

[Shri Harish Chandra Mathur]

discussed. Could we know the exact position? If we know it from the hon. Minister we will be able to adjust our activities.

Shri Jagjivan Ram: Any Bill or Act is not necessary for giving effect to any change in the freight rates or parcel rates. Therefore, the question of any Bill having been brought before this House is not relevant. It is not the intention that this matter should be discussed because a Committee was appointed on which Members of this House were represented. They have gone into the question and Government had considered the recommendations. As I undertook to inform the House before effect was given, I am placing the decision of Government for the information of the Members of the House.

Shri Tangamani (Madurai): In view of the importance of this Report, I submit that copies of it may be circulated to all the Members.

Mr. Speaker: Yes.

Shri Jagjivan Ram: I cannot say; but, we have made a copy of the Report available in the Library of the House and, Sir, if you think that more copies are required, we will place some copies at your disposal.

Mr. Speaker: Any Member who wants that can take it from the Library. What is the difficulty?

12.38 hrs.

MINUTES OF ESTIMATES COMMITTEE

Shri B. G. Mehta (Gohilwad): Sir, I beg to lay on the Table of the House a copy of the minutes of the sittings of Estimates Committee held during the year 1957-58, Vol. I, Nos. 1 to 3.

12.39 hrs.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

The Minister of State in the Ministry of Home Affairs (Shri Datar): Sir, I beg to move that the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration.

This is a matter which deals with the question of service of summons and execution of warrants in the State of Jammu and Kashmir or in the rest of India. In this respect, as you are aware, there is already a section, namely section 93A of the Code of Criminal Procedure. But it deals with only two of the four matters with which it ought to have dealt. You will find that it deals only with the summons to be served on the accused or the warrant for the arrest of the accused. Two matters were left out by inadvertence and they are search warrants and summons to produce documents of things.

You are aware that so far as the courts of Jammu and Kashmir are concerned, they are governed by their own Code of Criminal Procedure. In the rest of India, except where there has been a provision according to which the Code of Criminal Procedure is not made applicable, it applies to the whole of India. A reciprocal measure was necessary. Section 93A dealt with this question to a certain extent. This omission was in respect of two important matters, namely, the search warrants and also summons for the production of documents. Difficulty was felt in this respect both in India as also in the State of Jammu and Kashmir and the matter was such that it had to be dealt with almost immediately. Therefore, both here and in the State of Jammu and Kashmir, Ordinances were issued in June this year so as to make it possible for the respective courts to have powers for the purpose of proper execution or service of these four matters, in respect of only two of

which there was already a provision. Now, a Bill has been brought forward with a view to have the position absolutely clarified.

You may be aware that only a few days ago, the legislature in the State of Jammu and Kashmir had also recourse to such a Bill and if I am not mistaken it has already been passed. In the present Bill, section 93A of the Criminal Procedure Code has been omitted and a new chapter, Chapter VIIA, has been added and 105A is the important section in this connection.

All the four matters have now definitely been clarified: service or execution of a summons to an accused person, a warrant for the arrest of an accused person, a summons to any person requiring him to attend and produce a document or other thing, or to produce it, or a search warrant. These are the four matters in which reciprocal provisions were necessary and all these have been incorporated now. Two points have now been made clear: one is that when summons or warrants, etc. issue to the courts in Jammu and Kashmir, provision has been made as to how they are to be sent. If a report is received that they have been duly served or executed, then the presumption arises that they have been properly executed according to section 74 of the Criminal Procedure Code. In case any such summons or warrants are issued by a court in Jammu and Kashmir and sent out to other parts of India for execution or service, it has been made clear that they are to be so served or executed as if they were summons or warrants by a criminal court in India under the Criminal Procedure Code. The particular procedure that is to be followed in respect of such summons or warrants had they been issued by a court in India would be applicable also to such summons and warrants issued by the court of Jammu and Kashmir. They are more or less

matters of procedure and the whole thing has been put in properly. The whole procedure has been clarified so that there would be no difficulty at all for service or execution of summons either in India or in the State of Jammu and Kashmir when one issues them and sends them to the other for proper service or execution. I am confident that this Bill will command itself to the approval of the House.

Mr. Speaker: Motion moved.

"That the Bill further to amend the Code of Criminal Procedure, 1898 be taken into consideration."

Shri Asoka Mehta (Muzaffarpur)

Sir, the hon. Minister just now has stated that this amending Bill becomes necessary because certain powers had been left out inadvertently. I am not a student of the Procedure Code and therefore, I cannot say anything on that subject. But this Ordinance had to be issued because some special emergency must have arisen. If the Government merely thought that certain powers were to be obtained normally an amending Bill would have come up. But an Ordinance was issued evidently because the Government in Jammu and Kashmir or some authorities here have felt that matter had to be done urgently and suddenly. What was the urgency? The Minister has not told us about that. I believe that it was Miss Mridula Sarabhai's house which was searched immediately after this Ordinance was issued. Probably this Ordinance was necessary in order to enable that search to be carried out. As far as Miss Sarabhai is concerned, the Government of India was fully aware of whatever she was doing for a long time in this House and outside, rightly or wrongly, various questions had been raised in that connection. It is very difficult for me to understand as to whether the contingency of having to search some house here in connection with some developments in Jammu and Kashmir was not anticipated. What is this inadvertence? These defects have been

[Shri Asoka Mehta]

there for the past few years I have no desire to go further into that matter because that does not arise just now. But no emergency had arisen or was likely to arise which could not have been anticipated. Why was it necessary for the Government to get the President issue an Ordinance? Why was it not anticipated? To the best of knowledge, only one house has been searched under the special powers. Whether other houses should be searched or not, it is for the Government to decide and I have no question to ask on that point. Was any incriminating material found during that search? I am raising this point for this reason that immediately after the search that lady was put under detention, I presume not at the instance of the Jammu and Kashmir Government.

Mr Speaker. An individual case is not the subject matter of this Bill.

Shri Asoka Mehta. An Ordinance had to be issued. They say that this was because of an inadvertence and suddenly an emergency arose. They must justify that there was an emergency. I am not saying that this particular amendment is necessary or not necessary because I am not, as I said, a student of the Criminal Procedure Code. I cannot speak on that subject. But it is necessary for the Government to make out a case that an emergency had arisen. I find that the Government have detained that lady. It means that the Government must have some material. Again, I am not going into the question whether the detention is right or wrong because that is not my purpose. If the Government had materials before them for which they can put a person under detention, surely there could not have been an emergency. I am arguing from both ends. As far as the Jammu and Kashmir Government is concerned, it knew that these things were happening. We know the statement made by Bakshi from time to time that this particular lady here

was indulging in activities which he considered to be harmful to his State and to his Government. Immediately on the heels of the search carried out in her house, she has been detained. It means that the Government must have had some material on the basis of which they have got her detained. But what was this emergency? Why was this not done in the last session, or earlier, during the last five years? Or why did not they wait for a few days when the Parliament would be meeting? After all this power to issue Ordinance must be utilised properly. And it is, I hope, Sir, you will agree with me, the responsibility of the Minister to justify why this Ordinance was issued. I am not as I said, saying anything about the need or otherwise of this particular amending Bill, but I think the House is entitled to find out from the Minister what that emergency was which was not anticipated and I just took your time a little in order to explain from my point of view how either this emergency could have been anticipated, and if it could not have been anticipated surely there could not have been an emergency at all. Therefore, Sir, he should give us the reasons. I would request you to call upon the Minister to give us the reasons, justifying the issuing of the Ordinance, whereby this amending Bill had to be brought here with this haste in order to, more or less, regularise an Ordinance that has been issued.

Shri P S Daulta (Jhajjar) Sir, I stand to support the contents of the Bill, but I protest, rather strongly protest, with regard to the method in which, and the specific purpose for which this change was sought to be brought about. So far as the merits are concerned, as the Statement of Objects and Reasons says, there is nothing new, only two additional special rules are going to be added.

I want to submit that for a considerable time from 1898 to 1941, there was no specific provision for any special law whatsoever in the C.R.P.C. At that time the position was like

this. India was divided into what was then known as the British India and the native States. The C.R.P.C. extended only to British India, and if a person committed a crime in British India and made good his escape in the neighbouring native States, there was no provision in the C.R.P.C. to enforce his appearance. The only course was to have extradition proceedings, and that was so lengthy and complicated that before the man was arrested the evidence would have almost gone. Therefore, it was for the first time in 1941 that by virtue of section 2 of Act XIV of the Criminal Procedure Act special rules came in and two sections—93A and 93C were inserted in the C.R.P.C. It continued to serve the purpose of execution of warrants and service of summonses till 1945. In 1945 that amending Act was repealed, but the courts held that these two special sections should continue to stay in the C.R.P.C. When the distinction of British India and Indian India was removed in 1951 by Act No. 1, we had another amendment and we got this present section 93A, which is now going to be substituted.

I have traced history only to make it clear that from 1941 upto 1958 difficulties had been there in this regard, but the Central Government did not move to remove those difficulties. I would like to quote a reported case of Calcutta—AIR 1955, Calcutta 277—where a magistrate from Srinagar sent a warrant for execution to the Presidency Magistrate, Calcutta.

Mr. Speaker: On what date?

Shri P. S. Daulta: Date is not necessary.

Mr. Speaker: What year was that?

Shri P. S. Daulta: 1955. In 1955 an arrest was made under this warrant, but later on the court held that the arrest was illegal because section 93A was not applicable to the Police Commissioner there and the Bengal Government did not make section 93A applicable to that Presidency Town.

Similarly, a case is reported of the Madras High Court—AIR 1953, Madras 953—and in that case the arrest could not be made because 93A was not made applicable there. What I want to point out is that those difficulties existed even before, but for the last 17 years Government did not find it convenient to bring this change.

And, all of a sudden an Ordinance has come. In the Bill which is meant to regularise that Ordinance, it is incumbent on the Government to give in the Statement of Objects and Reasons the reasons why this Ordinance was promulgated, what was the emergency then which was not there before. The reasons are neither given in the Statement of Objects and Reasons nor were the reasons given in the speech of the hon. Deputy Minister and, therefore, we have justifiably to go on the knowledge that we get through the newspapers.

Sir, it is a hard fact that in Kashmir and outside Kashmir there existed an element in our public life—it may be good, it may be bad, I am nobody to issue a certificate; but the element of activities was certainly anti-national, certainly against the interests of Kashmir. Those people indulged in propaganda which was highly objectionable. Sir, I am not to be taken as their sympathiser, nor my party, because we, my party, were the first persons, both inside the House and also outside, to expose that element. We criticised that element, when my friends on the other side were saying that it was not proper.

Therefore, Sir, I am not saying this as their sympathiser, but as a student of law I am unable to understand this way of doing things. What I want to protest against is that the Government failed to meet their propaganda by counter-propaganda, meet their speeches with counter-speeches. We used to get with our tea every morning a bundle of papers from a prominent lady, whose name was mentioned by my friend over there, and it was such a regular supply that

[Shri P. S. Daulta]

we were wondering from where she could get so much funds. We did not get any papers containing counter-propaganda by the Central Government or the Kashmir Government. For two years we did not get any such papers. All of a sudden we heard through the Press—Government has a way of doing things; they rely very much on their administrative powers—that some action was going to be taken against that prominent lady.

The point is this. If a change is made in the law, whether the law is procedural or otherwise, keeping in view a particular case which is in court, or is likely to go before any court, or it is before the authorities, with a view to smoothen the way of that particular case, then that change is not only *mala fide*, it is highly undesirable. Therefore, because of the way they have adopted, by first coming in with an Ordinance and then seeking to get it substituted by this Act, they shall have to explain why this was done through an Ordinance.

I support the contents because, so far as the change is concerned, it is highly desirable. This will enable the courts, not only at the investigation stage but actually at the time of administration of justice, to discharge their duties. These provisions will be very helpful, but the way in which they have been made, through an Ordinance keeping in view a particular case or cases which were likely to be tackled by the authorities and then try to amend the law, whether it is procedural or otherwise, is not a desirable way of doing the thing.

With these words, Sir, I support the contents of the Bill.

Shri C. R. Pattabhi Raman (Kumbakonam): Mr. Speaker, Sir, we are not called upon to discuss the competency of the President, when the House was not sitting, to issue the Ordinance.

Shri Asoka Mehta: Why?

Mr. Speaker: All that the hon. Member means is that the President, under the Constitution, is competent. But that is not the point raised. The question was whether he ought to have done it or not.

Shri C. R. Pattabhi Raman: I was very careful, Sir, in using the word 'competency'. Is he out of jurisdiction, is he falling short of the channel when he jumps; that is the question. He has got the powers. There are three Ordinances that have been issued—now that I have been interrupted, I may point out that. There was condemnation with regard to the others, but with regard to this there has been nothing at all so far, and I do not think it is anybody's desire that our jurisdiction should not extend as soon as possible, as fully as possible, to Jammu and Kashmir.

Mr. Speaker: I understood Shri Ashoka Mehta to say that Ordinance ought not to be resorted to normally, whatever might be the need for it, and he says that either the Government must have anticipated it earlier or waited for some time more.

13 hrs.

Shri Asoka Mehta: It could have been anticipated.

Mr. Speaker: That is all his point

Shri C. R. Pattabhi Raman: If I may say so, I was very guarded in my statement. I am not concerning myself with the policy.

Mr. Speaker: The simple point is only this. Nobody denies the need for reciprocal arrangement regarding this matter. Therefore the Ordinance was issued. Mr. Mehta does not impeach the competence of the President to issue Ordinances when the House is not in session. All that he asks is why do you not anticipate these things.

Shri Asoka Mehta: Article 123 of the Constitution says:

“(1) If at any time, except when both Houses of Parliament are in session, the President is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require”

The Minister has now to satisfy the House that circumstances existed which necessitated the issue of the Ordinance. Otherwise the Ordinance could not have been issued.

Mr. Speaker. The hon Member in his speech did not go to that extent. Circumstances might have existed, but why could not Government anticipate them?

Shri Asoka Mehta. Even then I said he must give us the reasons. The House should be told why this was done. I read this article out, because my hon friend opposite was, trying to give a wider context to the discussion. Nobody denies that the President was competent to issue the Ordinance. But why could the normal course of administration not be followed?

Shri C. R. Pattabhi Raman. Without a search warrant the documents could not be seized. They had to deal with this lacuna.

Mr Speaker. Nobody denies that without the help of the Ordinance no search could be made and a warrant could not be executed. But why was it not anticipated and a Bill brought in the previous session. That is the simple point. The hon Minister

Several Hon. Members rose—

Mr. Speaker: Can they not speak on the clauses?

Ch. Ranbir Singh (Rohtak). I would like to reply to the question of my

hon friend as to what was the necessity of promulgating this Ordinance.

Mr. Speaker: Ch. Ranbir Singh

This is a small Bill, let us get it through early.

श्री० रणबीर सिंह अध्यक्ष महोदय, अभी हमारे कुछ साथियो ने इस बात का जिज्ञा किया कि आर्डिनेंस लागू करने की क्या आवश्यकता थी। वे शायद दस पंद्रह दिन पहले जो वाकालात में तथा मसारा के अन्य भागों में हुए, उनको शायद पानी की कमी की वजह से भूल गये हैं।

एक माननीय सदस्य : पानी की कमी तो आज हुई है।

श्री० रणबीर सिंह आज ही आपने यह मवाल किया है। जो कुछ मेहता साहब ने कहा है, मैं उस से सहमत नहीं हूँ लेकिन अगर यह मान भी लिया जाए कि कुछ खास केमों को इस्थाल में रख कर के आर्डिनेंस लागू किया गया था तो भी मैं इस में कोई आपत्ति नहीं देखता हूँ क्योंकि उस वकत जो हालात थे उन में ऐसा करना जरूरी हो गया था। उसके पहले जब सेशन बैठा था उस वकत और बीच में कुछ ऐसे हालात थे कि अगर कोई साथी कुछ थोड़ा बहुत देश का नुकसान प्रचार से करना चाहे तो उसका प्रचार से ही मुकाबला किया जा सकता था। लेकिन चन्द दिन पहले दुनिया के अन्दर लडाई के बादल छा रहे थे और एक खतरा मालम होता था कि कहीं मसारा के अन्दर लडाई न छिड़ जाए। ऐसे हालात में मैं यह मानता हूँ कि यदि होम मिनिस्ट्री राष्ट्रपति जी से यह दरख्वास्त न करती कि यह आर्डिनेंस लागू किया जाय तो शायद वह अपने फर्ज में कोताही करती और उसने ठीक तौर पर और ठीक समय पर

[श्री० रणवीर सिंह]

प्रधान से दरखास्त की कि वे धार्डिनेस को लागू करके इस कमी को पूरा करे।

Shri Achar (Mangalore) I would like to say a word about the propriety of promulgating this emergency legislation. The point that was raised was that even as early as 1942 or so, this lacuna or defect in the law was pointed out by the Calcutta High Court and later by the Madras High Court. It is not objected that the provision is useful and necessary. All that is stated by the Members of the Opposition is that this could have been anticipated earlier and there was no need for such emergency legislation by the President.

I would only say this much. Probably this was the last straw on the camel's back. Everybody knew this lady was doing this propaganda. But Government might not have realised, or might not have found it necessary to have such legislation. This defect came to notice when Government came to the conclusion that they should put a stop to this false propaganda. At that juncture probably the defect was realised and the Ordinance was issued.

Even if it is a fact, I am not able to understand the argument on the other side that there was no emergency at that point of time. If in the political conditions existing then, it was considered that such a legislation was absolutely necessary in the interest of the country, was there anything wrong in promulgating emergency legislation? I do not find anything wrong about it. I, therefore, submit that this legislation by the President was perfectly proper. It is not a question of competency. Nobody questions the competency. I consider this measure to be proper and support this Bill.

श्री. ब. जयदेवी (बलरामपुर) अध्यक्ष महोदय, सवाल यह नहीं कि इस अध्यादेश को अस्तव्यस्त सरकार ने एक महिला के विरुद्ध

जो कार्यवाही की वह ठीक है या गलत है, सवाल यह है कि जब ससद् का सत्र हो रहा था और यह सवाल ससद् में उठाया गया था तब इस तरह का कदम सरकार ने क्यों नहीं उठाया और अगर उस समय नहीं उठाया तो क्या सरकार ससद् के वर्तमान सत्र के लिए थोड़े दिन रुक नहीं सकती थी। जो भी कार्यवाही की गई है उसका शायद सभी समर्थन करेंगे लेकिन जिस दम से वह की गई है, माननीय मंत्री महोदय को यह जस्टीफाई करना है कि जिस समय कार्रवाई की गई है वह ठीक समय पर की गई और ठीक दम से की गई। मुझे याद है कि पिछले अधिवेशन में यह प्रश्न यहाँ उपस्थित किया गया था और प्रधान मंत्री महोदय ने कहा था कि जो भी प्रचार किया जा रहा है उस सम्बन्ध में हम और अधिक क्या कर सकते हैं। और अधिक क्या हो सकता था यह इस धार्डिनेस से प्रकट हुआ। जब सत्र बैठ रहा था तब सरकार एक नियमित विधेयक लाकर कार्रवाही कर सकती थी। यदि उस समय वह विधेयक को नहीं लाई तो बाद में इस सत्र के निये सरकार थोड़े दिन रुक सकती थी।

जिस प्रश्न का उत्तर माननीय मंत्री महोदय को देना है वह यह है कि जिस समय यह धार्डिनेस लाया गया क्या उस समय ऐसी परिस्थिति थी कि सरकार ससद् के अधिवेशन के लिए थोड़े दिन रुक नहीं सकती थी। जहाँ तक जो कार्रवाई की गई है उसका सम्बन्ध है, प्रायः सभी ने उसका समर्थन किया और मुझे भी उस सम्बन्ध में अधिक कुछ नहीं कहना है।

Shri U. C. Patnaik (Ganjam) Mr Speaker, I welcome this Bill as well as the Ordinance before the House. I would submit that this Bill or the Ordinance was already overdue for a

long time. In fact, a number of other Bills also will have to come if we want to retain the Jammu and Kashmir State in India, because the situation is such that apart from the fact that the other side is concentrating on bases and on foreign weapons all round Kashmir, it will be an easy matter for them if they can use those foreign weapons— American weapons— to destroy a couple of bridges and occupy a portion of that country. It is high time that our Government, both on the defence side as well as on the home side, realised the urgency of these various measures to retain the Jammu and Kashmir State in India.

It is really going to be a menace if fifth columnists are active in India as well as elsewhere. Therefore it was really high time that our Government took some such measures in order to ensure the continuance of Jammu and Kashmir as part and parcel of this country. We are happy that after so much of agitation so much of complaints and so much of newspaper reports, the Home Ministry woke up to its responsibility and on the 10th June at least got an ordinance promulgated to see that fifth columnists in India can be proceeded against if it is found necessary.

Although the objection of my hon friends on this side is to some extent valid, namely, that Government should have anticipated these things early and should have taken action earlier I would still welcome the belated action, and I would say that the Ordinance came in time and, had it not come, and had they waited till this session then probably things would have been going on and a lot of propaganda in the international sphere would have done harm to our own cause. Therefore I am sure that the Ordinance as well as the Bill are necessary in our national interest and they will be the precursor to a number of other Ordinances and Bills to ensure the safety and security of this country.

श्री वाचव (बाराबकी) अध्यक्ष महोदय, मुझ से पूर्व बोलने वाले वक्ता ने कहा कि वह इस भाइनेस और इस विधेयक दोनों का स्वागत करते हैं। मैं जहाँ तक इस विधेयक का प्रश्न है और इसकी स्पिरिट का सवाल है, मैं उसका स्वागत करता हूँ लेकिन भाइनेस जैसी भी शक्ति में हो, मैं उसका सदैव ही विरोध करता रहूँगा।

जैसा कि बहुत से माननीय सदस्यो ने कहा भाइनेस को एवायड किया जा सकता था और मैं भी चाहता हूँ कि इसको एवायड किया जाए। इस सवाल की एक दूसरी भी शक्ति है। जम्मू और काश्मीर का जो प्रश्न है यह कोई नया प्रश्न नहीं है। यह बहुत पुराना है। मैं तो चाहूँगा कि केवल इस कोड आफ क्रिमिनल प्रोसीजर की तरमीम कर के किसी एक स्थिति का मुकाबला कर लेना ही काफी नहीं है जैसा कि यहाँ पर किया जा रहा है। मृदुला सारा भाई द्वारा जो प्रचार कार्य हो रहा था सरकार उसको रवाने के उद्देश्य से ही इस क्रिमिनल प्रोसीजर कोड में तरमीम करने जा रही है और उसी उद्देश्य से यह कार्यवाही कना चाहती है। यह भ्रष्टी बात नहीं है और ना ही होनी चाहिये। लेकिन मैं चाहूँगा कि जम्मू तथा काश्मीर को भी वही दर्जा दिया जाए जो भारत की अन्य रियासतो को, अथ राज्यों को मिला हुआ है तथा उस में तथा भारत के अन्य राज्यों में कोई फर्क न किया जाए। इस उद्देश्य को प्राप्त करने के लिये यह आवश्यक है कि सुप्रीम कोर्ट का जहाँ तक सवाल है उसकी पूरी की पूरी जुरिसडिक्शन जम्मू तथा काश्मीर पर हो। इस के साथ ही साथ जहाँ तक चुनावो का सम्बन्ध है मैं चाहूँगा कि जो इलेक्शन कमीशन है उसका पूरा पूरा अधिकार उस राज्य पर हो। यदि आप जम्मू तथा काश्मीर के

[श्री यादव]

प्रश्न को ठीक ढंग से हल करना चाहते हैं तो वह उस तरह से नहीं हो सकता जिस तरह से कि भाष्य करना चाहते हैं। भाए दिन किसी प्राइनिंस के द्वारा किसी खास स्थिति पर काबू प्राप्त करने के लिए कोई खास कानून बाद में बना देने से काम नहीं चलेगा।

जहां तक इस प्राइनिंस का प्रश्न है मैं इसका विरोध करता हूं मगर जहां तक इस बिल की स्पिरिट का सम्बन्ध है, मैं इसका स्वागत करता हूं। जो वर्तमान मीशन चल रहा है मुझे तो लगता है कि जैसे यह सेशन प्राइनिंस सेशन है, यह सत्र अध्यादेशों का सत्र हो गया है। चार चार प्राइनिंस इष् किये गये हैं। कुछ पर तो विचार हो चुका है या हो रहा है और अभी और भी विचारार्थ प्रस्तुत किये जाने बाकी हैं। बनारस हिन्दु विश्वविद्यालय के सम्बन्ध में जो प्राइनिंस जारी किया गया था उस पर विचार हो चुका है। एक पर भाष्य विचार हो रहा है। शूगर के सम्बन्ध में जो प्राइनिंस जारी किया गया था उस पर विचार होना अभी बाकी है। असम फोर्सिंस के बारे में जो प्राइनिंस जारी हुआ है उस पर अभी विचार होना है। ऐसा मालूम पड़ता है कि सरकार ने कुछ ऐसी भादत सी बना ली है कि चाईसदन बैठ रहा हो कुछ दिन बाद या बैठ चुका हो उसके कुछ दिन बाद ही प्राइनिंस जारी कर दिया जाए और इस सदन को विचार का मौका बाद में प्रदान किया जाए। अध्यादेश जारी करने का उसने दूसरा रास्ता निकाल दिया है। इस से एक चीज टपकती है और वह यह कि सरकार तानाशाही की ओर बढ़ रही है और मन माने ढंग से काम चलाने की ओर बराबर चलती जा रही है। कोई अच्छी चीज भी हो सकती है लेकिन अच्छी चीज को भी बुरे ढंग से करके उसकी अच्छाई को नष्ट कर दिया जाता है।

यदि सरकार गम्भीरता से विचार करे तो शायद अच्छी चीज को भी वह अच्छे ढंग से कर सकती है और बुराई को दूर कर सकती है। यदि वह ऐसा करे तो वह इस सदन का और बाहर के लोगों का सहयोग प्राप्त करने में सफल हो सकती है। ऐसा न करके तब मनमाने ढंग से उस चीज को करके अच्छी चीज को भी वह बुरा बना देती है।

जहां तक इस प्राइनिंस का सम्बन्ध है, मैं इसका विरोध करता हूं लेकिन जहां तक भारत के अधिकार क्षेत्र के जम्मू तथा काश्मीर तक बढ़ाये जाने का तात्पर्य है, मैं उसका स्वागत करता हूं। इसके साथ ही साथ मैं यह भी कहना चाहता हूं कि सरकार इस सम्बन्ध में भ विचार करे कि जम्मू तथा काश्मीर तथा भारत के अन्य राज्यों में कोई अन्तर न रहे और इस दिशा में सीधे ही कदम उठाये जायें।

Shri Datar: Mr Speaker, two points have been raised in the course of this debate. One is that the Ordinance ought not to have been issued at all. Either the Government should have anticipated or they should have waited. The second objection is that there is a long delay since this need was felt and nothing was done during the 17 long years and that now whatever necessary has been done, has been done not by bringing a Bill but by having an Ordinance promulgated.

So far as the question of promulgation of the Ordinance is concerned, I am not going to depend solely upon the technical objection. The technical objection is to the effect that under article 123, it is for the President to be satisfied. So, the satisfaction is the President's subjective satisfaction. He is not called upon to satisfy any other authority or even this House, because it has been further pointed out that the Ordinance would lapse after a certain period.

Therefore, so far as the technical aspect is concerned, this satisfaction that is spoken of is the satisfaction of the President, naturally under the Constitution on the advice of the Government of India.

But it might also be noted that so far as the merits of this amending Bill are concerned, almost all the Members are agreed. They agree that such a Bill ought to have been brought forward earlier. They also agree that section 93A was incomplete in certain respects. If it was incomplete in certain respects, as my hon. friend has pointed out, there were certain rulings of the courts. Still, the question arose whether this particular amendment was necessary at all. It might be a coincidence that there was a particular case to which my hon. friend has made a reference at a particular time. But when the Government found that there were certain handicaps in the law, certain provisions had not been made in the law, we have to take into account the difficulties felt by the Government of India on the one hand and also by the State of Jammu and Kashmir on the other. Both agreed that certain provisions or certain reciprocal provisions ought to be incorporated in both the Acts, and secondly, when they felt that this ought to be done as early as possible they felt that when certain deficiency is found in the law the sooner it is made up or cured, the better.

Therefore, I am pointing out that when this particular difficulty was felt by both the Governments, the Government of India and the Government of the State of Jammu and Kashmir, both of them agreed that there ought to be specific provisions for the execution of service warrants issued by one State in the other. Therefore it was felt that this was a matter which required the immediate attention of Government. Naturally, if some immediate attention was required, it can be done under article 123 only by the issue of an Ordinance, because Parliament was not in ses-

sion. Under the circumstances, the President was satisfied that there was a genuine difficulty. About the genuine difficulty, all hon. Members also agree. They say that there was a lacuna in the law so far as section 93A of the Criminal Procedure Code was concerned. They further say that such a lacuna ought to have been filled in during the last session of the Parliament or the Government ought to have waited.

Now, it was felt by both the Governments—Government of India and Government of Jammu and Kashmir—that this matter should be attended to almost immediately. That was why the President of the Indian Republic issued an Ordinance and a similar Ordinance was issued in the State of Jammu and Kashmir. So, under those circumstances, the President was fully justified in having this Ordinance promulgated. This also answers the question raised by my hon. friend that there was considerable delay. Assuming that there was delay, it was quite likely that judicial courts might have taken some view, but when the matter becomes of such a serious nature as to require a change in the law, then naturally the Government comes into the picture. This was the position that arose in or about June, 1958. That was why even though there were certain observations by certain courts, the difficulty was very acutely felt in or about June, 1958. So this particular Ordinance was issued and immediately after this House re-assembled, this Ordinance has been placed on the Table of the House and the present amending Bill has also been placed before the House.

It is not necessary for me to reply to any other point, because none has been raised, especially so far as the merits of the measure are concerned.

Mr. Speaker: The question is:

“That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration.”

The motion was adopted.

Mr. Speaker: There are no amendments to the clauses

The question is

"That clauses 2 to 4, clause 1, the Enacting Formula and the Title stand part of the Bill"

The motion was adopted

Clauses 2 to 4, clause 1, the Enacting Formula and the Title were added to the Bill

Shri Datar: I beg to move:

"That the Bill be passed"

Mr. Speaker: The question is:

"That the Bill be passed"

The motion was adopted.

13-24 hrs

ARMED FORCES (ASSAM AND MANIPUR) SPECIAL POWERS BILL

The Minister of Home Affairs (Pandit G. B. Pant): I beg to move:

"That the Bill to enable certain special powers to be conferred upon members of the armed forces in disturbed areas in the State of Assam and the Union Territory of Manipur, be taken into consideration"

As the House is aware, in the Naga Hills District and Tuensang area, owing to the hostile activities of certain misguided sections of the Nagas, Government has to take special measures to restore normalcy. The matter has come up before this House from time to time. So, it is not necessary for me to give a connected account of all that has happened there.

Sometime back, in 1956, the armed troops had to be brought to render assistance in this Naga Hills—Tuensang area. At that time, a regulation, more or less on the lines of this Bill, was applicable to that area. The

misguided Nagas have been indulging in mischievous activities and the administration there took special measures to quell their activities and to put an end to the hostilities there. With the combined efforts of all concerned, there has been considerable improvement in that particular area which was formerly disturbed.

Last year more or less about this time, a convention of Naga representatives met and they resolved that hostilities should be brought to an end, that the claim for independence should be abandoned and that the Government of India should be asked to help in measures for relief, etc. Since then, those representatives have been there in that Naga Unit, as it is now called. Hon Members might just recall that we had to bring a Bill for that purpose, in order to give a sort of self-contained status to this unit. There has been, as I said, through the use of forces against the miscreants and the extension of works of relief, etc., great improvement in this area, but the hostile Nagas who have not yet reconciled themselves to the line that has commended itself to a vast majority in the Naga Union Territory, have now shifted their scene of activity from this unit to other neighbouring units of Assam and Manipur. There they are indulging in arson, murder, loot, dacoity, etc. So, it has become necessary to adopt effective measures for the protection of the people in those areas. In order to enable the armed forces to handle the situation effectively, wherever such problems arise hereafter, it has been considered necessary to introduce this Bill.

This is a very simple measure. It only seeks to protect the steps that the armed forces might have to take in the disturbed areas. It is not possible over such a vast area to depute civil magistrates to accompany the armed forces wherever there may