

draw your attention to one important thing. I addressed a letter to you, Sir, through the Secretary-General stating that arrangements may be made for interpretation of the speeches made in Telugu into other languages. Sir, so far I have not received any reply.

MR. CHAIRMAN : We are making the arrangements.

SHRI B. SATYANARAYAN REDDY : Sir, when I came to attend this august House and wanted to take my oath, I was asked in which language I would like to take my oath. I said I would like to take my oath in Telugu. Then I was given a piece of paper on which the oath was written, not then, but some years back it seems. It was not properly legible. It was not printed. So far as the oaths in other languages are concerned, they are printed but the oath in the Telugu language is not printed. It was in a dilapidated condition. I could not properly read that oath also. The next day I wanted to make my speech in the Telugu language but the Chair directed me to give my speech in writing. I would like to draw the attention of the Chair to the fact that whenever I want to speak, I would like to speak in any language which I like. I would like to speak in Hindi, I would like to speak in Bengali, I would like to speak in Tamil, I would like to speak in Malayalam. I would like to speak in other languages of India. I would like to speak in Gujarati also. So, arrangements must be made for the interpretation of these languages in other languages also.

MR. CHAIRMAN : That is all right. You have made your point.

श्री बी० सत्यनारायण रेड्डी : मेरे कहने का मतलब यह था कि मैं चाहता था कि 30 साल से 25 साल से जो सदन यहां है तो मैं यह नहीं जानता था कि तेलुगू जो हिन्दी के बाद सबसे ज्यादा बोली और समझी जाने वाली जुबान है, इस जुबान में कोई ऐसा इंतजाम नहीं किया गया, ताकि उस जुबान को जानने वाले या बोलने वाले अपने विचारों को, अपने भावों को इस सदन में, इस देश में पहुंचावें। जहां तक जो विजिटर्स आते हैं उनका सवाल है, वे हमसे पूछते हैं कि यह हाउस, यह सदन इंग्लैंड की पार्लियामेंट है, ब्रिटिश पार्लियामेंट है या इंडियन पार्लियामेंट है। मेरी समझ में नहीं आता है, मैं जब से इस सदन में बैठा हूं, यह सुनता आया हूं कि अंग्रेजी वाले या हिन्दी जानने वाले भी अंग्रेजी में बोलने की कोशिश करते हैं। वह लोग, वह माननीय सदस्य, जो अंग्रेजी नहीं जानते हैं, हिन्दी अच्छी तरह से जानते हैं वे भी अंग्रेजी में बोलने की कोशिश करते हैं। यह मेरी समझ

में नहीं आया है। इसलिए मेरी आपसे प्रार्थना है कि मेरी जो एक दरख्वास्त है, जो मैंने एप्लीकेशन दी है, उसके बारे में आप कब और किस वक्त उसका इंतजाम करने वाले हैं, इसके बारे में आप कहें।

MR. CHAIRMAN : That is all right. You have made your point.

श्री शिव चन्द्र झा (बिहार) : सभापति महोदय, एक छोटी सी बात है। सेक्रेटेरियट का जो काम है... (Interruptions).

THE DELHI POLICE BILL, 1978

MR. CHAIRMAN : The Statutory Resolution by Mr. Bhupesh Gupta.

SHRI YOGENDRA SHARMA (Bihar) : Sir, Mr. Bhupesh Gupta has asked me to convey to you his sincere regrets for being absent today because he had made a programme thinking that there will not be a sitting of the House on Saturday.

MR. CHAIRMAN : Yes, Mr. Minister.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI S. D. PATIL) : Sir, I beg to move :

"That the Bill to amend and consolidate the law relating to the regulation of the police in the Union territory of Delhi, as passed by the Lok Sabha, be taken into consideration."

[THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) in the Chair].

Sir, the Delhi Police Commission, also known as the Khosla Commission, in its Report submitted in 1978, recommended the introduction of the Commissioner of Police system in Delhi

SHRI LAKSHMANA MAHAPATRO (Orissa) : Sir, this voluminous statement can be laid on the Table

SHRI S. D. PATIL : Though the above recommendation remained under the consideration of the Government, it was in November, 1976 that a decision was taken by the previous Government not to accept the recommendation. After the present Government took over, the matter was reconsidered in the light of the complexities of the task of police and the new challenges faced by them with the progressive urbanisation of the Union territory of Delhi and the rapid growth of population. It was felt that the duality inherent in the present police-magistracy system inhibits the police in quickly res-

[Shri S. D. Patil]

ponding to situations and affects their efficiency in their primary task of crime control and maintenance of law and order. Such an arrangement also tends to curb the initiative and efficiency of police. The Police Commissioner system had been obtaining in the former presidency towns of Bombay, Calcutta and Madras right from the inception of the modern concept of policing and it has been operating to advantage in other metropolitan areas like Hyderabad, Bangalore, Ahmedabad, Nagpur and Poona, where it was introduced subsequently. After considering all aspects of the matter and in the interests of the improvement of the efficiency of the police in the capital city, the present Government decided to switch-over to the police commissioner's system. An announcement was made in this regard in both Houses of Parliament by the former Home Minister on 8-8-1977 and it was indicated that steps were being taken to see that the change-over to the new system is effected as early as possible.

The necessary legislation was drafted and was placed before the Metropolitan Council in Delhi in December 1977 for obtaining their recommendations. The recommendations of the Metropolitan Council were available only in the second week of May 1978. Since considerable delay had already occurred, the change over was brought into force by promulgating the Delhi Police Ordinance 1978 on 1st July, 1978. This Bill seeks to replace the said Ordinance. The Bill is mainly based on the Police Act, 1951 with some modifications to suit the requirements of Delhi. It provides for the appointment of a Commissioner of Police and the vesting in him, subject to the control of the Administrator, power of the direction and supervision of the police force in Delhi. Under the Bill, the Commissioner of Police may be empowered by the Central Government to exercise and perform the powers and duties of an Executive Magistrate and of a District Magistrate under such of the provisions of the Code of Criminal Procedure, 1973 as may be specified. Similarly, any officer subordinate to the Commissioner of Police, being an officer not below the rank of an Assistant Commissioner of Police, may be empowered by the Central Government to exercise and perform the powers and duties of an Executive Magistrate under such of the provisions of the Code of Criminal Procedure, 1973, and in relation to such areas in Delhi as may be specified. The Bill now empowers the Commissioner of Police to exercise the powers of a District Magistrate under the 14 Acts specified in Schedule I thereto.

The other important features of the Bill are as follows :—

(1) The Commissioner of Police will have power to make regulations for regulating traffic of all kinds, licensing and controlling of places of public amusement or public entertainment or prohibiting the carrying of gun-powder or any other explosive substance in public places, directing the closing or disuse of any source, supply or receptacle of water and providing against pollution of the same or of water therein, regulating the conduct of assemblies and processions, etc.

(2) The Commissioner of Police will have power to disperse gangs and external bad characters and habitual offenders.

(3) The Commissioner of Police will have certain powers to prevent cruelty to animals.

(4) Creation of certain new offences with respect to disregarding rules of the road, causing obstruction or mischief by animals, causing obstruction in streets, doing offensive acts in or near a street or public place, behaving indecently in public and annoying people in streets, etc.

Sir as already mentioned, the Bill is modelled on an existing law, that is, the Bombay Police Act, 1951. A number of provisions of the said Act relating to externment of bad characters, regulation of traffic, control and licensing of places of public amusement or public entertainment etc. were extended to Delhi in the past and have been in force for a number of years. Some of the provisions of the Bill are based on or are analogous to the provisions of the Police Act, 1861 and other laws like the Madras Town Nuisances Act as in force in Delhi. Thus, both the Administration and the public are already familiar with many of the provisions of the Delhi Police Bill. The Bill seeks to amend and consolidate the existing laws relating to police apart from introducing the Commissioner of Police system.

Sir, I am sure that this Bill will be welcomed by all sections of the House. I commend this Bill to the House for its unanimous acceptance.

The question was proposed.

SHRI KHURSHED ALAM KHAN (Delhi) : Sir, Delhi is entirely different from any other metropolitan city in the country. Therefore, the presumption of the hon. Minister is not correct. What is good for Bombay or Calcutta is not necessarily going to be good for Delhi. This he can take from me, from my own experience. Delhi has its own character, its own tradition and its own way of working. Therefore, a certain departure, from that is

not going to be in the interest of Delhi or in the interest of the public of Delhi. People have not welcomed this piece of legislation and this system of change-over, as the hon. Minister must be aware from what is being said in the local Press and from talking to the people of Delhi.

Now, at the outset, I should like to know : What were the compelling reasons for the changeover in the police system by bringing in the Delhi Police Ordinance of 1st July, when the Parliament Session was scheduled for the 17th July ? Was there any special reason for this ? Why did you not wait for about two weeks and then bring this Bill before Parliament ? What was the necessity for promulgating the ordinance at that time ? Besides, the Constitution (47th Amendment) Bill, 1978, and the Government of Union Territories (Amendment) Bill, 1978, were to be introduced in Parliament. According to that, the Union Territory of Delhi is to get a Legislative Assembly. You should have waited not merely for the Parliament Session. This should have waited, in fact, till the Assembly was established in Delhi, as we want an Assembly in Delhi, not merely an Assembly and conversion of the Metropolitan Council of Delhi into a Legislative Assembly, but free elections in Delhi, so that we could have known the views of the people of Delhi as to what they want, which party they want and which Government they want. But this was done just....

SHRI LAKSHMANA MAHAPATRO :
It is only for interference in the election process that this has been done.

SHRI KHURSHED ALAM KHAN :
That is very obvious and you have made it more clear and put some more words in my mouth.

Now, another important factor in this is that, this shows the usual way of working of the Janata Government. It is the Administrator who will have the exclusive control over the Police Commissioner and the Police set up in Delhi. It is very obvious that even after having a Legislative Assembly for Delhi, you are not going to allow the elected representatives of Delhi to have a say in this matter and this will be the exclusive preserve of the Administrator who will be appointed only by you and will not be answerable to the Legislative Assembly of Delhi. Well, these are the aspirations of the people of Delhi and you are going to completely ignore them and you are going to deprive them of their privileges, of their rights and of their wishes. Well, it will amount to that. After some time, it will only be the Administrator and the Police Commissioner in Delhi, and, I can assure you, even the Ministers of the Central Government will have no impor-

tance in the Union Territory. Only these two people will have importance, namely, the Administrator and the Police Commissioner of Delhi and whatever they like, they would do. The District Magistrate system for Delhi and its own advantages and should not have been scrapped in such a fashion. People had the opportunity to approach the District Magistrate when they found that there were excesses from the Police side and they could get their grievances redressed. But now, the Police Commissioner will be his own policeman. Where will people go against his own excesses ? They will have to be content with his decision and his own findings. It is obvious that the Government's decision is based on the Khosla Commission's Report and the stand of the Government that the duality inherent in the Police-Magistracy system inhibits the Police in quickly responding to the situations and affects their efficiency in their primary task of crime prevention and maintenance of law and order. Well, after coming into being of this system, have you been able to reduce the number of crimes, or, has there been an increase in the number of crimes ? I will give you statistics to show that this changeover has not made any dent as far as the crime rate in Delhi is concerned. Well, Sir, the previous Government had not accepted this recommendation of the Khosla Commission. What were the reasons ? There were valid reasons. Why have those reasons been completely ignored at this time ? Why have you not said for what reasons the previous Government had not accepted it ? I am sure you do not want to disclose those reasons. But those reasons were very valid reasons.

The idea of a Police Commissioner system is no doubt good as one authority aware of the ability of police force could deal with the situation effectively, but there are many possibilities in a system like this of misuse of power or misuse of excessive power and, particularly, in a city where there have been no such traditions, which is not familiar with this sort of working. It is naturally different with Calcutta where for more than a century you are having this type of police system and in Bombay also, but in Delhi this needed gradual introduction and not this sweeping power being given to the Police Commissioner.

There is a great doubt whether the public of Delhi would welcome this introduction of the Police Commissioner system, as I said earlier. The District Magistrate System had its own tradition and it had its own advantages. People were used to it. Now they find themselves really at a loss where to go, whom to complain when they find that there are excesses from the police.

[Shri Kurshed Alam Khan]

Now you have introduced it, but the real test of the system would be in their performance and improvement in the existing situation. Really speaking, the public is not very hopeful, as I have stated, and there has been no impact. They have not been able to make any dent on the existing situation. As it was before, it continues to be now, rather worse. In spite of the repeated denials by the hon. Minister the law and order situation in Delhi remains really unprecedented. This sort of law and order situation the residents of this historical city had never experienced in the past. Today it is going to be worse. What you are going to do I do not know because every time we put you a question, we ask you a question, there are repeated denials and there are such sort of statistics which are not really acceptable to us. In such a situation what is the remedy? Surely not what the Government is trying to do because introducing this system is a sort of putting off the evil for your lack of administrative ability in this Union Territory of Delhi. We are faced with an unending crime wave in this city and people have lost all their faith in the authority's ability and capacity to give them protection of providing security of life and property. Here I should like to quote that between March 1977 and March 1978 there were 600 cases of robbery, 225 murders and 143 dacoities as compared to 167, 143 and 4 respectively between March 1976 and March 1977 and 366, 192 and 33 respectively between March 1974 and March 1975. Similarly, you see in 1976 there were about 4499 thefts in Delhi but in 1978 these were 7856. The number of murders in 1976 was 37, but in 1978 it was 57. Apart from this, I should like to mention that even in 1974 there were 174 murders, in 1976 these were 120 and in 1978 these were 183. These are the figures given by you in response to our questions. The number of murders were 27 in 1974, 113 in 1976 and 206 in 1977. Thefts were 20,395 in 1974, 13,280 in 1976 and 21,712 in 1977. Besides I would like to quote another specific example of one boy Azad Singh—aged 16 years who was murdered on December 27, 1977 and still there is no trace of the murderers. These persons have been going from pillar to post, but nothing has been done. Yesterday they happened to come to No. 12 Willingdon Crescent and gave me a bunch of papers containing photographs and all the details. The police have done nothing so far and they have not been able to trace the culprits. The Khola Commission stated in 1968 :

"The present state of the Delhi Police manifested a degree of discontentment and incompetence indicative of a deep malaise which could be cured only by a bold and full blooded measure of all-pervasive reform."

Take it from me that the situation that prevails today is worse. It is not the same, but it is worse than before and there has been no improvement even after the introduction of the Police Commissioner's system. Therefore I am very doubtful if this system will carry good. One thing strikes out very clearly. I think you will now be under an Administrator and the Administrator will get every thing done. At the same time, the elected representatives of the people will have nothing to say.

The law and order situation is such that one suspects whether this new system will do any good to the country, or to this ancient city, except most probably it is going to increase the expenditure by a substantial amount. Every day the morning newspapers have screaming headlines about murders, dacoities, robberies, chain-snatchings and what not. If you go to these resettlement colonies, you will come to know about such crimes as will make you harg your head in shame, particularly what is being done to the women, how they are molested by those who are supposed to maintain the law and order situation in this city. A few days ago, the hon. Members will remember that 9 robberies were reported in one single night; a bank was robbed of Rs. 3 lakhs in broad daylight in Karol Bagh; and a number of dacoities have been reported even in the New Delhi area. About a hundred yards from my own house, a dacoity and murder has taken place. All this has shaken the confidence of the people living in the New Delhi area and if you go to the posh colonies, the first thing that they talk about today is the sense of insecurity of life and property and their honour.

What are they going to do under the new system? They are going to have a large number of new designations. Nothing is going to change with the change of designations, because designations are of no consequence or consideration for us. People have doubts about the success of this system. The police have the reputation of being trigger-happy. What they have done in the past and what they have done recently is known to everybody. And if these trigger-happy people are given so much power, then you can imagine what they are going to do and what will be the consequences for the people. Particularly, in New Delhi when they have to take the assistance of the CRP, I would like to know under whose orders the CRP will work, who will command them, who will give them orders and whose orders they will obey? Sir, limitless powers are being given to the Police Commissioner. The Bill provides complete protection in pursuance of sections 138 and 140 if they act

in good faith—"No police officer to be liable to penalty or damage for act done in good faith in pursuance of duty imposed or any authority conferred on him." Whatever they will do they will say this is in pursuance of their duty, in pursuance of the responsibility they had. And you have given them complete immunity and nothing can be done against them. They are the most blessed people on earth and, therefore, they can do no wrong, they can make no mistake.

Similarly, clause 39 gives power for additional police and collect cost of appointing this additional police. What will happen? In any little disturbance in any area they will send a large contingent of police force and the poor people living in those areas are supposed to pay for the entire cost of the police thus deputised for their security. But I can assure you that they will not be there for creating a sense of security or giving them protection as we see from our experience and you will see from your experience.

Similarly, in pursuance of clause 17 the option to appoint special police officers has also been given to the Police Commissioner. We have very grave doubt about this power being misused by the Commissioner of Police. We know that in times of stress and strain what type of people will be appointed, what type of people will be given this facility to act as special police officers. They will have no confidence from the people. We know there is lot of infiltration in the police of undesirable elements. Therefore, if they give this power, surely they are going to appoint such people who will not be there for our honour, our security and our property. For God's sake please look into this matter and see that this is amended.

The Commissioner will also have power for looking after advertisement hoardings, arms and so on. But are they well equipped for looking after all these aspects of responsibility which are being given to him or are they going to be left as they? Sir, the change has come. But with this change-over we have not seen any change in the working or in the type of working that was previously there or which is at present there. We are told that the philosophy behind firing was not to kill but to punish. I am quoting from an interview of the present Police Commissioner. But I must tell you that they do not believe in this policy. They believe only in the policy "Shoot to kill". And this has happened in Pantnagar. This has happened in Agra. Are you going to repeat the same thing in Delhi? This philosophy may be only in the Delhi Police Conduct Rules but it is not going to be practised in Delhi also. I ask: Is the department well-equipped? And my answer to all this is a flat "No". There is no proper equip-

ment. There is no laboratory, no mobility.

As far as mobility is concerned, the Delhi Police have only 20 patrol cars at the moment. The estimates of the Police Commissioner himself is that the minimum requirement is 200 patrol cars. If instead of 200 patrol cars you have given them only 20 patrol cars, what are they going to do when particularly you have given them so many powers and so vast and extensive power.

Another very important aspect is traffic control. Traffic regulation has been placed under the Police Commissioner under the new system. What mass transport in Delhi is, we all know: There is no check on the buses, there is no proper check on the fitness of the vehicles, there is no check on the driving of vehicles and nobody cares for proper enforcement of rules and regulations on the highways and carriage-ways in Delhi. And have you noticed a police constable standing there? He looks like a student or a professor of Oxford University as if this world does not belong to him or as if he does not belong to this world. Is this the way of enforcing the regulations? That is the reason, honourable Minister, why after every 12 hours you are killing one person as a result of bad traffic in this ancient city. One person is being killed after every 12 hours.

Everybody knows about the impossible traffic conditions in Delhi, but what is being done? There are 12 types of slow and fast-moving traffic struggling for road space in Delhi carriage-ways, but if you go to the congested areas like Khari Baoli or places like Chandni Chowk or the Delhi railway station in old Delhi, you will find no police constable anywhere and, if at all he is standing somewhere, then he is the most disinterested person in all this great confusion and chaos that is prevailing.

When you said that this police system is being brought into Delhi, one view is that at present there are too many authorities in Delhi, giving too many contradictory orders and, therefore, the Administration suffers adversely. Now what will happen when there will be an elected Legislative Assembly in Delhi, and an Administrator? Will the Administrator's orders be carried out, as far as the police work is concerned—who has been given so many extensive powers—or will the orders that may emanate from the Legislative Wing be implemented? Who is going to implement them, and will they be implemented in the same spirit as the Legislative Wing may desire them to be implemented?

[Shri Khurshed Alam Khan]

Now, for the success of the new system, much more has to be done than what is provided in the Bill. You have done really no exercise, you have not applied your mind very carefully. It is such an important piece of legislation that it should not be rushed through both the Houses for passing on the plea that the Ordinance is expiring. This Bill should have gone to a Joint Select Committee for deliberation in depth because it is a very important Bill which affects the various aspects of life of the people of this ancient city. Therefore, we have every right to consider this Bill in depth, and carefully, in a Joint Select Committee. I do not know why this is cut short and why the suggestion for a Joint Select Committee was not accepted and why this Bill is being rushed through like this.

That you have already introduced this system is a known fact. Another aspect to which I would like to draw the attention of the hon. Minister is that temptation in police service is a known fact. It is universally accepted and everybody very well knows that the temptations in police service are many and compelling. But there should be no compromise with corruption and, if that is so, what are you going to do about the well-being of the police people and their working conditions? Have you thought about it, have you given any consideration to that I would say, no. There is one instance I would like to bring to your notice. You have provided for woollen uniforms for them. How many? Two pairs of trousers for five years and one woollen suit for three years. Do you think one woollen shirt would last three years and two pairs of woollen trousers would last five years? Naturally, if you are not going to supply them with an adequate number of uniforms, then they will find their own ways and means to have new pairs of shirts and trousers. Besides efficiency, there has to be suitable recruitment and proper training. I would like to repeat, proper recruitment and training. When I say 'proper recruitment', I mean to say that the recruitment should be a mixed one. May I remind the hon. Minister that before 1947 there used to be 40 per cent minority communities people in the Delhi Police, but today when the Delhi Police strength is about 25,000, if I am not mistaken, there are not even 150 persons from the minority communities. Are you going to have this sort of Police force? If you are going to have this sort of police force, then nobody is going to have faith in it. You must have a mixed police force so that everybody has faith in the impartiality of the working of the police force. Now adequate staff is another important factor which makes for the efficiency of the police force. You have given them so many

additional duties; you have enlarged the scope of their duties to a great extent. And how much staff are you going to provide for that? The additional provision for staff that you are going to make is of the order of Rs. 3 lakhs. In the first place, I may tell you that this is a very unrealistic assessment. Unless you provide more money and provide them facilities generously, it will not be possible for you to make this system a success.

Now another important factor which also should be taken into consideration, as far as the police is concerned, is whether there is any provision going to be made for weekly off for the policemen. After all, they must get a weekly off. But you have made no provision for it. Unless you do it, it will not be possible for them to maintain the same standard of efficiency which is expected from them. If this is to be done, this will need at least an increase of about 15 per cent in the strength to provide them a weekly off. And if the principle of eight-hour duty is to be applied in their case, then another 18 per cent of the strength will have to be increased. You will have to consider about it because now you are giving them such important duties; now you are enlarging the scope of their work to such an extent that it is necessary that they must have some proper rest.

Now, the hon. Minister, you have drawn much from the Khosla Commission's Report while drafting this Bill. May I point out that a very important and significant recommendation of the Khosla Commission has been completely missed or completely ignored? And the recommendation is—I quote:

"A Traffic Board should be set up under the chairmanship of the Commissioner of Police, with representatives of municipal organisations, the Northern Railway, the DDA, the Ministry of Transport, Automobile Association, DTU, a few Members of Parliament, Chief Engineer, CPWD and the Municipal Corporation of Delhi."

Now, to this list, I would like to suggest..... (Interruptions)

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Please conclude now.

SHRI KHURSHED ALAM KHAN: ...atleast a Road Research Institute representative should also be included. Since my hon. friend from that side wants me to sit down, I will sit down. But I must say that Delhi has its own special and peculiar situation, with so many pulls and so much of day-to-day

interference by the Ministers. This being the case, will the Commissioner system be able to bring about any radical improvement in the administration of the Union Territory of Delhi ? Or, is it just to divert the attention of the public ? That is what the intention of the Government seems to be.

Thank you.

SHRIMATI LEELA DAMODARA MENON (Kerala) : Sir, the Hon. Minister, when he explained the objects and reasons for this particular Bill, said that this was a long awaited piece of legislation. The Khosla Committee had made its recommendations in 1968 ; it is ten years now since those recommendations were made. Why is it that they were not accepted or implemented so far ? Delhi is a sensitive area. Examples are drawn from Bombay, Madras and Calcutta. They are not the capital cities of India. This is the capital of India. It is special area. It is the seat of Parliament. Many other things are also happening here which do not happen usually in Bombay, Calcutta or Madras.

Just let us see what has happened during this period after the promulgation of the ordinance, during the period of trial of this experiment. The Hon. Minister said that is to control the crime, to protect the people and to do things like that. What has happened ? How has it protected the people ? How has it controlled the crime in Delhi ? The Hon. Member who just spoke, gave the details, the figures, of the crimes that have happened in Delhi during the last few months. Today it is a fact that the women cannot move about in Delhi without protection. This has never happened before. People have been living in Delhi for all these years peacefully. But it is a fact that mother are frightened, the parents are frightened, to send their girls out to the educational institutions. When anything happens the Police do not take note of them. The chains and whatever little jewellery they have are snatched from the girls. There is eve-teasing.

SHRI LAKSHMANA MAHAPATRO : One lady journalist has come up with a detailed accounts of such things.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Let her complete, please. You will have your turn.

SHRIMATI LEELA DAMODARA MENON : There is after 6, as if, section 144 in the city and nobody can move about without special permission from the police and without police pro-

tection. What has happened during the period of this ordinance, during the period of the working of the new police system ?

There are certain provisions which are necessary. There has been the Police Act in vogue since 1861 and changes due have to come. The complexities of the social life, the economic life and even the political life have changed, and, therefore, changes have to be brought in. But, we should see that the change is better than the previous set up not worse than that. If it is worse, all these changes will be of no use, of no effect.

I do not want to go into the points that have already been raised by the Hon. Members. But I do feel that the things have come to a pause.

We make legislations, we increase the Police Force and we give special permission to the police Commissioner to take more special police. When the Commissioner of Police takes new people at a point of time when they think that there is an emergency, there is no law or rule to govern whom they should take into the special force. Who shall be the special force ? Sir, today, it is a fact that in this country casteism is coming up. After the Janata Party has taken over this Government, slowly but steadily the people are led to the original confrontation of caste. Before and after we attained freedom, there have been attempts in the country to see that the people of India are united and are one. We speak of socialism, we speak of social levelling and we have been attempting to remove casteism, but everyday we find that there is a caste war. It is either between the Jats and the Harijan or between this group and that group. Supposing that the Police Commissioner is also involved in that caste war or the Police Force is involved in the caste war, who would prevent them from mobilising more forces against one group ?

I P.M

Sir, who is to prevent all that ? The Commissioner is all-supreme; his understanding and his decision will be paramount and there is nobody to question him. That is a grave danger.

Crimes are increasing. There is more looting, there are more thefts and more murders in Delhi than ever before. From the Treasury Benches came the explanation that it is only now that these cases are being registered. Sir, I do not agree with this explanation. Whenever there is a theft in the house, whenever somebody is murdered, whenever there is looting, people do register the cases. But today those cases are more in number. So, some silly excuse is being found.

[Shrimati Leela Damodara Menon]

The police is back to the original 1861 phase : they are now protecting the vested interests. When the original Police Act came into existence in this country, it was to protect the Britishers, those people who ruled. And today, the Janata Government wants to juxtapose itself with the British regime and wants to be protected. Formerly it was also to protect the Zamindars and the vested interests, and the rich people who supported the British rule. Today the Janata Government wants the police force to support the vested interests and the rich people, those forces which want to support the Janata Government. Therefore...

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Madam, how much time would you take ?

SHRIMATI LEELA DAMODARA MENON : I would take another 10 to 15 minutes.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Then let us adjourn for lunch now. We meet at 2 p. m.

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

The House reassembled, after lunch, at three minutes past two of the clock the Vice-Chairman (Shri SHYAM LAL YADAV) in the Chair.

SHRIMATI LEELA DAMODARA MENON : Sir, I was speaking about the special provision for having more police people to meet a particular situation of emergency. From the many provisions of the Bill it seems to me that we will be giving the police so many powers that Delhi will soon have a police raj. It is already having it now. And it will be confirmed as we will be giving our assent to it if we pass this Bill....

SHRI LAKSHMANA MAHAPATRO : The police will act with added strength.

SHRIMATI LEELA DAMODARA MENON : Yes, it will act with added strength. The honourable Member who spoke before me said that the police officers and others have longer hours of duty. While I am against giving the police to many powers and too much authority we should also consider that they are human beings. Today an ordinary policeman or a police officer has to work for 16 to 17 hours sometimes. There are no specified hours of duty. Police is the custodian of law and order to whom we expect the citizen to look in his ordi-

nary life for protection from crime. Today, policeman appears as the dragon, who destroys the peace of the citizens. This is because, first of all, he is too authoritarian and he has power. But he does not have money and his service conditions are, if not a hundred year old, at least not improved considerably. Therefore, he has power and no money and it will be no wonder if he becomes subject to the influence of money power. That is a simple fact. With regard to the people who commit crimes, I would say that the incidence of crime is increasing just as the population is increasing and just as the society is becoming more and more complex. But, at the same time, there is one fact which is to be noted. We note now that the incidence of crime amongst women is also increasing. But we do not have provisions in our law to see that these criminals or those persons who commit crimes are properly taken care of. Today, when a woman is alleged to have committed a crime or has committed a crime and is taken to the police lock-up and is interrogated, it is not only considered he has committed a crime, but that she is a woman. People see her only as a woman. Whether it is a woman or a man who commits the crime, when they are to be interrogated, they are to be interrogated as individuals and not as men or as women. In the case of a woman criminal, she should not be interrogated by men because she is alleged to have committed a crime and she should not be made to undergo the torture of being a woman as it happens now. When she is taken to the lock-up, she is a sex symbol. This thing should not happen and, I would appeal to the Government to see that no woman is taken to the lock-up and detained in a lock-up during the night and no woman should be interrogated by men police. It is a fact that the police force is not the military force where they have special provisions. It is an unfortunate thing that even though the Constitution guarantees equality to men and women in every sphere, in the military force, in certain sector there is still discrimination against women. But in the police force this need not be there. There is no necessity for any discrimination. I would suggest that if there are no women police, it should recruit more women and it should be seen that women criminals or offenders are interrogated only by women police officials and that they are not kept in the lock-ups.

There is the question of community fine. The whole area may be fined if the Commissioner so desires. Very often many riots take place and this is because of violence and the people involved do not have in view any special area or any motive. Trouble spurts out suddenly. Sometimes it may be a procession takin

out and it may be passing through a poor area where people in that locality, have no idea or any thing regarding the procession. But violence spurts out suddenly. Should the people there be fined for that? Should the people in that area be penalised for that? I think, this is not very fair.

We have always been saying that the Executive and the Judiciary should be separate. But here, a person of the status of an Assistant Commissioner is now given magisterial authority. I think it is going to be misused and these days especially when we find the police being used, rightly or wrongly, to protect special interests, the interests of certain influential people, the interests of the Government and also the vested interests, and it will be misused now because of this provision giving magisterial authority, which authority is there to give protection and some sort of civil rights to the citizens and which will be destroyed now. Therefore, that provision should also be looked into and necessary amendments should be made to it. With regard to traffic, we find that in spite of the Commissioners being in existence under the new set-up which is functioning, cycles have no lights, boards do not have letters, instructions are not legible and traffic regulations are very, very poor. With regard to traffic regulations, Delhi would be the worst city in the world. Therefore, special attention will have to be paid to this. There is a lot of exploitation, and in certain spheres necessary attention of the police should be there.

Many Members have spoken about the behaviour of taxi drivers and auto-rikshaw drivers. The police is quite indifferent. Accidents have now increased, not only because the number of vehicles has increased but also because of bad regulations and bad control. It is a matter of fact that a taxi will not go for a short distance. Even for Members of Parliament, sometimes when Parliament sits after 6 o'clock, it is not possible to have a taxi to go home because taxis will not come. If it is a fact for Members of Parliament, then what will be the fate of ordinary citizens who want a transport? Same is the case with auto-rikshaws. I am not saying that these people are not really exploited or the police do not trouble the poor taxi men or the auto-rikshaw men. But the taxis and auto-rikshaws should not become a problem to poor passengers who, after travelling over long distances, are put to a great deal of trouble at the railway stations and elsewhere.

Sir, I was speaking about the service conditions and the accommodation of the Police. In the States there are

special provision for that. As a matter of fact, in Kerala the State Government has made special provisions to see that proper accommodation is given to poor policemen, to the poor police constable, because it is difficult for them to get accommodation properly otherwise. I know that there is to some extent a provision for this in Delhi also. But it is not the case everywhere. The police should not be under any influence with regard to their accommodation. For this special provisions will have to be made.

Regarding the police taking deterrent measures for law breakers. I think Clause 48 states that the police would be giving special attention. What has happened with regard to implementation of the enactment against immoral traffic in children? The police has failed miserably. Girls are falling from second storeys or fourth storeys in this capital, because the police are not bothering about these laws.

It is reported that in some of the colleges the incidence of students taking drugs and other intoxicating things has become so high that it has become a big social problem, in schools. Every day almost we find that so much of drug has been seized from here or there. But that is only symbolic. Daily, in this city of Delhi a large amount of drugs is received which is being distributed not to habitual takers of these drugs but to students also. Even in high schools there are anti-social elements. Drugs are distributed in high schools also, so that little children in our high schools use these drugs, so that they become addicts to drugs. What action is being taken? What definite programme have the Government and the Police done?

Now I come to crime detection. In this big city, the equipment that the police has for crime detection and the implements and set-up it has so inadequate that it is impossible to do anything in a city like Delhi which is a big city and can vie with most of the international cities. There are good elements in this city, but there are bad elements also coming from all over the country and from other countries also. The equipment is very poor and inadequate and I hope that the Government will see to it that this aspect of the police is strengthened and proper allocations are made to see that our police has modern equipment so that they are at par with other countries and modernised to the extent possible.

With these words I oppose this Bill, not because there are not many good things in it which may, in some manner, improve the police force, but because

[Shrimati Leela Damoda a Menon]

feel that it, as it is, cannot improve matters and it might be misused so that Delhi is made a police raj and not the headquarters of a big democratic nation.

श्री रामलखन प्रसाद गुप्त (बिहार) : उप-सभाध्यक्ष महोदय, हम लोग आज दिल्ली पुलिस बिल, 1978 के ऊपर बहस कर रहे हैं। एक जुलाई, 1978 के पहले तक पुलिस एक्ट 1868 के अनुसार यहाँ पुलिस व्यवस्था चलती रही। जब यह एक जुलाई, 1978 को आर्डिनंस लागू हुआ तब से अभी दो महीने भी समाप्त नहीं हुए हैं कि हम इस बिल के ऊपर बहस कर रहे हैं। यह बात सही है कि दिल्ली में ही नहीं सारे देश के अंदर जो कानून और व्यवस्था है उसमें गिरावट आई है और जनता सरकार इस बात पर बहुत चिंतित है कि किस तरह से इस कानून और व्यवस्था में सुधार हो। इसी चिंता के कारण हमारे प्रधान मंत्री जी ने दिल्ली पुलिस अध्यादेश का निर्णय किया था। दिल्ली शांति व्यवस्था के सम्बन्ध में जब सभी पार्टियों के साथ बातचीत हुई उसी बातचीत के अंदर यह बात आई और उसी के फलस्वरूप यहाँ पर यह आर्डिनंस लागू कर देना पड़ा।

दिल्ली पुलिस बिल, 1978, जिस पर हम बहस कर रहे हैं, इस संबंध में 1968 में भी बातें हुई थी। उस वक्त जिस समय इस पर बहस हुई थी, बात चली थी, यहाँ की आबादी 35 लाख थी। उस समय यह बात उठी थी कि जिस तरह से मेट्रोपोलिटन सिटीज में कानून है उसी तरह का कानून यहाँ पर बनना चाहिये। परन्तु 1968 से इस पर बातें होती रहीं, विचार आते रहे पर वह लागू नहीं हो सका। इसके बाद इस को दिल्ली एडमिनिस्ट्रेशन को भेजा गया, दिसम्बर, 1977 को। दिल्ली पुलिस कमिश्नर 1968 की रिपोर्ट पर दिल्ली एडमिनिस्ट्रेशन ने विचार किया। दिल्ली मेट्रोपोलिटन कौंसिल ने अपनी रिकमेंडेशन मई, 1978 को यहाँ भेज दी और इसी के साथ ही यहाँ यह आर्डिनंस तुरन्त लागू कर दिया गया। यह बात सही है कि यहाँ पर जो कानून और व्यवस्था बिगड़ती जा रही है उसको रोकने के लिये कोई न कोई अलग से व्यवस्था की जाए। यह बात हमारे मित्र खान साहब ने भी कही। कानून और व्यवस्था में जो गिरावट आ रही है उसके लिये जो कानून हो सकता है उसी के तहत यह है आर्डिनंस हमारे सामने विचार के लिये आया है इससे यह उम्मीद की जा सकती है कि कम से कम 30-40 परसेंट सुधार होगा। सन् 1968 में भी यहाँ की आबादी बहुत अधिक थी और साथ साथ यह भी कहा जाता है कि पुलिस की व्यवस्था में भी कुछ गड़बड़ी भी जिसके कारण रोज ही दुर्घटनाएँ बढ़ती जा रही थी। जैसा मैंने कहा है, 1968 में यहाँ की आबादी अधिक थी और दिल्ली में 35,83,000 लोग रहते थे, लेकिन आज 1978 में यह आबादी बढ़ कर 54

लाख हो गई है। सन् 1968 में पुलिस की संख्या 14618 थी और आज सन् 1978 में यह संख्या 21547 है। इनमें से 4236 लोग दिल्ली में 10 और 10 की सेक्यूरिटी में लगे हुए हैं और 3103 व्यक्ति स्पेशलाइज ड्यूटी में लगे हुए हैं। शेष 14208 व्यक्ति ला एण्ड आर्डर की व्यवस्था में लगे हुए हैं। इस तरह से इतनी पुलिस की व्यवस्था होने के बावजूद भी दिल्ली में कोई दुर्घटना न होती हो, ऐसा नहीं कहा जा सकता है। मैं यह नहीं कहता कि यह संख्या बहुत अधिक है या बहुत कम है, लेकिन यह उचित होगा कि इसमें सुधार किया जाय।

...

जहाँ तक अपराधों का सवाल है, इसके विषय में जो भी आंकड़े दिये गये हैं वे झूठे नहीं हो सकते हैं, लेकिन यह बात भी सही है कि दिल्ली के अन्दर सड़कों के ऊपर लड़के जुआ खेलने के नाम पर जो काम करते हैं और सड़कों के ऊपर जो एनक्रोचमेंट होती है उसके कारण सवारियों को और ट्रैफिक को बड़ी कठिनाइयों का सामना करना पड़ता है और यही कारण है कि दिल्ली में दुर्घटनाएँ भी बहुत होती हैं। दिल्ली में मिश्र-मंगों की संख्या भी दिनोंदिन बढ़ती जा रही है। आबादी बढ़ने के साथ साथ दिल्ली के होटलों, रेस्तरांटों, सिनेमा घरों आदि में जो भीड़भाड़ बढ़ रही है उसकी ठीक प्रकार से व्यवस्था करने की जरूरत है। इसके अलावा सिनेमाघरों में टिकटों का बलैकमार्केटिंग होता है उसको भी दूर करने की जरूरत है। मैं समझता हूँ कि इन व्यवस्थाओं को ठीक प्रकार से करने के बारे में कोई दो रायें नहीं हो सकती हैं। जहाँ हम पुलिस को अधिक अधिकार देने की बात करते हैं वहाँ यह भी जरूरी है कि पुलिस वालों के अन्दर सेवा भाव की भावना भी होनी चाहिए। मैं समझता हूँ कि सेवा भाव के द्वारा ही पुलिस वाले समाज की सेवा कर सकते हैं। लेकिन इसके साथ-साथ हमें पुलिस वालों के साथ भी सहयोग करना होगा और उनको प्रोत्साहन प्रदान करना होगा। इसी भावना से प्रेरित होकर आज यह व्यवस्था दिल्ली में लागू की जा रही है। यह कोई नई व्यवस्था नहीं है। यह व्यवस्था पहले से ही कलकत्ता, बम्बई, मद्रास और हैदराबाद आदि शहरों में लागू है। इस व्यवस्था के अन्दर बहुत सारे मुकद्दमों का डिसपोजल बहुत जल्दी किया जा सकता है। यद्यपि इस कानून के अन्दर पुलिस को कोई जूडिशियल पावर नहीं दी गई है, लेकिन क्वासी-जुडिशियल पावर दी गई है क्वासी जूडिशियल पावर के अन्दर बहुत सारे छोटे छोटे केसों का निपटारा जल्दी किया जा सकता है। उदाहरण के लिए मैं आपको बताता हूँ कि हमारे देश में एक प्रिवेंशन ऑफ क्रुएलिटी टू एनिमल्स एक्ट है। मैं एक वकील हूँ, इसलिए मुझे मालूम है कि इस कानून के अन्तर्गत किसी मामले का फैसला होने में कितने साल लग जाते हैं। कभी कभी तो तीन

तीन और चार चार साल तक मुकदमा चलता रहता है और उसके बाद सी या दो सी रुपये जुर्माने कर दिए जाते हैं। इसी प्रकार से सप्रेशन आफ इमोरल ट्रैफिक आफ ओमिन एण्ड गलर्स एक्ट है या फायर आर्म्स एक्ट है। इस प्रकार के मामलों में भी फैसला होने में काफी समय लग जाता है। अब इस कानून के मुताबिक ये तमाम कार्य पुलिस कमिशनर को दिये गये हैं जिससे कि उनका फैसला बहुत जल्दी किया जा सके।

इसके साथ-साथ इसमें कई और भी प्रावधान किये गये हैं। पुलिस को फायर आर्म्स और फायर शीप्स या एक्सप्लोसिप्स का लायसेंस देने का भी अधिकार दिया गया है। उनको सुपरवाइजरी पावर्स भी दी गई हैं। वे किसी भी अपराध के लिए किसी भी होटल या रेस्टोरेन्ट में जा सकते हैं और वहां पर देख सकते हैं। अगर सड़क पर कहीं पर एनक्रॉसमेंट हो तो उसको भी इस विधेयक के मुताबिक पुलिस हटा सकती है। ये सारी बातें इस बिल के अन्दर रखी गई हैं। इसके अलावा इसमें यह प्रावधान किया गया है कि अब आई० जी० की कमिशनर आफ पुलिस कहा जाएगा और डी० आई० जी० को एडिशनल कमिशनर आफ पुलिस कहा जाएगा। इसी प्रकार से एस० पी० को डिप्टी कमिशनर आफ पुलिस कहा जाएगा इसमें पुलिस को कुछ अधिकार बढ़ा दिये गये हैं, लेकिन इससे नीति में कोई बहुत बड़ा परिवर्तन नहीं आया है। इसके साथ ही कुछ और प्रावधान हैं जिनकी ओर मैं मंत्री महोदय का ध्यान आकर्षित करना चाहता हूं। सेक्शन 25 (2) में प्रोविजो है कि कोई पुलिसमैन अगर इस्तीफा देना चाहे तो वह हट सकता है और उसके इस्तीफे के ऊपर दो महीने तक विचार होता है तब तक वह नहीं जा सकता और अगर दो महीने के अन्दर जाना चाहे तो दो महीने का वेतन काट लिया जाएगा। यह प्रावधान मेरे विचार में बिल्कुल उचित नहीं है। अगर दो महीने के अन्दर छोड़ना चाहता है तो दो महीने का वेतन काट लिया जाएगा। यह ट्रेड यूनियन ला है उसके अन्दर है कि अगर कोई मालिक किसी को नोटिस न दे, दो महीने का, तो उसको हटाने के लिए दो महीने का वेतन देना पड़ता है और फिर उसको हटाया जा सकता है। उसी तरह इसमें भी व्यवस्था करने की जरूरत नहीं होनी चाहिए कि कोई पुलिसमैन अगर नौकरी से हटना चाहे तो दो महीने का वेतन काट लिया जाए। इसी तरह दफा-39 में भी है कि एडिशनल पुलिस बहाल कर सकते हैं। एडिशनल पुलिस बहाल करें। यह कहां से की जाएगी, यह कहीं नहीं है बल्कि यह है कि एडवर्टाइजमेंट निकलेगी। फिर उसके बाद बहाल की जाएगी। मेरे विचार में जो रिटायर्ड आर्मी के होते हैं वे छोटी उम्र में रिटायर हो जाते हैं आपको उनकी एक सूची रखनी चाहिए। उन लोगों की सख्या भी बहुत है और फिर उस में से जरूरत के अनुसार एडिशनल पुलिस की व्यवस्था की जा सकती है। यह ज्यादा अच्छा रहेगा। उसी तरह एक कम्पनसेशन का सेक्शन 47 है।

इसमें यह है कि अगर कोई रायट हो जाए, दंगा हो जाए, अगर किसी के डेमेज हो जाए, नुकसान हो जाए, बेथ हो जाए तो उसका मुआवजा दिया जाएगा। यह मुआवजा किस तरह दिया जाएगा उसका ब्या प्रावधान होगा, ब्या अमाउण्ट होगा इसके विषय में कुछ नहीं है। यह बात सही है कि इसके लिए रूल्ज बनेंगे परन्तु इस चीज का ध्यान रखा जाना चाहिए कि यह सिर्फ मखौल बन कर न रह जाए। सी० आर० पी० सी० में कम्पनसेशन की व्यवस्था है परन्तु यह मुआवजा कोर्ट द्वारा दिया जाता है। मुकदमे में खर्च 10-20 या 25 हजार हो जाता है तो मुआवजा 50 रुपये, 100 रुपये या 200 रुपये मिलता है। इससे कुछ नहीं होता है। लेकिन जहां पर पुलिस की फायरिंग से डेमेज हो तो मुआवजे की रकम अच्छी होनी चाहिए। जहां पर रायट की बात होती है, दंगों की बात होती है वहां पर पुलिस को प्लास्टिक प्लेट्स बना कर देनी चाहिए। रायट वगैरह रोकने के लिए हर जगह फायरिंग की बात होती है। फायर आर्म्स से फायरिंग हो जाती है, बहुत सारे मर जाते हैं। यह कहते हैं कि परपज यह है कि आसानी से लोगों को हटाया जाए। लेकिन इस परजज के लिए किसी की जान जाए, इसकी कोई आवश्यकता नहीं है। जान जाए तभी वे हटेंगे पुलिस का कहना यह है। पुलिस का कहना यह भी है कि फायरिंग इसलिए होती है कि जिससे किसी तरह की गड़बड़ी बाद में न हो। मैं यह चाहता हूँ कि पुलिस को प्लास्टिक प्लेट्स सिस्टम निकाला जाए। रायट रोकने के लिए यह प्रावधान इसके अन्दर होना चाहिए। इसके साथ साथ डिफेंस सोसाइटीज का प्रोविजन सेक्शन 58 में रखा गया है। यह बहुत ही महत्वपूर्ण है और बहुत ही सुन्दर है। उसके अन्दर एक अच्छी व्यवस्था है कि उसे कुछ अधिकार भी होंगे। उसे वे सारे अधिकार होंगे जो इस कानून के अन्दर अधिकार होंगे। इसके अतिरिक्त कौन इंचार्ज होगा उसके भी रूल्ज बनाने होंगे। परन्तु डिफेंस सोसाइटी हर एक मूहले के अन्दर बने और उसमें लोगों का कोऑ-प्रेशन मिले, यह एक बहुत ही आवश्यक और सुन्दर प्रावधान किया गया है। हम चाहते हैं कि इन सारी चीजों के साथ एक अच्छी व्यवस्था हो और पुलिस यह समझे कि उसकी इयुटीज ब्या हैं। अग्रेजों के समय 1868 में जो पुलिस कानून था उस कानून को खाल में न रखते हुए पुलिस को यह सोचना चाहिए कि हम रूल करने के लिए नहीं आए हैं हमें तो इस भाव से काम करना है कि हम जनता की सेवा करने के लिए आए हैं और सेवा करने के लिए इतनी ही फोर्स का इस्तेमाल करना चाहिए जितना कि आवश्यक हो। इतना कह कर मैं इस बिल का समर्थन करता हूँ और चाहता हूँ कि सभी इसका नमर्थन करें

श्री योगेन्द्र शर्मा : मान्यवर, मंत्री महोदय ने इस बिल को पेश करते हुए तीन बातें कही हैं। जब हम इन तीनों बातों पर विचार करते हैं तो हम ठीक मंत्री जी से विपरीत नतीजे पर पहुंचते हैं कि यह बिल नहीं होना चाहिए था। पहली बात मंत्री महोदय ने

[श्री योगेन्द्र शर्मा]

कही कि बहुत दिनों से सरकार के भीतर इस बिल के विषय में बात चीत हो रही थी, विचार हो रहा था और यह विचार भी बहुत दिनों से हो रहा था। जैसा कि माननीय खुरशीद आलम साहब ने कहा कि संसद का सत्र 17 जुलाई से शुरू हुआ तो फिर आपने आर्डिनेंस क्यों पहली जुलाई को लागू कर दिया? जब इतने दिनों से आप इस सवाल पर विचार कर रहे थे तो आपको बहुत पहले ही इस बिल को पार्लियामेंट में पेश करना चाहिए था। आर्डिनेंस के जरिये से शासन करने की जो प्रवृत्ति है, वह एक जनतांत्रिक प्रवृत्ति नहीं है। विशेष समस्याओं के लिये, विशेष अवसरों के लिए आर्डिनेंस लाये जा सकते हैं लेकिन एक ऐसे सवाल पर, जिस सवाल पर आप बहुत दिनों से विचार कर रहे हैं, उस पर आप आर्डिनेंस के जरिये से कानून बनायें, यह जनतांत्रिक पद्धति नहीं है।

मंत्री महोदय ने दूसरी बात कही कि खोसला कमीशन बहाल किया गया था 1966 में और उस खोसला कमीशन ने पुलिस आयुक्त की व्यवस्था की सिफारिश की थी और उसी सिफारिश को वे इस बिल में कार्यरूप दे रहे हैं। खुरशीद आलम साहब ने इस सवाल को उठाया कि 1968 में खोसला कमीशन ने अपनी रिपोर्ट दे दी थी। उस वक्त की सरकार ने उसको क्यों नहीं स्वीकार किया। यह, मान्यवर, खोसला कमीशन की रिपोर्ट है और इस खोसला कमीशन ने उस टर्म्स आफ रेफरेंस से बाहर जा कर के यह सिफारिश की है। मान्यवर, आप तो पार्लियामेंट के बात पुराने सदस्य हैं, आप जानते हैं कि 1965-66 में दिल्ली पुलिस में बहुत ही खलबली मची थी और कमोवेश बगावत की अवस्था पैदा हो गयी थी। इसलिए पैदा हो गयी थी कि पुलिस का जो जीवन था, उन के जो रहन सहन की व्यवस्था थी वह बहुत ही खराब थी, असहनीय हालत थी और यह सवाल जब लोक सभा में उठा, यहां की पुलिस की खलबली और बगावत की हालत का, तब सरकार की ओर से ऐलान किया गया था कि पुलिस के रहन सहन, उनकी अवस्था में सुधार, उनकी शिकायतों को दूर करने के लिए हम एक कमीशन बहाल करने जा रहे हैं। तो इस मकसद से यह कमीशन बहाल किया गया कि कैसे पुलिस के रहन सहन को, उनके जीवन-मान को तथा उनकी जो और शिकायतें हैं, उन को दूर किया जाय। यदि इस बिल में इस बात का प्रावधान होता कि हमारे जो दुबल भाई हैं, हमारे जो छोटे पुलिस आफिसर्स हैं, उन की क्या कठिनाईयां हैं, उन कठिनाईयों को दूर किया जाय, उनका रहन सहन, उनको क्वार्टर नहीं है, मकान नहीं है, उनके खाने का इंतजाम नहीं है, इन कठिनाईयों को दूर किया जाय, इस के संबंध में यदि बिल में कोई व्यवस्था होती तो हम उसका समर्थन करते। लेकिन उसका कोई जिक्र इस में नहीं है, कोई प्रावधान इसके सिलसिले में नहीं है।

पिछले कई दिनों से इस सदन में बहस कर रहे हैं कि हरिजनों पर अत्याचार हो रहे हैं, समाज के दुबल तबकों के लोगों पर पर अत्याचार हो रहे हैं, अपराध

बढ़ रहे हैं और इस सिलसिले में माननीय सदस्य यह सुझाव देते रहे हैं कि यदि इस की रोकथाम करनी है तो आप समाज के दुबल तबकों से हरिजनों से, आदिवासियों से, अल्पसंख्यकों से, पुलिस दल में अधिक से अधिक भर्ती कीजिए। यदि इस का कोई प्रावधान होना इस बिल में तो हम उसका समर्थन करते। लेकिन ऐसा कोई प्रावधान नहीं है। तो हम समझते हैं कि शायद सरकार ने उनकी इस सिफारिश को स्वीकार नहीं किया इसलिए कि वह टर्म्स आफ रेफरेंस के बाहर थी। क्या टर्म्स आफ रेफरेंस थे मान्यवर, वह मैं पढ़कर सुनाना चाहता हूँ :—

“(a) The conditions of service, work and living of non-gazetted members of the police force in the Union Territory of Delhi, and

(b) Measures necessary to promote their efficiency and welfare.”

ये दो टर्म्स आफ रेफरेंस थे और उसी के बाद दूसरे पैरा-ग्राफ में इसी रिपोर्ट में कहा गया है :—

“The Home Minister has, four days previously, on November 1, 1966, announced the Government of India's decision to appoint this Commission, in a statement made in the Lok Sabha in response to calling attention notices given by some hon. Members. In the course of his statement, the Home Minister made reference to certain agitational activities in which the members of the Delhi Police force were indulging for seeking redress of their grievances. A specific mention was made of inconvenience experienced by Police personnel because of lack of adequate housing. The Home Minister gave information about certain remedial measures taken by the Government to remove the legitimate grievances of Delhi Police and went on to say :

“We have taken a number of steps for the welfare of the Delhi Police. Even so, we have decided to appoint a Commission with a retired Judge of a High Court as Chairman to enquire into and make recommendations on conditions of service, work and living of the members of Delhi Police and on measures necessary to promote their efficiency and welfare.”

यह था, और उसके बदले हमको इस बिल के जरिए से यह पुलिस राज्य दे रहे हैं। तीसरा तर्क जो माननीय मंत्री जी ने दिया कि पुलिस कमिशनर की व्यवस्था जो है वह हमारे देश में कोई नई व्यवस्था नहीं है। वह कलकत्ता में है, मद्रास में है और जब कलकत्ता, बम्बई, मद्रास में है तो दिल्ली में क्यों नहीं हो? लेकिन माननीय मंत्री जी ने इस संबंध में दो बातें भुला दीं। पहली बात तो यह कि इन तीनों जगह जो पुलिस कमिशनर की व्यवस्था है वह ब्रिटिशकालीन शासन व्यवस्था का आशेष है जब कि प्रेसीडेन्सी-व्यवस्था थी। उन्ही जगहों पर पुलिस कमिशनर की

व्यवस्था थी जहाँ पर कि प्रेसीडेन्सी व्यवस्था थी। दिल्ली में न प्रेसीडेन्सी व्यवस्था थी और न है। जहाँ भी प्रेसीडेन्सी व्यवस्था थी वहाँ पर पुलिस कमिश्नर की व्यवस्था थी।

दूसरे, हम सन्तोष कर लेते, यदि इस बिल में पुलिस कमिश्नर के अधिकार उन्ही तक सीमित होते जहाँ तक कि कलकत्ता या बम्बई में है। लेकिन इस बिल में पुलिस कमिश्नर को जो अधिकार दिए गए हैं वे उन अधिकारों से बहुत ज्यादा हैं जो कि कलकत्ता, बम्बई या मद्रास में पुलिस कमिश्नर को मिले हुए हैं। सब से बड़ा फर्क क्या है? मान्यवर, कलकत्ता का जो पुलिस कमिश्नर है या जो बम्बई का पुलिस कमिश्नर है वह जिम्मेवार जनता के द्वारा निर्वाचित मुख्य मंत्री या गृह मंत्री के प्रति होता है। कलकत्ता का पुलिस कमिश्नर पश्चिम बंगाल के मुख्य मंत्री या वहाँ की सरकार के गृह मंत्री के प्रति जिम्मेदार है। यही व्यवस्था दूसरी जगह है। यहाँ पर क्या है? यहाँ पर जो पुलिस कमिश्नर होगा वह किसी भी निर्वाचित मंत्री या मंत्रिमंडल के प्रति जिम्मेवार नहीं होगा। वह जिम्मेवार होगा एक नामजद आफिसर के प्रति जिस को आप लैफ्टिनेंट गवर्नर कह सकते हैं, उप राज्यपाल कह सकते हैं। यह बहुत बड़ा फर्क है। पुलिस कमिश्नर जिम्मेवार जनता के निर्वाचित प्रतिनिधि के प्रति या पुलिस कमिश्नर जिम्मेवार नियुक्त नौकरशाह के प्रति यह प्रस्तावित दिल्ली पुलिस कमिश्नर के चरित्र में और कलकत्ता, बम्बई और मद्रास के चरित्र में एक बहुत ही मौलिक मतभेद है। इसलिए यह दूसरी दलील भी, जो मंत्री महोदय की है, वह खत्म होती है। मंत्री महोदय की ये तीनों बातें ऐसी हैं जिन के आधार पर इस बिल का समर्थन नहीं किया जा सकता। श्री मंत्री महोदय अब हम अपनी बात कहना चाहते हैं। यह तो मंत्री महोदय की तीन दलीलों का हमने चित्र किया...

SHRI GHANSHYAMBHAI OZA (Gujarat): All orders are passed in the name of the Governor and not in the name of Ministers. Even the Police Commissioner takes orders from the Governor and not directly from the Ministers.

श्री योगेन्द्र शर्मा: यह आपकी बुद्धि हो सकती है कि आप मुख्य मंत्री और नामांकित गवर्नर के बीच में कोई मतभेद नहीं समझते।

श्री घनश्यामभाई ओझा: पढ़िए ज़रा उस को... (Interruptions).

श्री योगेन्द्र शर्मा: तब तो प्रेसीडेन्ट रूल हिन्दुस्तान में लागू हो सकता है। मान्यवर, खुद जिस व्यक्ति को इन्होंने पुलिस कमिश्नर नियुक्त किया है उन्होंने अपने 22-7-78 के पत्र के द्वारा कुछ बातें कही हैं और हम उस और मंत्री महोदय का ध्यान खींचना चाहते हैं और सदन का ध्यान खींचना चाहते हैं। उस पत्र

में उन्होंने क्या बात कही। उन्होंने कहा, यह अध्यादेश बहुत लम्बा है, जिसमें 151 धाराएँ हैं—अब तो 152 धाराएँ हो गई हैं—और 3 अनुसूचियाँ हैं। 152 धाराओं का बिल, यह एक आर्डिनेन्स के जरिए से हो गया।

SHRI LAKSHMANA MAHAPATRO: Shame, shame.

श्री योगेन्द्र शर्मा: आम तौर से ऐसी बातें नहीं होती हैं। जनतांत्रिक पद्धति में तो और भी नहीं। हम समझते हैं, उस पुलिस कमिश्नर में इतनी इमानदारी है कि उस ने अपनी इस चिट्ठी में हम बात को कहा है कि—“beg their perusal” मगर यहाँ पर, पता नहीं आपस में झगड़ा करने से शायद फुसंत नहीं है इसलिए पर्युजल कहाँ हो और कौन करे और इस लिए ज्यों का त्यों बिल पेश कर दिया।

दूसरी चीज इस पत्र में कही गई है मान्यवर, कि नगर निगम के मेम्बरों में चिंता है कि यह अध्यादेश निगम के अधिकारों का अतिक्रमण करता है। हम आशा करते हैं मंत्री महोदय हमारी बात सुन रहे हैं—जिस को आप ने पुलिस कमिश्नर नियुक्त किया है वह अपने पत्र में आप को लिखता है: नगर निगम के मेम्बरों में चिंता है कि यह अध्यादेश निगम के अधिकारों का अतिक्रमण करता है विशेष कर 27 धाराएँ ऐसी हैं जो नगर प्रावधानों से कोई ठोस टकराव नहीं—उनके पत्र से हम उद्धृत कर रहे हैं, ठोस टकराव नहीं लेकिन टकराव है—यह पुलिस कमिश्नर साहब अपनी चिट्ठी में लिख रहे हैं। तो इस बात पर अब बहस करने की गुंजायश नहीं रह जाती है कि इस बिल में ऐसे प्रावधान हैं जो नगर निगम के प्रावधानों से टकराते हैं—वह नगर निगम जो यहाँ की जनता के द्वारा निर्वाचित संस्था है। तो हमारे सामने में प्रश्न है कि जनता के द्वारा निर्वाचित संस्था के द्वारा प्रावधान की प्रधानता होगी या उस को हम खत्म कर देंगे? क्या हम ऐसा बिल पास करने जा रहे हैं, क्या हमें ऐसा बिल पास करना चाहिए जिस में नगर निगम के अधिकारों का अतिक्रमण हो? पर अफसोस की बात है कि यह जनता पार्टी की सरकार के द्वारा किया जा रहा है, उस जनता पार्टी की सरकार के द्वारा जिस ने अपने घोषणापत्र में यह ऐलान किया है कि सत्ता का जनतांत्रिक विकेंद्रीकरण होना चाहिए। और यहाँ पर जो विकेंद्रित जनप्रतिनिधि संस्था है उस के अधिकारों का आप हनन कर रहे हैं। उस के अधिकारों को छीन कर आप उन्हें पुलिस के हवाले कर रहे हैं। (समय की घंटी) अभी तो मैंने शुरू ही किया है।

उपसभाध्यक्ष महोदय (श्री श्याम लाल यादव): 15 मिनट हो गये।

श्री योगेन्द्र शर्मा: एक माननीय सदस्य ने कहा कि अपराधों में वृद्धि हो रही है।

श्री कल्प नाथ राय (उत्तर प्रदेश): दिन-रात अपराध बढ़ रहे हैं।

श्री योगेन्द्र शर्मा : और इस लिये इस पुलिस आयुक्त की स्थापना करना जरूरी है। हम को खुशी हुई इस बात की कि आखिरकार आप ने इस सत्य को स्वीकार कर लिया कि अपराधों में वृद्धि हो रही है। हम लोग तो पिछले डेढ़ साल से इस बात को चिल्ला कर कह रहे हैं और अभी तक आप नहीं मानते थे। आज खुशी है कि आप इस बात को मान रहे हैं कि अपराधों में वृद्धि हो रही है। लेकिन क्या पुलिस आयुक्त की व्यवस्था से अपराधों में वृद्धि रोक दी जा सकेगी? यदि रोक दी जा सकती हो तो हम इस बिल का समर्थन करते हैं, लेकिन हालत क्या है। हकीकत क्या है? हकीकत यह है कि रुकने का बजाय अपराध और बढ़ रहे हैं। अभी पहली जुलाई से पुलिस आयुक्त यहां बहाल हुए हैं। दो महीने बीते हैं। मेरा ख्याल है कि आप आंकड़े देख लें कि दो महीने में यहां की हालत क्या रही है। अगस्त के आंकड़े मेरे पास नहीं हैं, लेकिन जुलाई के आंकड़े मेरे पास हैं। यह आंकड़े गृह मंत्रालय से मिले हैं और आप जुलाई के आंकड़े देख लीजिए। 1978 जून में जब कि पुलिस कमिशनर नहीं थे उस वक्त 11 हत्याएँ दिल्ली में हुईं और 1978 जुलाई में जब पुलिस कमिशनर की व्यवस्था यहां कायम हो गयी आर्डिनेंस के जरिये तो वह हत्याएँ 11 से बढ़ कर 18 हो गयी। फिर कैसे आप हम से यह आशा रखते हैं कि हम इस बात को स्वीकार करें कि पुलिस आयुक्त की व्यवस्था से अपराधों की संख्या में कमी होगी। मान्यवर, इस एक महीने में जिस का हमें अनुभव है, मेरे पास आंकड़े हैं गृह मंत्रालय के, आगजनी, आरसन 1978 जून में दो और जुलाई में 5 हुईं। यह बहुत संगीन किस्म का अपराध है और उस की संख्या एक महीने में कितनी बढ़ गयी यह गृह मंत्रालय के आंकड़े ही बता रहे हैं। मान्यवर, 1977 अगस्त में कुल अपराधों की संख्या दिल्ली में थी 3250 और 1978 जुलाई में वह बढ़ाकर हो गयी 3413, तो यह सुधार हुआ है या अपराधों में वृद्धि हो रही है। तो आप जो व्यवस्था करने जा रहे हैं उस से यदि यह भरोसा होता कि उस से अपराधों की वृद्धि रुकेगी, वे कम होंगे तो हम उस का समर्थन करते, लेकिन हम देखते हैं कि अपराध तो बढ़ रहे हैं। समस्या इसलिए यह नहीं है कि पुलिस के अधिकार कम हैं इसलिए अपराधों में वृद्धि हो रही है। समस्या दिल्ली में ही नहीं, पूरे देश में है। हम समझते हैं कि चाहे इस तरह के सदस्य हों या उस तरह के सदस्य हों, कलेजे पर हाथ रखकर पूछें कि उन सबों का क्या तजुर्बा है तो वह कहेंगे कि अपराधों की वृद्धि हुई है। अपराधों की वृद्धि इसलिए नहीं हो रही है कि पुलिस के अधिकार कम हैं, अपराधों की वृद्धि इसलिए हो रही है कि पुलिस अपने अधिकारों का दुरुपयोग करती है। जरूरत इस बात की है कि उस दुरुपयोग का नियंत्रण करने की व्यवस्था की जाए। यह पूरे देश के सामने समस्या है, यही दिल्ली के सामने भी समस्या है।

उपसभाध्यक्ष (श्री श्याम लाल यादव) : कृपया संक्षेप करिये।

श्री योगेन्द्र शर्मा : मान्यवर, मैं कहना चाहता हूँ कि यह जो बिल है यह जनता पार्टी के घोषणापत्र के विपरीत है। जनता पार्टी के घोषणापत्र में सत्ता के विकेंद्रीकरण की बात बड़ी गई है और इस बिल

के द्वारा क्या किया जा रहा है? इस बिल के द्वारा नगरपालिका, नगर निगम, ऐक्जीक्यूटिव और जूडिशल मजिस्ट्रेट तथा पुलिस इन सबों की शक्ति को पुलिस कमिशनर में केन्द्रित किया जा रहा है। यह सत्ता का विकेंद्रीकरण नहीं बल्कि सत्ता का केन्द्रीकरण है और जनता पार्टी की सरकार खुद जनता पार्टी के घोषणापत्र के विरुद्ध इस बिल में यह प्रावधान करने जा रही है। इसलिए हम जनता पार्टी के माननीय सदस्यों से दरखास्त करेंगे कि यदि आप जनता पार्टी के घोषणापत्र के इस ऐलान के प्रति वफादार हैं तो आपको इस बिल को पास नहीं करना चाहिए। इस बिल को वापस कर देना चाहिए।

मान्यवर, हालत ऐसी हो जाएगी कि सिनेमा, होटल, शमशान घाट, कब्रगाह किस इलाके में दुकान खोली जाये, किस जमीन में खोलने के लिए लाइसेंस दिया जाए या न दिया जाए यह सब का सब पुलिस करेगी। यह पुलिस राज नहीं तो और क्या है? दिल्ली भारत की राजधानी है और हम दुनिया में कलेजा ठोक कर कह रहे हैं कि यहां पर हमने जनतंत्र की स्थापना की है और दिल्ली में आप पुलिस राज की स्थापना करने जा रहे हैं। इन तमाम अधिकारियों के अधिकार केवल पुलिस को देना, यह बात कि व्यवहार कुछ और कहना कुछ, यह कब तक चलेगा? हम समझते हैं कि यदि आप बात के अनुरूप व्यवहार करना चाहते हैं तो इस बिल को वापस कर लेना चाहिये।

मान्यवर, दफा 144 लगानी चाहिए या नहीं, फायरिंग करना चाहिए या नहीं, यह अधिकार मजिस्ट्रेट को था, डिस्ट्रिक्ट मजिस्ट्रेट को था। यह भी हम लोग जानते हैं पुलिस वाले गोली चलाते थे और मजिस्ट्रेट साहब को कह देते थे आर्डर दो नहीं तो एक गोली बची हुई है और वह जबरदस्ती दस्तखत ले लेते थे।

श्री के. बी. अस्थाना (उत्तर प्रदेश) : सन् 1975-76 में तजुर्बा है आपको।

श्री योगेन्द्र शर्मा : हम जानते हैं क्योंकि गोली खाये हुए हैं। अब क्या है? मजिस्ट्रेट का यह अधिकार छीन लिया गया, 144 लगाने का अधिकार पुलिस कमिशनर को दे दिया गया, गोली चलाने का अधिकार, गोली चलाने का हुकम देने का अधिकार मजिस्ट्रेट से छीनकर पुलिस कमिशनर को दे दिया गया। यह पुलिस राज नहीं तो क्या है? इतना ही नहीं, हमारे संविधान में इस बात की व्यवस्था है कि इस बहुधर्मी देश में धर्मावलम्बियों को स्वतंत्रतापूर्वक उपासना करने का अधिकार है, मगर इस बिल में क्या प्रावधान है? इस बिल में इस बात का प्रावधान है कि पुलिस कमिशनर किसी भी प्रार्थना घर में चाहे वह हिन्दुओं का मंदिर हो, मुसलमानों की मस्जिद हो, ईसाइयों का गिरजाघर हो वहां पर अपना नियंत्रण कर सकेगी जिसका मतलब है कि उनकी प्रार्थना और उपासना पर पुलिस नियंत्रण कर सकती है। इस तरह का बिल लाकर ऐसे प्रावधान करे, हमें तो इस सरकार पर आश्चर्य होता है। हम यही कह सकते हैं कि सरकार को आपस में लड़ने की फुर्सत नहीं है, वरना इस तरह का प्रावधान लाकर यह

बिल पास न किया जाता। मान्यवर, इस बिल के जरिये से पुलिस को यह अधिकार दिया गया है कि वह नियम बनाए। यह कहा गया है कि वह नियम में प्रकाशित हों। मगर इसके साथ-साथ इस बिल में यह भी है कि जरूरत पड़ने पर पुलिस बिना किसी सार्वजनिक घोषणा के, जनता को सार्वजनिक तौर पर बताए बिना कोई नियम लागू कर सकती है, कोई नियम बना सकती है और उस नियम का उल्लंघन करने वाले को सजा दी जा सकती है। मैं पूछना चाहता हूँ कि जनतंत्र के किस अंग के मुताबिक आप यह व्यवस्था यहाँ पर लागू करने जा रहे हैं, कार्य करने जा रहे हैं। मैं कहना चाहता हूँ कि जनतंत्र की स्थापना जो आपने की उस जनतंत्र को आप दफनाने जा रहे हैं।

उपसमाध्यक्ष (श्री श्याम लाल यादव) : समाप्त करिये।

श्री योगेन्द्र शर्मा : मान्यवर, मैं खत्म कर रहा हूँ। पुलिस को यह अधिकार दिया गया है कि वह किसी को भी विशेष पुलिस या अतिरिक्त पुलिस में भर्ती कर सकता है। हमारे आलम साहब ने इसका जिक्र किया था। हम उस प्वाइंट को नहीं लेना चाहते। इसका मतलब क्या होता है। इसका मतलब होता है कि पुलिस दल पार्टीबाजी का हथकंडा बन जाएगा।

श्री कमलनाथ झा (बिहार) : सब आर०एस० एस० के लोग भर्ती हो जायेंगे।

श्री योगेन्द्र शर्मा : क्योंकि यह सब पुलिस की मर्जी पर है इसलिये वह 200 आदिमियों को भी भर्ती कर सकता है। हमारे भट्टाचार्य जी हमारे सामने बैठे हैं वह इनके दो सौ अनुयायियों को भर्ती कर लेगा।

श्री कमलनाथ झा : दिल्ली के सभी आर०एस० एस० के लोग भर्ती कर लेगा।

श्री योगेन्द्र शर्मा : हमारे जगन्नाथ राव जोशी बैठे हैं उनके ग्रुप को भर्ती कर लिया जाएगा। ऐसा प्रावधान कर दिया है जिस को चाहे वह भर्ती कर ले। आर०एस०एस० के लोग भर्ती कर सकता है, दूसरे साम्प्रदायिक तत्वों को भर्ती कर सकता है और इनके जरिये देश भर में अपना कुचक्र चला सकता है।

श्री खुरशीद आलम खान : खर्चा भी वहीं से लिया जाएगा।

श्री योगेन्द्र शर्मा : कल कल्पनाथ राय जी की सरकार कायम हो जाएगी तो ये भी अपने 500 आदिमियों को, अपने वालियंटों को भर लेंगे और उनके जरिये उन पर हमला करेंगे। आज उन पर यह हमला करेंगे तो कल वे इन के ऊपर हमला करेंगे। इस तरह से इस बिल के जरिये से पूरी पुलिस फोर्स को पार्टीबाजी का हथकंडा बनाया जा रहा है। क्या कारण है कि इस बिल के मुताबिक हमारा ग्रैंड-सन यदि हमारे मकान पर गुड़ड़ी उड़ाता है, गुड़ड़ी आप समझते होंगे, गुड़ड़ी हमारे यहाँ बिहार में फ्लाईंग काईट को कहते हैं, उसको भी पकड़ कर सजा दे सकते हैं, जेल भेज सकते हैं। पाटिल जी, दिल्ली में आप यह क्या कर रहे हैं। इससे बढ़ कर कोई इमरजेंसी में भी जुल्म नहीं हुआ।

SHRI LAKSHMANA MAHAPATRO : They permit political kite-flying but not real kite-flying.

श्री योगेन्द्र शर्मा : आखिर मैं यह बात कह कर खत्म करूँगा कि इस बिल में तीन तरह के झगड़ों के एक साथ मिला दिया गया है। एक तरह के झगड़े होते हैं गुंडा तत्व के, जिसको हम एंटी सोशल एलीमेंट कहते हैं और दूसरी तरह के झगड़े होते हैं साम्प्रदायिक, जातीय झगड़े—जिनकी मैं बहुत चर्चा कर चुका हूँ। और तीसरी तरह के झगड़े होते हैं ट्रेड यूनियन्स के इन तीनों तरह के झगड़ों को आपने मिला दिया है। इन तीनों तरह के झगड़ों पर सामूहिक जुर्माना भी कर सकते हैं। अगर हम हड़ताल करेंगे, जे०सी०एम० मिल में, तो साहब आप हम पर सामूहिक जुर्माना कर सकते हैं। मैं समझ सकता हूँ कि जातिय उन्मत्ता को रोकने के लिए, साम्प्रदायिक उन्मत्ता को रोकने के लिए सामूहिक जुर्माना करे, लेकिन आपने सभी तरह के झगड़ों को मिला दिया है और उसके जरिये पुलिस को इतने अधिकार दे दिये हैं कि कल हम यदि कहीं पर हड़ताल करेंगे मजदूरों की मांगों के लिये या बोनस के लिये तो हम पर सामूहिक जुर्माना कर देंगे। इस तरह से पुलिस वाले सामूहिक जुर्माना लागू कर सकते हैं।

3 P.M.

श्री कमलनाथ झा : चूँकि यह खिचड़ी पार्टियों की सरकार है, इसलिए सब जगह उसी प्रकार के काम कर रही है।

श्री योगेन्द्र शर्मा : मैं अपना भाषण समाप्त करते वक्त जनता पार्टी के सदस्यों से यह पूछना चाहता हूँ कि क्या यह ऐसा बिल है जो आपके घोषणापत्र के अनुकूल है? क्या आप इस बिल के जरिए अपने हाथों से अपने घोषणापत्र की हत्या नहीं कर रहे हैं? यदि ऐसा है तो आप इस बिल को वापस करवाये ताकि दिल्ली में पुलिस राज की स्थापना न हो सके।

SHRI SYED SHAHEUDULLAH (West Bengal) : Mr. Vice-Chairman, Sir, before I proceed to speak on certain specific clauses of the Bill, I would like to say a few words by way of general comments.

The Bill appears to me as placing the cart before the horse. Delhi has not yet achieved a statehood, a local democratic set-up. That could be the proper set-up for a Police administration of the type sought to be introduced by the hon. Minister. I am not enamoured of the Commissioner system as such. In Calcutta, we know to what length the system could be utilised by an autocratic regime. It was done during the British rule and also after Independence we had experiences of such things, particularly during the emergency. We had the bitter experiences in Bengal not only during the emergency but also earlier, since 1971 particularly. So naturally I cannot accept the introduction of the Commissioner system without a democratic set-up like statehood of Delhi. We have found how difficult it is to correct the system and to fit it into a democratic set-up. Some sections have irretrievably deteriorated particularly due to the misuse made of them during the emergency.

[Shri Syed Shahedullah]

Some of the IPS officers are difficult to control. They are All India Service people and they manage to wriggle out of control due to the long string they enjoy out of reach of the State Governments.

Regarding the circumstances that confront Delhi today in regard to law and order the crimes, as described in detail by other speakers, have increased on all accounts. What does this fact point to? One could say failing of the administration. But it would be a superficial way of dismissing the matter with such a general conclusion. One must go a little deeper into it. This Government is a successor to the previous administration. What was the singular achievement of that administration, i.e. Mrs. Indira Gandhi's administration? That was, as we learnt in West Bengal to our grievous losses at the time, even before the emergency, creation of an 'underground army'. It was underground not in the sense that it was no tangible and apparent to the eye. Their swagger was much too visible to be missed. It was underground only in the sense that terror had used the screen of silence to cover them. Though the swagger may not be there now, it continues to remain in strength underground. And it happens when such things are left to themselves, they tend to proliferate. In the absence of any particular drive by the ruling Government, the thing tends to proliferate. One of the constituent factors was the tie established by the previous administration between this underground and sections of police administration particularly at the top and middle level. I cannot reject outright any inference that some of it may not infiltrate into some section or other of the present ruling party unless preventive measures are taken. But what is more apparent is the continuity of that organisation by itself. The increase of the crimes may to some extent indicate their thriving existence. One of the knotty problems facing the Delhi Administration is to dis-establish that organisation and its tie with the section of the police at the top.

Needless to state that mere appointment of a Commissioner of Police and investing him with powers will not do away with these problems and also others inherited from the days before independence. We have found to our bitter experience the trigger happy nature of the police officers in all States practically in the past. Even after the British left this has continued to our regrets.

The army is paid and maintained to sacrifice itself, but the police officers seem to think that a small piece of stone stuck on their body is enough to kill hundreds and thousands of people. They can go happily and merrily with their guns in

their hands. They have not to face enemies on the fronts. They have not to sacrifice anything there. These police officers are paid and maintained, and they shoot the civilian population. If they are paid and maintained, they are maintained to die also as the army is maintained. If the civilian population troubles for a certain little matter, they ought to be able to face that even at the cost of death, good humouredly. How do the London cops manage these things how do the British people manage these things and how are the things managed in France and the United States without killing the people? If the western democracy is such an ideal for you that you even take it to be part of the way of life, why you maintain what the British rule imposed on us and what idea the British rule infused in the police people and not what they do in England.

We see that wherever there are communal riots and wherever there are oppressions of the Harijans, the police escapes safely. It is said that it is done by the crowd, the mob, that the police has done nothing and that the police has no responsibility in the matter. I think, the police should be held responsible for every such crime on the Scheduled Castes, the Scheduled Tribes and others. They should be held responsible for having failed to maintain failed to give protection to the life and property. It is not simply giving some awards to the people who have lost their lives. A single citizen of India is valuable to us, whether he be in Jamshedpur or in Punjab, in Rohtak or anywhere else. This should be a matter of grave concern for every one of us. Every night of our existence should be sleepless if we find that we cannot maintain peace, if we cannot give protection to life and property of the Scheduled Castes and the Scheduled Tribes, the most down-trodden people of India, and if there is disturbance to peace to any section of the backward people or any other people just on certain fact of holding certain opinions or certain doctrines or certain religion or belonging to certain creeds. Then, Sir, there are certain specific provisions which some of the speakers have already touched on—the provisions affecting the right of assembly and other things. I am not going to quote sections, others have done it. But I particularly want to mention one thing. Sir, we have repeatedly told that this follows the pattern in Calcutta, Bombay and Madras. I do not know in exact detail as to what is the position in Calcutta and Bombay. But I at least know that in Calcutta, the ordinary eating houses do not require a licence from the Police Commissioner. It is a matter for the Corporation. Bars and other things are another matter. But ordinary tea-shops and eatinghouses are not matter for the police at least in Calcutta, unless,

of course, there is something offensive. That is a different matter altogether.

Now, the right of assembly of people is seriously affected by this Bill. Well, there may be certain occasions when this provision may be required. Then, come on with a specific legislation; or, there must be some other method. But it is not proper to give powers to the police to enter into all sorts of places on the excuse that if the public are admissible, they can also go there. I remember an occasion in 1941. In Burdwan district, in my home town, we were holding a meeting of the Congress Party. Taking advantage of the Defence of India Act, some intelligence officers, plain-clothesmen, British-paid intelligence officers, entered that place. We turned them out by force. Fortunately, we were not so addicted to non-violence as not to be able to shoulder out a few intelligence people in plain clothes. We threw them out. They said "we are part of the public and we are entitled to come here. Under section 11 (5) of the Defence of India Act, we can enter this place." Now, more horrible things may happen if this sort of general power is given to the police. To give powers to a police constable to enter anywhere, without any specific purpose and authority and without any particular line of action being taken by the Government beforehand to permit the police constable to enter anywhere, is something which I cannot appreciate.

There are other features which are more obnoxious. Having something to do, having a modest little connection, with the cultural circles and the writing circles of West Bengal being the Editor of a journal, I am rather surprised that as late as in the 20th century and in 1978, when we are talking of democracy, a drama script has to be shown to the Police Commissioner for permission, for a licence, prior to the performance. We have been agitating against this since the 19th century. Our people in West Bengal honour the occasion when our dramatists were arrested and prosecuted and put in jail during the British period. And for all these 30 years after independence, we were agitating as to why that provision should be there giving the Police Commissioner of Calcutta the power of scrutinising the drama scripts before their performance. Fortunately, the present West Bengal Government has removed that provision. Now, the dramatists have not to show the scripts to the Police Commissioner for scrutiny and all that. You may appoint experts, men of letters to go into it. But you know how even men of letters serve the ruling class, the ruling party. It may be you today; it may be myself tomorrow. Writing is a profession. The work of writing or dramatising or anything is as much a work as doing work with the spade or

handling the plough. It is not something as holy as a mixture of holymen. However experts they might be, this kind of scrutiny before granting licence, I say, is detestable, and that too in the year 1978. Therefore, with such strong feelings over certain parts of the Bill, I cannot fully support the Bill. I would extend my wholehearted support to this Bill, if certain measures were taken to improve upon the present provisions of the Bill. I would naturally support any measure which gives Statehood to Delhi. With these words I conclude. Thank you.

SHRI L. R. NAIK (Karnataka) : Sir, I rise to support the Bill. Not that it is defect proof or foolproof. It has its own defects. But the question is what sort of police system we should have in this country, especially in respect of metropolitan cities like Delhi, Pmbay and other places. When I say a few words on this Bill I would like to tell this august House that I do have some experience in this line. In my 40 years of career I served both in the erstwhile State of Bombay and Karnataka as a Magistrate 1 Class, then as a Sub-Divisional Magistrate and then as a District Magistrate. I have also had the occasion to serve as a Special Magistrate attached to the Indian Infantry commanded by General Choudhary during the Hyderabad Police Action. Besides this I lived in London for over a decade, and as a matter of curiosity I had also the occasion to study the police organisation in England. As I studied this organisation in England, what transpired to me was—perhaps this would surprise this House—that every country council has its own system of police. Some of the smallest countries have their own police service—they are not called police force—having a strength of not more than 40 to 50 persons. In London we have what is called the Scotland Yard. It is known all over the world as the most efficient police organisation any country could have. I know for certain that the Scotland Yard plays a very important role as far as London city's peace and tranquillity is concerned. What came to my observation there is that between the Scotland Yard and the public there is no middleman. That is a very important point to note. They directly deal with the public. They need not go to a separate organisation like the magistracy for taking orders in order to deal with the public. The result is we know what sort of a police force there is in England. It is really a friend of the public. During my ten years' living in London I never considered the bobby as my enemy. I always treated him as a friend and he indeed behaved like a friend. I saw him investigating offences. The approaches he would make to the public

[Shri L. R. Naik]

in the course of his investigation were so effective and at the same time so polite, so courteous, that one wonders why there is no such system here in our country. Of course, here also the people, by and large do hold that organisation with respect so that a proper investigation takes place. As a matter of fact, what I have observed is that every Englishman or everybody who was there or who is living in that country is himself a policeman and that is the role the public plays there. So it is not necessary that an organisation like the Scotland Yard should have somebody in between. So, after making a study of that organisation there, if I were to look at the Delhi police system, what do I find? I am very happy that an attempt has been made to get rid of the dual system, the duality in the system, that is, the police and the magistracy. That is excellent and that has to be done. I know as a District Magistrate or as a First Class Magistrate—I was a Judicial Magistrate also—what used to be happening till the separation of the Judiciary and the Executive took place. I have seen my friends working as District Magistrates and I know what sort of atrocities used to be committed by such Judicial Magistrates. They had ample powers. In fact, even today, a Judicial Magistrate in a taluk is called the king of the taluk. Even today he is called so. Though that system has disappeared, though it disappeared long back, still he is called the king of the taluk because of the past it had. There has been the separation of the Judiciary from the Executive. Thank God, Sir, that our Constitution also speaks about it and it is good that it does so. After that, Sir, what sort of a system we have provided at the district level? Of course, in the Bombay City we have a different system and we have the Police Commissioner system there. In Bangalore also, Sir, we have the Police Commissioner system. But what is the system prevailing at the district level? We have again the dual system. The police officer must go to the Magistrate for taking certain orders and the relation—I know this and this is my personal experience—between the police officer and the magistrate, whether it is at the taluk level or at the district level, has never been happy. They have never been pulling together and they have been pulling against each other and, as a matter of fact, they create parties in taluks and they create parties in the districts and that too only for their self aggrandizement and not with a view to looking after the needs of the public or to giving protection to the people, to giving protection to those who deserve it. That has never been done and even today it is there. Even at the district

level, we have the District Police Act and under a particular section of that Act, the Superintendent of Police is to be under the Command and control of the District Magistrate. That is the law and, with all that, Sir, what is happening is that these Superintendents of Police and the District Magistrates never pull along well with each other and the result is that there have been a lot of atrocities committed. We have heard of a lot of such things and we are hearing of such things these days. Atrocities against the Harijans are there; atrocities in connection with land-grab movements; or atrocities in the process of implementing the land reform Acts; or in implementing the Act banning bonded labour. In all these things, Sir, what we find is that if the police officer does one thing, then quite the reverse thing is done by the taluk magistrate, who are called Executive Magistrates. So, this system also is not working. But, I think, we should not find fault with the system that we envisage for Delhi. But one thing has to be understood and it is that what we want is the right type of system. Now, Sir, our country has become independent and after thirty years of independence, and even during these thirty years of independence, certain socio-economic changes have been taking place and are taking place in the country....(Time Bell rings).... Give me some more time, Sir.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Please conclude now.

SHRI L. R. NAIK: I have just started.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): But you have made sufficient number of points.

SHRI L. R. NAIK: But I want some more time, Sir. Now, I don't know what I was saying.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): That is all right. You conclude now. Don't waste your time.

SHRI L. R. NAIK: I don't remember what I was saying just a little while ago. Social and economic changes are taking place. What was the state about the police system in this country in the pre-independence era? During the pre-independence era, the policeman was very powerful. He considered himself and the public also considered that there is a big source behind him, and that is the source of alien, British imperialism. So it was rather difficult for anybody to touch him. He was more feared than respected. Even today, in order to frighten our children we sometimes say

that the policeman is coming. Even today that habit is still with us. So that sort of system which was there before independence, prevails. And what happened during the struggle for independence? The police source was utilised by the British to curb the national aspirations of the people and to commit atrocities. How many of our great freedom fighters have courted jail, have courted arrests, and so on. I need not go into the whole thing. That was the system prevailing. And after independence what is happening? I tell you, every member of the public will have to be a police officer. Only then is it possible to have a fool-proof system. This is exactly what is happening in European countries. But are you doing that? We are not doing that. So it is necessary that what we have to think of, is of creating a good police system. And it is important.

The police system as envisaged by this Bill is the right one. The reason may be asked why. There is the Police Commissioner at the head. He must certainly be a very responsible officer. Care has to be taken to see that the right man occupies that position.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): That will do, Mr. Naik.

SHRI L. R. NAIK: Apart from this, what I find is that the type of organisation that is envisaged by the Delhi Police Bill is such that it is bound to create a well-knit organisation. For instance, I will tell you. The Police Commissioner is the highest police officer over them. So many friends have said that a Bill is to come and the Assembly has to be brought into existence. That is a different thing. Instead of the Administrator, I would say that the Minister in charge of Home Affairs should be there. But the point at issue is that this Bill will create a good organisation.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): That will do. Now, please conclude (Interruptions)

SHRI L. R. NAIK: I am sorry. I had made up my mind to speak so much.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): You have spoken well.

SHRI L. R. NAIK: I told this august House that I have worked as a police officer, as magistrate also, and I talked with the hope that.... (Interruptions).

SHRI YOGENDRA SHARMA: Sir, the hon. Member has experience. I request that he should be allowed to continue.... (Interruptions)

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Let him conclude.

SHRI YOGENDRA SHARMA: Does the police carry fire-arms in London?

SHRI L. R. NAIK: They have been used to carry fire-arms. It is perfectly true. Do you know what is behind that bobby? The whole public is behind this bobby. Our society has not come up to that level and we have not been able to create that sort of atmosphere in this country. It is essential to create another system. But unless we politicians and so-called social workers understand our sense of responsibility towards the society, any system that is created will not work. With these words, I take my seat.

श्री शिव चन्द्र झा (बिहार): उपसभाध्यक्ष महोदय, दिल्ली पुलिस विधेयक मोटे तौर पर सब मिलाकर ठीक ही चीज है और मैं इसका समर्थन करता हूँ लेकिन कुछ बातें हैं जिनको मैं साफ़ करना चाहता हूँ।

सबसे पहले जिन लोगों ने विरोध किया, बिल की नूतनाचीनी की, आलोचना की, उन्हीं की बातों को मैं पहले उठाता हूँ। मुझे यह कहना है कि यदि आपको विरोध ही करना है तो डटकर विरोध करिये। वैज्ञानिक ढंग से विरोध कीजिए। इस विधेयक में क्या है? इसकी जड़ में क्या है? इस पर प्रहार कीजिए। फिर उंगली दबाकर इतनी इधर चींटी काट लेना, इससे बुनियादी मुद्दा नहीं आता है। मुझे हैरानी हुई जब शर्मा जी ने कहा कि ये लोग आपस के झगड़े में लगे हुए हैं, इनको कहा फुसंत है।

श्री योगेन्द्र शर्मा: गलत बात झा साहब हमने नहीं कही।

श्री शिव चन्द्र झा: कहां झगड़ा नहीं हुआ है? आप झगड़े से बचे हुए हैं? सूरत कांग्रेस में झगड़ा क्या नहीं हुआ था? क्या वे हमारे भाग्य विधाता नहीं थे? बावजूद इसके कि आपके झगड़े रहे क्या आप भाग्य के निर्माता नहीं हैं देश के? तो ये सब बातें होती हैं और इस से इस विधेयक पर प्रहार नहीं होता है। यदि विधेयक पर प्रहार करना है तो इस विधेयक की जड़ में जायें, इस विधेयक से पुलिस के स्ट्रक्चर में पुलिस संस्था की बनावट में कोई बड़ा परिवर्तन नहीं होने जा रहा है। बुनियादी परिवर्तन होगा कैसे? बुनियादी परिवर्तन तब होगा जब आप इस संस्था को इलेक्ट्रिक बनायेंगे। जनता द्वारा चुना हुआ आदमी उसका हेड होगा। इसका नाम आप कमिशनर आफ पुलिस कह दो, डिप्टी कमिशनर आफ पुलिस कह दो, इंस्पेक्टर आफ

[श्री शिव चन्द्र झा]

पुलिस कह दो, उससे कोई बड़ा परिवर्तन नहीं होने जा रहा है। आप चाहे उसका नाम बदल कर जो कर दो, मेरा नाम दूसरा कह दो, लेकिन हम जो हैं वह हैं ही जब तक बुनियादी परिवर्तन दृष्टिकोण में नहीं आता है तब तक परिवर्तन नहीं माना जाता है। इसलिए इस विधेयक में जो बड़ी खापी है वह पुलिस संस्था जो हमारा जनतांत्रिक समाज है उसमें जब तक हम बुनियादी परिवर्तन नहीं लाते हैं तब तक अन्तर नहीं होगा। जैसा कि मैंने कहा इनको इलेक्टिव बना दो। पुलिस की बनावट आज टोटलिटेरियन है। वह अथारिटेरियन है। उससे भी बड़ा शब्द मैं कहूंगा तो फासिस्ट-विग है हमारे समाज का। हमारा डेमोक्रेटिक ढांचा जो है इसके दर्शन में यह संस्था जिस रूप में बनी थी उसको देखो। उसका उद्देश्य टोटलिटेरियन, अथारिटेरियन और फासिस्ट विग है। इसको हमको डेमोक्रेटाइज करना है। डेमोक्रेटिक बनाना है। जिस तरह से हमारा समाज बना हुआ है उसी प्रकार हमको इसे बनाना है। यहां संसद् है इस रूप में आप इसको बनायें। आप कहते हैं कि पुलिस का हैड इलेक्टिव हो, यह कैसे होगा? कोई आश्चर्य की बात नहीं है? दुनिया में, समाजवादी देशों की बात मैं नहीं करता, वहां तो बहुत इलेक्टिव हैं, पूंजीवादी देशों की बात मैं करता हूं जहां पूंजीवाद की जड़ है वहां पुलिस का हैड चुना जाता है जनता के द्वारा। कैलिफोर्निया, अमरीकी साम्राज्यवादी देश का एक राज्य है और वहां का शीरफ जिसको आई० जी० कहते हैं वह जनता द्वारा चुना जाता है। जैसे वहां का गवर्नर चुना जाता है, अमेरिका का राष्ट्रपति चुना जाता है या पूंजीवादी समाज में पुलिस हैड जनता द्वारा चुना जाता है और जब यह व्यवस्था दुनिया में है तो हमारे यहां क्यों नहीं यह व्यवस्था हो सकती। यह बात उसी तरह से असंभव मालूम होगी जिस तरह से जनता के रिप्रेजेंटेटिव की बात आज्ञा देने से पहले मालूम होती थी कि जनता के प्रतिनिधि इतने बड़े देश में कैसे होंगे, जनतंत्र कैसे चलेगा लेकिन वह संभव हुआ। इसलिये मेरा कहना है कि इसको भी इलेक्टिव बनायें। यह संभव होगा। शुरूआत यदि हमें करनी है तो हैड से शुरू करें और इसके लिये संविधान में संशोधन लायें कि कम से कम स्टेट का जो आई० जी० पुलिस हो वह जनता द्वारा चुना जाए। शर्मा जी ने कहा कि जनता के रिप्रेजेंटेटिव के अधिकारों का अतिक्रमण है। यह तो टिकरिंग विद् द प्रोब्लम है। शर्मा जी आपके अधिकार पर क्या हमला होगा, आप तो बड़े संक्षम हैं। आप हो-हल्ला करके अपने आप को बचा लेंगे। मैं आपसे यह कह रहा हूं कि यह जो आप बना रहे है इसको डेमोक्रेटाइज करें। इसको जनता के द्वारा चुनने की व्यवस्था करें जैसा कि पूंजीवादी देशों में होता है।

श्री योगेन्द्र शर्मा : प्रायकी पार्टी यदि यह बिल लाये तो हम समर्थन करेंगे।

श्री शिव चन्द्र झा : एक दार्शनिक था, राजनीतिक दार्शनिक फ्रांस का अलेक्जेंडर टर्कवाडी। 1820 दशक में जब वह अमेरिकी जनतंत्र को देखने गया फ्रांस से, तो लौटने के याद उसने किताब लिखी—डेमोक्रेसी इन अमेरिका। वह किताब अभी भी क्लासिकल किताब है डेमोक्रेसी के मूलत्विक। इसी तरह से जिस तरह से कि लास्की किताब है

‘अमेरिकन डेमोक्रेसी’। उन्होंने कुछ तारीफें की। लेकिन कहा कि यह महकमा, पुलिस का महकमा ऐसा है कि जब तक इसको डेमोक्रेटाइज नहीं किया जाएगा तब तक अमेरिका पूर्ण रूप से डेमोक्रेटिक नहीं समझा जाएगा और उसके खूबसूरत जनतंत्र में घब्बा लगा रहेगा। बाद में परिवर्तन हुए और डेमोक्रेटिक का सिलसिला चला।

यदि आप बुनियादी परिवर्तन चाहते हैं तो पुलिस महकमे को डेमोक्रेटाइज करें, इसको इलेक्टिव बनायें। इसमें जब परिवर्तन होगा तो सोशल सविस् माइंडेड पुलिस के लोग होंगे। गुप्ताजी ने भी यह बात कही है कि सोशल सविस् माइंडेड लोग तभी होंगे जब जनता के रिप्रेजेंटेटिव होंगे। हमारे और आप में भी कितनी ही खराबियां हैं, जनता के प्रतिनिधि में कितनी खराबियां हैं लेकिन जो व्यवस्था पहले थी उस से यह व्यवस्था अच्छी है। हम हारंगे, जीतेगे, लेकिन समाज को जिसको जनता का इन्वेल्वमेंट कहते हैं उसको आगे बढ़ा सकते हैं प्रतिनिधि के जरिये से। इसी तरह से और भी परिवर्तन हैं लेकिन सब सेकेण्डरी है, मेजर नहीं हैं। चौथी लोकसभा का जब मैं मैम्बर था तो मैंने संविधान में संशोधन विधेयक दिया था कि आई० जी० पुलिस, एस० पी०, डी० एस० पी० जिले का जो होता है उसको जनता के द्वारा चुना जाए। यह बात मैं जज के बारे में भी कहता हूं कि जज भी जनता द्वारा चुना जाना चाहिये। इसी तरह से रहा होगा जो पीपुल्स पुलिस होगी, जनता की पुलिस होगी। जनता का दस्ता होगा जनता के संरक्षण के लिये, जनता की सुविधा की रक्षा के लिये। यह ब्याल कौटिल्य के जमाने से चला आया है। कौटिल्य के अर्थशास्त्र में आप देखेंगे वे शहर और गांव के नागरिकों की रक्षा के लिये, जान-माल की सुरक्षा के लिए उसमें व्यवस्था है। मुगल जमाने में इसका खास ब्याल रखा गया। उस वक्त दिल्ली शहर की राजधानी थी उसमें नागरिकों की सुरक्षा के लिये जो इंतजाम करता था वह कोठे में रहता था, महल में रहता था। उस कोठावाला से कोतवाल बना। कोतवाल की शुरुआत कहाँ से हुई। जो कोठा में रहता था वह टैटर या आतंक जो लोगों पर होता था उसकी ठीक करता था, उनकी रक्षा करता था। गांव और शहरों में निगरानी की बात शुरू से रही है। यह जिम्मेदारी अब हो जाती है जनता सरकार की। जो जनता सरकार इस समय है उसकी यह जिम्मेदारी हो जाती है।

जहां तक दिल्ली में आइम्स बढ़ने की बात है यह निर्विवाद है। पहले 19 था अब 21 है यह सेकेण्डरी बात है। लेकिन यह व्यवस्था कलकत्ता, बम्बई आदि जहां भी हिन्दुस्तान के कोने में है उसकी जड़ में हमारे समाज की बनावट है। जिस समाज में विषमता होगी, मुनाफाखोरी होगी, बेकारी होगी, उस समाज में इस प्रकार की समस्याएं पैदा हो जाएंगी और वह समाज छटपटाता ही रह जाएगा। जिस समाज में कोई भूखा हो और कोई महलों में रहता हो, उस समाज में कठिनाइयां सामने आएंगी ही। उमर खयाम की यह बात मुझे याद आती है कि—आराम से बिस्तर पर पड़ा, लेकिन तुम्हारा हमसाया है पत्थर पर सोया। जिस समाज में कुछ लोग एयर कन्डीशन्ड घरों में रहेंगे और कुछ लोग झोपड़ियों में रहेंगे वहां पर इस प्रकार की परिस्थितियां पैदा होंगी। दुनिया की कोई भी ताकत

इन बातों को रोक नहीं सकती है। आप कहते हैं कि पुलिस के अन्दर रिस्पॉन्सिबिलिटी पैदा होनी चाहिए। लेकिन हमें इन समस्याओं की जड़ में जाने की जरूरत है। समाज की परिस्थितियों से व्यक्ति में जिम्मेदारियों की भावना आती है। इसलिए आज जरूरत इस बात की है कि समाज में बुनियादी परिवर्तन लाया जाय।

इस बिल में जो दूसरी बातें कही गई हैं वे करीब करीब ठीक हैं। आई० जी० को पुलिस कमिश्नर बना दिया गया है और दूसरे लोगों को डिप्टी कमिश्नर या एसिस्टेंट कमिश्नर बना दिया गया है। मैं तो कहता हूँ कि आप दिल्ली को सब-डिविजन और थानों में बांट दीजिये। इसमें कोई एतराज की बात नहीं है। लेकिन मैं दिल्ली के ट्रैफिक रेगुलेशन के बारे में कुछ बात कहना चाहता हूँ। आप अब पुलिस को अधिक अधिकार दे रहे हैं। दिल्ली में ट्रैफिक व्यवस्था ठीक नहीं है और यदि मैं यह कहूँ कि वह दुरावस्था में है तो गलत न होगा। यह बात पहले भी उठी थी, लेकिन उसके संभव में कोई सफाई नहीं हुई। दिल्ली में बसों, स्कूटरों आदि चीजों की व्यवस्था ठीक नहीं है। मैं यह नहीं कहता कि उनकी ही हर जगह गलती होती हो, लेकिन वे लोगों को जिस तरह से नजरअन्दाज करते हैं वह उचित नहीं है। मैं तो इन स्कूटर वालों से बहुत ही परेशान हूँ। कोई साउथ ऐवेन्यू को जाने को तैयार ही नहीं होता है। टैक्सि वालों तो थोड़ा कम परेशान करते हैं, लेकिन स्कूटर वाला साउथ ऐवेन्यू जाना पसन्द नहीं करता है। इसकी तरफ भी ध्यान देने की जरूरत है।

इसके साथ-साथ मैं यह भी निवेदन करना चाहता हूँ कि पुलिसवालों को अपनी सीमाओं से आगे नहीं जाना चाहिए और उनके अन्दर एक सेन्स आफ रिस्पॉन्सिबिलिटी की भावना पैदा की जानी चाहिए। लेकिन यह तब तक नहीं होगा जब तक कि वे लोग सिविल माइण्ड नहीं होंगे। मैं दुनिया की और जगह की पुलिस के बारे में जानता हूँ। उनका व्यवहार सड़कों पर, बसों में या अन्य किसी स्थान पर ऐसा नहीं होता है जैसा हमारे देश की पुलिस का होता है। बस मैं अगर वे लोग मिलते हैं तो उनमें और कालेज विद्यार्थियों में कोई फर्क नहीं होता है। हमारे देश में तो अगर बर्दी में कोई पुलिस वाला होता है तो वह एक टैरर पैदा कर देता है। आज जरूरत इस बात की है कि वह जनता के सेवक बनें। जब उनके अन्दर जनता की सेवा की भावना होगी तभी वे शादी-व्याह के मौके पर अगर कोई गाना-बजाना करता है तो उसको परेशान नहीं करेंगे और किसी राहों को व्यर्थ में परेशान नहीं करेंगे। इसलिए मैंने कहा कि आज समाज में एक बुनियादी परिवर्तन की जरूरत है। समाज की अन्दर जो बुराईयाँ हैं उनसे हमें छुटकारा पाना होगा।

हमारे देश में पिछले जमाने में क्या हुआ, इसके बारे में काफी लोगों ने शिकायत की है और हमारे उधर के भाई तो उनको बहुत ही रिपोर्ट करते रहते हैं। मुझे भी सुनने में अच्छा लगता है, इसलिए सुनता रहता हूँ। लेकिन इमरजेंसी में पुलिस ने जो ज्यादतियाँ की हैं उनको भुलाया नहीं जा सकता है। दिल्ली के तुर्कमान गेट की घटना सब से बड़ी शर्मनाक घटना थी। भारत के इतिहास में यह घटना सदैव याद रखी जाएगी।

उपसभाध्यक्ष (श्री श्याम लाल यादव) : आप अपने विषय पर बोलिये।

श्री शिव चन्द्र शा : इस प्रकार की घटनाएँ फिर न हों, इस के लिए सख्त कदम उठाया जाना चाहिए। चाहे अफसर छुटका हो या बड़ा हो, उसको अपने को जनता का सेवक समझना चाहिए। किसी भाई ने कहा कि किसी की गलती होने पर पुलिस वालों को फौरन सस्पेंड कर देना चाहिए। अगर कोई आदमी खराब काम करता है तो आप जरूर उसके खिलाफ सख्त कार्यवाही कीजिये। लेकिन इसके साथ-साथ यह भी कहना चाहता हूँ कि पुलिस वालों को संगठन बनाने का अधिकार जरूर रहना चाहिए। वे अपने आप को आर्गनाइज कर सकें और अपना संगठन बना सकें, इसका अधिकार उनको होना चाहिए। अपनी आवाज को अपनी मांगों को उठाते रहें। जितने नागरिक हैं, जितने अधिकारी हैं, राजनीतिज्ञ लोग अपनी बातों को रखते हैं उनको भी अधिकार हो तभी हम उनको सिविलियन माइड की ओर ले जाएंगे। यह चीज उनमें होनी चाहिए। उन पर किसी तरह का आरोप नहीं होना चाहिए जो कि मोटे तौर पर नहीं है। इन्हीं शब्दों के साथ मैं इसका समर्थन करता हूँ।

SHRI S. D. PATIL : Sir, I am greatly indebted to the hon. Member's who have supported the Bill and those who have made useful suggestions while offering their comments on the Bill, and some have lent their support with reservation....

श्री कल्प नाथ राय : हमको भी बोलना है..

उपसभाध्यक्ष (श्री श्याम लाल यादव) : कांयस (आई) से दो स्पीकर बोल चुके हैं और उसमें काफी टाइम ले लिया है। अब दो से ज्यादा नहीं हो सकता अगर कोई बोलना चाहें तो थर्ड रीडिंग में बोल सकता है।

श्री कल्प नाथ राय : यह तो गलत बात है।

उपसभाध्यक्ष (श्री श्याम लाल यादव) : आप अपनी पार्टी से कहिये, अपने विहप से कहिये कि आपका नाम पहले दिया करें। आप जो कमेंट करते हैं I am sorry to say that everytime you say like that. You please ask your Whip to give your name first. I requested your Whip to either drop one or the other and he gave me the names. What can I do? But you go on commenting like any thing. It is not desirable.

SHRI S. D. PATIL : Sir, While analysing the various points urged for consideration, I find that these points fall broadly under 5 or 6 categories. But first of all, we have to see what is the purport of the Bill. It was a long-felt need of Delhi since 1966 and the ex-Prime Minister of the country appointed the Khosla Commission to go into the matter and their recommendations have come. Hon. Shri Yogendra Sharma said that it was not the term of reference and that the Khosla Commission had gone beyond the

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scope of the terms of reference. I would invite his attention to Part (b) on page 1 which says : "Measures necessary to promote their efficiency and welfare."

SHRI LAKSHMANA MAHAPATRO :
He read it out to you.

SHRI YOGENDRA SHARMA : I
said it already.

SHRI S. D. PATIL : I am giving my comments. Now, this particular aspect, that is, measures necessary to promote their efficiency, exactly covers the recommendations....

SHRI YOGENDRA SHARMA : And
welfare ?

SHRI S. D. PATIL : I am coming to that. Why are you getting impatient ? Sir, as far as the efficiency matter is concerned, the Bill seeks to achieve this aspect because it will be under a unified command and it is a scheme which has stood the test of time in several metropolitan cities, at three earlier places and in five cities more which were added subsequently, like Hyderabad, Ahmedabad, Poona, Nagpur and Bangalore.

As far as the welfare of the policemen is concerned, there can be no two opinions. About the suggestions that have been made either by the hon. lady Member—which were very useful—or by the other hon. Members, already a committee of experts has been appointed which is going into the various problems. For the consideration of the hon. Members, I will draw their attention to reference No. (c) :

"In making the recommendations, the Committee will keep in view the nature of duties and responsibilities of the police force for which personnel can be deployed on continuous duty without detriment to their efficiency. Man-power requirements on account of the police personnel availing Sundays and holidays may also be kept in view." Besides, Sir, we are all aware that the Central Government has already appointed....

श्री योगेन्द्र शर्मा : सर, जब इस कमेटी की रिपोर्ट आ जाती तब आप बिल पेश करते तो ठीक होता ।

(Interruptions)

SHRI S. D. PATIL : Sir, I have not interrupted any hon. Member, I will go one by one.

Besides, the Central Government has already appointed a Police Commissioner to go into the broader aspects of all the questions relating to the Police and, therefore, it will be too early to expect that everything will be done through the Bill itself. What we are doing is not a new thing.

A question was raised : 'Why there was a hurry to promulgate the Ordinance ? This is a twelve-year-old matter. Here, I do not want to go into the question why the former Prime Minister did not choose to accept a these recommendations. I have nothing to say on that. I do not want to comment on that. But this Government announced its decision on 8-8-77 in both Houses of parliament that it is coming up with a bill. Then, we drafted the Bill in the month of December. The Bill was sent to the Metropolitan Council of Delhi which is really the body which is vitally concerned with the administration of Delhi. I do not say that the others are not concerned. This body also took five months and it has given its recommendations. Whichever recommendations were possible to adopt, were adopted in this Bill. Not only that. All the salutary recommendations which are in the various Acts have been consolidated together and brought in here. It is only two months old, not even two months. It is too much to expect that there will be some improvement immediately. It is a sort of an experimental measure which we are applying to this capital of India, the national capital, where the problems of law and order and other matters are becoming more complex and complicated with the rise in population and urbanisation. That is why, a system, which has worked to our advantage in the various metropolitan cities, is being tried here as an experimental measure.

The other question raised was, whether we are not arming the Police Commissioner with certain excessive powers and with those powers which are really anti-democratic. This is the second question. My reply to this is that the Commissioner of Police works under a constitutional authority, namely, the Administrator or the Lt. Governor of Delhi, under article 239 and he, in turn, comes under the Home Ministry. He is a representative of the President of India. Now, certain powers are given to the Commissioner of Police who is a highly responsible officer. He is highest officer in the police hierarchy. He is given certain powers under the supervision and control of the Administrator and some powers are vested in him by the Central Government.

SHRIMATI LEELA DAMODARA
MENON : Assistant Commissioners of
Police are also given powers.

SHRI S. D. PATIL : The question is, at certain levels, these powers are delegated or distributed. The Assistant Commissioner of Police is not an ordinary man. He is a former S. P. He is a person who is highly trained and who has got responsibility. This is a big administration. Therefore, it necessary to delegate powers

to the various officers or persons who are competent and who have got certain responsible jobs to do. It is not as if they are given to a person without any responsibility. These powers are exercised even in the district by the various officers. All the pros and cons of the question have been gone into by the Khosla Commission in depth and they have made these recommendations. It has also been accepted by this Government that this system of duality and dual control must go. Here, the police have to act very quickly. For this, they have to be given some authority. If they are made to approach the District Magistrate for taking certain orders, they will not be able to act quickly and rapidly to deal with complex situations and problems. That is why a major change which is going to be made is about the displacement of the District Magistrate and in his place the Commissioner of Police is being invested with certain powers. But these powers are not automatic.

SHRI YOGENDRA SHARMA : It is not duality ; it is a system of checks and balances, which is very necessary. I think, in principle, even the hon. Minister will accept that.

SHRI S.D. PATIL : There are sufficient checks and balances because the Commissioner of Police has not got automatic powers. He has to take orders from the Administrator. He has to work under the control and supervision of the Administrator who is the constitutional authority appointed under article 239. So he does not act on his own and if there are any excesses on his part, these will be curbed by the Lt. Governor and ultimately the Home Minister because it is a Union Territory.

The hon. Member from West Bengal talked of lending support to the Bill with a certain reservation—that is, ushering in a new system and giving Statehood to Delhi. It is a major policy decision which involves certain considerations because it is the national capital. These are : whether we should go in for immediate Statehood or whether we should take into consideration the various status that Delhi had enjoyed. Firstly, it was a Chief Commissioner's Province, then it became a Part 'C' State and thereafter the States Reorganisation Commission recommended in 1955 that it should have the status of a Corporation which is working for the last 23 years. Thereafter, we have to see whether we want to keep it as a Union Territory or give it Statehood, which means there are several complications and several considerations will have to be given to the question. That is what we are doing now. We have introduced on the 11th August, 1978, both the Forty-fifth Cons-

titution (Amendment) Bill as well as the Delhi Assembly Bill. There also we are expecting that when the Assembly functions here, they will get certain powers. That was made clear when I had held a meeting here with the various representatives, particularly the MPs, from Delhi. We have given them an understanding that they will have certain powers. For example, the various State Acts which are applicable here, they can very well legislate. Then we are also thinking of entrusting to them certain authorities over the DTC and Delhi Milk Scheme. We will have to consider that. And then whenever they want to enact any law etc. which is under the State List, they can very well legislate. We must be very conscious about the powers of the Union Territory Governments. The Assemblies which are in existence in Goa, Daman and Diu and other places also have to work under the control of the Administrator and also the President. The hon. Member said that his support is conditional on that particular thing. So I may make it clear that that is not going to come so soon. Whenever it will come, it will be from the national point of view. We will have to consider whether we can grant Statehood, what will be its implications and what will be its ramifications. These are all matters to be considered at an appropriate time.

A point has been raised—I do not want to go into that controversial subject—that the crime is on the increase. Maybe it is so in some marginal cases. But Mr. Yogendra Sharma with all his experience—I know he is very intelligent and clever—tried to sort out only things where there has been an increase ; he conveniently forgot to mention those where there is a decrease. He must be fair to the Government also.

SHRI YOGENDRA SHARMA : You and I together make the whole.

SHRI S.D. PATIL : Yes, he has conveniently referred to only two matters—arson and murder—and that too for one month only—June-July—and completely forgotten that there are other matters where the incidence of crime is gradually on the decline. And for his information that was made clear in the Consultative Committee meeting held on the 22nd.

4 P.M.

SHRI JAGANNATH RAO JOSHI (Delhi) : With their active co-operation it can decline further.

SHRI S.D. PATIL : I need not go any further into the question except to say that in regard to the incidence of crime I will

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only refer to the figures from January to July. The total number of offences in January was 3,715. Now it has come down in July to 3,430. In various categories there is a difference. This happens because in a particular month a certain type of offences may increase and certain type of offences may decrease. That does not mean that the law and order situation is deteriorating. Rather it has become now a sort of fashion to accuse, because it has got political overtones, to criticise the Government and to use that criticism as a weapon. But it is not necessarily a very effective weapon to assail the Government on that account.

The second point that arises for consideration is whether the powers given to the Police Commissioner are excessive. This Bill contains no new powers. Almost all the important provisions of the Bombay Police Act and several other Acts like that of Madras and other, were already in operation here. The only thing is that we have consolidated all these things and put them in a sort of package in this Bill.

Sir, there are a number of suggestions which the hon'ble Members have made. Sir, there is scope for amending this Bill whenever any occasion arises, whenever it is found that the powers are being misused or there is any lacuna. But this is a legislation which combines all the good points of the various Acts and, therefore, there should not be any apprehension on that account that we are arming the Police Commissioner with some excessive powers. No. It is only the powers that are already existing that are being modified. Only in place of a District Magistrate we are placing a Commissioner of Police. And in the hierarchy of officers the Commissioner of Police is a very high officer. He is of the rank of a Joint Secretary or even a little above that. So it is not as if we are entrusting this power to a man who is only a policeman but he is a person who is a responsible person.

Sir, the Bill contains no new powers. Similar powers are already available to the police officers in Bombay. Some of these powers are already available under the Police Act of 1861. Sometimes they say that we are just perpetuating the legacy of the Britishers. Sir, in many respects we cannot avoid that. Even the I.P.C. or the Indian Evidence Act or the Criminal Procedure Code have been inherited from the Britishers. Suppose a legislation has stood the test of time, shall we throw it off because we have inherited that legacy from the Britishers? So, we are utilising certain provisions, not all, of the 1861 Act. The whole thing is

modelled more on the Bombay pattern and that is why there should not be any taboo on that account. Why should it be a taboo because people say that it has been inherited from the Britishers? Law and order is as much the concern of this Government as it was of the Britishers. Even in the Bombay Act which was first enacted in 1951, in the last 22 years amendments have been made 28 times. We have, therefore, taken all the amendments of the Bombay Act into consideration. Several other important, of the Police Commissioner are not in any way tried to be increased. In fact, they have been tried to be modelled in such a manner that all the important and useful suggestions which are tried to be lated together. Then the question was raised that the Commissioner of Police or police officers who will be exercising these powers will not be under popular control. No, Sir, the Police Commissioner is not a law unto himself. He will be working as an agent, as earlier mentioned, and some of the powers which are envisaged under clauses 146-147 are to be given by the Central Government, and the Police Commissioner will always, while acting, be under the control of the Administrator. So, when we say that the President is an elected person under the Constitution, the Lieutenant Governor is his representative and the Home Ministry is conducted by popular representatives here. They will also have the same control because, in fact, whenever powers are given under some of the provisions of the Cr. P.C. they are given by the Home Ministry to the Commissioner of Police. Therefore, there is sufficient popular control and whatever regulations he will make are only enabling. But he has no power to make orders. That is also a departure from the Bombay pattern and those regulations will be laid before both the Houses of Parliament. So, the collective wisdom of Parliament also will be exercised while framing the regulations and it is not as if the regulations are coming for the first time. They are already there and now they are only collated together as I have said in my earlier speech.

Now the third point is whether the jurisdiction of the Commissioner of Police conflicts with the jurisdiction of the local authorities or local bodies here. There also it is not contradictory. They are supplementary and complementary to each other and wherever there are certain

narrow areas under some provisions, sufficient protection is provided. If I may refer to clause 28(4), it reads :—

“If any regulation made under this section relates to any matter with respect to which there is a provision in any law, rule or bye-law of the Corporation or of any other municipal or local authority in relation to public health, convenience or safety of the locality such regulation shall be subject to such law, rule or bye-law.”

So, predominance is given to the local authorities subject to certain conditions. But on certain occasions, when an emergency or contingency arises, he must act promptly. Supposing there is a dead body, he will have to find out to which community that dead person belonged and in which particular burial ground it should be buried. In such cases the authorities will be working quite in unison with each other. It is not as if they will be engaged in some sort of a power battle between themselves. No. These are supplementary and complementary provisions.

Even the Metropolitan Council of Delhi have gone through the various provisions and they have made certain recommendations which we have already incorporated. But a few things which they wanted us to incorporate in the Bill or exclude from the Bill we did not agree to because there are certain valid reasons for not agreeing to them. Therefore, those questions are also sorted out.

Now, I need not unnecessarily be elaborative. Certain points were made about the special Police—of course, they are not many.

श्री योगेन्द्र शर्मा : झा जी ने जो बेसिक प्वाइंट्स उठाये हैं, उनका जवाब दीजिए ।

SHRI S. D. PATIL : It was said that this is being done with a view to bringing in some political considerations, the RSS or some persons belonging to the party in power. Sir, this is not correct. The provision for Special Police is only for certain urgent circumstances where there is an immediate or imminent possibility of a riot or some public disorder. Then only we can employ them and there also it must be a fit and able-bodied person.

And there also it is limited by certain considerations. If somebody objects to these appointments, those objections can be gone into. So there is sufficient safeguard.

Regarding Mrs. Damodara Menon's suggestion that the Police Force should contain women also, my experience in the Department of Personnel is that sufficient women candidates, though they qualify for IPS, immediately change their minds because the duties are arduous. There are physical considerations and some other considerations also. They change their minds and they want to join some other cadre. The question is that though we have got sufficient number of women qualified for the Police service, they do not join because of certain natural difficulties.

Then about recruitment etc. all these questions were gone into by the Police Commission. Mrs. Damodara Menon mentioned certain things about the punitive fine. They are in fact no punitive fines. They are just to compensate persons who suffer death or some grievous injury in riots etc. and they are to be compensated. It is not as if the Government would pay from its own pocket. That locality which is declared as a disturbed area alone will have to meet this expense.

Then a small point was raised about the flying of kites. Mr. Yogendra Sharma was very particular about flying of kites. It was a sort of kite flying, according to me, Section 94 contemplates : “No person shall fly a kite or any other thing so as to cause danger, injury or alarm to persons, animals or property.” It is not that an innocent boy who holds his kite for flying will be hauled up. It is not that we have not devoted any attention to it.

So, with these remarks, I once again commend the Bill to the House.

SHRI L. R. NAIK : One small submission. The motto of the police department is the service of the people. Therefore, it is in the fitness of things that the definition “the Delhi Police force” should be changed into “Delhi police service”. Could you kindly amend that ?

SHRI S. D. PATIL : I am very much thankful to Mr. Naik who has got experience as an officer in several capacities. I think the House will not have any hesitation to give its full-hearted support to the Bill.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

“That the Bill to amend and consolidate the law relating to the regulation of the police in the Union territory of Delhi, as passed by the Lok Sabha, be taken into consideration.

The motion was adopted.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : We shall now take up clause by clause consideration of the Bill. There are no amendment to clauses 2 and 3.

Clauses 2 and 3 were added to the Bill.

Clause 4—Superintendence of police force to rest in the administrator.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : There is one amendment, No. 1, by Shri Bhupesh Gupta and others. Shri Lakshmana Mahapatro. Do you move the amendment ?

SHRI LAKSHMANA MAHAPATRO : I am moving it and also making a speech, simultaneously.

I move :

1. "That at page 3, line 28, for the word "Administrator" the words 'Executive Council or the Council of Ministers' be substituted."

[The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Barman.]

In spite of the reply of the hon. Minister to the effect that what is being done is nothing new, I am constrained to say that there are many new things which he has not been able to answer pretty well. So he takes cover of one thing, that this is already in vogue in this country and we have just copied or taken the Bombay Police Act as the model with the related amendments that have taken place during these years after it was framed in 1951.

That is a cover for him always. Sir, when this Bill was framed, it was sent to the Metropolitan Council, and at that time the Delhi Communist Party gave a memorandum there and also sent a copy of it to the Prime Minister. I quote :

"To begin with we may be permitted to state that the institution of police commissioner owes its origin to the need felt by the British Imperialists rule to devise a system of police administration which could ensure perfect safety for their tribe in the three major urban strongholds (Bombay, Calcutta and Madras) occupied and used by them as springboards for rapid expansion of their empire."

This was what was clearly said. It was also further said :

"The idea evidently was to facilitate ruthless use or punitive force, unfettered by any considerations of legality, in order to enforce abject submission on the

part of the colonial subjects. A system designed *ab initio* to dispense with any discreet or judicious use of coercive/punitive State machinery against the people should not, you would agree, be allowed to have a place in the scheme of any administration which lays claim to being a defender of the democratic and fundamental rights of the people."

It has been said clearly.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : That will do.

SHRI LAKSHMANA MAHAPATRO : What will do, Sir ?

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Now this is only an amendment.

SHRI LAKSHMANA MAHAPATRO : I am explaining my amendment. I shall have to do so; otherwise, how can I get the support ?

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The Members have understood your amendment ; please be very brief.

SHRI LAKSHMANA MAHAPATRO : So, Sir, it is because of this that we are anxious to see that this police set up which is now being secured by this particular Bill, comes under the control of some elected body. The Administrator is the person who is having control according to the scheme of the Bill. We are opposed to it. Sir, if the Assembly is not coming to so early, at least the Metropolitan Council is there. Let it be under the control of that elective body. At the moment it is of the ruling party. Where is the difficulty ? So, I have suggested here in this particular provision that there should be substitution of the Administrator by the Metropolitan Council or an Assembly that may come later.

In spite of what Mr. Patil may tell us that all these things are enabling provisions, that the things will be laid before the House, that they will get the approval, that we will have the right of objection at different times when special police will be appointed and all that, we are pretty sure that he has given the Commissioner of Police draconian powers. He is a peculiar feature of 1978. He is the health inspector, he is the doctor, he is the Veterinary doctor, he is the educationist, he is the hotel-keeper, he is also a member of the Censor Board and can censor everything, and he is everything. Sir, a police officer is nothing different from another police officer. He may be of the level of a Deputy Secretary or a Joint

Secretary or anything of the sort, but he is a police officer for all practical purposes and he is from the police ranks. Therefore, you have said that he will be equivalent to the I.G. Police. The I.G. Police will be designated as Commissioner of Police. That also you have said very clearly. For such a police officer to act under the rules as a veterinary doctor, a health inspector, an educationist and finally as a censor also—the writings of the authors or the writers are to be censored and given a certificate—is something that is denigrating and cannot be supported. That is why I am opposed to this. Therefore, I have submitted that you should keep it under the control of an elected body so that certain things can be kept in check.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : That will do.

SHRI LAKSHMANA MAHAPATRO : I will come to the other provisions wherein you have given them the powers.

You have made him a magistrate ; you have made him everything. He is omnipotent, omniscient and omnipresent.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : That point is clear.

SHRI LAKSHMANA MAHAPATRO : I was not taken aback because in the year 1976 a seal was put on this ; the then Government did not feel like having a Commissioner here in spite of the Khosla Commission Report. But all of a sudden from the grave this was disinterred by the present Government. Why ? That question is not being answered. We have been hammering on that. We just want to know what made the earlier Government put it into the grave and what made the present Government disinter it from the grave. Something which was not thought fit in the year 1976 is, all of a sudden, thought fit and very apt and very much necessary in the year 1978. Naturally we will be made to suspect such an activity on the part of the Government, because after their coming into office, they have been doing certain things which have made us say many things against them not without reason. This is another instance which has also to be faced with, such a countenance because there is no other go for us.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Please conclude. Do not repeat.

SHRI LAKSHMANA MAHAPATRO : We have just seen that a thing which was not felt necessary in 1976 by the Government which appointed the Commission is now felt necessary by the succeeding Government.

The question was proposed.

SHRI S. D. PATIL : Sir, I oppose the amendment for two or three reasons. Firstly, this provision is not Draconian. "Draconian" means it is rigorous, harsh or cruel. But none of these attributes can be attributed to this provision. Secondly, it will involve an amendment in the Delhi Administration Act, 1966, because in that Act, law and order, as well as organisation and discipline of the police forces, is within the discretion of the Administrator. Now, if we add here the words "Executive Council or the Council of Ministers", it means we are making a substantial amendment in that law. Without amending that Central Act, it will not be possible. Similarly, regarding "Council of Ministers", this is too premature. The Delhi Assembly Bill is yet to see the light of day. For these two reasons, I oppose the amendment.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Now, the question is :

1. "That at page 3, line 28, for the word "Administrator" the words Executive Council or the Council of Ministers" be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Now, the question is :

"That clause 4 stand part of the Bill".

The motion was adopted.

Clause 4 was added to the Bill.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Now, clauses 5 to 16.

All the amendments are barred.

The question is :

"That clauses 5 to 16 stand part of the Bill."

The motion was adopted.

Clauses 5 to 16 were added to the Bill.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Now, clause 17. There is one amendment . . .

SHRI LAKSHMANA MAHAPATRO: Sir, I have amendments on every one of these clauses—clauses 5, 6, everywhere.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Because the amendment to clause 4 has been negatived just now, the same amendment in all these clauses stands barred.

SHRI LAKSHMANA MAHAPATRO: No, it is not that...

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : We have seen that. Now, you come to clause 17, amendment No. 12.

SHRI LAKSHMANA MAHAPATRO: I do not understand how you did not call me to move.....

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Please take your seat. Once an amendment has been rejected by the House, the same amendment in other clauses is barred.

SHRI LAKSHMANA MAHAPATRO: No, not the same amendment....

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Please see.

SHRI LAKSHMANA MAHAPATRO: The other clauses relate to something else. The words may be the same, but they are in some other contexts.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The context may be different, but the phrase is the same—for the word "Administrator" the words "Executive Council or the Council of Ministers" be substituted. It is the same in all these amendments. Therefore.....

SHRI LAKSHMANA MAHAPATRO: The words are the same but the clauses are not the same.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Now, you move your amendment No. 12 to clause 17. That is the rule. What can I do ?

SHRI LAKSHMANA MAHAPATRO: This is not good. This is not the rule. I know the rule. The rule is.....

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Now, you move your amendment No. 12.

SHRI LAKSHMANA MAHAPATRO: It is not consequential.

It is some other context in which I wanted to move the amendment and you don't allow me to move it. Just because it is Saturday you don't allow it to prolong.....

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : No, it is not like that.

Clause 17—Special Police Officers

SHRI BIR CHANDRA DEB BURMAN (Tripura) : Sir, I beg to move :

12. That at page 6 for lines 9 to 14, the following be substituted, namely:—

(3) Person so appointed shall have the right to refuse such appointment within a period of seven days after submitting his reasons for doing so.

(3A) Any person or organisation or political party objecting to the appointment of any person as such special police officer may send the reasons therefor to the Commissioner of Police within fifteen days of such appointment and the Commissioner shall accept the objection and cancel the appointment of such officer, or, after giving the objector an opportunity to be heard, submit the report to the Executive Council or the Council of Ministers for final decision which shall be given within seven days of receipt of the report from the Commissioner."

The question was proposed.

[The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Lakshmana Mahapatro.]

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The amendment No. 13 is barred.

SHRI BIR CHANDRA DEB BURMAN: Sir, the provision made in this Clause is just like conscription. Here it says.

"The Commissioner of Police may, at any time, by a written order, signed by himself and sealed with his own seal, appoint any able-bodied male person not less than eighteen years of age, whom he considers fit,...when he has reason to apprehend the occurrence of any riot or grave disturbance of the peace....."

Now, police action is not extraordinary. Is this not an extraordinary legislation? If any special officer is to be appointed, there must be willingness on the part of the person who is going to be appointed. If every or any person is going to be appointed like this, then it goes against our Constitution; it violates the fundamental right to profession. Here sub-clause (3) says :

"Any person objecting to the appointment of any person as such special police officer may send his reasons for such objection to the Commissioner of Police within fifteen days of such appointment and the Commissioner may accept such objection and cancel the appointment of such officer or, after giving to the objector an opportunity to be heard, reject the objection."

This means that if the person is unwilling to accept the job, still the Police Commissioner has the power to reject his objection and have him appointed. That is why, we have given the amendment saying that the person who is unwilling shall have the right to refuse the appointment. Our amendment says :

"Person so appointed shall have the right to refuse such appointment within a period of seven days after submitting his reasons for doing so."

And then we say by our further amendment :

"Any person or organisation or political party objecting to the appointment of any person as such special police officer may send the reasons therefor to the Commissioner of Police within fifteen days of such appointment and the Commissioner shall accept the objection and cancel the appointment of such officer, or, after giving the objector an opportunity to be heard, submit the report to the Executive Council or the Council of Ministers for final decision which shall be given within seven days of receipt of the report from the Commissioner."

We give this amendment because whenever any serious apprehension of breach of peace is there, persons of such kind or such nature may be appointed which may be detrimental to the preservation of peace and tranquillity in that area. Suppose there is an area where there are Scheduled Castes and Scheduled Tribes people or minority community people, and if the Police Commissioner appoints a person who is not a Scheduled Caste or Scheduled Tribe man or one belonging to the minority living there, the main purpose of appointing such special officer will be frustrated. So an objection may be raised to the appointment of such a person and that objection will not be heard by the Police Commissioner and he will not send the report to his higher authorities. So we thought it is better to vest this power in the Executive Council to whom the Police Commissioner should be made responsible. And it is the Executive Council who shall finalise this matter. Otherwise, as per the provision made in the Bill, appointment of a special officer by the Police Commissioner amounts to conscription without giving an opportunity to the person so appointed to say whether he will accept the post or not. As it is, he will only be forced to accept the appointment.

And, Sir, furthermore, he is going to be penalised if he neglects to do any thing. So, I have moved my amendment to clause 17.

SHRI S. D. PATIL : Sir, I oppose the amendment on two grounds. Firstly, Sir, the scheme of appointment of Special Police Officers is only under emergent circumstances where there is any reason to apprehend occurrence of any riot or grave disturbance of peace in any area and if he is of the opinion that the ordinary police force is not sufficient for the protection of the persons residing in that area and for the security of the property in such an area, and fit and able-bodied persons only are to be appointed. Now, if the right to refuse is given, then it will be rendering the whole scheme infructuous.

[Shri S. D. Patil]

So, we cannot, under emergent circumstances, afford to give such an opportunity of refusal. So, I would request the honourable Member to withdraw his amendment.

Secondly, Sir, I will advance the same argument as regards the question of power of referring to the Executive Council. Law and order and discipline in the police organisation are with the Administrator and the Executive Council cannot be entrusted with this.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

12. "That at page 6 for lines 9 to 14, the following be substituted, namely:—

"(3) Persons so appointed shall have the right to refuse such appointment within a period of seven days after submitting his reasons for doing so.

(3A) Any person or organisation or political party objecting to the appointment of any person as such special police officer may send the reasons therefor to the Commissioner of Police within fifteen days of such appointment and the Commissioner shall accept the objection and cancel the appointment of such officer, or, after giving the objector an opportunity to be heard, submit the report to the Executive Council or the Council of Ministers for final decision which shall be given within seven days of receipt of the report from the Commissioner."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAMLAL YADAV) : The question is :

"That clause 17 stands part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Now, we come to clauses 18 to 25. The four amendments No. 14, No. 15, No. 16 and No. 17 are barred.

The question is :

"That clauses 18 to 25 stand part of the Bill."

The motion was adopted.

Clauses 18 to 25 were added to the Bill.

Clause 26—Certificate, arms, etc. to be delivered by person ceasing to be a police officer.

SHRI LAKSHMANA MAHAPATRO: Sir, I beg to move:

18. "That at page 9, lines 43 to 45, the following words be deleted, namely:

"Additional Commissioner of Police, Principal of the Police Training College or of the Police Training School or a Deputy Commissioner, Additional Deputy Commissioner or an Assistant Commissioner of Police."

[The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.]

Sir, this is in relation to a person who is taken in the police service and in relation to whom an appointment order is issued. Now, on his ceasing to be a police officer, you want to take certain action against him. Immediately before me, Sir, the honourable Member, Shri Burman, pointed out to you how a person who may not be very much willing to be a police officer may be appointed. He may not be willing for very many reasons. One reason is, as he has said, that the Constitution allows him the right to choose his own profession. The second reason is this: If he is a person who is really interested in a particular class who are agitating for something and if the Commissioner feels that particular agitation has to be put down, then there will be trouble because a person who may be in support of that agitation would be required to be a special police officer and this is the difficulty actually that we face and that is exactly the idea with which they are going to have this provision. It is said that he should be an able-bodied person and he can be appointed and his support for a just and reasonable cause can be snatched away by this provision. That is what we are objecting to here. Therefore, Sir, the appointment of a special police officer cannot be done at the will and pleasure of the Commissioner. This is our objection and this provision has to be negatived. Now, after this, what hardships he has to face has been enumerated in this clause. He forfeits his right to re-

fuse and he is taken against his will. He is not there out of his own free will. Then, how do you issue search warrants? Who issues them? The District Magistrates have to issue them under the Cr. P.C. Now, according to the Delhi Police Bill, it will be by any police officer starting from the Commissioner down to a particular officer who is in charge of the Police Training School. It is impossible and it is horrible. Anybody can be called upon to do this. Therefore, we are opposed to this. That is why we have said: "All right. If you have made the Commissioner equivalent to the District Magistrate or any other lower-rank Commissioner can do it—for example, the Deputy Commissioner or the Assistant Commissioner are also made Executive Magistrates according to the later provisions—and if you have made them, all right, give them power. But why do you give the power to the Deputy Commissioner or the Principal of the Police Training College?" This is what we have said. It is impossible to conceive of such a thing. Therefore, we object to this. You take away these powers and give them to those who are Magistrates. What has the Police Training College Principal to do with this? How can he issue warrants? It is because of this only that we are opposed to it and we have said: "Don't do it."

The question was proposed.

SHRI S. D. PATIL : Sir, I oppose the deletion of these words. This amendment restricts the scope only to the Commissioner of police. The police force is a big one. Additional Commissioner of Police, Principal of the Police Training College, etc. are all senior officers. And if this amendment is accepted, it will be very difficult and it will create complications.

SHRI SUNDER SINGH BHANDARI (Uttar Pradesh): There are specific categories also.

SHRI S. D. PATIL: Categories are also there. Therefore, I oppose it.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

18. "That at page 9, lines 43 to 45, the following words be deleted, namely:—

Additional Commissioner of Police, Principal of the Police Training College or of the Police Training School, or a Deputy Commissioner, Additional Deputy Commissioner or an Assistant Commissioner of Police."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

"That clause 26 stand part of the Bill."

The motion was adopted.

Clause 26 was added to the Bill.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Now, we take up clause 27. The amendments are barred. The question is:

"That clause 27 stand part of the Bill."

The motion was adopted.

Clause 27 was added to the Bill.

Clause 28—Power to make regulations for regulating traffic and for preservation of order in public places, etc.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Amendments Nos. 26 and 27 are barred. Amendment No. 57 is also barred.

SHRI LAKSHMANA MAHAPATRO: Sir, I beg to move:

22. "That at page 10, lines 30 to 34 be deleted."

23. "That at page 11, lines 20 to 43 be deleted."

24. "That at page 12, lines 37 to 48 be deleted."

25. "That at page 13, lines 5 to 38 be deleted."

28. "That at page 14, lines 24 to 28 be deleted."

56. "That at page 13, line 2, the words 'or assembly' be deleted."

[The amendments also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.]

I have not moved Amendment No. 57, since it is barred. This is what I was saying earlier. Here is a provision which permits the Police Commissioner to make regulations. Sir, the list is very long. If you go through the list, you will be astonished to see that the Police Commissioner can make regulations for anything and everything on earth—hotels, cinemas, pavement dwellers, wells, whether public wells or private, everything. These regulations are ordinarily made by Municipal Corporations. These are already there in the Municipal Corporation laws. Why should they be put in the hand of the Commissioner? The whole purpose of the Khosla Commission was to see how best the police

[Shri Lakshmana Mahapatro]

force can work efficiently and how to improve their efficiency and welfare. That is the first thing to improve the working conditions. The second thing is how the functioning should be improved, and their welfare could be better looked after. That was the second thing. So if you are really interested in making the police force in the city of Delhi efficient, this is not the way. You cannot give them everything—licensing of hotels, licensing of pheriwallas, licensing of each and everything, which has so far been done. You cannot encumber them with so much of work. Ultimately, they will not be finding time for the control of crime which is very important part of their work. Sir, the police, we know, is to look after crime and prevention of crime. And, Sir . . .

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): This is clear.

SHRI LAKSHMANA MAHAPATRO: It is for the lady Members to see whether they can go alone in the car or with some male friend in the car. Scooter is still worse. There was a lady journalist, Mrs. Malick. She said: I am not able to go; I have got my car and I am required as a journalist to go out and I may have to return late, so I do not know whether I will be reaching home safely or not; I have to give my phone number to others to enable them to check whether I have reached home safe.

This is how things are going on. Control and prevention of crime is the most important work of the police. Please do not encumber them with all these things. This was my intention when I moved my amendments. Sir, since the time is very short . . .

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Please finish now. Your point is clear.

SHRI LAKSHMANA MAHAPATRO: Sir, I am not reading all this.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Please conclude now.

SHRI LAKSHMANA MAHAPATRO: Sir, I will point out one or two things because they are very important. If you are interested in holding a meeting as a political party, you cannot do that in your way. The Commissioner will have to tell you by which way you have to enter into that meeting. If an ordinary person is interested in entering into the assembly, his entry and exit points will

also be decided by the Commissioner. That is how they want to interfere in everything. They are interfering with the lives of small people who make a living by running a tea stall at the footpath or a small hotel somewhere else. Therefore, I am opposed to this provision which gives so much unnecessary and avoidable work, to them and which also unnecessarily takes away the rights of the people. If the hon. Minister is not agreeable to this amendment, does he mean to say that the Metropolitan Council will not have those function any further and he will get a law passed to that effect and will bring such a law to this Parliament?

The questions were proposed.

SHRI S. D. PATIL: Sir, I propose these amendments because they curtail many of the important powers of the Commissioner for which this Act is meant. The powers are in no way excessive as compared to Section 33. In fact the powers are enabling ones and whenever he feels that these restrictions are to be imposed, they are to be placed before both the Houses of Parliament. He said that these powers would interfere with the powers of local bodies. As I said early, these regulations are subject to the rules and byelaws made by the Corporation. Therefore, there should not be any apprehension on that score. Wherever powers are exercised by the local bodies, those powers will have preponderance over this Section 28, clause (4) clearly indicates that. Therefore, I oppose the amendment.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

22. "That at page 10, lines 30 to 34 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

23. "That at page 11, lines 20 to 43 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

24. "That at page 12, lines 37 to 48 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

25. "That at page 13, lines 5 to 38 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

28. "That at page 14, lines 24 to 28 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

51. "That at page 13, line 2, the words "or assembly" be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

"That Clause 28 stand part of the Bill."

The motion was adopted.

Clause 28 was added to the Bill.

Clause 29—Power to give directions to the Public

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SHRI LAKSHMANA MAHAPATRO: Sir, I move:

29. "That at page 14, lines 45 to 47, the following words be deleted, namely:—

'and at, within, public bathing and washing places, fairs, temples, mosques, gurdwaras, churches and all other places of public resort or public worship:'"

(The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

Sir, I shall be brief. Sir, you are a lawyer. You consider this because the Minister is not prepared. Since he has already got it passed there, he will not yield here. In case there is any change, there will be need for a joint meeting. Therefore, he has mobilised all his strength to show to us that I can be thrown out. I am placing it before the whole House. It is said:

"The Commissioner of Police and, subject to the orders, if any, made by the Commissioner of Police, every

police officer not inferior in rank to an Inspector, may from time to time as occasion may arise, but not so as to contravene any regulation made under section 28 or any law, rule, or bye-law referred to in sub-section (4) of that section, give all such orders (Sir, this is the most important part) either orally or in writing as may be necessary to direct the conduct of . . ."

Therefore, Sir, there are many oral orders that we obey.

SHRI SUNDER SINGH BHAN-DARI: Your amendment does not deal with oral orders or written orders.

SHRI LAKSHMANA MAHAPATRO: My amendment is all-covering.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Your amendment is quite clear in itself. It does not require any explanation.

SHRI LAKSHMANA MAHAPATRO: I will just say one point. We have the experience very recently. Have we not heard that whoever went before the Shah Commission said, "There were oral orders to me"? In the background of all that, this covers everything. My amendment is, therefore, to the effect that as far as these places are concerned, you should not take that much of liberty. At least, a police officer, of all persons, should not be permitted to do anything by oral orders.

The question was proposed.

SHRI S. D. PATIL: Sir, I oppose the amendment. The apprehension is ill-founded. The clause only envisaged the issuing of orders for the maintenance of decorum and order. The fear is that the police will enter these places. That is not contemplated. They will not enter. They will only issue orders for the maintenance of decorum and order. So, Sir, I oppose the amendment.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

29. "That at page 14, lines 45 to 47, the following words be deleted, namely:—

'and at, and within, public bathing and washing places, fairs, temples, mosques, gurdwaras, churches and all other places of public resort or public worship'";

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

"That clause 29 stand part of the Bill."

The motion was adopted.

Clause 29 was added to the Bill.

Clause 30—Power to prohibit certain acts for prevention of disorder.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Amendment Nos. 30 to 32. Amendment No. 33 is barred.

SHRI LAKSHMANA MAHAPATRO: Sir, I beg to move:

30. "That at page 15, lines 1 2-13, the words 'or addressed to individuals' be deleted."

31. "That at page 15, line 16, the words 'sticks for lathis,' be deleted."

32. "That at page 15, lines 21 to 28 may be deleted."

(The amendments also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

Sir, the Police Commissioner is coming. He has his arms. He has his stick. He has his lathi. But here he says that nobody else should have them. Nobody except the Police Commissioner can have arms. And he can use grenades. He can use tear-gas. He can have lathis. He can have anything. But nobody in Delhi other than the Commissioner will have these things. That is the import of this. Therefore, I am opposed to this. You are going to have a defenceless society. And you would not permit even a lathi to be carried. Goondas will be moving all around carrying lathis and sticks. And you cannot have any protection. They are necessary for self-defence. Therefore, I moved this amendment.

The questions were proposed.

SHRI S. D. PATIL: Sir, I oppose it on two grounds. Sir, his amendment No. 30 wants to delete the words, 'addressed to individuals'. The proposed amendment will mean that the order cannot be addressed to individuals. A public notification will be necessary only if the prohibition is of a general nature. If particular individuals are to be restrained from carrying arms, etc., there should be the power to address the notification only to such individuals.

Sir, about his amendment No. 31, it seeks to take away from the Commissioner the power to prohibit the carrying of sticks and lathis. Sir, I oppose it. He

should have the power to prohibit the carrying of sticks and lathis if he considers it necessary to do so for the preservation of public peace and public safety because sticks and lathis also can create the trouble. The Commissioner must have this power otherwise it will result into something which is dangerous to the public. Therefore, Sir, I oppose his amendments.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

30. "That at page 15, lines 12-13, the words 'or addressed to individuals' be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

31. "That at page 15, line 16, the words 'sticks or lathis,' be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

32. "That at page 15, lines 21 to 28 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

"That clause 30 stand part of the Bill."

The motion was adopted.

Clause 30 was added to the Bill.

Clause 31—Police to provide against disorder, etc. at places of public amusement or public assembly or meeting.

SHRI LAKSHMANA MAHAPATRO: Sir, I move:

34. "That at page 16, for lines 1 to 13 the following be substituted namely:—

(1) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any place of public amusement or at any assembly or meeting to which the public are invited, any police officer of the rank of Superintendent of

Police and above, present at such place may subject to such rules, regulations and orders as may have been lawfully made, give reasonable advice to the organisers of such functions which may be considered necessary for securing the peaceful and lawful conduct of the proceedings.' "

(The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman)

SOME HON. MEMBERS: The same thing again.

SHRI LAKSHMANA MAHAPATRO: Here, it is not the same thing.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Your amendment is quite clear but lengthy.

SHRI LAKSHMANA MAHAPATRO: Sir, many would not have read it and, therefore, let me explain it in one sentence.

Sir, an Assistant Sub-Inspector of Police has been made competent to give orders. We are afraid that if you give the power of giving orders on such important matters to such a low-ranking officer, it would do much harm. Therefore, I have said that let it be the Superintendent of Police. That is the most important part of it. Therefore, let it be considered whether it should be accepted or not.

The question was proposed.

SHRI S. D. PATIL: Sir, I oppose the amendment because it makes it more restrictive and it is not workable. A head constable in Bombay is given these powers. An Assistant Sub-Inspector of Police is certainly a higher officer.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

34. "That at page 16, for lines 1 to 13, the following be substituted, namely:—

"(1) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any place of public amusement or at any assembly or meeting to which the public are invited, any police officer of the rank of Superintendent of Police and above, present at such place may subject to such rules, regulations, and orders as may have been lawfully made, give reasonable advice to the organisers of such functions which may be considered necessary for securing the peaceful and lawful conduct of the proceedings."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

"That clause 31 stand part of the Bill."

The motion was adopted.

Clause 31 was added to the Bill.

Clauses 32 to 34 were added to the Bill.

Clause 35—Commissioner of Police may take special measures to prevent outbreak of epidemic disease at fairs, etc.

SHRI LAKSHMANA MAHAPATRO: Sir, I move.

35. "That at page 17, line 44, for the words 'may in consultation with', the words 'shall on request from' be substituted."

[The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman]

Sir, they want a consultation from the municipal corporation or municipal committee. My suggestion is do not seek the consultation if you are really requesting him to take some steps to declare a particular area as an epidemic area. Then there is some meaning. Why do you transgress into their areas of activity. That is my objection.

The question was proposed.

SHRI S. D. PATIL: Sir, I oppose it because it is inconsequential and because it has already been provided for.

SHRI LAKSHMANA MAHAPATRO: If they request for it, then do it.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

35. "That at page 17, line 44, for the words 'may in consultation with' the words 'shall on request from' be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

"That clause 35 stand part of the Bill."

The motion was adopted.

Clause 35 was added to the Bill.

Clause 36 was added to the Bill.

Clause 37—Power to make regulations prohibiting disposal of the dead except at places set apart.

SHRI LAKSHMANA MAHAPATRO: Sir, I move:

36 "That at page 18, line 19, after the words 'time to time' the words 'on request from the Corporation or municipality within the local limits of the jurisdiction where of such place is situated' be inserted."

[The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman]

The question was proposed.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

36. "That at page 19, line 16, after the words 'time to time' the words 'on request from the Corporation or municipality within the local limits of the jurisdiction whereof such place is situated' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

"That clause 37 stand part of the Bill."

The motion was adopted.

Clause 37 was added to the Bill.

Clause 38 was added to the Bill.

Clause 39—Employment of additional police in cases of special danger to public peace.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Now clause 39. There are three amendments, Amendments Nos. 37, 38 and 58. Amendment No. 37 is barred. Yes, Mr. Mahapatro.

SHRI LAKSHMANA MAHAPATRO: Sir, I move:

38. "That at page 19, lines 30 to 36, be deleted."

58. "That at page 19, lines 32 to 46, be deleted."

(The amendments also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

Sir, I want these portions to be deleted because every one of the Members who participated in the first reading has at length very vehemently protested against the imposition of punitive fines.

Sir, this was something which we were agitating against even in British days. Unfortunately, today, after 31 years of independence, we are still interested to have this provision of imposition of punitive fine and the Commissioner or anybody subordinate to him will declare particular area as a disturbed area and every innocent person living in that area will be required to pay a fine. How horrible it is? That is why we want you to take away this provision about levy of punitive fine. This is something abhorrent and we have been agitating against it. Why don't you think of the past a little? Was it incorrect to have fought with the imperialists, who were ruling us, that such a provision should be discontinued? Is it correct that we do it now when we have come to office? Is it not shameful on our part? That is why, Sir, I have said that levy of a punitive fine on the innocent persons, irrespective of the fact whether they participated in the disturbance in any manner or were involved in any such thing, should not be there. If a person is innocent but resides in that area, he will have to share this punitive fine. It is horrible.

The questions were proposed.

SHRI S.D. PATIL: I oppose this amendment. It is not a punitive fine. It is for the employment of additional police in cases of special danger to public peace. Then there is also a provision No. (3) under Clause 39 which says:

"It shall be lawful for the Administrator to exempt, by order in writing, and for sufficient reasons, any person from liability to bear any portion the cost of such additional police."

So, if there are persons who are innocent and who are not concerned with it, they can always come under this clause for exemption.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : I put amendments Nos. 38 and 58 to vote.

The question is :

38. "That at page 19, lines 30 to 36, be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

58. "That at page 19, lines 32 to 46, be deleted".

The motion was negatived.

THE VICE CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is:

"That Clause 39 stand part of the Bill."

The motion was adopted.

Clause 39 was added to the Bill.

Clause 40—Employment of additional police at large work and when apprehension regarding behaviour of employees exists.

THE VICE CHAIRMAN (SHRI SHYAM LAL YADAV) : We take up Clause 40. Amendments Nos. 39, 40, 41 and 42 are barred. Amendment No 59 by Mr. Mahapatro.

SHRI LAKSHMANA MAHAPATRO: Sir, I move :

59. "That at page 20, lines 6 to 10, be deleted."

(The amendments also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

Sir, howsoever reasonable I am in my amendment, the Minister will say that this is unreasonable. My amendment is very reasonable and I know his answer will be equally unreasonable.

The question was proposed.

SHRI S.D. PATIL : Sir, I oppose this amendment.

THE VICE CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is:

59. "That at page 20, lines 6 to 10, be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That Clause 40 stand part of the Bill."

The motion was adopted.

Clause 40 was added to the Bill.

Clause 41.—Compensation for injury caused by unlawful assembly how recoverable.

THE VICE CHAIRMAN (SHRI SHYAM LAL YADAV) : Clause 41. There is amendment No. 43.

SHRI LAKSHMANA MAHAPATRO: Sir, I move :

43. "That at page 20, for lines 32 to 34, the following be substituted, namely:—

"(3) The amount of the compensation shall be paid by those found guilty in a court of law for the damage caused and in accordance with the directions of such court of Law".

(The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

We are interested that only those who are found guilty in a particular disturbance, should pay the compensation. One may not be guilty or responsible but simply because of being a resident of that area, one should not be subjected to payment of this compensation. That is why I have suggested that if a person is found guilty in a court of law, only then he should be asked to pay compensation for the damage caused. That is very clear. Each and every body need not have to pay this compensation.

The question was proposed.

SHRI S. D. PATIL : I cannot accept it because it would involve lengthy proceedings in the courts etc. Sub-Clause (4) gives sufficient power to the District Magistrate to exempt, by order in writing and for sufficient reasons, any person from liability to pay any portion of the compensation amount. There cannot be any hardship to anybody.

5 P. M.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

43. "That at page 20, for lines 32 to 34, the following be substituted, namely:—

"(3) The amount of the compensation shall be paid by those found guilty in court of law for the damage caused in accordance with the directions of such court of law."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That clause 41 stand part of the Bill."

The motion was adopted.

Clause 41 was added to the Bill.

Clauses 42 to 46 were added to the Bill.

Clause 47—Removal of persons about to commit offences.

SHRI LAKSHMANA MAHAPATRO : Sir, I beg to move :

44. "That at page 22, line 39,—

(i) after the word 'found', the words 'guilty in a court of law' be inserted, and

(ii) the words 'to have committed' be deleted."

[*The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.*]

Sir, this is again the same thing. A person who is innocent will be penalised.

The question was proposed.

SHRI S. D. PATIL : Sir, I oppose this amendment.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

44. "That at page 22, line 39,—

(i) after the word 'found', the words 'guilty in a court of law' be inserted; and

(ii) the words 'to have committed' be deleted."

The Motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That Clause 47 stand part of the Bill."

The Motion was adopted.

Clause 47 was added to the Bill.

Clauses 48 to 58 were added to the Bill.

Clause 59—Duty of police officer to enforce provisions of the Act.

SHRI LAKSHMANA MAHAPATRO : Sir, I beg to move :

45. "That at page 27, line 3, after the words 'police officer' the words 'not below the rank of Assistant Commissioner of Police' be inserted.

46. "That at page 27, lines 23 and 24 be deleted."

[*The amendments also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.*]

Sir, you will find here that any police-officer could warn and say that he has warned. If somebody does not obey the warning, he can take further steps. With the experience we have of the different grades of police officers in this country, if you do not put this authority, to warn and then further action to flow in case of warning is not being heeded, at a particular level, harm could be done to the innocent common man by any small police officer. That is why we have said that it should not be every police officer as it is sought to be done here in the first line itself, in clause 59. Let it be at a particular level and this level should not be below the rank of Assistant Commissioner.

The question was proposed.

SHRI S. D. PATIL : I oppose it because this relates to the duty of the police officers to enforce the provisions of the Act. If you make it restrictive, only up to the level of Assistant Commissioner, it will not be exercised. It will create a practical difficulty. Therefore, I oppose this amendment.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

45. "That at page 27, line 3, after the words 'police officer', the words 'not below the rank of Assistant Commissioner of Police' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

46. "That at page 27, lines 23 and 24 be deleted".

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

• "That clause 59 stand part of the Bill".

The motion was adopted.

Clause 59 was added to the Bill.

Clauses 60 to 62 were added to the Bill.

Clause 63—Emergency duties of police.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Amendment No. 47 is barred. Amendment No. 48.

SHRI LAKSHMANA MAHAPATRO : Sir, I beg to move :

48. "That at page 29, lines 34 to 37 be deleted."

The question was proposed.

(The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

SHRI S. D. PATIL : Sir, I oppose this amendment because this deals with a very essential service which is a very important service.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

48. "That at page 29, lines 34 to 37 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That clause 63 stand part of the Bill".

The motion was adopted.

Clause 63 was added to the Bill.

Clauses 64 to 69 were added to the Bill.

Clause 70—Power of the Central Government to authorise Commissioner of Police and certain other officers to exercise powers of District Magistrate and Executive Magistrates under the Code of Criminal Procedure, 1973.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : We shall now take up clause 70. There is one amendment—No. 49. Do you move it?

SHRI LAKSHMANA MAHAPATRO : I beg to move :

49. "That at page 31, lines 30 to 35 be deleted".

(The Amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

Sir, this is a provision whereby the Commissioner will be having the powers and duties of an Executive Magistrate and a District Magistrate while the Assistant Commissioner could be an Executive Magistrate also. Sir, in the Statement of Objects and Reasons as also when he introduced the Bill for the first time—I am not repeating; some other friend spoke about it—the Minister said that the object was to avoid the "duality inherent in the police-magistracy system as provided in the Police Act, 1861" which inhibited the police "in quickly responding to situations and effected their efficiency in their primary task of crime control and maintenance of law and order". This is exactly what everybody should ponder over: Is it that the presence of the Magistrate was in any way hindering the detection of a case, or institution of an investigation? Whenever you wanted the armed police to be used, or whenever you wanted the armed police to use the weapons that it had, you wanted the Magistrate to give you an order. This was what the Magistrate was doing. If you wanted a particular posse of policemen to be taken to a particular place under his jurisdiction the orders of the Collector/District Magistrate or any other Executive Officer were being sought and when it came to handling a riotous mob or an unlawful assembly, then for the use of arms—whether it was lathi-charge or shooting—you wanted them.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : That will do. Your point is quite clear.

SHRI LAKSHMANA MAHAPATRO : Sir, therefore, what is this statement? I am not able to follow how the duality inherent in the police-magistracy system was inhibiting the police in quickly responding to situations. Sir, the crime has increased. Is it because of the duality of the police-magistracy system? It is not so. What

[Shri Lakshmana Mahapatro]

is now sought to be done by this? The police officers, without a Magistrate, without a judicial bent of mind and with a different outlook on society want to use the arms at will.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The point is quite clear. Please don't repeat.

SHRI LAKSHMANA MAHAPATRO : Sir, we people who are required to organise different assemblies to ventilate the grievances of the people and to get relief for the suffering people feel that we shall be shot at, tear-gased or lathi-charged. Only day before yesterday, 85,000 teachers of Orissa. . . .

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : This is Delhi. Please don't go to Orissa.

SHRI LAKSHMANA MAHAPATRO :were tear-gased and thousands have been arrested in the district headquarters of Puri in the State of Orissa. This is the state of affairs. For such powers, a Magistrate is required to be there. When a Magistrate will not be there according to this provision, you can visualise how worse it will be. So I want that the Magistrate should always be there.

The question was proposed.

SHRI S. D. PATIL : We oppose it because it makes the amendment very restrictive—i.e., only confined to the Commissioner of Police—and it will not be practicable to confine these powers only to one officer. If you want to work it successfully, the provisions of the Act must also go down to subordinate officers. This is a special provision relating to exercise of powers under the Code of Criminal Procedure, 1973.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : I will now put Amendment No. 49 to vote :

The question is :

49. "That at page 31, lines 30 to 35 be deleted".

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is,

"That clause 70 stand part of the Bill".

The motion was adopted.

Clause 70 was added to the Bill.

Clauses 71 to 82 were added to the Bill.

Clause 83—Causing any obstruction in a Street.

SHRI LAKSHMANA MAHAPATRO : Sir, I move :

60. "That at page 34, lines 42 to 44, be deleted".

(The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

Sir, poor people as we are, we have no house of our own. And whenever we want to make a living we just come with some articles whether it is the fruit of a tree, say, Amrood or some such thing, to sell on the pavements of Delhi. Every day they are collecting these fruits and selling them. Now to say that they cannot sit there and sell it. Then where do they go? Is Delhi meant only for M.P.s. and elites of this country and the poor man cannot make a living? This is what we say. You have made it so difficult for us that we do not have a house. We do not have a place to put our things for sale. You force us to come out to the street. Even that you are now allowing. Then where shall we go?

The question was proposed.

SHRI S. D. PATIL : I oppose it. I have got all sympathy with the poor man. But I cannot afford the poor man to obstruct any street or public place to put up their things for show.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

60. "That at page 34, lines 42 to 44, be deleted".

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That clause 83 stand part of the Bill".

The motion was adopted.

Clause 83 was added to the Bill.

Clause 84 was added to the Bill.

Clause 85—Causing obstruction and annoyance by performances, etc.

SHRI LAKSHMANA MAHAPATRO:
Sir, I move:

61. "That at page 35, lines 8-9, be deleted".

(The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

This is another case of a poor fellow who gives a performance in the streets. I have a snake or some fruits. In order to make my living I have to attract crowds. That is how I make a living. But you ask me not to do it. Then what shall I do? You do not allow me to put it in the street. You do not allow me to give performance which would attract crowds. What am I do?

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): Please do not explain.

AN HON'BLE MEMBER: Not dance.

SHRI LAKSHMANA MAHAPATRO:
Not dance. But this also attracts crowds. You cannot give a performance, musical or otherwise because it would, naturally, attract crowds. How can I then make my living unless I attract crowds? Unless a crowd is attracted and sees my performance and gives me 5 paise or 10 paise I cannot make a living. You call it horrible.

The question was proposed.

SHRI S.D. PATIL: I oppose it because it is intended for persons who may carry or place bulky advertisements in any street or public place which may obstruct traffic. How can I accept it?

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

61. "That at page 35, lines 8-9, be deleted".

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

That clause 85 stand part of the Bill.

The Motion was adopted.

Clause 85 was added to the Bill.

Clauses 86 to 90 were added to the Bill.

Clause 91—Behaving indecently in public.

SHRI LAKSHMANA MAHAPATRO:
Sir, I move:

50. "That at page 35, lines 40 to 43, the words 'or not, or use indecent language or behave indecently or riot-

ously or in a disorderly manner in a street or public place or place of public resort or in any office, police station or station house' be deleted."

(The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Burman.)

Sir, I want to be restricted. First of all, nobody will like to violate it. But let it not be so extensive as it is.

The question was proposed.

SHRI S. D. PATIL: I do not accept it.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

50. "That at page 35, lines 40 to 43, the words 'or not, or use indecent language or behave indecently or riotously or in a disorderly manner in a street or public place or place of public resort or in any office, police station or station house' be deleted".

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV): The question is:

"That clause 91 stand part of the Bill."

The motion was adopted.

Clause 91 was added to the Bill.

Clauses 92 to 97 were added to the Bill.

Clause 98—Penalty for failure to keep in confinement cattle,

SHRI LAKSHMANA MAHAPATRO:
Sir, I move:

62. "That at page 36, for lines 30 to 35, the following be substituted, namely:—

(a) for the first offence with fine which may extend to fifty rupees and

(b) for the second or subsequent offence with fine which may extend to one hundred rupees".

63. "That at page 37, for lines 15-16, the following be substituted, namely:—

If they are the property of the person convicted of the offence.

(The amendments also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

[Shri Lakshmana Mahapatro]

As far as the question of fining these people...

The questions were proposed.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : No speech now.

SHRI S. D. PATIL : Sir I oppose.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

62. "That at page 36, for lines 30 to 35, the following be substituted, namely :—

(a) for the first offence with fine which may extend to fifty rupees; and

(b) for the second or subsequent offence with fine which may extend to one hundred rupees."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

63. "That at page 37, for lines 15-16, the following be substituted, namely :—

"if they are the property of the person convicted of the offence."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That clause 98 stand part of the Bill."

The motion was adopted.

Clause 98 was added to the Bill.

Clauses 99 to 108 were added to the Bill.

Clause 109—Penalty for disobedience to order under section 27.

SHRI LAKSHMANA MAHA-PATRO : Sir, I move :

64. "That at page 39, lines 26-27, for the words 'three months' the words 'one month' be substituted."

65. "That at page 39, lines 27-28, for the words 'five hundred rupees or with both the words 'five rupees' be substituted."

(The amendments also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.)

Sir, these are only to reduce....

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : No speeches, please.

SHRI LAKSHMANA MAHA-PATRO : Sir, this is very important. This is not in the interests of the common man.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : I do not allow a speech. All the points you have already covered.

SHRI LAKSHMANA MAHA-PATRO : This is in relation to a police officer....

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : You have already made your point clear.

SHRI LAKSHMANA MAHA-PATRO : You want to punish him.

The questions were proposed.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

64. "That at page 39, lines 26-27, for the words 'three months' the words 'one month' be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

65. "That at page 39, lines 27-28, for the words 'five hundred rupees or with both the words 'five rupees' be substituted"

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That clause 109 stand part of the Bill."

The motion was adopted.

Clause 109 was added to the Bill.

Clause 110—Penalty for contravening regulations, etc. under section 28.

SHRI LAKSHMANA MAHA-PATRO : Sir I move :

66. "That at page 39, line, 32, after the words 'be punished' the words 'by a fine which may extend to twenty-five rupees' be inserted."

67. "That at page 39, lines 33 to 47, be deleted."

68. "That at page 40, lines 1 to 7, be deleted."

[The amendments also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman].

Sir, I move for the reduction of the quantum of punishment.

The questions were proposed.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

66. "That at page 39, line 32, after the words 'be punished' the words by a fine which may extend to twenty-five rupees' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

67. "That at page 39, lines 33 to 47, be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

68. "That at page 40, lines 1 to 7, be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That clause 110 stand part of the Bill."

The motion was adopted.

Clause 110 was added to the Bill.

Clause 111 to 120 were added to the Bill.

Clause 121 Neglect or refusal to serve as special police officer.

SHRI BIR CHANDRA DEB BURMAN:
Sir, I move :

51. "That at page 42, line 31, after the word 'appointed' the words 'with his prior consent' be inserted."

[The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman]

Sir, I want to speak something on this. The fundamental right of profession has got no place. If anything goes against the Constitution, that is illegal. Now the fundamental right has got nothing without consent. It is a sort of emergency situation and I have heard that the Police Commissioner is allowed to declare emergency. The President can declare an emergency but here an emergency appointment can be given without consent. So the Constitution is negatived in this regard.

The question was proposed.

SHRI S. D. PATIL : Sir, I oppose the amendment.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

51. "That at page 42, line 31, after the word 'appointed' the words 'with his prior consent' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That clause 121 stand part of the Bill."

The motion was adopted.

Clause 121 was added to the Bill.

Clauses 122 to 145 were added to the Bill.

Clause 146—Powers of Commissioner of Police under other Acts.

SHRI LAKSHMANA MAHA-
PATRO : Sir, I move :

69. "That at page 49, lines 4 to 7, be deleted."

[The amendment also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman.]

The question was proposed.

SHRI S. D. PATIL : Sir, I oppose it.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

69. "That at page 49, lines 4 to 7 be deleted."

The motion was negatived.

Clause 146 was added to the Bill.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : Clause 147, Amendment No. 70 is barred.

Clauses 147 to 152 were added to the Bill.

SCHEDULE I

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : There are four amendments, No. 52 to 55, to Schedule I.

SHRI LAKSHMANA MAHA-PATRO : Sir, I move :

52. "That at page 52, line 5, the words and figures '1. The Press and Registration of Books Act, 1867,' be deleted."

53. "That at page 52, line 7, the words and figures '3. The Indian Lunacy Act, 1912,' be deleted."

54. "That at page 52, line 10, the words and figures '6. The Cinematograph Act, 1952,' be deleted."

55. "That at page 52, line 19, the words and figures '3. The Madras Dramatic Performances Act, 1954, as in force in Delhi,' be deleted."

[The amendments also stood in the names of Shri Bhupesh Gupta, Shri Kalyan Roy and Shri Bir Chandra Deb Burman].

The questions were proposed.

SHRI S. D. PATIL : Sir, I oppose them because they are a mere declaration.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

52. "That at page 52, line 5, the words and figures '1. The Press and Registration of Books Act, 1867' be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

53. "That at page 52, line 7, the words and figures '3. The Indian Lunacy Act, 1912,' be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

54. "That at page 52, line 10, the words and figures '6. The Cinematograph Act, 1952,' be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

55. "That at page 52, line 19, the words and figures '3. The Madras Dramatic Performances Act, 1954, as in force in Delhi,' be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : The question is :

"That Schedule I stand part of the Bill."

The motion was adopted.

Schedule I was added to the Bill.

Schedule II and III were added to the Bill.

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

SHRI S. D. PATIL : Sir, I move :

"That the Bill be passed."

The question was proposed.

उपसभाध्यक्ष (श्री श्याम लाल यादव) : श्री कल्प नाथ राय । कृपया संक्षेप में कहिए ।

श्री कल्प नाथ राय : उपसभाध्यक्ष महोदय, मैं इस बिल का विरोध करने के लिए खड़ा हुआ हूँ । जो यह बिल पेश किया गया है यह खोसला कमीशन की रिक्मंडेशन के आधार पर हुआ जब कि 1966 में दिल्ली में पुलिस द्वारा विद्रोह हुआ था और पुलिस ने अपनी मांगों को सामने रखा । उस विद्रोह का कारण क्या था कि उन की अनेक समस्याएँ थीं—उनके मकान की समस्या थी, कपड़े की समस्या थी, और बहुत सी समस्याएँ थी । उसी के कारण पुलिस विद्रोह हुआ था और नतीजे के तौर पर खोसला कमीशन का निर्माण

उपसभाध्यक्ष महोदय, 1858 के विद्रोह के बाद लार्ड एलिनबरा ने जो किताब लिखी, पुलिस एडमिनिस्ट्रेशन इन इंडिया, उसमें उन्होंने लिखा : One police officer must be made to fear more than his enemy, his senior or junior officer. "एक पुलिस आफिसर दूसरे आफिसर से शत्रु से भी ज्यादा डरे" लार्ड एलिनबरा के इस सिद्धांत पर हिन्दुस्तान में पुलिस एडमिनिस्ट्रेशन का निर्माण हुआ था और हमने जनतांत्रिक प्रणाली को हिन्दुस्तान में स्वीकार किया है। प्रश्न सबसे बुनियादी है कि पुलिस को गोली चलाने का अधिकार कब मिलना चाहिए ? क्या जब जनता की हुकूमत है, जनता के लिए है और जनता के द्वारा है तो जनता के जो सर्वेन्ट्स हैं, उनको जनता पर गोली चलाने का अधिकार है। मेरा कहना है कि जब तक जनता की तरफ से हिंसा न हो, किसी पुलिस कर्मचारी की हत्या न कर दी जाए तब तक पुलिस को जनता पर गोली चलाने का अधिकार नहीं मिलना चाहिए (Interruptions) सुनिए मैं जो बात कह रहा हूँ, इसमें बड़ा भारी विवाद नहीं है, मैं इस में अपने मत को व्यक्त कर रहा हूँ। इसलिए प्रश्न यह है कि पुलिस को गोली चलाने का अधिकार कब मिलना चाहिए। आदरणीय मित्र जा जी ने कहा तर्कमान गेट। उपसभाध्यक्ष महोदय, पारस्परिक दौषारोपण से देश की समस्याओं का हल नहीं होगा। तर्कमान गेट में 6 आदमी मरे थे लेकिन पंत नगर में तो आप की सरकार ने 150 आदमियों को गोली से उड़ा दिया और बड़े-छोटे में भी आप की सरकार ने भयंकर नर हत्या की

उपसभाध्यक्ष (श्री श्याम लाल यादव) : इन बातों को छोड़िये।

श्री कल्प नाथ राय : उत्तर प्रदेश में 42 बार यू० पी० की जनता सरकार ने गोली चलाई, 36 बार बिहार में वहाँ की जनता सरकार ने गोली चलाई। इसलिए मेरा कहना है, पुलिस को गोली चलाने का अधिकार कब मिलना चाहिए ? दूसरा प्रश्न यह है कि आज के जमाने में जब दिल्ली पुलिस गून्डे और बड़े आदमी, इन तीनों का एक त्रिगुणात्मक संगठन है और तीनों मिल कर इस देश की जनता और इस देश को लूटने का काम करते हैं, जब तक गून्डों, पुलिस और बड़े आदमियों के गठबंधन को तोड़ने की इस कानून में व्यवस्था नहीं की जाएगी तब तक हम कभी 7 समस्याओं को हल नहीं कर सकते।

तब पुलिस उस की जांच के लिए नहीं जायगी लेकिन अगर कोई बड़ा आदमी कहीं इवाल्द हो तो तीन घंटे के अन्दर आर्डिनरी पुलिस ही नहीं, सी० बी० आई० और क्रिमिनल ब्रांच के दो, तीन हजार आदमी फौरन उस के लिए इस्तेमाल कर दिये जायेंगे। तो कोई कानून आप की व्यवस्था का अंतर्गत पूरा नहीं होता। इस लिए मैं सरकार से चाहता हूँ कि वह इन समस्याओं का हल ढूँढे और मुक्त में ऐसे पुलिस प्रशासन की व्यवस्था को कायम करे जिसे कि वह जनता के लिए, जनता द्वारा और जनता की सरकार की ठीक ढंग से मेवा कर सके।

SHRI LAKSHMANA MAHA-PATRO : Sir, I have only one thing to say.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : No, no.

SHRI LAKSHMANA MAHA-PATRO : I did not participate in the first reading.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : You have spoken. Have mercy on us also.

SHRI LAKSHMANA MAHA-PATRO : I have only one line.

THE VICE CHAIRMAN (SHRI SHYAM LAL YADAV) : You have spoken sufficiently on all the clauses.

SHRI LAKSHMANA MAHA-PATRO : I will just give only one line.

THE VICE-CHAIRMAN (SHRI SHYAM LAL YADAV) : All right. Please do not repeat. You will not be allowed repetition.

SHRI LAKSHMANA MAHA-PATRO : No, Sir, not a word of repetition.

Sir, a few days' ago there was a starred question by Shri Kesava Rao, Shri Anandam Shri Kulkarni and others, addressed to the Home Minister asking whether a

