanted to go to the places of pilgrimage and disappeared. I know of cases where people from Punjab came to Bombay to go to Mecca and they were stranded. In cases like that, when it falls under section 420, should the man be administered only.

Mr. Deputy-Speaker: He was perhaps getting charities because they were going for that purpose.

Shri Naushir Bharucha: Fortunately the Court to which I presented the complaint took a serious view. But the poor pilgrims could not afford to linger on in Bombay till the case was concluded and so they had to leave.

The principle involved in clause 4 is much worse. There a wholesale *carte blanche* given to every citizen in the State to commit one offence. I know of a principle of law which says that every dog has a legal bite and every horse, a legal kick, in the sense that if a master of an animal does not take proper care with regard to animals which he knows to be ferocious he could be sued if it is the first kick by a horse or the first bite by the dog, the master cannot be presumed to know that and so he probably gets away. Now the hon. Minister wants to add that every man may have a legal rape, every *goonda* a legal fight.

I want to ask this. Do we distinguish between the gravity of the offences or not? I am not speaking offhand. I am speaking with the experience of a quarter of a century in law courts. I know what types of offences can be committed even though they are not punishable with death or imprisonment for life.

Take for instance the question of rape. I know one case where I prosecuted a person for committing rape on a four year old baby. Now, rape is an offence for which there is no imprisonment for life. It is ten years. So, it can be covered under clause 4. I should like to know whether the hon Minister really desires that offences of this type should be let off by the mere taking of a bond for good behaviour. Does he desire that the man should be told. "Well, look here. You have committed rape and you have been found guilty. Do not do it again and go and be a good boy." Is that the way?

Shri Raghubir Sahai (Budaun): Are they mandatory provisions?

Shri Naushir Bharucha: Under clause 4 all types of offences are included—not merely rape but dacoities, receiving illegal gratification which we are out to eradicate. All may be covered by this. There might be criminal breach of trust in respect of public revenues, counterfeiting coins and currency notes, spoiling of a city's water supply, etc., defiling places of worship, causing hurt by means of poison of firearms, selling persons for slavery or prostitution, engaging in traffic in women, etc. All these types of offences, in so far as they are not punishable by imprisonment for life, can be covered.

Are we out so much to reform the criminals that we are prepared to take this leap in the dark by enacting

[Shri Naushir Bharucha]

this type of legislation which leaves the courts to find a person guilty of a very serious charge and then to let him off either with an admonition or asking him to enter into a bond and be of good behaviour? I say society is not prepared for this.

I remember some years back that the figures as to how far certain States were criminal were published. They were published in the then undivided India. I was surprised to find Bombay suburban district the most criminal district in the whole of India. It was 6 in a thousand population—a very high percentage of crime. Next came the North West Frontier Province with 4. In a place like Bombay, these types of things work havoc In Bombay city, you cannot have an evening paper which does not show that so and so has been stabbed. There are two or three stabbings a day there. and it is not uncommon. All this would be covered by clause 4. I submit that the hon Minister will reply to it.

Now, what we have provided is, we have left the discretion to the court to look into the nature of the offences and award the type of punishment necessary, What is the tendency of the courts, and this is what I am telling the hon. Minister. I am speaking with a quarter of a century of experience in law courts. The law courts do take a lenient view. I have seen cases of stabbing which the courts leniently allow to be compounded. *Goondaism* is on the increase, and there is lawlessness on the increase. Our city is not safe. The former Chief Minister, Shri B. G. Kher attributed the complaints to the fact that in the suburbs lawlessness was in the increase. Therefore, if you leave it to court to apply this law, the courts, either on account of the fact that they are pressed for time or for anything else, would say, "Are you pleading guilty? I will give you the benefit of clause 4". The man pleads guilty and gets off. The procedure is shortened, time is saved and in the pressure on the court, it may be done. I am not prepared to give that discretion to the court of law that this clause 4 can be applied and that the courts, in their judgment, could do it.

"The High Court may look into it,"—the hon. Minister will say, but every case does not go to the High Court. That is also no sufficient safeguard to say that it can be done and that we have got sufficient safeguard for the society. I am very apprehensive about the application of this law. Take, for instance, certain types of cases where it will be very difficult to apply this law. For instance, in Bombay, in the case of Hindu bigamous marriages, if a man commits bigamy, is the Court going to say, "you have committed bigamy Now be good and don't marry a third wife."

Take another case; a petty municipal case. Here, the basic principle of clauses 3 and 4 is that there must be no previous conviction. In thousands of municipal cases, who is going to keep the records of previous convictions? No record is kept, because no finger-prints are taken, for, humanly it is not possible to maintain a finger-print bureau which is capable of identifying hundreds of thousands of cases, petty offences, municipal offences, or these relating to traffic. In all such cases, every time, they will have to say, "Admonish and discharge,", and again "Admonish and discharge".

Today, I am surprised to find that in the city of New Delhi, up till now, I have never seen a cyclist riding with a lamp at night. I do not know whether a law exists at all to check such things.

Mr. Deputy-Speaker: The hon. Members might have different experiences so far as that is concerned.

Shri Naushir Bharucha: I do not know what the experience of others is, but I have never come across a single cyclist having a lamp on his cycle at night, in all these four or five months that I have been here. There are numerous cases like that, municipal, petty offences of which no record can be maintained. How is this law to be applied? Every time, the man will have to be allowed to go scot-free. What is the use of having municipal offences then?

I submit that in our Criminal Procedure code, section 562 is there. That is ample safeguard, because that itself takes into consideration certain aspects and only in exceptional circumstances, the courts so far have applied section 562, where the extenuating circumstances are so patent on the face of it that the sympathy of the court is immediately roused.

Take, for instance, a person who is starving and who gets no employment. He goes and commits theft in a bakery. But it would be criminal to punish that man, and therefore, the courts take into consideration section 562. So, before the hon. Minister wants the sanction of this House to this legislation, I would ask him: "Have you studied the trend of crime and have you placed before us the facts showing that crime has been gradually on the decrease?" May be, due to the fact that we have been enacting pieces of legislation to a large extent probably the crime in certain respects must have decreased, but I submit that lawlessness is increasing and this is a dangerous time to enact such legislation as this.

My constructive proposal is; I am not prepared to say that you should scrap the Bill wholesale. But do this. Have two categories of offences: in certain classes of serious offences such as I have enumerated including raid and 'dacoity,' they should never be permitted to have a law like this. Have two schedules and enumerate the sections and say that in such and such offences, this may be done and in the other cases, the court's discretion is taken away and it may not be applied.

I would appeal to my friend, the hon. Minister in charge, to take these factors seriously, because we know we have been prosecuting cases in law courts and we know exactly how this might be applied. I think the fear which I have expressed is not my individual fear but I am voicing largely the opinion of the public.

Shri Raghubir Sahai (Budaun): Mr. Deputy-Speaker, I have listened to the speech of our distinguished friend, Shri Naushir Bharucha, with attention, but I am sorry to say that I am not prepared to share the feelings of a defeatist mentality which he has voiced in discussing this Bill I understand that this is not only a piece of penal reform but it is a measure of social reform.

Shri Naushir Bharucha tried to show that the whole idea of release of offenders on probation is a new idea. It is not like that. Towards the close of his speech, he mentioned about section 562 Cr P. C. He has got vast experience of courts and he must have come across that section every day. But did he show any of his impatience or protest against the presence of section 562?

Shri Naushir Bharucha: Look at limitations in that section.

Shri Raghubir Sahai: It has, but all the principles that have been incorporated in this Bill have been taken from section 562. I do not agree with my friend, the hon. Minister of State who introduced this Bill, in saying that the principle of admonition that has been introduced in this Bill is entirely new. It is not. I would just invite his attention to sub-section (a) of section 562. It is as old as the Criminal Procedure Code. It says:

> "In any case in which a person is convicted of theft in a building, dishonest —— misappropriation..

Shri Datar: That is after conviction. Here there is no conviction as such.

Shri Raghubir Sahai: In section 3, of the Bill also it is conviction.

Shri Datar: Conviction as such, when found guilty.

Shri Raghubir Sahai: Here also admonition is to take place after an offender is found guilty by the court. So, the principle of admonition is embodied in clause 1(a) also. What special feature we find in this Bill is that only in case of those persons who are below the age of 21, it has been provided that generally, punishment of imprisonment will not be given to them. He will be released on admonition or he will be released on probation. But in those cases where a magistrate is of opinion that he should be awarded imprisonment, then, he should state his reasons specifically. Now, I only find that if there is a change at all, and a salutary change, it is embodied in clause 7 of this Bill.

So, I was going to say that this is not a new idea. The idea existed there in the Criminal Procedure Code. Our misfortune was, this provision of section 562 was not generally used, because magistrates might be averse to it and they were not prepared to take all these extenuating circumstances into consideration.

Mr. Deputy-Speaker: Shri Naushir Bharucha had been advocating for its application. It was the magistrate who did not advocate.

Shri Raghubir Sahai: I find that in this Bill, not only the provisions of section 562 had been incorporated, but as I said, they have gone one bit further. As I just pointed out, in clause 7, they have put a special provision that in the case of all those who are under 21 years of age, punishment of imprisonment will not be generally given.

There is one thing surprising in clause 4. Whereas in clause 3 you find that the conditions precedent is that the person should be a first offender if the benefit of this section is to be applied, somehow, I find that in clause 4, these words have been omitted. I do not know whether they have been omitted with a purpose or it was only a lapse. For, I feel that even under clause 4, where we deal with rather major offences, the benefit of being released on probation should go to those persons who are first offenders and not to those who came under the category of habituals.

My hon. friend Shri Bharucha pointed out to us the provisions of jurisprudence. They are very salutary provisions and everyone who has anything to do with the law courts know that they are very good provisions. But time is passing fast. He must have come across the improvements that have already been made in Uttar Pradesh with regard to the administration of jails. Some open air jails have been started and the contention of our Chief Minister is that that experiment is proving very successful. Then we were reading in the papers that a conference is taking place in Lucknow of convicts and ex-convicts along with Ministers and other non-officials and they have passed some very salutary resolutions. Well, it is for the Uttar Pradesh Government and for other Governments to either follow or accept those recommendations or not. But the trends are there. We are not wedded to those old considerations of deterrence and retribution. We are going forward with reformation. How far these steps will prove successful, time alone will show.

Now every person is almost agreed on this subject that it is no use filling in the jails. We quite realise that it is very necessary for some people to be locked up in the jails and their liberty should be restricted, but it is not necessary that everybody should be inside the jail. For instance, those persons who commit an offence under a certain impulse (say for want, hunger, or grave provocation) should be shown consideration by the court. We should recognise that whatever the law may be, those who preside in our courts take due care that the provisions of the law are complied with. So whatever provisions we

may make in this Bill, we should expect that they will be faithfully carried out by those who will be called upon to administer the law. Along with those circumstances that have been mentioned in these clauses, which it will be the duty of the courts to take into consideration, I wish that one other circumstance may also be added. That circumstance is the fact that an offender has made a clean breast of the whole thing, concealing nothing. I think an omission of this sort is a great defect. After the addition of these words the clause would read like this:

> "Having regard to the circumstances of the case, including the nature of the offence and the character of the offender, and the fact that he has made a clean breast of the whole thing, concealing nothing."

Shri Naushir Bharucha: How will you define "clean breast"?

Shri Raghubir Sahai: It is for the court to judge.

The reason for my suggesting the addition of these words is this. You may be aware, as I suppose, our hon. Minister of State must be fully aware, of the fact that in the last Parliament, the Criminal Procedure Code was amended to a very great extent and one of the reasons given on behalf of Government for the amendment of the Criminal Procedure Code was to put down perjury which is so rampant in the law courts. Every lawyer, everybody who has anything to do with the law courts, knows that perjury is rampant. Now, how to do away with perjury is the question. Unfortunately, our law as it stands at present, gives scope for prejury. For instance, in section 342 of the Criminal Procedure Code you will find it stated in clause (2):

> "The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving *false answers* to them."

Now, the word "false" is part and parcel of the Criminal Procedure Code. Retaining this, in my humble opinion, is a slur. But when we cannot amend section 342 at this stage at least by incorporating this wholesome provision in the present Bill we can certainly give a fillip to telling the truth.

What is the practice at present? Telling a lie is the general rule, because people feel that making a clean breast of the whole thing does not pay. That is why perjury is so rampant in law courts. In other civilised countries, perjury is not so much prevalent. Speaking the truth is the general practice. Only the other day, I read in papers that a former Commander-in-Chief of Pakistan, an Englishman, on his return to England was prosecuted for the offence of rape. That ex-Commander-in-Chief engaged a lawyer. He appeared before a court and the lawyer advised him to make a clean breast of the whole thing and before the law court that ex-Commander-in-Chief came forward and said: "Well, I have committed this offence; I am sorry for it; it is a great blot on my character. I throw myself at the mercy of the court.

Mr. Deputy-Speaker: If it was done on the advise of the lawyer that must have been expediency.

Shri Raghubir Sahai: Maybe at his own instance, but assisted by the lawyer. Whatever that may be the court naturally took a very lenient view. You will hardly find such instances in our country. The lawyers themselves feel hesitant to advise their clients to tell the truth. There is a provision under section 342 that the accused can make a false statement. I say that it should be specifically laid down here that apart from taking other circumstances into consideration, the court may also take this fact into consideration whether the accused has stated the entire truth. Mr. Bharucha asks, "How is it to be judged?" It will have to be judged by the court itself, because

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they look to the prosecution, they look to the defence; they look to all the circumstances of the case-the nature of the offence, the character of the offender, etc. From all this totality of circumstances, they come to the conclusion whether the statement made by an accused is a clean breast of the whole thing or not.

It is quite unlike confession to the police. We can certainly say that confessions to the police are generally not true, though it cannot be said that in every case confession to the police is untrue. There are some cases where genuine statements have been made. But here is a person who is on bail, who is in the hands of lawyers and naturally it will be expected that whatever he says to the court will be something voluntary. As I said, these are not mandatory provisions. They are all left to the discretion of the court. Even when all the circumstances having been taken into consideration the court comes to the conclusion that the offender need not be released on admonition or need not be released on probation, there is nothing to quarrel with. He could be sentenced. So, I submit that where circumstances are to be taken into consideration, this particular circumstance for consideration should also be included

Lastly, I do not think a case has been made out for sending this Bill to elicit public opinion. There is nothing new. Section 562 is very old. All the principles that have been embodied in this Bill form part of section 562 and everybody is familiar with those provisions. So, the Bill need not be sent for circulation.

I support the Bill and hope that the particular idea that I have placed before the hon. Minister will receive his due consideration.

Shri Sadhan Gupta: (Calcutta-East): Mr. Deputy-Speaker, in contrast to Mr. Bharucha with whom I have had many points of agreement on many matters, I am constrained to oppose him and to welcome the Bill so far as it goes. Indeed my opposition to the Bill is not for what it does provide, but for what it does not provide and where it wavers, for whom it falters.

To understand this Bill, we must bear in mind that our law, and for the matter of that the law of most countries, has certain inhuman aspects. The most inhuman aspect is reliance merely on the theory of punishment, which was so ably quoted by Mr. Bharucha from Salmond's Jurisprudence. Salmond lived about 50 years ago. He wrote his book about 50 years ago and all he knew was the theory of punishment. Punishment could be deterrent, could be retributive, could be reformatory, could be preventive, but it had all to be punishment and nothing but punishment.

Neither Salmond nor the criminal jurists of his age or for the matter of that of later ages, had any idea that there was a different approach to the criminal apart from the approach of punishment of one kind or the other. You must take the psychological approach by which the best way of reforming perhaps many criminals was not to punish them but to convince them that what they did was wrong and to satisfy the punishing authority that what the criminals deserved was not punishment but some kind of admonition, so that what they had done would not be repeated again.

Perhaps it is the psychology of most men who slip into crime for the first time that they are ashamed of the crime they commit. There may be exceptions; I do not deny it. But in most cases, when the criminal commits the offence for the first time, he does it with some hesitation, with a lot of pangs in his conscience. At that time, if he is found and prosecuted, then he feels a degree of shame which is unparallelled. Under those circumstances, if he finds a way of

escape out of the odium of the consequences, perhaps he will be reformed much better than by some kind of punishment. Now, if the punishment is inflicted under the circumstances, the hesitation, the shame of the crime, is lost. If he is sent to jail once, he is not likely to be ashamed to go to jail again, more specially so because his companions in prison are anything but desirable companions. I do not know how many criminals in their criminal life by residence in the place where they are supposed to have been punished for the crime in order to prevent them from doing it. Persons sent to jail where ordinary criminals are kept have learnt the worst ways from those criminals. That is the thing which must be prevented.

Therefore, there is no substance in this theory, however high the jurists that might have propounded, however scientific it might have been through ages of recognition. We have developed new psychological theories; we have gained some experience and we have been in touch with the much more complex society and a society much farther away from those days where every crime was looked upon in a spirit of vengeance and some kind of punishment was thought essential for the purpose of teaching the criminal a lesson. Let us not forget that just over a hundred years ago, if a person had stolen something worth 40 shillings, in England, he was liable to be sentenced to death. That had not stopped crime in England. If anything, it made matters worse. That is not the thing we aim at.

Therefore, it is a very wise measure that it is not incumbent on the court to punish every criminal that is put before it and that is proved to be guilty of the offence. It is this aspect of our law that has perhaps created more criminals than any other. Today the court is almost powerless in most of the cases. In certain minor cases they can proceed under section 562. Even then the odium of conviction persists. There is no power in the court to make an order, which will convince the criminal that he has done wrong and he should not do it and, at the same time, which will not cast upon him an odium of conviction and which will rehabilitate him in society as an ordinary useful citizen of the society.

Do we mean to cast the criminal into a career of crime or do we mean to rehabilitate him in society? If we want to rehabilitate him in society, there should be no rigidity in the penal laws. The penal laws should be altogether flexible and the court should be able to decide what kind of treatment will be best suited to the needs of the criminal and, above all, the needs of the society.

From this point of view, I welcome the provision as to admonition, the provision as to probation and the provision as to treatment of juvenile offenders. I will come back to juvenile offenders later. I have full support for that proposition. But, as regards admonition and probation, I voice my opposition because it does not go far enough. What the Bill provides in the matter of admonition is this. Clause 3 reads:

> "When any person is found guilty of having committed an offence punishable under section 379 or section 380 or section 381 or section 403 or section 420 of the Indian Penal Code or any offence punishable with imprisonment for not more than two years, or with fine, or with both...."

Why restrict it only to a specific offences? The criminal, whatever the offence he may commit, might stand in need of human treatment We must break with the past altogether. We must not allow this ghost of the theory of punishment to haunt us for all time to come. It may be that even in the case of serious offences, an admonition will do the work better than punishment. For example, I was reading years ago a certain book where there was a case of a woman engineer in the Soviet

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Union. She, in a fit of jealousy, killed her husband. Then, considering the circumstances of the case, the court sent her back to her work with a very severe warning. Now, it may happen that even in the most serious cases an offence is committed under the spur of the moment for certain purpose and it is quite likely and perhaps it is most probable that he will never repeat that offence. The seriousness of the offence, the enormity of the offence will hang heavily on his conscience and he will never repeat that in his life time.

Under these circumstances, are we to send him to twenty years' imprisonment, which will convict him into a confirmed criminal. Why not allow him to be a useful member of the society? Why take a vengeance on him?

Of course, in a serious offence, there is no doubt that the court will take a serious view of it. In most cases the court will be convinced that it would be no use trying to be humane and that a punishment would be necessary. But there are certain cases in which humane treatment might do the job better. Even in offences like culpable homicide or even, it is conceivable an offence like murder, such cases often arise which throw the sympathy of society towards the accused because of the circumstances of the case. That may not be a general or usual case. But there are certain cases where the sympathy of society goes very strongly with the accused. In those circumstances, why should we not allow the court to exercise its discretion and deal with it, either by administrating him or by keeping him on probation? I have no fear, like Mr. Bharucha has, that the court might abuse those powers and might be inclined to use those powers frequently. On the other hand, in the case of serious offences, we have found that the courts have invariably imposed very deterrent sentences of imprisonment. Under these circumstances, we need not fear that courts will abuse those powers. On the other hand, the courts will be conservative because they have been trained in the theory of punishment, as Mr. Bharucha or I have been trained. They would rather be inclined to punish him than to use those powers of admonition where it needs to be used. It would be a long time before the courts will adapt themselves to a proper use of those powers.

Therefore, if there is any danger. it is that the courts may not readily take to it because of the training and tradition in which our legal system has grown up. Under those circumstances, we need not be afraid in entrusting this power to the courts even in the case of most serious offences.

Apart from that, let us remember that the most serious offences are tried by the most responsible courts. As a matter of fact, there may be some grounds for the doubts expressed by Mr. Bharucha in the matter of offences which are punishable with imprisonment not exceeding two years or with fine or with both because they are tried by magistrates and the magistrates might take to that expedient; because of the accumulation of files, they might take that short cut. But, in the case of serious offences, they are tried by judicial officers like Sessions Judges and other experienced people. In some of the Presidency towns they were tried by the High Court Judges though now City courts have come into being. They are all experienced judges In entrusting these powers to those people, we need not fear that society will suffer in their hands.

Therefore, I would request the hon. Minister to be bold enough to extend this power of admonition to all offences, irrespective of their gravity and trust the courts to deal with the accused according to the nature of the offence and the character of the offender. It is not as if the court has been given a *carte blanche* to do

anything it likes. The restrictions provided in section 3 and section 4 are identical. They say that the court should have regard to the circumstances of the offender, the nature of the offence and where it is expedient, they may release him on probation or may release him after admonition.

All that has to be considered and after consideration, the court will take action in the matter. Therefore, ample safeguards are provided and we need not be afraid of trusting our courts with wide powers in this respect. If we distrust, it is only because in the back of our mind still lingers that old idea that every crime must be visited with punishment, whatever its consequences to society may be.

I welcome the provision regarding juvenile offenders. I have already said how many offenders are converted into confirmed criminals merely by being sent to jail. This in particularly true in the case of juvenile offenders. At an impressionable age, if you put a person in the company of bad characters, he readily imbibes their habits, he readily imbibes their nature and he becomes more easily a criminal in society and adopts a criminal character. Therefore, this provision as regards juvenile offenders by which the normal procedure that a court will follow is to release him on admonition or on probation and only in exceptional cases, it will impose a sentence, is a very salutary provision and I lend it my entire support.

I have to point out one small thing with which I have my disagreement or rather to which I want to call the hon. Minister's attention regarding persons who are to be appointed Probation Officers. Under the Bill as it stands at present, any person can be a Probation Officer. I am afraid that if it is all left to the State Governments, it may be that plenty of Police officers will become Probation Officers. But, our police, unfortunately, by their training and tradition are not yet fit to perform such socially important duties. In these circumstances, I would request the Minister to make a change in the law to the effect that no police officer should be a Probation Officer unless, of course, he is appointed by the court. Because, the court can look into the whole thing and decide whether a particular police officer is fit or not. There may be many police officers who are fit. I do not deny that. But, as a rule, we need not trust our police officers too much. That is why even in the Criminal Procedure Code, we have gone to the length of providing very exceptional provisions disallowing the use of statements recorded by the police in criminal cases.

In conclusion, I would appeal to the Minister to shake off the hesitancy that has been displayed in the Bill. Let him make provisions by which no punishment will be imposed unless the court is convinced that there is no other way of stopping the offender from repeating the crime or of correcting the offender in future, or unless the court is convinced that it is too risky to leave that person at large in society, that it is too risky for society to leave that person at large. I have no doubt that courts, if they follow a wise policy, and with the guidance of the High Courts a wise Supreme Court will be able to evolve very well established principles according to which these sections regarding admonition and probation will be more frequently used and will be used to the great benefit of society.

Shri B. S. Murthy (Kakinada-Reserved-Sch. Castes): Mr. Deputy-Speaker, I rise to support the Bill. I think that this Bill is in conformity with our traditions. If we go back to the days of the Upanishads, the idea was that man should rise from his low life to the life divine. Therefore, we have been told, that the desire of the soul is *asato ma sat gamaya, tamaso ma jyothir gamaya, mrityor ma amritam gamaya.* This is what this Bill is trying to do.

Shri V. P. Nayar (Quilon): The hon. Member may give the translation also.

Shri B. S. Murthy: To my communist friend, I have no objection because any other orthodox brahmin would have been offended if I translate that into English.

Some Hon. Members: No, no.

Shri B. S. Murthy: *Asato ma sat gamaya*—from *asat* to *sat*, roughly from untruth to truth; *tamaso ma jyothir gamaya*,—from darkness to light; *mrityor ma amritam gamaya*—from death to life.

This has been the urge of our ancient rishis and this has been responsible to a great extent for the cult of ahimsa which has overtaken countries, a culture which is now trying to penetrate into other fields in the west as well as in the east. Therefore, this Bill is nothing but a small particle of that desire to make a man rise above circumstances which sometimes draw him down to beastly behaviour. Therefore, this Bill is trying to show a way out for any casual offender, for any person who unwittingly commits something, which, he later on considers to be a crime and then, is in danger of being punished, sentenced and sent to jail in company with confirmed criminals.

My hon. friend Shri Bharucha was trying to show that clauses 4, 5 and 6 are very elaborate and therefore, every one can do this and that. He has been citing certain cases in Bombay and suburban Bombay. Here is clause 8 where it is stated that if a probationer has misused the consideration shown to him and does not try to reform and become penitent, and tries to commit other offences, under subclause (iii)(a) he can be sentenced for the original offence. Therefore, a probationer is in danger of not only losing what is given by the court, a chance to reform, but he is to be recalled and punished for the original offence. Therefore, I do not think there is any difficulty whatsoever as far as the provisions of clauses 4 to 6 are concerned.

Again, the youth of any country is its own asset. Unless and until we take extraordinary care to see that our children, our youth are properly guided and trained, there is the difficulty that the nation may not have the benefit of the youth later on.

Therefore, this is a measure which gives the youth an opportunity to correct themselves without being rushed down the current of criminal activities.

14 hrs.

There were days when man thought in terms of an eye for an eye and a tooth for a tooth. If a man committed murder, the murdered man's people were always anxious to kill that man in the same manner. But today we have advanced so much that this sort of gruesome murder or behaviour would not be tolerated. And in this Bill the nation is trying to see that its youth is not unnecessarily allowed to drift down the current and get into bad company which will confirm their criminal qualities if they have any and make them commit more offences.

My hon. friend Shri Bharucha was telling us about Salmond. I too have read Salmond, but not successfully, because I had to leave my law college. Salmond's distribution of punishment as deterrent, preventive, reformative and retributive is not quite correct. I think there is an idea of imperialism, colonialism and a sort of feeling of superior and inferior men in it. The world is coming slowly to oneness and the idea of one world, so much so that Salmond must be re-written because the categories enumerated by him denote punishment, and punishment in the olden days was very deterrent and very cruel. The more cruel the punishment, people thought the greater was it is deterrent. Now the days have changed and the psychology of the world as a whole has improved, and the collective wisdom of all nations is pointing towards something else, something more refined, because man as a whole is not prone to be criminal and it is because of certain circumstances that he commits offences.

I would like to call the attention of the House to an incident which took place, 2,000 years ago in the life of Jesus Christ. A woman had committed the sin of adultery, and according

to the Mosaic law any one found guilty of adultery had to be stoned to death. At that particular moment Jesus was telling the people to rise above the idea of a tooth for a tooth and an eye for an eye. He was telling them that if they were slapped on the left cheek, they should turn the right one also. He was trying to tell them of a new law of conduct. The people brought the woman to Jesus and said: "Here is a woman whom we have seen committing adultery. According to the law of Moses she should be stoned to death. What sayest thou". It was a very difficult question. If he should say that she should not be killed, they would say that he was irreligious and was talking against the law of Moses. If he agreed with them, they would find fault with him, saying: "You said that we must have love, love thy neighbour as thyself etc., and how can you allow this woman to be killed by stonning her to death." These were the difficulties which pestered Jesus. He thought for a while and said, "Stone her to death..."; everyone was trying to get in, but he added. "....beware, the first stone must be from the man who is free from sin". And he began to write with his toe on the sands of the Sea of Galilee. After a time he looked up and saw nobody there except the woman almost shivering with fear, prostrate at his feet and weeping. He asked her: "Woman, has nobody touched you?" "No, my Lord," she said. Then he said: "Go away, and do not commit this sin once again".

This is a story that has come down for nearly 2,000 years and this story gives us a lesson that whatever may be the crime, we should see that the person concerned is offered all facilities to reform, to repent and to become penitent, to shed the ideas of criminality by himself and not by force.

Shri Bharucha said something about his experience of a rape case in the Bombay Court. Though I was not a lawyer, I too have a certain experience of these rape cases. (laughter).

Mr. Deputy-Speaker: He might have been a Judge.

Shri B. S. Murthy: I said "rape cases". I did not say anything else. I hope my friends will be good enough to lay a better construction on my sentence.

A boy who was working in the Corporation of Madras entered a hostel and committed rape. The next morning he and the girl were brought to me, and the father of the girl said: "This matter must be reported to the Commissioner of the Corporation and this man must be punished. He must be sent to the police." I argued with the father and later on made him understand the position. I also had a talk with the boy and he explained that he did it under certain circumstances and promised that he would never look at any other woman except in the spirit of the saying *matruvat para dareshu*. We sat down and discussed the whole matter and finally the girl's father also pitied the boy. The boy was let off and the girl was taken care of by her parents. Today the boy is an ideal social worker, and whenever I see him he bends his head in shame and says: "I cannot forgive myself and forget the offence that I committed".

Therefore, we must try to be as far as possible compassionate in dealing with criminals in their first offence. Therefore, I would ask that these cases should not be entrusted to all and sundry. These are difficult cases and I would like only juvenile courts should be ordered to try them. As there are courts in America, we should also have juvenile courts all over the country, and very able, eminent and cultured people should be appointed as Judges in these courts so much so that their very presence will make the offender realise his guilt and seek their protection and advice.

As my hon. friend Shri Sadhan Gupta was saying, the probation officers must be carefully selected. They must have a missionary zeal in them, because they will be in charge of these probationary offenders who

[Shri B. S. Murthy]

have to reform themselves, and they may have to contribute a good deal in this respect. Therefore, I would like that these probation officers are officers who are trained in social service, in tests of psychology and several other things, for, unless and until we provide the wherewithal for the offender to get himself reformed, it is not possible to reform him. Therefore, it is very necessary that we should appoint good probation officers, and also set up juvenile courts.

It is said in law that it is better that nine guilty persons escape rather than that one innocent person be punished. So, if we are able to reform a number of young men by this piece of legislation, it would be an asset to the country.

Therefore, I welcome this Bill, and I would request that the suggestions that I have made may be considered, namely that juvenile courts should be established all over the country, that these cases should not be handed over to any and every court, and that the probation officers must be trained officers who would handle the offenders carefully and with sympathy and compassion. I hope the Ministry will make the necessary arrangements for this purpose.

My hon. friend Shri Naushir Bharucha said that every dog has a legal bite, and every horse has a legal kick. If we admit that even a dog and a horse can have a bite and a kick respectively, why should not every person have a legal escape? And this Bill is intended as a legal escape.

श्री श्रीनारायण दास (दरभंगा) : उपाध्यक्ष महोदय, मैं इस विधेयक का हृदय से समर्थन करता हूं। मैं जानता हूं कि मौजूदा समाज में इस तरह के कानूनी तरीके का अपनाना अभी इतना सहल नहीं हो पाया है। अभी एक बहुत ही माननीय सदस्य ने, जो कि एडवोकेट हैं, इस बिल का विरोध किया है। कुछ दूसरे वकील भाइयों ने इसका समर्थन भी किया है। मैं वकील नहीं हूं और मैं यह भी मानता हूं कि मैंने अपने देश की न्याय पद्धति और न्याय प्रशासन का भी पूरा अध्ययन नहीं किया है, लेकिन जहां तक दंड संहिता का संबंध है, मैं जानता हूं कि दंड देने के कई उद्देश्य हैं। सब से बड़ा उद्देश्य यह है कि अपराध करने वाले के मन में इस बात का भय पैदा हो कि समाज कानून भंग को बहुत कड़ी नजर से देखता है और चाहता है कि दूसरे लोग अपराधी की सजा को देख कर आगे अपराध न करें। सजा का एक दूसरा उद्देश्य यह भी होता है कि जो लोग समाज की मान्यताओं—नैतिक मान्यताओं, कानूनी मान्यताओं और दूसरी मान्यताओं—के विरुद्ध कार्य करते हैं, उनसे समाज की रक्षा की जाय। मनुष्य समाज के आरम्भ में देखा गया है कि समाज की स्थापित मान्यताओं के विरुद्ध जाने वाले लोगों को बड़ी बड़ी कड़ी सजायें दी जाती थीं। अगर सभ्यता का—मानव समाज का—शुरू से ले कर अब तक का इतिहास देखा जाय, तो स्पष्ट है कि शुरू में साधारण से साधारण अपराध के लिए—जिसे आज हम साधारण अपराध कहते हैं—मृत्युदंड दिया जाता था, अंग भी काट लिए जाते थे। जो व्यक्ति चोरी करता था, उसके हाथ काट दिए जाते थे। बहुत सी ऐसी सजायें दी जाती थीं और ऐसे तरीके अपनाए जाते थे, जिन्हें आज हम असभ्य कहते हैं। किसी साधारण से अपराध करने वाले व्यक्ति को उबलते हुए तेल में अपना हाथ डाल कर अपनी निर्दोषिता साबित करने के लिए कहा जाता था। अगर उस का हाथ न जलता, तो उसे शुद्ध समझा जाता था। लेकिन जैसे जैसे समाज में सभ्यता बढ़ती गई, वैसे वैसे दंड को न केवल इस दृष्टि से देखा गया है कि दंडित व्यक्ति और दूसरे लोग अपराध करने से डरें, वरन् इस बात पर भी विचार किया गया है कि कोई व्यक्ति अपराध क्यों करता है, उस के अपराध करने के पीछे उस का व्यक्तिगत दोष ही है या समाज का भी दोष

है, वह किसी शारीरिक या मानसिक कमजोरी के वशीभूत होकर अपराध करता है, अथवा समाज का जो संगठन है, उस की जो धारणायें हैं, जो सामाजिक जीवन है, उस के कारण वह अपराध करने को बाध्य होता है। हमारे देश के दंड संहिता के जानने वाले जो लोग हैं, उन्होंने इस विषय को पूरी विवेचना की है और सोचा है और इसी के फलस्वरूप हमारे देश में—और इस के साथ ही अन्तर्राष्ट्रीय क्षेत्र में भी—दंड विधान के सम्बन्ध में नए नए सुझाव आते रहते हैं और दंड संहिता में संशोधन किए जाते हैं। संसार में एक ऐसा अन्तर्राष्ट्रीय संगठन मौजूद है, जहां तमाम देशों के न्याय शास्त्र को जानने वाले, मनोविज्ञान शास्त्र के जानने वाले और इस क्षेत्र में अनुभव रखने वाले लोग एकत्रित होते हैं और इस बात की विवेचना करते हैं कि संसार भर में जो दंड संहितायें प्रचलित हैं, आज की हालत में वे सचमुच में ठीक हैं या नहीं और अगर वे ठीक नहीं हैं, तो उन में किस प्रकार से सुधार किया जा सकता है। इस सम्बन्ध में जैसा कि माननीय मंत्री ने बताया एक सम्मेलन इंसपैक्टर्ज जनरल आफ पुलिस का हुआ, जिस ने इस बारे में सुझाव रखे। मैं किसी व्यक्ति विशेष को दोष नहीं देना चाहता हूं, लेकिन मैं यह समझता हूं कि हमारे देश का पुलिस संगठन और न्याय प्रशासन अभी आदर्श ढंग का नहीं हो पाया है। हमारे दंड विधान में ऐसा संशोधन करने की जरूरत है, जिससे दंड देने का उद्देश्य पूरा हो जैसा कि कल माननीय मंत्री जी ने बताया था, दंड देने का उद्देश्य डर दिखाने के साथ ही साथ सुधार करना भी है और यह विधेयक, जो कि हमारे सामने आया है, उस दिशा में एक अच्छा कदम है। इस सम्बन्ध में मुझे यह दुख के साथ कहना पड़ता है कि हमारे माननीय मंत्री जी ने इस सदन को यह बताने का कष्ट नहीं उठाया है कि क्रिमिनल प्रोसीजर कोड की दफा ५६२ का अनुसरण जिस का उद्देश्य इस विधेयक के उद्देश्य से मिलता जुलता है, किस किस राज्य में, किस पैमाने पर किया गया है और उस का अनुभव क्या रहा है। इस मौके पर उन को हर राज्य सरकार से इस सम्बन्ध में आंकड़े और अन्य सूचनायें मंगवानी चाहिये थी और उसको इस सदन के सामने रखना चाहिए था, ताकि इस सदन को ज्ञात होता कि अगर किसी राज्य ने दफा ५६२ का अनुसरण किया है, तो किस हद तक किया है, और अगर नहीं किया है, तो क्यों नहीं किया है और उस के रास्ते में क्या रुकावटें थीं।

माननीय मंत्री जी को इस संबंध में इस देश की जेल व्यवस्था के बारे में भी कुछ सूचना हमारे सामने रखनी चाहिये थी। यद्यपि जेल प्रशासन केन्द्रीय विषय नहीं है, लेकिन केन्द्रीय सरकार का कर्तव्य था कि वह यह सूचना एकत्रित करती कि विभिन्न राज्यों में जेल व्यवस्था में क्या क्या सुधार हुये हैं, क्या आंकड़े हैं, कितने अपराधी ऐसे हैं, जो कि पहली बार दंडित होने के बाद दोबारा अपराध कर के जेल में गये। यह पता लगाना जरूरी है कि जो अपराधी दंड के रूप में—या सुधार करने के लिये—जेल में भेजे जाते हैं, वे वहां से वापस आकर समाज के अच्छे नागरिक बनते हैं या नहीं। हम अपनी जेलों पर इतना खर्च करते हैं, इतनी व्यवस्था करते हैं, हर तरह से सुविधा देने का प्रयत्न करते हैं। अतः आंकड़ों को देख कर हम इस बात का पता लगा सकते थे कि दंड पाये हुये अपराधी जेल में रहने के फलस्वरूप समाज के अच्छे नागरिक बनते हैं या नहीं या दोबारा अपराध कर के कड़ी से कड़ी सजा पा कर जेल में लौटते हैं। इस अवसर पर अगर इसके संबंध में भी कुछ बता दिया गया होता तो मैं समझता हूं कि इस सदन में इस विधेयक पर विचार करने में हम लोगों को सुविधा होती।

यह बात ठीक है कि अन्तर्राष्ट्रीय संगठन का यह आदेश है और दुनिया के जो दूसरे देश हैं उन देशों में इस तरह के कानून बने हैं और उन देशों ने अपने देशों के अन्दर ऐसी व्यवस्था की है कि जिस में जेलों को

[श्री नीतारायण दास]

स्थान दिया गया है और इसके साथ ही साथ उनके सुधार की दूसरी संस्थायें हैं चाहे वे सरकार द्वारा संचालित हों चाहे कानन पर आधारित हों या समाज उनको चलाता हो या समाज सुधार में दिलचस्पी रखने वाले व्यक्ति उनको करते हों।

इस बिल के बारे में मैं अपना एक विशेष विचार यह रखना चाहता हूं कि अब समय आ गया है जबकि हमें यह देखना होगा कि हमारे देश में अपराधों में कमी क्यों नहीं हो रही है। इस बिल में जिन धारणाओं को लेकर चला गया है, हो सकता है कि वे पूर्ण व्यावहारिक नहीं साबित हों। लेकिन यह बात भी सही है कि बावजूद इसके कि हमारे देश में कड़े से कड़े कानून बने हुये हैं लेकिन फिर भी जहां तक चोरी का सवाल है या दूसरे अपराधों का सवाल है या उन अपराधों का सवाल है जिनको कि घृणित अपराध कहा जाता है, वे कम नहीं हुये हैं। जिस प्रकार की दंड व्यवस्था है, जिस प्रकार से हमारे देश में न्याय का शासन चलता है, अपराधों में कमी नहीं हो पा रही है। चाहे यह विषय राज्य सरकारों के अन्तर्गत आता हो चाहे केन्द्र सरकार के अन्तर्गत लेकिन यह देखा गया है कि आज भी जब हमने कड़े से कड़े कानून बना रखे हैं यह बुराई कम नहीं हुई है। आज भी लोग काफी बड़ी संख्या में इन कानूनों की अवहेलना करते हैं। आज भी लोग समाज के विरुद्ध काम करते हैं जिस से कि समाज को हानि होती है, आज भी लोग ऐसे कार्य करते हैं जिससे कि व्यक्तियों की हानि होती है। आज हम ऐसे लोगों को कड़ी से कड़ी सजायें देकर जेल भेज देते हैं लेकिन इसके बावजूद भी ऐसे अपराधों की संख्या हमारे देश में बढ़ी ही है इसमें कमी नहीं हुई है। जब ऐसी बात है तो विधायकों के लिये यह सोचने का यह एक अच्छा अवसर मिल जाता है। अब हम कोई नया कानून बनायें और खास तौर पर दंड की व्यवस्था का तो उस कानून को बनाते समय इस बात पर भी विचार करें कि अब तक हमने जो दंड की व्यवस्था की है, उसका क्या असर हुआ है। जहां तक मैं थोड़ा बहुत जान पाया हूं, उसके आधार पर मैं यह कह सकता हूं कि आज समय आ गया है जब हमें न केवल इस बात का ख्याल रखना है कि भय ही पैदा किया जाये, न केवल इस बात का ख्याल करना है कि लोगों के दिलों में डर ही पैदा किया जाये और इस डर की वजह से लोग अपराध न करें बल्कि इस बात का भी ख्याल रखना है कि वे अपराध करने पर मजबूर क्यों होते हैं। मनोविज्ञान बतलाता है कि डर किसी व्यक्ति के लिये या समाज के लिये कोई ऐसा विषय नहीं है कि जिस से घबरा करके लोग किसी बुरे काम को करना बन्द ही कर देंगे। अगर डर और भय से अपराध बन्द होने होते तो आज को बन्द हो गये होते। जेल के कानूनों को देखकर, वहां पर जिस प्रकार का व्यवहार किया जाता है तथा जिस प्रकार अपराधियों को रखा जाता है, आज अपराध बन्द हो गये होते। हमने देखा है कि लाखों की तादाद में लोग जेल गये हैं, उन्होंने कानून को तोड़ा है। जेलों में सख्ती के साथ रखे गये हैं, फिर भी वे अपराध करने से नहीं रुके हैं। जेलों का तजुर्बा उल्टा यह बताता है कि जो अपराधी एक बार जेल चला जाता है, वहा के सहवास से, वहां के वातावरण से तथा वहां की कुव्यवस्था से वहां के व्यवहार से, चाहे वह जेल वार्डर का व्यवहार हो या जेल सुपरिंटेंडेंट का हो या दूसरे कर्मचारियों का हो, उसके कारण वहां से वह एक कनफर्म्ड (पुष्ट) अपराधी बन कर निकलता है। एक आदमी जो भूखा है और अपनी भूख को तृप्त करने के लिये साधारण सी चोरी करता है, जेल में चोरों के सहवास में रह करके वह पक्का चोर बन कर निकलता है। अगर कोई आदमी गलती से या किसी के बहकाने के किसी डकैती में आप से लेता है और

पकड़ा जाता है, तो जब वह जेल जाता है वहां से वह पहले से भी ज्यादा जबर्दस्त डाकू बन कर लौटता है। इस वास्ते समाज को, देश के विधायकों को इस पर विचार करना चाहिये कि दरअसल में जब हम कोई कानून बनाते हैं और विशेषकर जब हम किसी दंड की व्यवस्था करने वाला कानून बनाते हैं तो हमें देखना चाहिये कि जिस उद्देश्य से उस दंड वाले कानून को हमने पहले पास किया है और उसको पास करने में जो हमारा उद्देश्य था, वह सफल हुआ है या नहीं। इसीलिये आज इस विधेयक के द्वारा जिन बातों का हम अपनी दंड संहिता में समावेश करने जा रहे हैं, उसका जैसा कि मैंने पहले कहा, मैं बहुत जोर से अभिनन्दन करता हूं।

अभी थोड़ी देर हुई हमारे माननीय सदस्य भरूचा साहब ने एक बात कही थी। उन्होंने कहा था कि हमारे जो न्यायकर्त्ता हैं वे अपराधियों को दंड देने में बहुत ही लीनियंट व्यू लेते हैं उस समय जब किसी को दंड देने का वक्त आता है। वे लोग उस वक्त बहुत कड़ाई के साथ नहीं सोचते हैं। उनका कहना था कि हो सकता है कि इस विधेयक के पास हो जाने के बाद और इस कानून के बन जाने के बाद समाज में लालैसनेस फैले, कानून हीनता बढ़े या समाज में दूसरी बुराइयां फैलें। अगर जज का ऐसा कहना इस विधेयक पर लागू होता है तो वह दूसरे विधेयकों पर भी इसी प्रकार से लागू होता है। हमारे देश में अच्छे लोग भी हैं और बुरे भी हैं। लेकिन जहां तक बुरे काम करने वालों को सुधारने का ताल्लुक है, उनका सुधार किया जाना चाहिये। मैं समझता हूं कि यदि इसको व्यावहारिकता की दृष्टि से देखा जाये, तो आपको पता चलेगा कि अब समय आ गया है जबकि हमें यह देखना चाहिये कि हमारा जो यह उद्देश्य है कि अपराधों में कमी हो उसको कम करने का क्या यही एक साधन है कि कड़ी से कड़ी सजा दी जाये और अपराधियों को जेल भेजा जाये अथवा उनको समाज के अन्दर किसी संस्था के अधीन या व्यक्तियों के आधीन या ऐसे वातावरण में रखा जाय—चाहे उनको अपने घरों पर ही क्यों न रखा जाये—जिस से वह जिस अपराध के लिये दंडित हुआ है, आगे से उसको बुरा समझने लग जाये।

उपाध्यक्ष महोदय, यह देखा गया है कि हमारे देश में सरकारी तौर पर तो नहीं लेकिन गैर-सरकारी तौर पर ऐसी संस्थायें हैं जो जेल से दंडित व्यक्तियों के निकलने के बाद उनके सुधार के लिये, उनको अपना जीवन भली भांति चलाने के लिये, उनको फिर से रोजगार पर लगाने के लिये कार्य करती हैं। यह कर्त्तव्य समाज का है कि वह देखे कि किस तरह से ऐसे व्यक्तियों का सुधार किया जा सकता है। अगर एक व्यक्ति जोकि पांच, सात या दस साल की कैद काट कर आता है और उसकी ओर समाज घृणा की दृष्टि से देखता है, उसको कोई काम पर नहीं लगाता है, उसके जीवन निर्वाह का कोई साधन नहीं है और लोग उसके साथ सहवास करने से भी डरते हैं और वह एक कलंक लिये हुये समाज में रहता है, तो इसके गम्भीर परिणाम निकल सकते हैं। ऐसी सूरत में मैं पूछना चाहता हूं कि क्या समाज का उसके प्रति कोई कर्त्तव्य है या नहीं। उसका अगर कोई कर्त्तव्य है तो फिर मैं समझता हूं कि इस तरह का कानून बनाना भी उपयोगी सिद्ध हो सकता है और है। एक आदमी किसी गलती से कोई अपराध करता है और जज यह समझता है कि उसका चालचलन बुरा नहीं है और किसी और ही कारण से उसने अपराध किया है और उसको मौका दिया जाना चाहिये कि वह सुधार करके अपना जीवन निर्वाह करे, उस पर निगरानी रखी जाये, उसका निरीक्षण किया जाये, तो उसको आत्मसुधार करने का उचित अवसर दिया जाना चाहिये। अगर समाज इसका कोई प्रबन्ध नहीं करता और एक आदमी हो सकता है कि किसी सहवास के कारण या कुसंगति में पड़कर कोई अपराध कर बैठे और सात आठ साल के बाद जेल से

[श्री श्रीनारायण दास]

निकल कर उसके जीवनोपार्जन का कोई प्रबन्ध नहीं होता है तो आप सोच सकते हैं कि किस तरह वह इस प्रकार कलंकित बन कर चल सकता है। अगर समाज उस पर सन्देह की दृष्टि से न देखे, और उसको कोई काम दे दिया जाये, उसको कलंकित न समझा जाये, उसका तिरस्कार न किया जाये, उस पर घृणा की नजर से न देखा जाए और नौकरी देने वाले उसको नौकरी दे दें, तो फिर उसका सुधार संभव हो सकता है। ऐसी हालत में क्यों उसको अपने आपको सुधारने का मौका न दिया जाये। मैं चाहता हूं कि सरकार इसका पता लगावे कि उसे जेलों को चलाने के लिये, जेलों में खाने पीने की व्यवस्था करने के लिये, कितना खर्चा करना पड़ता है और यह भी हमें देखना चाहिये कि जो दंडित लोग हैं जो अपराधी लोग हैं, उनकी देखभाल उनके निरीक्षण, उनके सुधार आदि में कितना खर्चा आयेगा। अगर इसमें खर्चा भी कम पड़ता है और जेल की अपेक्षा सुधार की संभावनायें भी अधिक होती हैं, तो मैं समझता हूं कि इस ओर भी ध्यान दिया जाना चाहिये।

आज ऐसा वक्त आ गया है जबकि हमको जेल व्यवस्था पर भी ध्यान देना चाहिये। जेलें चाहे राज्यों का विषय हो चाहे केन्द्र का, फिर भी इस कानून पर विचार करते समय इस सदन का ध्यान जेलों की व्यवस्था पर जाना जरूरी है। अगर जेलों की व्यवस्था ऐसी होती है...

Mr. Deputy-Speaker: I hope the hon. Member is trying to conclude.

श्री श्रीनारायण दास : अगर मुझे समय दिया जाये तो मैं कुछ इस बिल की धाराओं पर भी कहना चाहता हूं।

Mr. Deputy-Speaker: Then he might continue the next day.

Now, we will take up non-official business.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

EIGHTH REPORT

Shri Easwara Iyer (Trivandrum): Mr. Deputy-Speaker, Sir, I beg to move:

> "That this House agrees with the Eighth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 13th November, 1957."

Mr. Deputy-Speaker: I will now put it to the House. The question is:

> "That this House agrees with the Eighth Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 13th November, 1957."

The motion was adopted.

RESOLUTION *RE.* APPOINTMENT OF A TRIBUNAL TO REVIEW THE CASES OF DISMISSED GOVERNMENT EMPLOYEES

Mr. Deputy-Speaker: The House will now resume further discussion of the Resolution moved by Shrimati Parvathi M. Krishnan on the 12th September, 1957 regarding 'Appointment of a Tribunal to review the cases of dismissed Government employees'.

Out of 2 hours allotted for the discussion of the Resolution 3 minutes have already been taken up and 1 hour and 57 minutes are left for its further discussion today.

Shrimati Parvathi Krishnan was to have continued her speech. She has written to the Speaker to say that as she has left for Pakistan on a Parliamentary delegation she would not be present in the House today. In the circumstances, I shall treat her speech