

[Shri Gurudas Das Gupta]

only life link between Calcutta and Howrah have undergone distortions because it is not being maintained properly. And the task of maintaining the first Howrah Bridge, that is, the Rabindra Sethu is bestowed upon the Calcutta Port Trust. At least, in this case, there is no shortage of funds. It is because of negligence that some serious distortions in the big project have taken place. As reported in the press, some Central Government offices are also being shifted or sought to be shifted from Calcutta. May I speak on behalf of Calcutta and as one belonging to Calcutta that we are suffering from and we have been made a victim of a policy of neglect? I do not say a policy of discrimination because somebody shall say that counter-blast of discrimination is nationalism and chauvinism. We do not believe in chauvinism. Calcutta is very much proud of national integration. But, anyway, this policy of neglect is causing great harm. And I do not believe this is due to the factor that Calcutta has Voted Left Front to power because when Dr. B. C. Roy was in the office, the same lamentary story was told by him. I beg before the House, hon. Deputy Chairperson, that this policy of neglect be ended here-with and immediately. If the health of Calcutta declines, the national health of India shall not improve because Calcutta does not belong to Bengal, Calcutta belongs to India. Lakhs of Indians living outside Calcutta live on the earnings in Calcutta itself. Therefore, this policy of neglect must end. A new Mayor-in-Council has come into office. You are discussing with everybody every problem. Why can't you discuss with the Mayor-in-Council and the Minister who is in charge of Calcutta?

THE DEPUTY CHAIRMAN: Just a minute. Your Special Mention is regarding the Railway project and the Hooghly project.

SHRI GURUDAS DAS GUPTA: No, no. I have raised a number of them..

THE DEPUTY CHAIRMAN: It is not written here. Please confine yourself to this only.

SHRI GURUDAS DAS GUPTA: Madam Deputy Chairperson, I wrote some Central Government sponsored projects in Calcutta being truncated, construction delayed, causing great harm and damage to the people of Calcutta. And here is my press clipping, Madam. I do not know what has been written there. Therefore, I say, this policy of neglect must end. You are discussing with everybody every problem. Some problems you have solved. Some problems you are going to solve. Why can't you call the new Mayor-in-Council for a discussion? Why can't you call the Minister in charge of Urban Development for a discussion and end the problem because I believe that the health of Calcutta is the health of India (*Time bell rings*). And this is what I narrate, the lamentable story of Calcutta, one of the greatest metropolis of the whole world, and a very important part of India as a whole.

SHRI SANKAR PRASAD MITRA (West Bengal): Madam Deputy Chairperson, I give my full support to the statement just now made.

THE DEPUTY CHAIRMAN: We shall now take up further consideration of the Criminal Law Amendment Bill. Shri Bir Bhadra Pratap Singh to continue his speech.

#### THE CRIMINAL LAW AMENDMENT (AMENDMENT) BILL, 1985—contd.

SHRI BIR BHADRA PRATAP SINGH (Uttar Pradesh): Madam Deputy Chairman, it is no doubt that

strict discipline must be enforced in the BSF which I mentioned yesterday. The BSF, as a para-military force, has a vital task assigned to it from time to time. Apart from discharging the functions such as a sentinel, the Security Force has to check smuggling and border infiltration; it has to help the civilian authorities to maintain law and order. There is no task for which the BSF has not been tried so far. After the 1971 war, both on the eastern and western sectors, the role of the BSF has been expanded, including actual fighting side by side with the army and infantry battalions. That being so, why can't they be complementary forces to the army? Whereas the support which is available to the army in the time of war, it is not available to the BSF, such as armoured carriers, artillery, engineers, ordnance and supply units and their support. The management of this para military force is not even on par with the Indian police service officers and they have lesser salary, grades and perquisites. To compare the two forces will not be appropriate. The BSF battalions and their officers are sometime assigned lower posts with lesser salary grades. But so far as the question of the duties or the BSF personnel as concerned, they have to play an important part in discharging the various duties assigned to them. Looking to the role played by the BSF they should get remuneration and benefits commensurate with their work and service to the nation in checking the intrusions, violations, interference and depredation for which they have to face considerable hardship. In view of the enormous duties, varied duties and different tasks that it has been assigned, to which many of the learned speakers yesterday referred and I do not want to repeat them, and in view of the fact that it has to work on the borders for all the 24 hours of the day and 365 days of the year, we must pay due attention to their needs and requirements. This is one force which has to remain active all the year round. The military gets operative when there is

a war and when they are required for a specific purpose but the Border Security Force has to work every day throughout the year.

Therefore, Madam, the demands of the BSF for better service conditions seem to be sound and genuine. As one of my friends was mentioning yesterday, their remuneration allowance, proper schooling facilities to the children, separate family accommodation, provision of detachment allowance and problems of cadre management and pension payments must be paid proper attention. Of course, I do agree that there must be strict enforcement of discipline in the forces and those who are falling short of standards they must be punished, but simultaneously their service conditions must be improved so as to enable them to work more effectively towards the performance of their duties, which include checking of smugglers activities and illegal entry and intrusion across our borders. Therefore, Madam, I very respectfully submit that their service conditions must be improved. With these words, I conclude.

SHRI P. BABUL REDDY (Andhra Pradesh): Madam Deputy Chairman, this Bill is a very simple one and I extend my support to it. The object is to amend section 11 and bring the Border Security Force on par with the Army, Navy and Air Force in the matter of dealing stringently by the courts constituted under the various enactments: not only exclusive jurisdiction of special courts but also the courts constituted under those Acts should be enabled to function so as to deal a deterrent punishment to these people. The Border Security Force, I think, was conceived in the year 1965. The size of the Border Security Force has been increasing and it is now, according to the information I gathered, about one-tenth of the Army. Madam, thousands of people belonging to this force are working in very difficult cir-

[Shri P. Babul Reddy]

cumstances in the border areas. It is true, their interests should be protected. But it is also equally true that when people in such a force commit crimes, deterrent punishment should be meted out to them. It is with this object in view that this amendment has been brought forward before the House.

Madam, much has been said about the service conditions in this force, about the remuneration that should be given to the personnel; it has been said that their service conditions should be improved. I do not want to repeat what has been said. But I would like to touch on one subject on this occasion. Madam, everybody is concerned over the growing crimes in the country; particularly, young people are becoming desperate, they are developing a desperate attitude. Children, students, children of people highly placed are seeking excitement through committing crimes. This is a very dangerous trend. Leaders of all political parties, irrespective of their party affiliations, should bestow thought to this and devise means to prevent these people from committing violence. Violence, as you know, is the greatest enemy of democracy. If we have to save our vast country from anarchy we should see that these young people are not allowed to go scot free when they commit crimes. This is a very important question and we should take steps, comprehensive steps, by means of law, to safeguard the interests of the country, by putting an end to this tendency in the young people.

Madam, recently, I read an article on the reasons for the growing crimes in the country. It has been said by the eminent author that two sections of the society contribute to this. One section is the police and the other section is the politicians. These are the two classes which contribute towards the growing crimes in the country. I will tell you, Madam, that I humbly agree

with this view of the eminent author. I will now try to substantiate my statement. All of you will agree with me that in every city today, there are thousands of rowdies. They are called *dadas*. They are people wielding influence. They are affiliated to the politicians in power. They have political influence.

SHRI SANKAR PRASAD MITRA  
(West Bengal): Anti-social *dadas*.

SHRI P. BABUL REDDY: These anti-social elements hold every city to ransom. Just as colleges are affiliated to universities, these *dadas* are affiliated to politicians. I am not saying, this party or that party. One party may be more guilty and another party may be less guilty. But the fact is, almost all the political parties are making use of these *dadas*. What happens when a *dada* is arrested? The Commissioner of Police said in a press conference in Hyderabad that when a person was arrested, a telephone call came saying that he should release the person immediately. The position has come to this. About ten days back, for not giving *mamool* to a rowdy, a man was stabbed, a shopkeeper was stabbed and killed in daylight in Hyderabad. This was reported in all the papers. I will give you one instance to show how the politicians are behind these dacoits and rowdies. About three years back, I read in the papers, in U.P. one dacoit performed a *yagna* for ten days where thousands of people were present. The person carried a reward of Rs. 10,000 on his head. If anybody gives information about him, he would get Rs. 10,000 rupees. Before 10,000 people he performed the *yagnam* for ten days. I read it in the paper and those who have read it will vouchsafe me. At the end he gave an offer to surrender. He put two conditions for the surrender. The one is that the Chief Minister should visit his village. It appears no Chief Minister had visited his village at any time. And the other condition was that the Government should start a high school in his village.

LEADER OF THE HOUSE (SHRI VISHWANATH PRATAP SINGH): May I know the name of the dacoit?

SHRI P. BABUL REDDY: I do not know the name of the dacoit.

SHRI VISHWANATH PRATAP SINGH: If you are referring to him, he is now dead.

SHRI P. BABUL REDDY: He might be dead now, but my point is, at that time, to which politician was he affiliated? Otherwise, how is it possible? I am glad that the Leader of the House knows about this. He was also the Chief Minister. Perhaps he was not the Chief Minister at that time.

SHRI VISHWANATH PRATAP SINGH: But then he was eliminated.

SHRI P. BABUL REDDY: I agree with you, I have got very high regards for you. At least you kept your word and quit the office as you could not control the crime. All honours for you. I am not saying anything against you. But the fact remains, he celebrated the yagnam before 10,000 people for 10 days. Particularly, when the prize is on his head, how is it possible unless some powerful politicians are behind him? c

I will give another instance how politicians are encouraging crime. About three years back, one notorious rowdy with his gang, in the centre of Hyderabad, Abid Road, brought the entire life to a standstill. The Police Commissioner held a press conference and in the press conference itself the Police Commissioner said that the rowdy was a close friend of the Home Minister. (Interruptions) So, these are the things that are going on. One should give a serious thought to it. I am not blaming this party or that party. Those days have gone when patriots and freedom fighters entered the legislatures. Now the days have come when smugglers, dacoits, high-jackers and some such people are enter-

ing the legislatures and they are the persons who are receiving honours. So, this is a very serious thing.

Then, I have to say one word about police. Forty years back when I was a young advocate in Madras High Court, a friend of mine was selected as a Magistrate. Once, while he was passing through the flower bazar, he was pickpocketed. He went to the nearby police station. He found the S.I. to his surprise and happiness his classmate. When the Magistrate told him the purpose for which he had come to the police station, he was asked to wait there. After some time, the S.I. brought about 20 purses and put them before him to see if there was any one belonging to him. One of the purses was his. He checked up the purse. He found that the entire money and the papers inside the purse were intact.

That shows how the pickpocket is loyal to the master, that is the police. Recently, in Hyderabad a Police Commissioner was holding a press conference. One young man forcefully entered the conference. When asked why he had come, he said that he was a pickpocket, he had recently married and wanted to lead a peaceful life. But the police would not leave him. They wanted Rs. 300 per month as *mamul* from him as usual. The police beat and he was forced to commit another pickpocket to pay the *mamul*. This has appeared in the papers.

So, my submission is, the police and the politicians are supposed to be under moral and legal obligation to protect the people from violence, but they themselves are contributing to this. Therefore, I suggest to the Minister to bring forward a comprehensive legislation to check this tendency both in police and politicians who are encouraging crime in this country, who are spoiling youngmen, making them anti-social elements.

श्री हाशिम रजा आबदी इलाहाबादी (उत्तर प्रदेश) : मोहतरिम डिप्टी चेयरमैन साहिब, मैं आप का शुक्रगुजार और आभारी हूँ कि आप ने मुझे इस विधेयक पर बोलने का समय दिया। मैं अपनी तकरीर इस शेर से शुरू करना चाहता हूँ :

संगमरमर-सा तराशा हुआ सफाबूदन,  
देखने वाले इसे ताजमहल कहते हैं।

मेरे बजुगों, हिन्दुस्तान का कानून संगमरमर सा तराशा हुआ एक कानून है हिन्दुस्तान एक ऐसी देवी है, एक ऐसी हसीना है कि हम उसे हिमालय पहाड़ की चोटी के जिस हुस्न और ताजमहल के जैसा खूबसूरत समझते थे और समझते हैं लेकिन हमें अफसोस है कि आज की के बाद से जिस कानून को ताजमहल की तरह खूबसूरत और हिमालय की बुलन्दियों, गहराइयों के जैसा खूबसूरत समझते थे आज वह हसीना और कानून की वह देवी गुंगी भी हो चुकी है और बहरी भी हो चुकी है। क्योंकि वजह उस की यह है कि कानून बनाया था, कानून का कांस्टीट्यूशन किया था जवाहर लाल नेहरू जैसे मुदव्विरों ने, अजीम लीडरों ने। उस वक्त हमारे समाज में, हमारे मुल्क में, हमारी गोसाइटी में इस तरह कलंगरी की आदत नहीं थी जितनी कि आज बढ़ गई है। लेकिन हिन्दुस्तान में कत्ल बढ़ते गये, लूट और डाके बढ़ते गये, लेकिन कानून वही चल रहा है। हम यह पूछना चाहते हैं अपने ला मिनिस्टर से कि 1957 में कत्ल की जो तादाद थी क्या आज भी वही तादाद है? तो क्या वजह है कि कातिलों की वही रियायत है? क्यों उसी तरह की बेल मिलती है, वही जमानत मिलती है जो 1957 और 1958 में मिलती थी? क्या यह गलत है? क्या मैं सही नहीं कह रहा हूँ कि आज जो कातिल कत्ल करता है वह एक हफ्ते के बाद उस में से 80 परसेंट जमानत पर छूट कर चले आते हैं और वे फिर दुबारा कत्ल करते हैं। कातिलों और डाकुओं की जमानत का यह सिलसिला बंद होना चाहिए और जब तक आप इस कानून में यागि वह कानून

जो आप तरमीम ला रहे हैं उस की तो मैं दिल की गहराइयों से तारीफ करता हूँ और अपने ला मिनिस्टर को बधाई देता हूँ लेकिन कुछ आगे बढ़ कर कहना चाहता हूँ कि डाकुओं और कातिलों की जमानत का सिलसिला बंद होना चाहिए। आप यह कहेंगे और यह पूछेंगे कि जो लोग बिना वजह कत्ल और डाके के मुकदमें में फंसा दिये जाते हैं उन के साथ क्या इंसफ किया जाय तो उन के साथ यह इंसफ हो कि पुलिस एडमिनिस्ट्रेशन और कातिल दो पार्टियों हैं। तो अगर कातिल कत्ल करे तो उस की जमानत न हो इस तरह का ला में अमेंडमेंट हो। अगर कातिल छूट जाए तो इनवेस्टिगेशन आफिसर या जो इनवेस्टिगेशन का इंचार्ज हो, उसके करेक्टर रोल में लिखा जाए कि इसने इतना खराब, गलत और झूठा इल्जाम लगाकर इसे आदमी को फंसाया, तो इस तरह से इंसफ होगा। इसमें सवाल किसी पार्टी का नहीं है, इसमें जनता पार्टी, कांग्रेस पार्टी का सवाल नहीं है। यह समाजी सवाल है। यह सोशायटी का सवाल है, यह मुल्क का सवाल है कि अगर वे इसी तरीके से कल्लो-आम का बाजार गरम रहा, सुवह शाम कत्ल होते रहे तो यह क्या चीज है, हमारी इतनी बड़ी आजीम लीडर इंदिरा जी को आंखों के सामने कत्ल कर दिया गया। अजीब बात है कि उनका कातिल सुप्रीम कोर्ट में नहीं गया वरना अगर उसकी भी जमानत हो जाती तो कोई ताज्जुब की बात नहीं थी, कोई बड़े ताज्जुब की बात नहीं थी। तो हमारे कानून में जितनी ज्यादा लचक दी थी पंडित जवाहरलाल नेहरू ने उतनी ही ज्यादा इस दौर में सख्ती की जरूरत है। बेमुरव्वती की जरूरत है। उससे मुल्क का ढांचा बनेगा, उससे हमारा समाज सुधरेगा।

इसी के साथ आज का जो कानूनी नुकता है, जिस पर हमारे ला मिनिस्टर साहब तरमीम लाए हैं वह वक्त की आवाज है, समाज की आवाज है, हम सब की आवाज है। हम उसकी गहराइयों के साथ पूरा आवाज के साथ उसकी तारीफ करते हैं और उनको इस तरमीम पर, अमेंडिंग बिल पर मुबारकवाद देते हैं।

श्री प्यारेलाल खन्डेलवाल (मध्य प्रदेश)  
माननीय उपसभापति महोदय, यह जो  
द्रष्टा विधि संशोधन विधेयक, 1985  
सरकार सदन के समक्ष लाई है, वह एक  
बहुत छोटा सा संशोधन विधेयक है। यह  
संशोधन काफी पहले आना चाहिए था।  
संशोधन लाने के दो कारण हैं। एक तो  
सर्वोच्च न्यायालय का फैसला और  
दूसरा, जैसा कि उद्देश्य और कारणों के  
कथन में बताया गया है, हाल ही में ऐसे  
मामलों का पता चला है जिनमें सीमा सुरक्षा  
बल के कामियों ने धन या माल के रूप में  
प्रतिफल स्वीकार करके तस्करी और घुस-  
पैठियों के प्रति मौनानुकूलता दर्शित की  
है। कुछ ऐसी सच्चाइयाँ सामने आई हैं  
कि सरकार ने जिन लोगों को सीमा की  
सुरक्षा के लिए तैनात किया था, उन्होंने  
ही घुसपैठियों को अन्दर आने दिया और  
तस्करी में योगदान दिया। यह कहावत  
है कि अगर बाड़ ही खेत को खा जाए तो  
फिर क्या हालत होगी। अगर सीमा पर  
जिन लोगों को तैनात किया गया है उनमें  
से कुछ लोग घुसपैठियों और तस्करी को  
योगदान दें तो इसमें बड़ी खराब हालत क्या  
हो सकती है। यह निन्दनीय काम है। ऐसे  
लोगों से देश की सुरक्षा को ही भारी  
खतरा है।

उपसभापति महोदय, मैं उन बातों  
को दोहराना नहीं चाहता हूँ जो सदन में  
कही जा चुकी हैं। लेकिन एक बात जो  
माननीय रेड्डी जी और अभी पूर्व वक्ता  
ने कही है, मैं भी यह जरूर कहना चाहता  
हूँ कि यह जो स्थिति बनी है, उसके पीछे  
कीन से कारण है, उसकी तह में सरकार  
को जाना चाहिए। क्या कारण है कि सीमा  
सुरक्षा बल के लोग तस्करी और घुसपैठियों  
को अंदर आने दें। भारत की सीमा बहुत  
लम्बी चौड़ी है। एक तरफ बंगला देश से  
लगी हुई है, पाकिस्तान से लगी हुई है,  
नेपाल से लगी हुई है, चीन से लगी हुई है  
जब से हिन्दुस्तान का विभाजन हुआ तब  
से घुसपैठियों की समस्या लगातार इस देश  
के अन्दर बढ़ती जाती रही है। कितनी संख्या  
में घुसपैठिये इस देश के अन्दर आए हैं,  
इसका शायद अंदाज़ लगाना मुश्किल है।  
असम की स्थिति उसी के कारण बनी है।  
अब राजस्थान के सीमा क्षेत्रों में जिस प्रकार  
की घुसपैठ हो रही है, पाकिस्तान से जिस

ढंग से हथियार आ रहे हैं, यह किसी में  
छिपा नहीं है। पिछले दो साल के अन्दर जों  
घटनाएं घटी हैं उससे सारा देश वाकिफ है।  
अभी दिल्ली में जो घटना घटी उसके लिये  
पुलिस कह रही है कि उसमें भी कोई  
ऐसे व्यक्तियों का हाथ है जिनको कहीं  
बाहर से हथियार मिल रहे हैं या ट्रेंड हो  
कर आये हैं। इस देश में तस्करी के माध्यम  
से न केवल हथियार आ रहे हैं बल्कि ऐसी  
चीजें भी आ रही हैं जिसके कारण आदमी  
के नैतिक जीवन का पतन होता जा रहा  
है। बाहर से सोना आता है, अनाज आता  
है, जाता है। बीच में कुछ साल पहले  
समाचार छपा था कि तस्करी के द्वारा  
हिन्दुस्तान का चावल चीन चला गया।  
ये सब घटनाएं इस देश में हो रही हैं।  
घुसपैठिये कितनी ही संख्या में आए हैं यह  
इससे अंदाज़ा लगाया जा सकता है  
कि असम की सीमा पर हम काटेदार  
तार लगाने जा रहे हैं। हम उन्हें रोक नहीं  
सकते। सीमा पर पुलिस खड़ी है, मंता  
खड़ी है, सीमा सुरक्षा बल खड़ा है। लेकिन  
लाखों की संख्या में जब घुसपैठियाँ आते हैं  
तो वह देश की सुरक्षा लिए खूब पंदा  
करते हैं। यह शायद इसलिये है कि हमने  
इन चीजों को होने दिया। मैं यह कहना  
चाहता हूँ कि इनके लिये अगर कोई दायी  
है तो हमारे देश की जो राजनीतिक व्यवस्था  
है, वह है जिसने ऐसे लोगों को पनाह  
दी है, जिसने ऐसे लोगों को शरण दी है  
राजनीतिक कारणों से। मैं मध्य प्रदेश  
से आता हूँ। मुझे गालूम है कि मध्य प्रदेश  
में बहुत बड़ी तादाद में डाकू गैंग हैं—  
मुरेना, भिड और ग्वालियर में बहुत  
तादाद में डाकू गैंग रहे हैं। और इसी क  
साथ गुन्पी० की सीमा लगती है वहां पर  
भी डाकू गैंग हैं। अभी सा० विश्वनाथ प्रताप  
सिंह जी पूछ रहे थे कि कहां डाकू है। मैं  
बताता हूँ कि मध्य प्रदेश में एक दर्जन डाकूगैंगों  
का अंतिम समर्पण हुआ। मुख्य मंत्री ने समर्पण  
कराया। क्या डाकूगैंगों को वह सम्मान प्राप्त  
होना चाहिये ? क्या एक मुख्य मंत्री को  
समर्पण कराना चाहिये ? अगर ऐसा  
किया जायेगा तो पुलिस को मनोबल कैसे  
बढ़ेगा ? उन पर क्या अमर पड़ेगा ? जिसने  
दर्जनों लोगों की हत्या कर दी है, जिसने  
करोड़ों रुपयों का लूट-पाट किया, जिसने  
निर्दोष लोगों को मारा जिसने गांव के गांव

[श्री प्यारेलाल खंडेलवाल]

जलाये, हरिजन-आदिवासी लोगों को मारा, महिलाओं की अस्मन लूटी। अगर उनका मरन्दर होता है, आज उनका सम्मान प्राप्त होता है, चुनाव में टिकट देने की बात की जाती है तो सीमा पर खड़े जवानों पर अगर क्या पड़ेगा। वह क्या सोचेंगे? वह सोचेंगे कि राजनीतिक आदमी अपने राजनीतिक स्वार्थ के लिये डाकुओं का उपयोग कर सकते हैं, डाकुओं का लाभ उठा सकते हैं। इससे निश्चित रूप से उसका मनोबल गिरेगा। मैं कहना चाहता हूँ कि इस विषय पर हम को विचार करना होगा। यह किसी राजनीतिक दल का सवाल नहीं है, सारे देश की सुरक्षा का सवाल है और इसलिये मैं आपके माध्यम से सरकार से कहना चाहता हूँ, मंत्री महोदय से कहना चाहता हूँ कि आप कानून लाये हैं मैं इसका गमर्थन कर रहा हूँ। लेकिन इसके साथ-साथ मैं यह भी कहना चाहता हूँ कि अगर यह व्यवस्था हमें दुस्त नहीं कर पाये और इन कमियों को दूर नहीं कर पाये और इस देश में रहने वालों के दिमाग में सहीं चिन्ता नहीं ला पाये तो इस कानून के लाने से कुछ नहीं होगा। कानून तो बहुत से हैं लेकिन क्या आप उन कानूनों से कोई रोक लगा सकते हैं? पूरी रोक नहीं लगा सकते। मैं आपसे कहना चाहता हूँ कि इस सम्बन्ध में सरकार विचार करे। इन सारी बातों पर सम्पूर्ण रूप से विचार कर ऐसा कोई कानून ऐसी कोई व्यवस्था लाये जिसके आन्धर पर देश में ऐसे तत्वों को रोकने में सफल हो सकें। जो सीमा पर खड़े हैं और देश के साथ गद्दारी कर रहे हैं, इस देश में घुसपैठियों को घुसने देते हैं, हथियार आने देते हैं, तस्करी होने देते हैं वे कभी भी देशभक्त नहीं हो सकते। ऐसे लोगों के लिये कठोर दण्ड की व्यवस्था आप कर रहे हैं, बहुत अच्छी बात है लेकिन एक बात और है जो सुरक्षा बल है हमारा, आप उनकी तरफ भी देखिये। उनके लिये कुछ कीजिए। इस कानून में संशोधन करने की बात सरकार के दिमाग में इतनी देर से क्यों आई, जबकि बहुत समय से दखबारों में चर्चा चल रही थी कि सीमा पर जो सुरक्षा बल तनात है उसमें कुछ ऐसे लोग हैं जो घुसपैठियों को अन्दर आने दे रहे हैं।

उसमें ऐसे लोग हैं जो बाहर से हथियार देश में आने दे रहे हैं। लेकिन सरकार ने कोई ध्यान नहीं दिया। सुप्रीम कोर्ट ने काफी समय पहले फैसला दिया था। 15 साल हो चुके होंगे। फिर इतनी देर से संशोधन क्यों लाया गया यह मेरी समझ में नहीं आया है। मैं आरोप लगाता हूँ सरकार पर कि कानून को विलम्ब से लाने में उसने अपराधिक काम किया है। अपराध किया है। ऐसा कानून जल्दी लाना चाहिए था, संशोधन को जल्दी लाना चाहिए था लेकिन सरकार ने इसमें लापरवाही बरती, यही बड़ा अपराध है। इन शब्दों के साथ मैं इस संशोधन का समर्थन करता हूँ। धन्यवाद।

SHRI SANTOSH KUMAR SAHU (Orissa): Madam Deputy Chairman, I rise to support the Criminal Law Amendment (Amending) Bill, 1985. My only feeling had been that I should congratulate the Honourable Minister for bringing forward this Bill although it is a belated one. The aims and objects of the Bill under BSF rules, as has been pointed out by the Honourable Minister, are: (i) to prevent trans-border crimes, unauthorised entry into or exit from the territory of India; and (ii) to prevent smuggling and any other illegal activity. If we analyse the facts probably these laws would have been applied much earlier, because we are sitting on a volcano of crime explosion and the winds of crime. The winds of crime are having wide repercussions on the social upheaval of the country. It is not merely restricted on our international borders, but in the North-West sector as well as in the North-East sector the crime winds are tremendous. It has come as a shock-wave which requires a permanent therapy for its treatment in the country. If we go in a haphazard way without looking into the matter, then, we will be facing much more difficulties.

If we go through the latest report of the International Narcotics Board

we find that India is rapidly becoming a major transit point for the illegal transport of drugs. In fact, the author says that both drug abuse and trafficking are on the increase in the country as a result of the lax laws and the lackadaisical attitude of the authorities. We have not taken proper care to safeguard these points from the legalistic point of view. In that report they have also stated that they were ashamed to read the reports that as much as 70 per cent of the heroin—the deadliest narcotic of them all seized in Western Europe in 1984 came from the Indo-Pak region. The BSF personnel are entrusted with the job of protecting our borders which is quite long. In spite of the BSF personnel on our borders, the winds of crime which are coming from other countries through terrorist way, and narcotics way have destroyed the social fabric of the country. These terrorists are challenging even the security of our motherland.

This is not a very simple question. It requires a deep probe into the legal and juridical approach of criminal procedure code. The BSF has not got a very brilliant history though it was created with some purpose—as has been pointed out by many hon. friends. The high officers in BSF are inducted from the IPS cadre who do not have a feeling for a better growth of the BSF. This organisation was formed some 20 years back and should we not involve a process. At the beginning we felt it was necessary to induct IPS officers to head this organisation. But, after 20 years: is it not necessary to fill up the vacancies or posts to the officers' grade from within the BSF organisation in order to create a sense of belonging. Without any incentives: how they can be held responsible on our borders?

In the recent past we have seen how trained terrorists have committed crimes in Delhi and other parts of the country. We know that how much we have suffered against the terrorists

who have used sophisticated machine guns. Is it not necessary that we must have trained personnel to tackle the terrorists? Is it not necessary that we must have that type of communication which terrorists are having? I feel that the BSF and our para-military forces should be imparted such type of training so that they can catch hold of these international criminals. Who are training the terrorists? Who are infiltrating into our country and creating shock waves? We are passing through an age of criminological crisis. We are sitting on a volcano of criminal activities, which involve a conflict of penological theory and crime explosion which we could not have conceived of ten years ago. So a re-examination of all laws is needed today, though here the Minister is only concerned with the administrative part. The whole question of criminal law should be re-examined to meet the present situation. So far as this law is concerned, we had an amendment earlier for the army, the air force and the navy. So action must be taken so that a better sense of discipline can be ensured in the Border Security Force. They require special protection by this, and this has been timely. But at the same time, I would like to submit that just as you have the Police Commission or other commissions, the problems of the Border Security Force must also be looked into so that we have a better administrative commitment from them and they perform their duties with greater care. And there should be a publicity wing also to publicise the effects of the border crimes so that the local people are made to cooperate with them in stopping these crimes which are happening in the border area. Here social cohesion is very important.

If we analyse the modern history of India, in the north-eastern sector, infiltration has been terribly high. We have to spend now crores of rupees in erecting frontier walls. We have neglected this part for long, for more than



[Shri Santosh Kumar Sahu]

30 years, as a result of which we have now to face sociological problems. And Assam was threatened with a political problem, because of which the people had to revolt for their survival. Similarly if you come to the north-west sector, many of the hon. Members have talked about it. It is a sector where there is affluence. And how has that affluence come? Their affluence has come by the smuggling of narcotics, which has been reported by the International Narcotics Board. It is coming from Pakistan now because Afghanistan has been sealed and it goes via India. Delhi and Bombay have become the greatest narcotics centres. Are we not ashamed of it? Shall we not take steps to stop it and save our younger generation from great suffering in future? Madam, if we read world history, Japan was a small country and when it wanted to fight China many decades back, it started injecting them with opium and when they became opium-eaters, the whole country was defeated. That is the history. Now international de-stabilisation forces are training terrorists because they want to see that India does not prosper. They want to de-stabilise India. They want to control Asian politics; they want to control South Asian politics. So they are training terrorists: they are making every preparation. Are we prepared with a security force which can check their infiltration? Even today we see a news item in the newspapers. Lalit Maken was a rising Parliament Member, a trade union leader, who was killed recently. Still no clue has been found. Today the newspapers have come out with a photograph of Lal Singh, an international terrorist, saying that he is the probable suspect. But we have not been able to catch him up till now. He kills right in the Capital of Delhi! What is our efficiency? These things have to be taken as a challenge. It is not only a question of the life of one person or two persons. It is a question of raising the morality of the people, of

raising nationalism in our country, whatever the cost. We have to do it, if we have to survive in our economic life also, because without the nation, where can we stand? So a thorough, comprehensive outlook must develop for guarding our border to meet the challenges of international crime. And if the para-military forces have to discharge their responsibilities, they must have a sense of new administrative commitment, without which probably they cannot discharge their duties. Merely giving them facilities will not be enough. You must evolve a certain system by which the higher authorities will have a sense of belonging to the Border Security Force, without which probably a proper development of the Border Security Force to achieve the objects for which it was constituted, cannot be had. The honourable Minister who is piloting this Bill is concerned only with a limited sphere.

1 P. M.

As regards the other broader question: I hope he will convey our views and feelings to the other concerned Ministries—the Home Ministry, the Law Ministry and the Defence Ministry—and see that the needful is done. Many of my honourable friends who have spoken have called this a national issue. Yes, it is a national issue; we cannot lightly treat it as a criminal act. These criminal acts send national shock waves, they spell national and international disaster for which we have to pay very dearly in the future. We should, therefore, take bold steps, bold measures, we have to instil a new sense of dedication in them. They work in difficult areas and they do have difficulties. Government will, of course do its best to remove those difficulties. Like in the army, a sense of patriotism must be infused into them. Opportunities to higher posts in their cadres should be provided so that they get a sense of belonging that they have to live in the organisation, grow with the organisation, discharge their duties to the organisation to the best of their

abilities. It is very important that they should be supplied with more sophisticated communication system and other equipment. The international crime is passing high and fast and we must have sophisticated and advanced equipment to combat it. The situation is becoming alarming. There must be a lot of publicity also given so that people in the border areas co-operate with the security forces. The people also have to play their role to keep the country's security intact. Then alone can we march ahead, then alone can we check foreign agents who are out to threaten the security of our country. The Border Security Force can discharge its functions more effectively and more efficiently if the people of the area co-operate and help. Therefore, it is very necessary to give wide publicity. It requires a new angle a new thought and a new horizon. Madam this is a large issue and it requires a lot of time to discuss in depth. I am glad the honourable Minister is trying to prevent corruption, smuggling, etc. There are also people who are honest and who will surely help the Government in fighting the menace of smuggling and corruption. On its part Government must also be vigilant and take necessary administrative measures. I, therefore, wholeheartedly support this Bill. I would also request the honourable Minister to convey our views to his other colleagues concerned with the broader questions and see that necessary improvements and changes are brought about. Thank you.

SHRI R. RAMAKRISHNAN (Tamil Nadu): Madam, before you adjourn the House, I wish to compliment the honourable Minister. I know he is a cricketer. Yesterday he was the opening batsman. He piloted this Criminal Law Amendment Bill. Overnight he continued in the Question Hour. Now he is continuing with this and after lunch he is going to move a motion on the UPSC reports. So he is making a double century. So I want to compliment him on this achievement.

THE DEPUTY CHAIRMAN: The House stands adjourned now till 2 p.m.

The House then adjourned for lunch at four minutes past one of the clock.

The House reassembled after lunch at four minutes past two of the clock. The Deputy Chairman in the Chair.

THE DEPUTY CHAIRMAN: Now, let us continue with the discussion on the Criminal Law Amendment (Amending) Bill, 1985. Now, Mr. Gurudas Das Gupta to speak.

SHRI GURUDAS DAS GUPTA (West Bengal): Madam, this amendment has been long overdue and we do not know why it has been delayed so much. It is possible that the Government has been moved to bring forward this amendment as a result of the increasing smuggling that is going on and the corruption that has, of late, developed in this organisation known as the Border Security Force. I do not say that the Border Security Force is as a whole corrupt. But at least my contention is that the Border Security Force is not behaving in a way which can inspire confidence in the people. West Bengal is having a long border with Bangladesh. Let me give you an example. The jute season has begun and that day in Calcutta we were talking with the people about the availability of raw jute in the Calcutta market. Somebody very important, a jute official, told me: sir, there is an item known as invisible import I asked him what is this 'invisible import'? He said that across the border from Bangladesh lakhs of bales of raw jute come into the market. This year, Madam, the problem is more serious, because it is estimated that we are having a super bumper crop, and from Bangladesh about ten lakh bales of raw jute is expected to be smuggled in. If it takes place like this, as it had

[Shri Gurudas Das Gupta]

taken place in the previous year, then it will depress the price of raw jute in the market in West Bengal in particular and in India as a whole. Therefore, this is a concrete example of how the BSF is objectively not only helping smuggling but also depressing the price of a principal crop, which is doing a great harm.

On another occasion, I remember a party comrade came running from West Dinajpore and asked me whether I could prevail upon the West Bengal Government to set up a police camp on the border. I asked him: why do you want a police camp there? He said that the BSF is only there to see that the dacoits who come in can easily get out of our country. And in some cases it is being alleged that the BSF supplies the dacoits from Bangladesh even with fire-arms. I do not know. But that is the complaint that was made to me by some poor people belonging to the district of West Dinajpore.

Madam Chairperson, it is a known fact that the BSF has failed thoroughly and miserably to stop infiltration on Punjab border. It is not a question of stopping infiltration. It is a question of stopping smuggling of arms, fire-arms, sophisticated arms, which everyday threaten the security of this country. This is, again, another feather in the cap of the BSF. And I would like to know from the Minister concerned whether this amendment is going to put a stop or discipline the most organized gang of robbers stationed at the borders of our country.

Madam, then again, another instance. In the clash between Nagaland and Assam, it is common knowledge that the BSF was used to rob some villages of Assam. BSF arms were used for an aggression—I should say, an internal aggression—on the border people of Assam. How can it happen? How it happens in a land where still we believe that law prevails? How in a coun-

try like India an organisation known as the BSF, armed, behaves as a gang of gangsters in some places is clear from the instances I have given. Therefore, the question is not one of bringing an amendment. The question is to impose discipline. The question is to impose organization. The question is to motivate the organisation. And, Madam, I wish to submit that such a process of motivation and discipline cannot be done only by bringing such an amendment. I am told by some friends belonging to high offices of Government that the BSF has become a dumping place of putting the most corrupt officers. Where the Administration does not feel secure with the behaviour of some officers; it is the best way of sending them to a refugee. And the refugee is the Border Security Force. I think the Government of India is not only playing with the BSF, it is playing with the security, it is playing with the frontiers, it is playing with the external enemies who are there on the borders. We know what Pakistan is. We know to what extent infiltration is taking place across Bangladesh. We know of the other side of Nagaland. India is surrounded by hostile enemies. Many of these countries are constantly being bribed and armed by the greatest enemy of India, i.e. America. Therefore, the Indian borders must be protected. The force that is there to protect the Indian borders is not only the Indian Army. It is the B.S.F. also. The most sorrowful and lamentable story is that the B.S.F. is not only not performing its duties and has failed to perform its duties, but has become an agent to help the smugglers, the dacoits and all those forces which are assiparous. Therefore, Madam, I do not say that I do not support the amendment. I support the amendment. But I would say that it has become overdue. The ordinance was passed in 1965 and the amendment came in 1985. Twenty years have been taken by the Central Government to bring forward such an important amendment. Better late than never. Therefore I support even this belated

decision or move on the part of the Central Government. But I support it with a warning. This amendment would not bring any drastic change which one would expect in the B.S.F. There must be a drastic change and the drastic change can take place if it begins at the top. What are you doing with the top? What are you doing with the officers, Group Commandants and Group Officials whom you have dumped there? Therefore, Madam, it is a question of getting a concrete assurance from the hon. Minister who is piloting the discussion.

Lastly, I shall say that the Government of India is not creating good precedents by using the B.S.F. in the internal affairs. Generally, we call military and most of the time we call the B.S.F. The B.S.F. is called upon to stop the riots. The BSF is called upon to put an end to the turmoil. That should not be done. If the BSF is used as police, its morals will fall and that will be a great disservice. While speaking that, I admit that all people belonging to the BSF are not corrupt. I believe that there are many healthy people. It is the task of the management, that is the Government, to encourage the healthy elements and to put down with a heavy hand all those who are creating trouble and disorganising the Border Security Force of this country. Thank you, Madam.

**श्री सत्य प्रकाश मालवीय (उत्तर प्रदेश):**

माननीय उपसभापति महोदया, यह जो संशोधन विधेयक प्रस्तुत किया गया है मेरी अपनी राय है कि इससे बढ़ कर राजनीतिक नेतृत्व की अक्षमता का कोई दूसरा सबूत नहीं होगा। आज देश में पुलिस जो नागरिकों की रक्षक है वही भक्षक है वही भक्षक हो रही है। रेलवे सुरक्षा बल जिससे आशा की जाती है कि वह रेल के जो यात्री हैं उन की सुरक्षा करेगी वही उन यात्रियों का शोषण करती है और साथ साथ आगे दिन दुर्घटनाएँ होती रहती हैं और अपराधों में वृद्धि हो रही है। इसी प्रकार

से इसके उद्देश्य और कारण में कहा गया है कि "हाल ही में ऐसे मामलों का पता चला है कि जिनमें सीमा सुरक्षा बल के कामियों ने धन या माल के रूप में प्रतिफल स्वीकार करके तस्करी और घुस-पैठियों के प्रति मौनानुकूलता दर्शित की है।" तो मेरी एक आपत्ति तो यह है कि ऐसी घटनाएँ बरसों से होती रही हैं यह जो बार्डर सेक्योरिटी फोर्स है इसकी स्थापना दिसम्बर 1965 को की गयी थी और उसके बाद 1968 में बार्डर सेक्योरिटी फोर्स ऐक्ट बना और 1969 में इस बिल से संबंधित नियम बने और आज सरकार की ओर से सहारा लिया जा रहा है मेजर ई० जी० बररा बनाम मुम्बई राज्य (ग० आई० आर० 1961 एस० सी० 1762 पृष्ठ 1774) में रिपोर्टिंग केस का। तो मेरी एक आपत्ति तो यह है कि यह सर्वोच्च न्यायालय का फैसला 1971 का है यानि जिस दिन हमारे इस सुरक्षा बल की स्थापना हुई। दिसम्बर, 1965 को उस दिन सर्वोच्च न्यायालय के इस फैसले की जानकारी सरकार को थी। उसके बाद 1968 में जो अधिनियम बना या 1969 में जो नियम बने उस दिन तक 1961 का फैसला सरकार की जानकारी में था। मैं यह जानना चाहूंगा कि क्या बजह है कि जब यह नियम और अधिनियम बने, जिस सर्वोच्च न्यायालय के फैसले का आज सहारा लिया जा रहा है, उस दिन यह क्यों नहीं बनाया गया। बराबर इस बात की जानकारी होती आई है। आज राज्यसभा में एक अतारंकित प्रश्न के उत्तर में बताया गया है कि हमारी फौज के कुछ सिपाही जम्मू काश्मीर में कुछ अपराधों में लिप्त पाए गए। तो सबसे बड़ा प्रश्न यह है कि सुरक्षा बल के लोग या मिलिटरी के लोग या कोई अन्य बल के कर्मचारी जो ऐसे अपराध में लिप्त होते हैं, उनके विरुद्ध क्या कार्यवाही की जाती है? बार्डर सेक्योरिटी फोर्स के कितने लोग ऐसे थे जिनके विरुद्ध सरकार को उच्च स्तरीय अधिकारियों की शिकायत मिली, कितने ऐसे लोग थे जिनके विरुद्ध विभागीय कार्यवाही की गई। कितनों को आज तक गिरफ्तार किया गया और किस प्रकार की कार्यवाही की गई। यह संशोधन

## [ श्री सत्य प्रकाश मालवीय ]

कर रहे हैं, इस सिलसिले में न्यायालय में मुकदमा चलेगा तो न्यायालय में उनको सजा मिल पाएगी या नहीं? न्यायालय जाने के अतिरिक्त एक अधिकार इसे विभाग को है कि सीमा सुरक्षा बल के कर्मचारियों व अधिकारियों के विरुद्ध विभागीय कार्यवाही की जा सकती है। इसलिए जैसा कि उद्देश्य और कारण में बताया गया है कि सरकार को यह जानकारी मिली है कि वार्डर सेक्यूरिटी फोर्स के कर्मचारी इस प्रकार के अपराधों और क्रियाकलापों में लिप्त पाए गए थे, अथवा पकड़े गए थे। दूसरे इस बात की बराबर शिकायत मिलती रहती है कि जो दैनिक प्रशासन चलाने के लिए, नागरिक प्रशासन की मदद करने के लिए वार्डर सेक्यूरिटी फोर्स के लोग हों या फौज के लोग हों, उनको बुलाया जाता है। आंकड़ों के हिसाब से जो हमारी फौज के सिपाही हैं, इसमें 1951 से 1970 के बीच 476 बार फौज को बुलाना पड़ा। 1980-83 के बीच में थे 747 बार फौज को बुलाया गया केवल नागरिक प्रशासन की मदद के लिए। तो मेरा अनुभव यह है कि अगर दिन प्रति दिन नागरिक प्रशासन की मदद के लिए फौज बुलाई जाएगी तो यह उसका दुरुपयोग है और साथ ही साथ जिनके काम के लिए वे लाए जाते हैं, इनके कार्य क्षेत्र में हस्तक्षेप करें। वार्डर सेक्यूरिटी फोर्स के जो कर्मचारी हैं वह हजारों मील अपने घर छोड़कर अपने परिवार को छोड़ कर हमारी सीमाओं की सुरक्षा करते हैं, लेकिन जो उनको वेतन व भत्ते दिए जाते हैं या पेंशन दी जाती है, जो सुविधाएं उनको बच्चों की शिक्षा के लिए दी जाती हैं, वह दूसरे सरकारी कर्मचारियों की अपेक्षा बहुत कम मिलती हैं। अगर वह लोग बीमार पड़ जायें, या परिवार के लोग बीमार पड़ जायें तो उनकी चिकित्सा के संबंध में जिस प्रकार की सहायता दूसरे कर्मचारियों को सरकार देती है, इसी प्रकार से इन लोगों को नहीं देती है। वार्डर सेक्यूरिटी फोर्स बराबर सुविधाएं प्राप्त करने में पीछे है। इनके कर्मचारी शिकायत करते हैं कि उनके यहां विभागीय प्रोन्नति का कोई रास्ता नहीं है। जो प्रोन्नति के पद हैं, वहां

पुलिस या आई०पी०एस० के लोग भेज दिए जाते हैं और उनके रिक्त पदों को भर दिया जाता है। तो इस संबंध में सरकार को ध्यान देना चाहिए।

महोदया, अभी हाल ही में हैदराबाद में पुलिस अकादमी में प्रधान मंत्री ने कहा था:—

"If the police has to perform better, it must be given a fair deal than it has received so far."

ठीक यही बात प्रधान मंत्री जी की सीमा सुरक्षा बल के कर्मचारियों और अधिकारियों पर भी लागू होती है। तो मेरा निवेदन है कि उनकी सेवा शर्तों, उनके वेतन, भत्ते आदि में वृद्धि करने का आप प्रयास करें।

यह जो संशोधन किया जा रहा है, इससे मेरा कोई मतभेद नहीं है। मेरा मतभेद इस कारण है कि जो मैंने शुरू में समझाने की कोशिश की कि इस प्रकार के संशोधन जो हैं, सरकार को शुरू में ही जब अधिनियम बना था, उसी समय लाना चाहिए था। आज सरकार इस बात का सहारा लेकर अपने को बचा नहीं सकती है कि सरकार के ज्ञान में अभी हाल में ही ऐसे मामलों का पता चला है, इसलिए संशोधन लाया जा रहा है। इसलिए जिम्मेदारी से बचने का प्रयास किया जा रहा है। इन शब्दों के साथ मैं इस विधेयक का स्वागत करता हूं।

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): Madam Chairperson, I rise to support this present Criminal Law Amendment (Amending) Bill, 1985, which has been passed by the Lok Sabha and is now before this House for consideration. Though it is late and overdue, still I congratulate the Minister, Mr. K. P. Singh Deo, the young and dynamic Minister, for bringing forward this Bill.

The present Amending Bill seeks a simple amendment in section 11 of the Criminal Law Amendment Act.

1952. This amendment seeks to exclude the jurisdiction of the criminal courts from trying any offences which are triable under sections 46 and 47, any civil offences committed by the personnel of the Border Security Force, which would be tried only by Security Force courts. In the Statement of Objects and Reasons it has been stated that it was in the year 1961 that the Supreme Court held that the Army Act was not exclusively applicable to such offences and according to the provisions of the law, the criminal courts were competent to try cases where army people were hauled up for offences. An Ordinance was promulgated followed by an Act in 1966 and now it is 1985. I would like to know from the Minister why such a long time, nearly 19 to 20 years, has taken place to bring forward this Amendment Act. The Government and the authorities fully know that many crimes have been committed on our borders by the border security force men and everything is not all right with our BSF. Some of the border security force men are actually involved in committing these illegal acts, these crimes of smuggling and illegal entry into the country. These are very serious matters. I would like to know why the Government was sleeping over these matters all these years. When the offences were so serious, they did not take any steps to bring forward these amendments so far.

Secondly, some of the border security men are actually in connivance with the people who are committing the crimes. I would like to know what steps the Government has taken all these years. How many such border security men are involved in these crimes? How many people have been arrested, punished and what other steps have been taken to improve the situation? It is a very serious thing. Not only do we have borders with Pakistan but also with Bangladesh, Burma and other countries. Our country has got a very long border. So it is a very important and a very serious matter. The

310 RS-6

Government must be very vigilant and see that these people are properly trained so that they can guard well the borders of India. I would like to know from the Minister what concrete steps have been taken to safeguard the border and prevent such acts in future.

Then, in view of the illegal activities of some of the border security men, is the Government taking any effective measures to recruit the best men and give good training to them so that they can safeguard our borders and exercise vigilance on our borders? Has any scheme been prepared by the Government in view of its past experience? Are we trying to recruit best men in the army? Have we got any scheme to recruit best men in the Border Security Force also?

It is the primary responsibility of the border security men to maintain vigilance on our borders and prevent smuggling and illegal entry across our borders. But in recent years we have seen that the border security men are used to maintain law and order. Whenever there are disturbances anywhere we call the border security men or the army. It is not good on the part of the Government to call the border security force to maintain law and order. Of course, in certain circumstances you can do it. But you cannot do this as a routine, you should not use the Border Security Force regularly to maintain law and order.

Madam, in the end, I would like to know from the hon. Minister whether, in view of the conditions in view of the past experience, the Government have thought of any scheme by which they will use the Border Security Force for the purpose for which it is meant. Secondly, I would like to know whether the Government have any scheme by which they can recruit the best men and give them the best training because the matter is very serious. Thirdly, to prevent these things, the illegal entry, smuggling of goods and passing on secret informa-

[Shri B. Satyanarayan Reddy]

tion from this country to other countries, what concrete steps have been taken, what machinery you have? Thank you,

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL AND TRAINING, ADMINISTRATIVE REFORMS AND PUBLIC GRIEVANCES AND PENSION AND IN THE DEPARTMENT OF CULTURE (SHRI K. P. SINGH DEO): Madam Deputy Chairman, I am extremely grateful to both sides of the House for their unanimous support to this amendment to the Criminal Law Amendment Act, 1952. Madam, I am also very grateful for the very keen interest which hon. Members have taken, for their impressive home-work and for their very incisive knowledge. Some of them were speaking as if they had personal experience of the type of activities that are going on. Some of them have also referred to what they have heard from their friends, comrades, associates and colleagues.

I could not do better than quote hon. Justice Mitra, who in his very short, but crisp, speech, emphasised why this amendment had to be brought. I can only repeat it in a layman's language because I do not have his experience or his erudite legal knowledge which has taken him to the highest in the legal profession. Then, I will come down to the individual points made by hon. members.

As I said in my opening remarks, Madam, under the Criminal Law Amendment Act, 1952, all cases of corruption and misuse of official position for private gains were triable only by a special judge, notwithstanding anything contained in the Code of Criminal procedure or in any other law; any other Law, in this case is the army law or naval law or air force law or the BSF law. In any case, that kind of BSF law does not exist. These are specified in section 6(1) of the Criminal Law Amendment Act. I need not take the trouble of enumera-

ting this because most of them are learned and distinguished Members. Therefore, section 6(1), I am not enumerating. These provisions are there pillars section 5 of the Prevention of Corruption Act.

It was only in 1961, in the case of Major Barsay vs. the State of Bombay, the Supreme Court held the view that in view of the language of section 7 of the Criminal Law Amendment Act, 1952, the Special Judge had exclusive jurisdiction to try any such offence and the more fact, that any such offence might also be an offence under the Army Act or the Navy Act or the Air Force Act, would not be of any relevance to a case where the general law Act in express terms confers jurisdiction on a particular tribunal in respect of specified offences to the exclusion of anything contained in any other law. I am referring to the legal language. I am quoting. Therefore, the Defence Ministry felt that the exclusion of the jurisdiction of the court martial in this case was bound to affect the discipline and efficiency of the armed forces personnel. That is, those covered under Army Act, Navy Act and Air Force Act. Therefore, trial by Civil Courts in these cases was not practicable. As such, trials can only be protracted, resulting in the witnesses and records getting tied up and punishment not being summary. The practice followed by Service Headquarters was to have cases tried by court material if only Service personnel were involved and to leave them to Criminal courts if both Service personnel and civilians were involved. Therefore the Criminal Law Amendment Act, 1952 was amended through an Ordinance in 1965, replaced by the Criminal Law Amendment (Amending) Act, 1966, to save the jurisdiction exercisable by the court martial or other authority under the military, naval or air force laws and to validate the trials held, proceedings taken and sentences passed by courts martial and other competent authorities under these laws.

Many of the Members have referred to the coming into being of the Border Security Force on the 1st of December, 1965. As you are aware, Madam, Border Security Force came into being because in our 6900 kilometres of border there been various State armed polices funded by the Central revenue for policing the borders. Each police had different mobility, different training, different manpower, different types of equipment and they were totally different to each other. Therefore, to make it a more effective, more cohesive and a more integrated force on the 1st of December, 1965, the Border Security Force came into being and the Centre took over the charge of the Border Security Force. The BSF had three main objections:

(1) to promote the sense of security among the people living in the border areas;

(2) to prevent trans-border crimes, unauthorised entry into or exit from the territory of India; and

(3) to prevent smuggling or any other illegal activity.

(Interruptions). Have patience. I did not interrupt you and now you are interrupting.

I am sure the hon. Members did not think that when the Border Security Force came into being in 1965 we had the hindsight to think that the force which was being created would indulge in smuggling, in connivance with the people, so that we would have brought forward an amendment along with the main Act covering the Border Security Force. Therefore, there has been no undue delay in this matter. In fact, from the period 1965 to 1983 there was a total of 21 cases where one gazetted officer, 5 subordinate officers and 15 other ranks were involved in the type of activities which the hon. Members have described. But it is only after 1983 that 47 cases were detected where there was one subordinate officer—subordinate officer in this case is either an inspector or an Assistant Commandant—and 46 other ranks were found

to be in collusion or connivance with anti-social or unpatriotic persons or smugglers or infiltrators, as the case may be (Interruptions).

Have patience. I will come to it.

THE DEPUTY CHAIRMAN: He will answer everything.

SHRI K. P. SINGH DEO: 47 cases were detected. Individuals involved in such nefarious activities were tried under section 40 of the Border Security Force Act for the act which was prejudicial to good order and discipline of the Force, which really does not deal with smuggling or the sort of ingress or egress due to infiltration. Thirty-two of them were dismissed from service. Others were given sentences varying from reduction to lower ranks to that of imprisonment under Border Security Force custody. Therefore the Government has taken 1 1/2 years or maximum of 2 years to come to this hon. House and to the other House with an amendment to combat this crime or this sort of lapse on the part of BSF personnel. whether it is a high-ranking officer or a low-ranking other rank or subordinate officer, to bring in deterrent and summary punishment as is existent in the Army, Naval and Air Force laws in the court martial proceeding or procedures. The BSF Security Courts are also similar to court martial, where a Board of officers, with a legal officer in attendance, who have legal training and experience of service matters as well as disciplinary matters comprise the Court and these are the people who give them the summary punishment. Therefore, this amendment is being sought so the jurisdiction of the BSF Security courts to try offences of this nature is not taken away by the jurisdiction of the Criminal law Amendment Bill under section 7(1).

Now I would like to come to the individual points. Shri Sukomal Sen mentioned about undue delay. As I have mentioned it is only two years—



[Shri K. P. Singh Deo]

from 1983 to 1985—and it cannot be considered as undue delay because one could not have the foresight in 1965, when the force was being established, when there were no such cases before it, to come to parliament and ask the hon. Members to support an amendment when nothing existed.

Then he wanted to know what why BSF was created. I have just given the answer. Then he mentioned about infiltration, also about corruption aided and abetted, smuggling ect. That I have myself admitted in the Statement of Objects and Reasons. It is because it has come to our notice that this sort of corruption is going on, smuggling is being abetted and connived at, that we have come with this amendment which he has supported. He wanted to know the punishment. I will give the punishment figures for the last three years. It is not possible to give the entire 20 years' history of the BSF. In 1983, trials by Security Force Courts came to 94, summary punishments were 2210; in 1984, the trials by Security Force Courts were 140, the summary punishments were 2178; and in 1985 the trials were 71 and the summary punishments were 1372.

Then Mr. Sen also referred to arms smuggling from Pakistan to Punjab and other areas in the Eastern sector. Then he also wanted to know about its being by IPS officers and since in wartime it is a fighting force, he has asked whether the purpose has been served. I have given the definition and the aims and objects of the BSF. Their job is not to fight external enemy but to create a sense of security amongst the people living in the border areas, to check smuggling as well as stop infiltration. But whenever the need has arisen, the BSF has magnificently risen to the occasion and fought side by side with the regular army, whether it is in Bangladesh or in Punjab—wherever it is—and they have also paid the supreme sacrifice and many of their officers and jawans have also be-

come martyrs in the cause of the Motherland. Then he also mentioned about some tug of war going on between the direct recruits and IPS officers—between the big bosses, the Commandants and the IPS officers. Well, as I said, the force has come into being in the last twenty years and at the moment upto DIG level people do have an opportunity of coming on promotion. 50 per cent at the Commandant level are by promotion and some are by recruitment. Out of the 27 DIGs, 13, I think are from the ranks of the BSF and 14 are from IPS. Whether IPS officers should be brought in or not, should the Army officers come in or not is a debatable point and the honourable Member is most welcome to have his own views, or the other honourable Members who also wanted to know about it. In fact in the Lok Sabha we had a debate last week and many of the Members there wanted that the Army officers should be brought into the BSF because the BSF fights alongside the Army and also it is fighting during any external aggression or internal disturbances. Therefore, this is a matter of opinion. The Home Ministry which is the cadre-controlling authority is looking authority is looking into it and that Ministry as well as the BSF officers and other officers are considering this matter whether they should have their own cadre 100 per cent or it is wise to have a mixture of people from IPS and Army at the higher echelons. This, I think, we should leave to people who are experts in the field, but I shall convey the feeling and opinion of the honourable Members to the people who are experts in the field, but I shall convey the feeling and opinion of the honourable Members to the people who are looking at it.

I have already referred to honourable Member, Shri Sankar Prasad Mitra, and I am grateful to him for his support.

Then I come to Shri Pawan Kumar Bansal. Shri Bansal also gave a history of how the CRP turned into

BSF and how the BSF has been developing over the years. Then he also mentioned about some of the welfare measures like parity in pay scales and pensions, ex-Servicemen's status, concession, accommodation, equalization of pay, medical facilities, house rent and keeping up the morale of the BSF. Everytime there is a Pay Commission, these proposals are put up. Last time the Third Pay Commission in 1973 had made certain improvements in the salary and allowances of the BSF. The BSF has also given a comprehensive proposal to the Fourth Pay Commission which is at the moment under review, and all these points which have been raised by Shri Pawan Kumar Bansal have been taken up by the BSF itself and I am sure the honourable House also has confidence that the Fourth Pay Commission which is manned by experts and by distinguished people will certainly take into account the fact that the BSF personnel also have to function in hazardous and arduous terrain and inhospitable conditions and therefore they will make the necessary allocations and necessary concessions to them as far as their pay and allowances are concerned. Regarding their morale, I can only reiterate what the honourable Prime Minister has said not only in the National Police Academy but also in his address to the various Government departments, whether they are civilian or paramilitary forces or armed forces, that morale and training are two of the most important aspects which Government is laying stress on because no amount of equipment, no amount of sophisticated communications equipment or modern equipment will be of any use if the training of the personnel and the morale of the personnel are not high, and the morale of the personnel is not high if their training is not high. Therefore, great emphasis is being laid not only on modernization of equipment that we give to our Defence forces, our paramilitary forces and our police forces but also on the training of the personnel who are ultimately going to utilize this equipment, because we

know that in this criminal environment the criminal world has become very diabolical, very intelligent and very cunning. We ourselves have suffered in the last few months as a result of the criminal mind at work in our own country, which hon. Members have already referred to. I need not dwell very much on it. Therefore, Government is very much cautious and have taken concrete steps not only to modernise but also to upgrade the training and skill of our personnel and at the same time to raise the morale and to give reward for people with integrity reward for people who do their work devotedly, sincerely and honestly and punishment for those who are recalcitrant or who are anti-national or who are indisciplined.

Shri Mohanaragam also referred to the duties of the BSF as well as the syndrome of the echo of having in our country a craze for foreign goods. He even mentioned that in Madras also he can get foreign goods in the Burma Market and other places. But that, of course, is not the job of the BSF because the BSF is not for the maritime boundaries of India. That is another organisation which looks after it. But I would certainly convey it to the Defence Minister and the Finance Minister who are in charge of the Coast Guards, and I am sure they will take necessary steps to see that smuggled goods do not come to Madras.

Mr. Mohanaragam also referred to extra emoluments and that people have postings for long periods of ten years at a stretch which affect their morale. I shall convey it to the Home Ministry, and I am sure the BSF authorities will take a look into it and see that such difficult postings are not made.

Then, he has suggested that 25 per cent of the officers should be from the IAS. This will have to be examined whether BSF officers could be enabled in the IAS. There was a time after 1967 when the emergency was lifted,

[Shri K. P. Singh Deo]

when some of the army officers were taken into the Indian Foreign Service and the IAS. We shall examine the possibility, whether it is possible or it is not possible.

Then, he wanted to know whether there is proper training for the BSF. I would like to say that the BSF has three training academies—one at Tikampur, another at Indore and another at Hazaribag and, the training imparted there is of an excellent quality. Sometimes even people from the armed forces visit Indore and Tikampur areas. There are a number of army officers also posted there and also IPS officers. I can only say from my personal experience that I have myself taken advantage of the establishment at Indore when I had gone there for my own course in the Military College, of combat and Infantry School,—Mhow, and I found it very useful for my own course in the army. I found the training to be of an excellent quality, and, therefore, Mr. Mohanarangam and other colleagues who raised the question on the training aspect, need have no apprehension.

Mr. V. B. Singh mentioned about the large Border and also the amenities part of it. I have already answered that the Fourth Pay Commission is already seized of the matter. The BSF authorities and the Home Ministry are also taking up the question of the allowances.

Mr. Babul Reddy asked the same question: Why are we bringing this after 20 years? Then he mentioned about some *dadas* affiliated to politicians just like colleges affiliated to universities and the nexus between the police and the politicians and the criminals. Well, that is something which is not for me to answer. Neither is it relevant to the amendment here. But it is because of the nexus between the BSF and the smugglers that we have brought this Amendment. Then, Mr Hashmi enlivened the proceedings in which he eulogised our

country's literature, our country's culture and our country's ethos. We shall convey his comments to the Home Ministry to examine them.

Mr. Khandelwal also asked the same question as to why this Bill was brought so late although he supported the Bill.

Mr. Santosh Kumar Sahu gave a very impressive speech. He suggested some thought provoking points. He compared the slow opiumisation of China with that of the manner in which the narcotics are being brought into India—how it sought to destabilise our Armed Forces and our paramilitary forces. This is something which we will have to look into. I am glad that he has mentioned this point. Indeed this is a very serious matter.

Then, he also referred to the morale, training and IPS officers being inducted into the BSF organisation who have no sense of belonging. That is not a fact. This is a very disciplined force. Every person who in the BSF, apart from the black sheep which are there in every organisation, is committed to it. The *esprit de corps* is there. Although I am not a member of this organisation, I have seen the BSF, from a very close range, when I was associated with the Asian Games, the NAM and the Conference of Commonwealth Heads of Government. The manner in which they performed their duties is a credit and a pride to the nation. They have proved that they are second to none as far as carrying out their duties whether during peace time or war time or during any situation.

Mr. Sahu has also mentioned about the social cohesion. This is a very important point. We shall certainly examine it from the various backgrounds and the various Departments of the Government of India will also be addressed in this regard.

Mr. Gurudas Das Gupta while supporting the amendment has also made certain points which I shall convey

to the Home Ministry to look into especially the incidents which he has mentioned and if he can specify further details to narrow down the field where these incidents had happened we shall certainly look into them.

Mr. Satya Prakash Malaviya also has asked as to why we have taken so long a time to bring forward this Bill. And why it was not incorporated in the 1968 Amendment? As I have mentioned earlier, one did not have hindsight then.

Mr. Satyanarayan Reddy while supporting the amendment has also mentioned that the Bill was brought forward very late. Then, he asked three questions: whether best type of men are attracted to BSF like the Armed Forces? May I give him one example. I was heading the high level committee of ex-servicemen in my capacity as the Minister of State for Defence wherein we had a distinguished Honourable Member of this House, Mr. Jaswant Singh in that committee. The reasons: why the BSF do not take any people who are released from the Armed Forces at a very young age, that is 32 to 35 is that after 15 years of colour service a person in the Armed Forces is released, here released means retirement, because of very high and stringent standards in the BSF with regard to height and other requirements. They do not take a person from the Army, Navy or Air Force after his retirement if he does not fulfil them. From this the hon. Member can realise whether the standards are low or high. This will answer his question.

Then about training also he mentioned. As I have said earlier, Tikampur is one of the best training establishments in this country and if hon. Member would like to visit, we can arrange a visit. Let them go and see for themselves and satisfy themselves; they need not be satisfied with my answer alone.

About illegal entry, it was asked as to what steps have been taken. May

I just take the time of the House and bring to the notice of the House the role of the BSF in the last three years in apprehending infiltrators and smugglers. In 1983 the BSF while doing internal security duties—which has been criticised—apprehended 15,705 infiltrators or smugglers; in 1984, 20,688; and in 1985 up to June end, 11,055. In 1983 alone contraband goods worth about Rs. 38 crores were captured or apprehended by the BSF. To put vigil on every square centimetre of the 6900 kilometer-long border, I think, is an impossible task even for the super powers. And to expect that the BSF, just by this amendment is going to stop all infiltrators at every single centimetre or millimetre is asking for the moon. Therefore, this is not a very practical proposition. But the BSF has done commendable work and it shall keep on doing commendable work. This amendment is to bring in discipline, swift discipline and summary punishment to those who have acted in an antinational or unpatriotic or indisciplined manner. Therefore, I am extremely thankful to the hon. House for supporting this Bill, although with their own remarks, both brickbats and bouquets and I take them in the spirit in which they have given them.

THE DEPUTY CHAIRMAN: The question is:

—“That the Bill further to amend the Criminal Law Amendment Act, 1952, as passed by the Lok Sabha, be taken into consideration.”

*The motion was adopted.*

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

*Clause 2 was added to the Bill.*

*Clause 1, the Enacting Formula and the Title were added to the Bill.*

SHRI K. P. SINGH DEO: Madam, I move:

"That the Bill be passed.

The question.. was put and the motion was adopted.

### MOTION RE. THIRTY-THIRD AND THIRTY-FOURTH REPORTS OF UNION PUBLIC SERVICE COMMISSION

THE DEPUTY CHAIRMAN: Now we take up the Government Motion. Shri K. P. Singh Deo.

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL AND TRAINING, ADMINISTRATIVE REFORMS AND PUBLIC GRIEVANCES AND PENSION AND IN THE DEPARTMENT OF CULTURE (SHRI K. P. SINGH DEO): Madam Deputy Chairman, I beg to move:

"That the Thirty-third and Thirty-fourth Reports of the Union Public Service Commission, for the period from April 1, 1982 to March 31, 1983 and April 1, 1982 to March 31, 1984 laid on the Table of the Rajya Sabha on the 2nd May, 1984 and 2nd May, 1985 respectively, be taken into consideration."

As you are aware, Madam the Union Public Service Commission is required under article 323(1) of the Constitution to present annually to the President a report on the work done by the Commission. These reports are placed by Government on the Table along with a memorandum explaining the reasons in respect of cases if any, where the advice of the Commission was not accepted by the Government.

[The Vice-Chairman (Shri Chimanbhai Mehta) in the Chair]

It is also customary to take up for discussion the report of the Commission both to highlight the performance of the Commission and to elicit the esteemed views of the hon. Members on the overall policies of recruitment and management of Public

Services. As the hon. Members are aware, the Union Public Service Commission performs a key role in the recruitment to higher services and renders independent advice to the Government on several matters concerning public personnel administration and utmost consideration is given to the judgment of the Commission in these matters. During these two years, the Commission had tendered advice on over 12,936 and 13,589 cases concerning appointments, promotions and disciplinary cases. Out of these 26,500 cases

Government could not accept the recommendations of the Commission only in 7 April 3 P.M. During the period from April 1982 to March 1984 nearly 6 lakh candidates applied for various examinations and selection conducted by the Commission and over 16,000 candidates representing about 3 per cent of those applied, were recommended for appointment to the various services and posts. The Commission were associated with the selection committees constituted in each State to consider cases of promotion of about 2,400 State service officers to the three All-India Services, viz. the Indian Administrative Service, the Indian Police Service and the Indian Forest Service. A total of 950 State service officers were included in the select lists for these three services during the period covered by the reports. In regard to promotion in Central services the cases of nearly 34,000 were considered by the Departmental Promotion Committees with which the Commission were associated and about 8,000 officers included in panels for promotion to higher positions. The Commission were able to recommend candidates belonging to the Scheduled Castes and Scheduled Tribes against all the vacancies reserved for them in the examinations requiring general qualifications such as a degree as in the case of Civil Services examination, Indian Economic Service examination and Assistants Grade examination. In the case of examinations requiring technical or professional qualifications also candidates to the full extent of re-