

amalgamation of the Rayala-seema Bank Limited, Ananta-pur, with the Indian Bank Limited. [Placed in Library. See No. LT-3230/61.]

- (ii) Notification S.O. No. 2037, dated the 26th August, 1961, publishing the scheme for the amalgamation of the Pie-Money Bank Private Limited, Mangalore, with the Canara Industrial and Banking Syndicate Limited. [Placed in Library. See No. LT-3231/61.]

- (iii) Notification S.O. No. 2039, dated the 26th August, 1961, publishing the scheme for the amalgamation of the Moolky Bank Limited, Mulki, with the Canara Industrial and Banking Syndicate Limited. [Placed in Library. See No. LT-3232/61.]

- (iv) Notification S.O. No. 2089, dated the 28th August, 1961, publishing the scheme for the amalgamation of the Tezpur Industrial Bank Limited, Tezpur, with the United Bank of India Limited, Calcutta. [Placed in Library. See No. LT-3233/61.]

- (v) Notification S.O. No. 2092, dated the 28th August, 1961, publishing the scheme for the amalgamation of the G. Raghunathmull Bank Limited, Hyderabad, with the Canara Bank Limited. [Placed in Library. See No. LT-3234/61.]

- (vi) Notification S.O. No. 2100 dated the 29th August, 1961, publishing the scheme for the amalgamation of the Cuttack Bank Limited, Cuttack, with the United Bank of India Limited. [Placed in Library. See LT-3236/61.]

- (vii) Notification S.O. No. 2098, dated the 29th August, 1961, publishing the scheme for the amalgamation of the Merchants' Bank Limited,

Tanjore, with the Tanjore Permanent Bank Limited. [Placed in Library. See No. LT-3235/61.]

- (viii) Notification S.O. No. 2108 dated the 1st September, 1961, publishing the scheme for the amalgamation of the Satara Swadeshi Commercial Bank Limited, Satara City, with the United Western Bank Limited. [Placed in Library. See No. LT-3237/61.]

### THIRTY-EIGHTH REPORT OF THE PUBLIC ACCOUNTS COMMITTEE (1961-62)

SHRI R. P. N. SINHA (Bihar): Sir, I beg to lay on the Table a copy of the Thirty-eighth Report of the Public Accounts Committee (1961-62) on the Appropriation Accounts (Posts and Telegraphs) 1959-60 and Audit Report, 1961.

### RESOLUTION *RE*. LEGISLATION FOR ABOLITION OF CAPITAL PUNISHMENT—*continued*

SHRI ARJUN ARORA (Uttar Pradesh): Mr. Deputy Chairman, last time when we discussed the Resolution, the only argument advanced against the acceptance of this Resolution was the prevailing law and order situation in the country. That must be given due weight. But I find that wherever this subject has been discussed, the prevailing law and order situation has been the stock argument of all those who do not want capital punishment to be abolished. This is not peculiar to our country. In other countries also the same argument has been repeated *ad nauseam*. Therefore, Sir, it is only reasonable that we should not discard the idea merely because some people feel, maybe with ample justification, that the law and order situation in the country does not warrant the immediate abolition

[Shri Arjun Arora.J of capital punishment. If the idea is good, if human considerations demand that capital punishment should be abolished, the argument—the prevailing law and order situation—should be carefully examined. Therefore, Sir, there is much force in what my hon. friend. Shri Mani, has suggested in his amendment. There should be a Commission which should examine this problem and report. Sir, the problem of capital punishment is a very important one and it is, therefore, only reasonable that we may not take any hasty step this way or that though all possible human considerations demand that we should give up the practice of capital punishment. Even in countries where capital punishment has not been abolished, death has been made humane, less painful. I do not know how death, inflicted by organised society, can be made humane. It is only proper that we should take the necessary steps towards abolition of capital punishment. But the question should be thoroughly gone into. I, therefore, support the amendment of Shri Mani that a Commission should be appointed, and I hope the hon. lady who has brought forward this very useful Resolution will accept this amendment.

Thank you, Sir.

**श्री ना० न० राजभोज (महाराष्ट्र) :** उपसभापति महोदय, श्रीमती सावित्री देवी जी ने हमारे सामने कैपिटल पनिशमेंट खत्म करने का जो मुझाव रखा है उसका मैं समर्थन करता हूँ और उनको इस बात पर धन्यवाद देता हूँ कि जो मुझाव वे लाई हैं वह मानवता की दृष्टि से लाया गया है। हमारे देश की यह एक सांस्कृतिक परम्परा है कि खूनी को भी माफ करना चाहिये। कानून में तो फांसी की सजा निश्चित की गई है कि वह सजा खास खास केसों में दी जाय जहाँ अपराध इतना बुरा हो कि सिवाय फांसी के और कोई दूसरा इलाज नहीं है। किन्तु जिसका खून किया गया है वह भी कभी-कभी

खूनी को माफ कर के इस दुनिया की यात्रा खत्म करते हैं। गांधी जी का किस्सा तो आपको मालूम ही है। दो हफ्ते पहले डा० आग्रे का नागा प्रदेश में खून हुआ था और मरते समय उन्होंने यह इच्छा व्यक्त की थी कि खूनी को माफ किया जाय। यह बात आप लोगों ने अखबार में भी पढ़ी होगी। इसलिए मेरी आप से यह प्रार्थना है कि श्रीमती सावित्री देवी जी का जो प्रस्ताव है वह मानवतावाद फैलाने के लिए बहुत ही महत्वपूर्ण है। अपने देश में कैपिटल पनिशमेंट की प्रथा खत्म कर के भारत इस मामले में दुनिया और विशेषकर एशिया के राष्ट्रों में आदर्शभूत हो सकता है। अगर हम अपनी सांस्कृतिक परम्परा को देखें और इन समय हमारे देश में जो फांसी की सजा दी जा रही है उस के साथ मुताबला करें तो हम यह पायेंगे कि मानवता की दृष्टि से इस प्रथा को जल्द से जल्द खत्म करना ही उचित है। अगर हमें ऐसा किया तो यह एशिया के राष्ट्रों के लिए एक आदर्शस्वरूप होगा।

पश्चिमी देशों के बारे में यहाँ पर बहुत कुछ कहा गया है। श्रीमती सावित्री देवी जी ने रायल कमिशन की रिपोर्ट से बहुत बातें पढ़ कर सुनाई और डा० बालिंगे जी ने भी पश्चिमी राष्ट्रों के बहुत से नाम बतलाये जहाँ पर कैपिटल पनिशमेंट खत्म कर दिया गया है। इन सब बातों से यह मालूम पड़ता है कि सजा का जो उद्देश्य है कि एक खूनी को फांसी देने से उसका असर दूसरे पोटेंशियल खूनी पर पड़ेगा और वह फिर गुनाह नहीं करेगा, यह बात अभी तक सफल नहीं हुई मालूम पड़ती है। जहाँ जहाँ यह सजा खत्म कर दी गई है वहाँ वहाँ क्राइम्स नहीं बढ़े। पुराने जमाने में छोटे छोटे क्राइम्स के लिये जबरदस्त सजा होती थी। लेकिन क्राइम्स की वृद्धि और उस तरफ समाज का दृष्टिकोण बदलने से यह सजा कम हुई। लेकिन उस से यह साबित नहीं हुआ कि उनकी संख्या बढ़ गई। सजा का जो डेटा रेंट अफेक्ट है वह भी साबित नहीं हुआ। कोएस्लर ने अपने एक निबन्ध में लिखा है कि

इंग्लैंड में जब जब कतारों को एक्सीक्यूट किया जाता था तब उस समय अल्प जैवकतारों की भीड़ इस सजा को देखने के लिये जमा हो जाती थी। इंग्लैंड में इस तरह के आंकड़े मौजूद हैं कि जो २५० आदमी फांसी पर गये उन में से १७० खूनी ऐसे थे जिन्होंने फांसी की 'सिरिमनी' देखी थी। हमारा समाज भी पनिशमेंट के एक्जेम्प्लरी अफ़ेक्ट पर विश्वास नहीं करता है क्योंकि आज कल जब जब कोई फांसी की सजा होती है तो उसकी खबर अखबारों के एक कोने में छपी रहती है और इस बात को ज्यादा प्रामिनेन्स नहीं दिया जाता है। इस चीज को एक सैडिस्टिक प्लेजर कहा जाता है। इसलिए १९२० की इंगलिश सेलेक्ट कमेटी ने लिखा है :—

"All the statistics we have examined confirm the fact that abolition of the death penalty has *not* caused an increase in the number of crimes."

उपसभापति महोदय, हमारा उद्देश्य सजायाफ़ता मुनाहगारों को सुधारना है और इस ओर उत्तर प्रदेश, महाराष्ट्र और गुजरात राज्यों में प्रयत्न हो रहा है। आज हमारे नेता श्री जवाहरलाल नेहरू जी दुनिया में यह कह रहे हैं कि आटमिक वेपन्स बंद करो। क्यों? इसलिए कि इस से मानव संहार होगा। लेकिन कैपिटल पनिशमेंट से भी मानव संहार होता है। आटमिक शस्त्रों से मोटे स्केल पर मानव संहार होता है और कैपिटल पनिशमेंट से छोटे स्केल पर मानव संहार होता है। इस चीज को बन्द करने के लिए हमें पहला कदम यह उठाना चाहिये कि इस समय हमारे देश में जो फांसी की सजा दी जाती है वह खत्म कर दी जाय।

मेरे पास एक लेख है जिस में "अपराध और दंड" के बारे में लिखा है। मैं आप के सम्मुख उस में से कुछ विशेष बातें पढ़कर सुना देता हूँ : "जिस के कारण अपराध की प्रकृति और परिणाम पर अधिक बल दिया जाता है

पर अपराध के मूल कारण और उस के प्रेरक पर बहुत कम ध्यान दिया जाता है"। इसमें आगे यह लिखा है : "परन्तु अपराध की वृत्ति प्रतिकूल पारिवारिक परिस्थितियों और शतावरण से अधिक प्रेरित होती है। अस्वस्थ और स्नेह रहित गृह जीवन और अशिक्षित मां बाप द्वारा रुढ़िग्रस्त पालन पोषण बच्चे में कई प्रकार की मानसिक व्याधियों को पैदा कर देता है जो बाद में अपराध के रूप में प्रकट होती हैं।" इस में आगे यह लिखा है "वकल ने ठीक कहा है कि समाज अपराध तैयार करता है और अपराधी उसे अमल में लाता है। खीर हम यह कह सकते हैं कि अपराधी को जेल में बन्द कर के आदी मुजरिम बना दिया जाता है।"

मेरी हाउस से यह प्रार्थना है कि जो प्रस्ताव हमारे सामने हैं उस के ऊपर बहुत अच्छी तरह से विचार किया जाय। इस प्रस्ताव में जो बात मांगी गई है वह सब अच्छी है। पूज्य रवीन्द्र नाथ ठाकुर ने इस बारे में जो कुछ कहा है वह मैं आप के सामने पढ़कर सुनाना चाहता हूँ। उन्होंने कहा है :

"भारत देश महा मानवता का पारावार है। ओ मेरे हृदय ! इस पवित्र तीर्थ में श्रद्धा से अपनी आंखें खोलो। किसी को भी ज्ञात नहीं कि किस के आह्वान पर मनुष्यता की कितनी धाराएं दुर्बार बेग से बहती हुई कटा से आयीं और इस महा समुद्र में मिलकर खो गयीं। यहां आर्य हैं, यहां अनार्य हैं, यहां द्रविड़ और चीनी वंश के भी लोग हैं। शक, हूण, पठान और मंगोल, न जाने कितनी जातियों के लोग इस देश में आये और सब के सब एक शरीर में समाकर एक हो गये। समय समय पर जो लोग रण का डंका बजाते हुए एवं उन्माद और उत्साह में विजय के गीत गाते हुए रेगिस्तान को पार कर एवं पर्वतों को लांघ कर इस देश में आये थे, उन में से किसी का भी अब अलग अस्तित्व नहीं है। वे सब के सब मेरे भीतर विराजमान हैं।"

[श्री पा० ना० राजभोज]

पूज्य महात्मा गांधी जी ने, विनोबा जी, और रवीन्द्र नाथ ठाकुर जी ने इस संबंध में बहुत सी बातें कही हैं, उन के ऊपर हम सब लोगों को ध्यान देना चाहिये। हमारे विनोबा जी मध्य प्रदेश में गये और वहाँ डाकुओं का हृदय परिवर्तन करने में लग गये। उन्हें इस काम में सफलता भी मिली। लेकिन हमें यह सोचना चाहिये कि इस तरह जो लोग कत्ल करते हैं वह किस कारण करते हैं?

इस तरह के जो लोग खून खराबा करते हैं उस के पीछे आर्थिक कारण होते हैं। वैकवर्ड क्लाम के लोगों की आर्थिक हालत ठीक नहीं होती जिसकी वजह से वे लोग भी इस तरह के जुर्म करते रहते हैं। इसलिए मेरी प्रार्थना है कि इस चीज को दूर करने के लिए हमें उनकी आर्थिक दशा को सुधारने के लिये जल्द से जल्द कदम उठाने चाहिये। हमारे महा-पुरुष और नेता लोग इस बारे में कई तरह की बातें करने के लिये कहते हैं लेकिन वे बातें अच्छी तरह से नहीं की जाती हैं। महात्मा गांधी जी हमारे एक आदर्श नेता रहे हैं। उनकी बातों की ओर हमें अवश्य ध्यान देना चाहिये। इस के साथ ही साथ जो बातें पार्लियामेंट में कही जाती हैं उस के ऊपर भी अमल किया जाना चाहिये। इसलिये मेरी प्रार्थना यह है कि हमें अपना हृदय-परिवर्तन करना चाहिये और जो आदर्श हमारे महान् नेता बतला गये हैं उन्हें अमल में लाना चाहिये।

उपसभापति महोदय, श्रीमती सावित्री देवी जी ने जो प्रस्ताव रखा है उसको मैं सपोर्ट करता हूँ और मुझे आशा है कि सरकार इसको मंजूर कर लेगी। मैं यह बान इसलिये कह रहा हूँ क्योंकि हमारे पूज्य नेता श्री जवाहरलाल नेहरू जी आज दुनिया में शांति का दूत बनकर दुनिया में शांति का संदेश फैला रहे हैं। वे अपने संदेश द्वारा दुनिया में गारपीट, खून-खराबा और लड़ाई हमेशा के लिए ख़तम कर देना चाहते हैं। वे चाहते हैं कि दुनिया में आटमिक शस्त्रों की लड़ाई और

दूसरे तरह के झगड़े बिल्कुल समाप्त हो जाये। आज उनकी आवाज दुनिया वाले सुनना चाहते हैं क्योंकि वे जानते हैं कि वे ही शांति के समर्थक हैं। इसलिए जो चीज सारी दुनिया चाहती है उसको हमें पहले अपने यहाँ शुरू करना चाहिये। इसलिये मैं इस ठहराव का समर्थन करता हूँ और आपको धन्यवाद देना चाहता हूँ।

KAKASAHEB KALELKAR (Nominated): Sir, progressive opinion in the world is gradually feeling the barbarity of capital punishment. India that has secured her independence through non-violence ought not to be behind this progressive opinion of the world. I do not think it is necessary to consider under what circumstances capital punishment may be allowed. After all, it is not that we want to do justice to the criminal; we want to do justice to our own conscience. Civilised governments do not now inflict the punishment of mutilation of limbs. That was in vogue in former times. If a man committed theft his hands were cut off. Not that the criminals did not deserve such punishment but we did not relish such a punishment. It is unbecoming for a civilised society to inflict such punishments. Therefore, just as we do not appoint a commission to find out under what circumstances mutilation of limbs may be allowed—we simply say it is barbarous; it is against the conscience of humanity—so also we need not consider under what circumstances capital punishment may be allowed. A man must certainly be prevented from committing a similar crime. I can understand if we prevent a murderer from going about freely in the society and committing similar crimes; but if you kill him he is at once released from your clutches. All that we ex-to secure is that other people may take the warning, that they may be threatened and thus prevented. But throughout the world the experience is that such criminals are courageous enough or cussed enough not to mind the consequences. They commit these crimes in spite of these deterrents.

Therefore, to be just to ourselves, to be just to our conscience, the best thing is that we abolish this capital punishment as a homage to human conscience. We are trying to abolish war; that is mutual murders on a large scale. If we do not accept the various arguments in justification of war, then we have no reason why we should accept any justification for capital punishment.

Just as we abolished *sati*, just as we abolished untouchability, just as we abolish many such things, two things we must be able to achieve during our generation. One thing is the killing of animals in the name of religion. People will kill animals in self-defence or for food, or even for sport. Mankind "has not come up to that level of non-killing but killing of animals in the name of religion we should be able to stop and the second thing is that capital punishment must be abolished unconditionally. Then alone we shall be able to create an atmosphere or climate for the abolition of wars. After all, every murderer is not so depraved as we think him to be. I have lived in various jails during British rule and thanks to the management of the various jails. I have come in intimate contact with many murderers, both those who were under trial and those who were serving transportation for life and I found that man for man they were not such depraved creatures as they were made out to be. In a fit of emotional excitement or in a spirit of revenge which we all share when we go to war, they may commit murders. If that spirit of revenge is to be controlled, if the spirit of taking the law into one's own hands is to be controlled, I think we should be able to abolish capital punishment. What is war? Do we not there take the law into our own hands? When law or international law fails or is absent, then there is war. In the same way . . .

SHRI RAMGOPAL GUPTA (Uttar Pradesh): What about professional murderers?

KAKASAHEB KALELKAR; Therefore if we are to encourage society to be more peaceful, more non-violent, then the best way is that we should have our legislation sufficiently civilised. Therefore, this barbarous punishment must be abolished forthwith.

SHRI P. N. SAPRU (Uttar Pradesh): Mr. Deputy Chairman, Sir, I had not intended to take part in this debate but my esteemed friend, Mrs. Savitry Devi Nigam was rather anxious that I should say a few words on this Resolution and I think chivalry requires that I should say what I feel about it. Now, I think the question no doubt raises ethical issues of a vital character. Those ethical issues can be looked at from different points of view. Ethically there can be a case for the retention of the death sentence. There is, however, a case, ethically speaking for its abolition and that was put forward by Kakasaheb Kalelkar. Now, I would like to point out that we had a discussion in this House on the question of capital punishment and the line taken by our respected late lamented Home Minister Pandit Govind Ballabh Pant was this: If you want to increase murders abolish capital punishment. I think I am quoting his very words. I had a very high respect for Pandit Govind Ballabh Pant. But I did not agree with his point of view then and I do not agree with it now. Judicial opinion would be against the abolition of capital punishment but lawyers and judges are by and large rather conservative in these matters. They are for most of the time in contact with a certain class of persons and their outlook gets coloured by their contact with that class. I am not prepared, without a very close examination of all the pros and cons of the question, to say that capital punishment should be abolished immediately but I think there is a lot of merit in the amendment which was suggested by Mr. Mani. It should be the subject-matter of investigation by a high-powered commission. This question of capital punishment was considered by a high-powered commission—I think it was the Gowers Commission—in England which was

[Shri P. N. Sapru.] appointed in 1949 and it reported in 1953. Again it was considered by a high-powered commission in Ceylon. Ceylon abolished for a time this death penalty but it has been restored in Ceylon. Now, there is one difference however, which we must remember, between English law and the Indian law. Under the English law as it existed until a few years back before the distinction was made between capital murder and murder, judges had no option in regard to the sentence to be pronounced in cases of murder. The only sentence they could pronounce was that of death. Here under section 302 it is open to a judge for reasons recorded by him to award the lesser sentence of transportation for life.

SHRI NAFISUL HASAN (Uttar Pradesh): Now it is imprisonment for life.

SHRI P. N. SAPRU: The general tendency of judges today is to pass the lesser sentence, save in those cases where there are grounds for believing or for holding that the act was a cruel one, the act was a premeditated one. The act was a most dastardly one. In those exceptional cases you will find the death sentence passed, as I have already said. Even in those cases there has been interference with the verdict of judges by those in whom the prerogative of mercy is vested. Take, for example, the case of Tehsildar Singh, in which the death sentence was commuted by one of imprisonment for life. Now, that man had undoubtedly committed any number of murders. He was a terror in the countryside. If there was anyone who deserved the death sentence it was Tehsildar Singh. He was a big dacoit and the terror of the countryside. Acharya Vinoba Bhave in his notable campaign for winning over the 'dacoits' took an interest in the gang of which Tehsildar Singh was the leader and ultimately his sentence was reduced to life imprisonment. If Tehsildar Singh's sentence can be reduced and if he did not deserve the death sentence, then I do not know who deserved it.

SHRI ARJUN ARORA: Was he not a victim of circumstances?

SHRI P. N. SAPRU: No. I do not know. There is a lot of confusion in regard to thinking in these matters. Environment, circumstances, the doctrine of diminished responsibility, all these are very, very difficult matters. I think we know that the science of psychiatry has not advanced enough yet to enable us to treat these men by psychological methods or by any other methods known to mankind. What I was saying is that, if we could show mercy to Tehsildar Singh, then the question arises whether it is not time for us to think in terms of amending our law. I remember a case, I was a party to that\*- case in which I saw that the evidence was absolutely clear that the murder was a most brutal one. Now, when the President exercises his prerogative of mercy, the judges concerned are informed of his decision. It is his prerogative. We cannot question that prerogative. And one day I was surprised to find that the sentence had been commuted to transportation for life. My colleague on the Bench was rather upset about it. He is dead now. He was a very good Judge of our court. He said, well, what is the reason? I said it was not for us to find out the reason. But it shows interference on the part of the executive with the sentences awarded by courts -of law

If you have come to the conclusion that you must show mercy in these capital cases, if you have come to the conclusion that as far as possible the death sentence should not be awarded at all, why not face the situation boldly and amend your law so as to provide imprisonment for life instead of the kind of imprisonment for life which means only 14 years?

SHRI NAFISUL HASAN: It comes to about ten years.

SHRI P. N. SAPRU: It is not necessary in our country to make a distinction between capital murder and murder, because here there is, as I said, a

discretion vested in the judge to award a lesser sentence. But apparently the feeling with those who exercise the prerogative of mercy is that mercy should be shown in as many cases as possible. Well, if that is the outlook, then the better course is to recognise the fact that somehow the Indian mind is not in favour of the death penalty and to abolish it altogether. I am just posing the question as I see it. I think, therefore, that it is necessary that the matter should be examined by a high power commission.

Any elementary book on jurisprudence will tell you that the objects of punishment are reformatory, retributive and deterrent. Now, whether the death sentence deters people from committing murders or not may be a debatable point. I think to a certain extent it does deter. I do not know. I have got an open mind on that question. So far as the question of reform is concerned, I think it is a most difficult matter. Reform of the criminal is a very difficult matter. I do not think that you become a criminal merely because of your social environments. There are people who are born with criminal tendencies and it is not easy even for the best psychiatrist to treat him in a manner which would enable him to get over his criminal impulses. So far as retribution is concerned, well, there is that feeling. We feel sympathy for the murderer, but we have little sympathy to show for the victims of the murder. I have known of men, in the course of my professional life, relatives of the murdered men, who wanted the blood of the man. Take the feelings of a father whose son is brutally murdered by someone. Now, the father's attitude is—it may be a right attitude or it may be a wrong attitude but it is a human attitude—I want revenge. I want life for life. I want the life of the man who murdered my son.' These are considerations which will have to be borne in mind by us and it will do us no harm—I will not put it higher than that—it may do us some good, if we do a little rethinking on this question and I hope that the Home

Minister, for the reasons I have given, will agree to the appointment of a commission, as suggested by Mr. Mani. I may say that an experienced Home Secretary like Lord Templewood, a conservative in every sphere of life, was in favour of the abolition of the death penalty. Sir, I was reading the remarks of—I could not get his exact name—Sir Roberts. He was for death sentence before and after he heard the entire evidence which was led before him he said that it should be abolished. It is a difficult matter. Therefore, I would say that the amendment of Mr. Mani deserves consideration in this House, and I hope that the hon. Minister will be able, in order to satisfy the feelings in this House, to accept that.

SHRIMATI T. NALLAMUTHU RAMAMURTI (Madras): Sir, I just want to say a few words on the very important issue that is before the House. I congratulate Shrimati Nigam for having brought this Resolution, which is "this House is of opinion that Government should take immediate steps to undertake legislation for the abolition of capital punishment in India." It is human, Sir, to think of all, whether criminals or otherwise, as human beings, members of the society, of the nation and the world. It is human to think that they are members of society, of the nation and the world, who for some unfortunate reason or other have come to be classed as criminals, murderers, etc. The question whether criminals should be meted out the ultimate punishment of being put out altogether or extinguished from society, nation and the world, or whether they should be continued or allowed to live in some form or other with a near or distant possibility of becoming fairly reformed and approaching the normal is a very big issue; but all that I can say is that nobody would want the doing away with the life of any other person in this country or in any other country in the world. We do not want destruction of human beings. There is something good in the worst of us. There is something that is not very laudable in the best

[S. i .mati T. Nallamuthu Rama-murti.]

of us. The murderer, whatever the extreme nature of his criminality might be, is after all a human being. He had been a human being, the son of a mother, and the fact that he had been driven to commit that crime had been due to certain circumstances. The most progressive psychologists have said today that we should diagnose the causes for such crimes and study the circumstances. There are so many causes, economic, social, moral and otherwise, and therefore it is a very great undertaking that we have got.

Sir, it is a sad reflection on our society, advanced as we are, that we are allowing our own kith and kin to be beheaded simply because they had gone and committed some crime or other, stabbed somebody, had done away with the life of another, and so on. In what way have we progressed from primitive times of sheer barbarism when the tribes went about with their blood feuds, tooth for tooth and nail for nail, and then chopped off a whole tribe in revenge? In what way have we made any progress? There was a time in our cultural advance when our houses had no doors, and there was no such thing as criminality, and the standard of morals was so high. Why have we gone back from that standard today in these democratic times when we have come into our independence and our republic and when we have become the inheritors of all the best ideals put forth by the Father of the Nation, Mahatma Gandhi—

T<sup>^</sup>rrf \*pf: I Why are you thinking of dealing with your kith and kin by way of enforcing capital punishment? I am not quoting any legal experts. I am not quoting any court either that may have gone in one direction or the other in regard to the abolition of capital punishment. But as the inheritors of all the best in the traditions of our country I would sternly say that "we should think twice before continu-

ing the enforcement of capital punishment on criminals.

Sir, law is a reflection of public opinion. We might say that law is the very condition of liberty, of order, of organised society. What a sad reflection of our public opinion and of ourselves, Sir, that we have still in our midst the only remedy to reform, that is, doing away with the life of another. What has the criminal done? There have been cases and cases in courts. Our courts are based on evidence and in some places on the jury system combined together, and they have sat very wisely—I am not making any reflection on the judgments of great, erudite Justices in this country, but there had been wrong judgments also. I have come across such cases. The other day a friend was telling me that the manager of an estate had brought all his collections and put them in his safe, and suddenly he vanished because the money disappeared. The planter or the master complained against those people whom the evidence had shown to be somewhere round about the place, about four or five people. The extreme measure of punishment was death penalty. So all those people who were proved by evidence in the court to be guilty were hanged. They were supposed to have killed the manager and taken away the money; that was why they were hanged. Then after a long number of years the manager appeared one day while the master who was the landlord was walking in his garden, and suddenly he said: "*Salam Hazoor*". The master said: "Who are you?" He replied: "Don't you know me? I am your manager". It is said that this landlord was almost on the point of going mad when he realised that he had been instrumental for doing away with the lives of very innocent people thinking that this manager of his had been murdered and the money had been taken away by those people.

SHRI D. A. MIRZA (Madras): That must have been the ghost of the manager.



SHRIMATI T. NALLAMUTHU RAMDMURTI: I am not talking of ghosts but of realities. If the hon. Member wants ghosts, he had better remove himself to another world altogether. I am talking about realities, hard realities. There are judgments also where this kind of capital punishment is awarded in our country, I am not pleading that there have been cases of murder where the culprits had been proved to be guilty and there were differential judgments between one case and another. Where some influence is brought, that person is let off with three years imprisonment for not only murdering a person but cutting him into bits and putting him into a trunk and hiding his crime with all kinds of deliberation along with another person who is his accomplice. But for some ordinary crime when somebody goes and stabs his wife, he is done away with because it is said that it was deliberate. These are, Sir, the unhappy features that accompany the enforcement of capital punishment. Don't we believe that there is always a chance for reforming a person? I do not think that any criminal is so bad as to be incapable of being reformed in the long run. So, I would agree with my hon. friend, Shri Sapru, who asked, "Why not convert this capital punishment into life sentence or into a sentence that will run for a long time?" In former days, people sentenced to transportation for life were sent to the Andamans and the Nicobars but now these have become our own States. They used to say— "*Thannirmele Ethivittarhal*", That is, they were transported over water. We do not want that condition even now. But let us have them with us, and it is our duty to see that these subnormals—whoever they might be—who have been forced to commit these "crimes due to various circumstances, are reformed, to see that those circumstances are analysed and studied and they are brought back into our society. In so far as that is not done, we cannot call ourselves a civilised country nor a country that can be proud of its independence and of its democracy. I would say further that in many cases

where a person is found to be a high-ranking criminal, when certain points of his mind are tapped, you will find, for instance, the possibility of developing genius in him. There is very little margin between a genius and a criminal. And, therefore . . .

SHRI MAHESWAR NAIK (Orissa): Criminals are always geniuses.

SHRIMATI T. NALLAMUTHU RAMAMURTI: They might be very clever, but perverted. But why not divert that cleverness, why not tap that possibility of genius in him? They might be clever. Their genius might be utilised for wholesome activities in our society. We should give them a chance to report and reform and thus bring them back to our society. It is our duty to see that such an attempt is made. After all, beheading or hanging a criminal is to let him off easily, it is an easy exit for him. Therefore, I would agree with my friend, hon. Member Shri Mani, who suggested that we should have an open mind. Much may be said on both sides. I do not deny that. But at the same time we cannot be dogmatic in this way saying that if you abolish capital punishment, you will have an increase of crimes. What a reflection on ourselves? Is capital punishment the only channel through which we are going to be protected in the society and we are going to go on as a civilised nation? I do not agree with that. (*Interruption.*) So we would like that all methods are adopted in order to examine the criminals.

With regard to the nature and the circumstances under which a particular person has been driven to commit this crime, so many reasons have been given—passion, love, disappointment, depravation and so on. I do not want to repeat them. A man goes and commits a murder; there might be many reasons for it. But it is an opportune moment, for us at this stage when our sister, hon. Member Shrimati Savitri Nigam, has brought in this Resolution—for us to set up a

[Shrimati T. Nallamuthu Ramamurti.]

high-ranking committee. It might invite jurists, social workers, people who have been in the field who have seen people committing crimes and have seen the reform that was possible for these criminals. You set up that committee to see that this question is examined. With all the earnestness it should be approached and something should be done to do away with this institution that is a scar on any civilised society, namely the enforce-  
•: t of capital punishment.

I congratulate my sister once again, and I plead before this House for supporting the suggestion to appoint a committee of enquiry. Two people are agreed in their hearty sympathy for this cause and would, I am pure, favour this proposal.

شریمتی انیس قدوائی (اتر پردیش):

جناب دینی چھوڑیں صاحب اس بل پر پچھلے ہفتہ سے بحث ہوتی چلی آ رہی ہے اور آج بھی پتہ نہیں سارے دن چلتی رہے گی یا آدھے ہی میں ختم ہو جائے گی۔ لیکن ایک بات میری سمجھ میں نہیں آئی کہ بالکل کھریا انداز میں سال اور ہون کی حیثیت سے ہم قانون بنے اور کیسے غور کر سکتے ہیں۔ ہمارے گھروں میں جب کوئی چیز خراب ہو جاتی ہے تو اس کو پھینک دیا جاتا ہے۔ جب انسان کا جسم کا کوئی حصہ سو جاتا ہے تو اس کو کات ڈالا جاتا ہے۔ اسی طرح سوسائٹی میں جب کوئی حصہ یا کوئی شخص خراب ہو جاتا ہے یا سوسائٹی کا گدا کرتا ہے سوسائٹی کے ایک آدمی یا خاندان کو سزا دینے کی کوشش کرتا ہے تو اس کے اور رحم کیسے کیا جاسکتا ہے۔ میں

نہیں سمجھ سکتی کہ ایک عورت کے نقطہ نظر سے کہوئے یا ملک کے سٹیشن کی حیثیت سے کیسے دو طرح سوچا جاسکتا ہے۔ جیسا کہ ابھی راج بوج صاحب نے کہا کہ ہمیں گناہگاروں کو سنبھالنا چاہیے۔ یہ بات ٹھیک ہے لیکن میں اپنے تجربہ سے کہتا چاہتی ہوں کہ ہم دس برس سے پیشاؤں کی حالت کو ٹھیک کرنے کی کوشش کر رہے ہیں انہیں سوسائٹی میں اچھی طرح سے دھمکے کے لائق بنا رہے ہیں لیکن مجھے اس وقت یہ کہنے میں یس و پیدھ نہیں ہو رہا ہے کہ بجائے اس کے کہ ہم ان کو سنبھالتے ہم نے سوسائٹی کو اور بھی گدا بنا شروع کر دیا ہے۔ ایک ہم ان لوگوں کا علیحدہ سے انتظام کرتے تو وہ زیادہ بہتر ہو۔ جو لوگوں سوسائٹی میں مل چکی ہیں ان کی علیحدہ بات ہے لیکن ویشوا کی جو سمجھا ہے اس سے آج کل ہماری سوسائٹی زیادہ گندی ہو گئی ہے۔ اسی طرح سے جو قاتل کرتا ہے اسے اگر پھانسی نہ دی جائے تو اس کے معنی یہ نہیں سمجھ لیتا چاہیے کہ وہ اپنی حرکتوں چھوڑ دے گا کیونکہ بہت سے کیسز میں دیکھتے ہیں یہ آیا ہے کہ جو لوگ سزا کٹ کر آتے ہیں وہ پھر اس طرح کی کارروائی کرنے لگ جاتے ہیں۔ اس لئے جو لوگ سوسائٹی کو نقصان پہنچاتے ہیں قتل کرتے ہیں انہیں قانون کے تحت پھانسی ملنے ہی چاہیے۔

ابھی شاہجہان پور کے قریب ایک پورے کا پورا کنبہ قتل کر دیا گیا جس میں عورتیں بچے اور جوان سبھی شامل تھے۔ اسی طرح سے ملیم آباد میں تین آدمیوں کو مار ڈالا گیا۔ پنجاب کے ایک مال کی بات ہے کہ پنجاب میں ایک بونچھے نے اپنے چچا - پورے پریوار کو قتل کر دیا جس میں چار جوان بچے تھے اور آٹھ برس کا بچہ بھی شامل تھا۔ تو اس طرح کے لوگوں کے لئے ہم کیسے رحم کی اپیل کر سکتے ہیں - اگر ہم ایسے لوگوں کو بچانے کی کوشش کریں تو وہ سوسائٹی میں اور بھی مصیبت پیدا کریں گے۔ اس لئے جو سوسائٹی کو نقصان پہنچاتے ہیں یا قتل کرتے ہیں انہیں سزا ضرور ملنی چاہئے۔ یہ دوسری بات ہے کہ ہم ایک سوشل ورکر کی حیثیت سے پریسیڈنٹ سے معافی مانگنے میں یا اس آدمی کی رحم کی اپیل کرنے میں مدد کریں یا مرسی پٹیشن کرنے میں مدد کریں - لیکن جہاں تک قانون کا سوال ہے وہ اتنا ہی سخت اور مصلفانہ ہونا چاہئے اور اس میں کسی طرح کی کمی یا نرمی کرنے کے معنی یہ ہوں گے کہ حکومت نے جان و مال کی حفاظت کی ذمہ داری چھوڑ دی ہے اور سوسائٹی کو غفلتوں، قاتلوں اور چوروں کے سپرد کر دیا ہے - جو آدمی قتل کرے یا چور کرے

وہ تب بھی کرتا ہے جب وہ کسی چیز کو حاصل نہیں کر سکتا ہے - اس چیز کو حاصل کرنے کے لئے جس کا وہ حقدار نہیں ہوتا ہے وہ چوری اور قتل کرتا ہے۔ جب اسے وہ چیزیں نہیں ملتی ہیں جو وہ چاہتا ہے تو ناجائز طریقہ سے وہ انہیں حاصل کرنے کی کوشش کرتا ہے جس کی وجہ سے وہ قتل اور چوری کرتا ہے - جب کوئی آدمی قتل کرتا ہے تو بیس سال کی سزا کاٹنے بعد پھر واپس آ کر اپنے مقصد کو حاصل کرنے کی کوشش کر سکتا ہے - اس کے لئے آدمیوں کو مارنے کی کوشش کر سکتا ہے - اس طرح کی چیزیں ہمیں اکثر دیکھنے کو ملتی ہیں - اس لئے میں سمجھتی ہوں کہ اس قانون میں کوئی ترمیم نہیں ہونی چاہئے اور جو آدمی جرم کرتا ہے یا قتل کرتا ہے اسے پھانسی ضرور ملنی چاہئے۔

میں نے سعودی عرب ہی ایک ایسا ملک دیکھا جہاں اس بارے میں سخت قوانین نافذ ہیں - وہاں پر جب کسی کو سزا دینی ہوتی ہے تو اس کو دلدی سزا مل جاتی ہے - اور سزا دینے میں سہینوں نہیں لگتے بلکہ ایک دو سہینے میں گواہوں کو گر کر سزا دیدی جاتی ہے - وہاں جو چوری کرتا ہے اس کا ہاتھ کاٹ دیا جاتا ہے اور جو قتل کرتا ہے اس کی گردن سب لوگوں کے سامنے کاٹ دی جاتی ہے اور سب گواہ وہاں وقت پر موجود ہوتے

[شری ممتی انیس قدوائی]

ہیں - قاتل کی گردن دونوں طرف کے آدمیوں کے سامنے کٹ دی جاتی ہے - وہاں کسی بھی جرم یا قتل کرنے والے کو سزا سنانے میں زیادہ وقت نہیں لگتا۔ اس کا نتیجہ یہ ہوا ہے کہ وہاں پچھلے دو برس کے اندر صرف ایک قتل ہوا ہے - میں نے یہ بھی دیکھا کہ وہاں کے لوگ کیسے کشتیوں میں رکھ کر سکے اور دوسری چیزیں بیچ رہے تھے - جب ہم مکہ مدینہ گئے تو وہاں لوگ دروازوں نے پاس سکے لئے بیٹھے تھے - جو شہرستانی وہاں جاتے ہیں وہ شہرستانی تو تھے دیکھو وہاں کے سکے لے آتے ہیں - جب نماز کا وقت آتا ہے تو ہر لڑکے کشتی یا ترے پر کھڑا ہوتا ہے کہ نماز پڑھنے چلے جاتے ہیں اور ان کی چیز کوئی نشانہ نہیں لگاتا ہے کیونکہ وہاں چور کا ہاتھ کالا جاتا ہے - اگر حکومت سخت قوانین نہیں بنائے گی تو سوسائٹی صاف ستھری نہیں ہو سکتی - گورنمنٹ کی ذمہ داری چلتا کی جان و مال عزت آبرو اور ہر چیز کی حفاظت کرنا ہے - اگر قانون میں یہ اس طرح کی گنجائش رکھے گی کہ نال کرنے پر آدمی کو معافی مل سکتی ہے تو اس سے لوگوں کی جان و مال کی حفاظت اچھی

طرح سے نہیں ہو سکتی ہے - ظاہر ہے کہ جو لوگ تباہ ہیں ، برباد ہو چکے ہیں وہ لوگ حکومت کے اوپر ایک بوجھ بن جائیں گے - اس لئے چاہے کوئی ملک کا غدار ہو چاہے قوم کا دشمن ہو ، چاہے خاندان کا دشمن ہو چاہے سوسائٹی کا دشمن ہو ، یہی نظر میں سب کو پوری پنشنٹ مائل چاہیئے - اور قانون میں کسی طرح کی کوئی کمزوری نہیں ہونی چاہیئے -

مجھے ایک جملہ اور کہنا ہے - ایذا بردہ گاندھی جی کے سامنے ایک معزز کانگریس میں صاحب آئے - وہ دو سال سے بھاگے ہوئے تھے - برٹش گورنمنٹ نے ان کو پکڑنے کے لئے وارنٹ جاری کر رکھا تھا - اور ان کے لئے برٹش گورنمنٹ نے کچھ اعام بھی مقرر کر دیا تھا - تو جب گاندھی جی سے وہ ملے آئے تو گاندھی جی نے ان سے کہا کہ آپ اپنے کو پولیس کے سپرد کر دیجئے - انہوں نے ان کو سمجھایا اور راضی کیا - وہ نان وائٹس کے مائلے والے تھے لیکن انہوں نے ان کو پولیس کے سپرد ہو جانے کے لئے کہا - انہیں یہ معلوم تھا کہ ان کے ارد گرد مصیبتوں کے پہاڑ تھوڑے تھے - ممکن ہے کہ انہیں پھانسی دیدی جائے ، ممکن ہے کہ ان کو قید کی سزا مل جائے لیکن

पुनः भी उन को सभालते, हमने सोसायटी को और भी गंदा बनाना शुरू कर दिया है। अगर हम इन लोगों का अलाहिदा से इंतजाम करते, तो वह ज्यादा बेहतर होता। जो लड़कियां सोसायटी में मिल चुकी हैं, उनको अलाहिदा बात है लेकिन वेश्या की जो समस्या है उससे आज कल हमारी सोसायटी ज्यादा गंदी हो गई है। इसी तरह से जो कत्ल करता है, उसे अगर फांसी नहीं दी जाये तो उसने मायने यह नहीं समझ लेना चाहिये कि वह अपनी हरकतें छोड़ देगा, क्योंकि बहुत से केसेज में देखने में यह आया है कि जो लोग सजा काट कर आते हैं, वह फिर उसी तरह की कार्यवाही करने लग जाते। इसलिये जो लोग सोसायटी को नुकसान पहुंचाते हैं, कत्ल करते हैं, उन्हें कानून के तहत फांसी मिलनी ही चाहिये।

†[श्रीमती अनीस किदवाई (उत्तर प्रदेश) :  
जनाब डिप्टी चेयरमैन साहब, इस बिल पर पिछले हफ्ते से बहस होती चली आ रही है और आज भी पता नहीं, सारा दिन चलती रहेगी या आधे में ही खत्म हो जायेगी। लेकिन एक बात मेरी समझ में नहीं आई कि बिल्कुल घरेलू अंदाज में मां और बहिन की हैसियत से हम कानून के ऊपर कैसे गौर कर सकते हैं। हमारे घरों में जब कोई चीज खराब हो जाती है तो उस को फेंक दिया जाता है। जब इंसान के जिस्म का कोई हिस्सा सड़ जाता है तो उस को काट डाला जाता है। इसी तरह सोसायटी में जब कोई हिस्सा या कोई शख्स खराब हो जाता है या सोसायटी का गुनाह करता है, सोसायटी के एक आदमी या खानदान को तबाह करने की कोशिश करता है, तो उस के ऊपर रहम कैसे किया जा सकता है? मैं नहीं समझ सकती कि एक औरत के वक्ते नज़र से कहिये या मुल्क के सिटीजन की हैसियत से कैसे दो तरह से सोचा जा सकता है। जैसा कि अभी राजभोज साहब ने कहा कि हमें गुनाहगारों को सम्भालना चाहिये, यह बात ठीक है। लेकिन मैं अपने जूब से कहना चाहती हूं कि हम १० बरस से वेश्याओं की हालत को ठीक करने की कोशिश कर रहे हैं, उन्हें सोसायटी में अच्छी तरह से रहने के लयक बना रहे हैं, लेकिन मुझे उस वक़्त यह कहने में पसोपेश ही हो जाता

है कि बजाय इसके कि हम उन को सम्भालते, हमने सोसायटी को और भी गंदा बनाना शुरू कर दिया है। अगर हम इन लोगों का अलाहिदा से इंतजाम करते, तो वह ज्यादा बेहतर होता। जो लड़कियां सोसायटी में मिल चुकी हैं, उनको अलाहिदा बात है लेकिन वेश्या की जो समस्या है उससे आज कल हमारी सोसायटी ज्यादा गंदी हो गई है। इसी तरह से जो कत्ल करता है, उसे अगर फांसी नहीं दी जाये तो उसने मायने यह नहीं समझ लेना चाहिये कि वह अपनी हरकतें छोड़ देगा, क्योंकि बहुत से केसेज में देखने में यह आया है कि जो लोग सजा काट कर आते हैं, वह फिर उसी तरह की कार्यवाही करने लग जाते। इसलिये जो लोग सोसायटी को नुकसान पहुंचाते हैं, कत्ल करते हैं, उन्हें कानून के तहत फांसी मिलनी ही चाहिये।

अभी शाहजहानपुर के करीब एक पूरे का पूरा कुनवा कत्ल कर दिया गया, जिसमें औरतें बच्चे और जवान सब ही शामिल थे। इसी तरह से मलिहाबाद में तीन आदमियों को मार डाला गया। पिछले दो एक साल की बात है कि पंजाब में एक भतीजे ने अपने चचा के पूरे परिवार को कत्ल कर दिया, जिसमें चार जवान बेटे थे और आठ बरस का बच्चा भी शामिल था। तो इस तरह के लोगों के लिये हम कैसे रहम की अपील कर सकते हैं। अगर हम ऐसे लोगों को बचाने की कोशिश करेंगे तो वे सोसायटी में और भी मुसीबत पैदा कर देंगे। इसलिये जो सोसायटी को नुकसान पहुंचाते हैं या कत्ल करते हैं, उन्हें सजा जरूर मिलनी चाहिये। यह दूसरी बात है कि हम एक सोशल वर्कर की हैसियत से प्रेजीडेंट से मुआफी मांगने में उस आदमी की रहम की अपील करने में मदद करें या मरसी पिटीशन करने में मदद करें। लेकिन जहां तक कानून का सवाल है वह इतना ही सख्त और मुनसिफाना होना चाहिये और उस में किसी तरह की कमी या नरमी करने के मायने यह होंगे कि दुकूमत ने जानोमाल को

## [श्रीमती अग्रीस किदवाई]

हिफाजत की जिम्मेदारी छोड़ दी है और सोसायटी को गुंडों और कातिलों और चोरों के सुपुर्द कर दिया है। जो आदमी कत्ल करता है या चोरी करता है वह तब ही करता है जब वह किसी चीज को हासिल नहीं कर सकता है। उस चीज को हासिल करने के लिये जिस का वह हकदार नहीं है वह चोरी और कत्ल करता है। जब उसे वह चीजें नहीं मिलती जो वह चाहता है तो नाजायज तरीके से वह उन्हें हासिल करने की कोशिश करता है, जिस की वजह से वह कत्ल और चोरी करता है। जब कोई आदमी कत्ल करता है तो बीस साल की सजा काटने के बाद फिर वापस आकर अपने मकसद को हासिल करने की कोशिश कर सकता है— उस के लिये आदमियों का मारने की कोशिश कर सकता है। इस तरह की चीज हमें अक्सर देखने को मिलती हैं। इसलिये मैं समझती हूँ कि इस कानून में कोई तरमीम न होनी चाहिये और जो आदमी जुर्म करता है या कत्ल करता है, उसे फांसी जरूर मिलनी चाहिये।

मैं ने सऊदी अरब ही एक ऐसा मुल्क देखा जहाँ इसके बारे में सख्त क़ानूनीन नाफ़िज़ हैं। वहाँ पर जब किसी को सजा होती है तो उस को जल्दी सजा मिल जाती है और सजा देने में महीनों नहीं लगते बल्कि एक दो महीनों में गवाहियां गुजर कर सजा दे दी जाती है। वहाँ जो चोरी करता है उस का हाथ काट दिया जाता है और जो कत्ल करता है उस की गर्दन सब लोगों के सामने काट दी जाती है और सब गवाह वहाँ बक्त पर मौजूद होते हैं। कातिल की गर्दन दोनों तरफ के आदमियों के सामने काट दी जाती है। वहाँ किसी भी जुर्म या कत्ल करने वाले को सजा मुनाने में ज्यादा बक्त नहीं लगता। इस का नतीजा यह हुआ है कि वहाँ पिछले दो बरस के अन्दर सिर्फ एक कत्ल हुआ है। मैं ने यह भी देखा है कि वहाँ के लोग कैसे किशतियों में रख कर सिके और दूसरी चीजें चरहे थे। जब हम सबक मरीना गये, तो वहाँ लोग दरवाजे के पास

सिके लिये बैठे थे। जो हिंदुस्तानी वहाँ जाते हैं वह हिन्दुस्तानी नोट देकर वहाँ के सिक्के ले लेते हैं। जब नमाज़ का बक्त आता है तो वह लोग किसी या ट्रे पर कपड़ा डाल कर नमाज़ पढ़ने चले जाते हैं और उन की चीज को कोई हाथ नहीं लगाता है, क्योंकि वहाँ चोर का हाथ काटा जाता है। अगर हुकूमत सख्त क़ानूनीन नहीं बनायेगी तो सोसायटी साफ-सुथरी नहीं हो सकती। गवर्नमेंट की जिम्मेदारी जनता की जान व माल, इज्जत-अबरू और हर चीज की हिफाजत करना है। मगर कानून में वह इस तरह की ग़ुज़ाइश रखेगी कि कत्ल करने पर आदमी को मुआफी मिल सकती है, तो उससे लोगों की जान व माल की हिफाजत अच्छी तरह से नहीं हो सकती है। जाहिर है कि जो लोग तबाह हैं, बरबाद हो चुके हैं, वह लोग हुकूमत के ऊपर एक बोझ बन जायेंगे। इसलिये चाहे कोई मुल्क का गद्दार हो, चाहे कौम का दुश्मन हो, चाहे खानदान का दुश्मन हो, चाहे सोसायटी का दुश्मन हो, मेरी नज़र में सब को पूरी पनिशमेंट मिलनी चाहिये और कानून में किसी तरह की कोई कमजोरी नहीं होनी चाहिये।

मुझे एक ज़ुमला और कहना है। एक मर्तबा गांधी जी के सामने एक मुअज्जिब कांग्रेसमैन साहब आये। वह दो साल से भागे हुये थे। ब्रिटिश गवर्नमेंट ने उनको पकड़ने के लिये वारंट जारी कर रखा था और उनके लिये ब्रिटिश गवर्नमेंट ने कुछ इनाम भी मुक़र्रर कर दिया था। तो जब गांधीजी से वह मिलने आये, तो गांधी जी ने उनसे कहा कि आप अपने को पुलिस के सुपुर्द कर दीजिये। उन्होंने उनको समझाया और रज़ी किया। वह नानवाइलेस के मानने वाले थे लेकिन उन्होंने उनको पुलिस के सुपुर्द हो जाने के लिये कहा। उन्हें यह मालूम था कि उनके ऊपर मज़ीबतों के पहाड़ टूट सकते हैं मुमकिन है कि उन्हें फांसी दे दी जाये, मुमकिन है कि उनको उम्र कैद की सजा मिल जाये, लेकिन फिर भी उनको

कानून के मुपुर्द हो जाने के लिये ही सल ह दी । इसलिये फांसी से बचाने की कोशिश हम सोशल वर्कर की हैसियत से कर सकते हैं, एक मां को तड़पता देख कर हमारा भी दिल एक मां की हैसियत से तड़प सकता है, लेकिन हम कानून में कोई तबदीली करने की सिफारिश नहीं कर सकते । ]

**श्री दयाल दास कुरें (मध्य प्रदेश) :** माननीय उपसभापति महोदय, हाउस के सामने श्रीमती सावित्री देवी निगम ने जो यह रेजोल्यूशन पेश किया है, चूंकि वह महिला हैं, उनके हृदय में माता की ममता है, तो मैं उनकी इस भावना का हृदय से स्वागत करता हूं, पर देश की स्थिति को देखते हुये कि जिस स्थिति में आज हम चल रहे हैं, यदि मेरी बहन के इस रेजोल्यूशन का हमने कहीं स्वागत किया, घोखे में आ कर सत्कार किया और इसे कानून का रूप दे डाला तो हम घोखे में पड़ेंगे और इस समय हमारे देश की जो स्थिति है, उस स्थिति को देखते हुये हो सकता है कि हम और गैरत की ओर चले जायें । यही एक नियम है, यही एक उपाय है, कैबिनेट पर्सिमेंट या फांसी की सजा का, जिस के आधार पर हम अभी एक रूप में समाज को अच्छी स्थिति में रखे हुये हैं । मेरी पूर्व वक्ता महोदया ने एक बड़ी सुन्दर बात बताई कि हमारे हृदय में माता की ममता है, पर कानून को अपने हाथ में न लेकर हम ऐसी स्थिति पैदा करें कि जिसमें सरकार और कानून एक रास्ते पर चलें और समाज को ठीक ढंग से ले जाय । यहां पर यदि हमने फांसी की सजा को निर्मूल कर दिया, उसे धारा से निकाल दिया तो मैं यह कहूंगा कि वही स्थिति आयेगी कि एक आदमी दूसरे को रात की बात तो भूल गयी दिनदहाड़े भारतवर्ष में लूटेगा ।

हमारे देश में आज ८२ प्रतिशत जनता देहातों में रहती है । रात के समय हम दिल्ली की इस चकाचौंध चांदनी में कहीं भी एक स्थान से दूसरे स्थान को जा सकते हैं ।

452 RSD—2.

इस प्रकार देश में बहुत ही कम शहर हैं जहां ऐसी चांदनी की और पुलिस की व्यवस्था है । और ८२ प्रतिशत जनता जो गांवों में रहती है, अन्धेरे में उनका जीवन किस प्रकार है, इसे देहात के रहने वाले खुद समझ सकते हैं । ऐसी स्थिति में जब कि उनके जान व माल का सवाल है हमें इस विषय पर बड़ी गहराई से सोचना पड़ेगा । फांसी की यह सजा जो कि अभी कानून में अमल में लई जा रही है, यदि इसकी व्यवस्था न रही, तो वह ८२ प्रतिशत हमारे भाई जो देहातों में रहते हैं, जिनका जीवन सादगीमय है और जो इस समय स्वच्छंद जीवन व्यतीत कर रहे हैं, उनका जीवन बड़ा खतरे में पड़ जायेगा ।

**एक माननीय सदस्य :** पुलिस के सामने मर्डर हो रहे हैं ।

**श्री दयाल दास कुरें :** मेरे मित्र ने जो अभी कहा कि पुलिस के सामने मर्डर होते चले जा रहे हैं, आगे अगर दो मिनट का समय मुझे दिया जायेगा, तो मैं इस विषय में बताऊंगा कि सचनुच क्या स्थिति हो रही है ।

मुझे मध्य प्रदेश के एक जिले का अनुभव है । वहां एक सज्जन तहसील कोर्ट के सामने जा रहे थे । उन पर दिनदहाड़े कुछ आदमियों ने हमला किया और उनका मर्डर किया । उस सम्बन्ध में कुछ लोगों के ऊपर कानून के आधार पर केसेज चल रहे हैं और उनकी स्थिति क्या होगी, मैं कह नहीं सकता । मैं जिस जिले से आ रहा हूं, उस जिले के बारे में मैं थोड़ी सी बातें बताना चाहता हूं । वहां दो तीन साल के अन्दर दो तीन ऐसे मर्डर के केसेज हुये हैं । एक मर्डर केस तो दिनदहाड़े हुआ । दस आदमियों ने एक मालगुजार को घेर कर मारा और फिर वे बरी हो गये । जो न्यायमूर्ति या न्यायाधीश होते हैं उनके ऊपर मुझे कुछ नहीं कहना है । पता नहीं कौन सी ऐसी

[श्री दयल दास कुर्रें]

बात आई कि वे बरी हो गये। लेकिन इसका परिणाम यह हुआ कि दूसरे लोगों ने उनकी नकल की। कानून में कैपिटल पनिशमेंट रहने के बावजूद लोगों ने उनकी नकल की और इस प्रकार के जघन्य अपराध किये। इस तरह हमें देखने में आया है कि चार पांच केसेज दो तीन साल के अन्दर हुये। इससे वहां इतनी अराजकता फैल गई कि उसे व्यवस्था में लाने के लिये बहुत सा प्रयत्न करना पड़ा। मैंने इस विषय की चर्चा वहां के कलेक्टर से, कमिश्नर से और वहां पुलिस के जो सब से बड़े अधिकारी हैं, उनसे की कि हमारे जिले में और उस डिवीजन में किस प्रकार से शांति की स्थापना की जाय, इसके लिये क्या आपने कोई उपाय सोचा है। मैंने तो यहां तक भीतरी तौर से कलेक्टर महोदय से प्रार्थना की कि वे न्याय-मूर्ति और न्यायाधीशों के पास कृपया जाकर इस तरह से बात करें कि कैपिटल पनिशमेंट के होते हुये जिस तरह से लोग अपराध से छूट रहे हैं, उसकी नकल दूसरे लोग करते जा रहे हैं और समाज में जो अराजकता फैलती जा रही है वह हमारे लिये, हमारी इस नयी पीढ़ी के लिये जो इस समय देश में पल-निग कर रही है, उसकी सफलता में बड़ी बाधा पहुंचा रही है।

इसलिये मैं यह कहूंगा कि कैपिटल पनिशमेंट को निर्मूल करने के लिये मेरी बहुत श्रीमती निगम ने यहां पर जो यह रेजोल्यूशन पेश किया है, मैं उनकी भावना का तहेदिल से स्वागत करता हूं, पर देश में शांति स्थापित रखने के लिये और दूसरों को सबक देने के लिये इस नियम का कानून में होना बहुत ही आवश्यक है और सरकार इस विषय पर कोई कमेटी निर्वाचित करने के विषय में विचार करने के बजाय, इसको रद्दी की टोकरी में फेंकने का विचार करे। इतनी मेरी इस हाउस से प्रार्थना है। मैं समझता हूं कि बहुत से माननीय सदस्य, जो यहां बैठे

हुये हैं, मेरी इस विचारधारा से सहमत होंगे। इतना कह कर मैं अपना स्थान लेता हूं।

श्री शीलभद्र याजी (बिहार) : माननीय डिप्टी चेयरमैन महोदय, कैपिटल पनिशमेंट हटाने के सम्बन्ध में जो प्रस्ताव आया है, उसकी मैं सख्त मुखालिफ़त करता हूं। कुछ वर्ष पहले मैं भी इस भावना का समर्थक था। लेकिन जो देश की हालत है, जो समाज की हालत है और देश में जो ट्रेटर लोग हैं, विश्वासघाती लोग हैं, उनकी तादाद दिनों दिन बढ़ ही रही है, इसको देखते हुये मेरे खयाल में मौलिक परिवर्तन हो गया है और मैं समझता हूं कि जो प्रस्तावक महोदया हैं, वे भी अगर जल्दी से जल्दी मुल्क की बेहतरी के लिये, समाज की भलाई के लिये इस प्रस्ताव को वापस ले लें, तो सबसे शोभा की बात होगी।

अभी हमारे पूर्व वक्ताओं ने बताया कि मौजूदा जो समाज है उसमें क्राइम्स क्यों होते हैं। समाज में जो शोषणकारी प्रथाएँ हैं वे जब तक रहेंगी तब तक क्राइम्स होते रहेंगे। मुझको खुशी होती यदि जो सोशलिस्ट कंट्रीज हैं, जो समाजवादी देश हैं, वे इस दिशा में पहले कदम उठाते क्योंकि हम समझते हैं कि दुनिया भर में जब तक शोषणकारी प्रथाएँ हैं और जो कि समाज में विषमता है उसका जब तक खात्मा नहीं होगा तब तक इस तरह के क्राइम्स होते रहेंगे। जब कोई ऐसा जमाना आयेगा कि दुनिया में दुनिया भर की एक समाजवादी सरकार बनेगी, तब हम समझते हैं कि इस तरह के दंड के जो बहुत से कानून हैं वे भी खत्म होंगे और फांसी की सजा खुद-ब-खुद खत्म हो जायेगी। अभी भी मुल्क में बिद्रोह होता है, आजादी को खम करने के लिये भी बहुत लोग काम करते हैं और मुल्क में बहुत से विश्वासघाती लोग हैं। इनके लिए यदि कोई सजा हो सकती है तो वह भीत की सजा हो सकती है। तो ऐसी हालत में



यदि इस व्यवस्था को हम हटा लेते हैं तो, जैसे कि हमारे पूर्व वक्ताओं ने बताया, समाज में क्येआस होने का, एनाकी होने का, डर पैदा हो जायेगा और जो हमारे नागरिक हैं उनका दिन-दहाड़े कल्लेआम हो सकता है। इसलिये मेरा बहिन जी से अनुरोध है कि मुल्क की हालत को देखते हुए, समाज की हालत को देखते हुए, उनको इस प्रस्ताव को वापस लेना चाहिये।

**श्री एस० सी० देब (आसाम) :** नहीं लेना चाहिये।

**श्री शीलभद्र याजी :** तब हम लोग इसको रिजेक्ट कर देंगे। सदन में भी और बाहर भी इस ब्याल के लोग हैं जो जघन्य पाप करते हैं, जो क्राइम करते हैं, उनको समुचित दंड मिलना चाहिए। हमारे यहां एक कहावत भी है : “शठ प्रति शायं कुर्यात्”।

अभी सवाल उठाया गया कि बहनों को और माताओं को ममता होती है, लेकिन बहनों और माताओं से ज्यादा ममता हमारे दिलों में है; किन्तु जब हम समाज को देखते हैं, देश को देखते हैं, ४३ करोड़ लोगों को देखते हैं, तो हमारी ममता एक संकुचित ममता नहीं होती है। यदि कोई निर्दोष है और गवाही और एविडेंस वगैरह की सब बातें होने पर भी उसे फांसी की सजा होती है, तो गवर्नर साहब का दरबार है, प्रेसिडेंट साहब का दरबार है और हम एम० पी० लोग किस खेत की मूली हैं—हमारी गृह-मंत्राणी जो इसको सुन रही हैं—जब हम देखेंगे कि ऐसा हो रहा है तो हम उनके यहां उपस्थित हो सकते हैं। यदि हम समझेंगे कि किसी निर्दोष व्यक्ति की जान जा रही है, तो जो हाई कोर्ट और सुप्रीम कोर्ट के बाद भी एक इजलास है उसमें हम जा सकते हैं। ज्यादा न कहते हुए इतना ही कहेंगे कि समाज का जो निजाम है और आज जिस तरह के जुर्म हो रहे हैं उनको देखते हुए इस तरह का प्रस्ताव लाना

ठीक नहीं है। जैसा कि शुरू में मैंने कहा कि जो समाजवादी देश हैं—जिनसे उधर के लोग सबक लेते हैं—उन्होंने भी मुल्क की हिफाजत के लिये और जो विश्वासघाती लोग हैं, उनसे उसको बचाने के लिये फांसी की सजा को नहीं हटाया है। हमारे लिये तो इसकी और भी जरूरत है, क्योंकि हमारी आजादी का जो बच्चा है वह अभी एक नन्हा सा बच्चा है और उसकी हिफाजत के लिये यह जरूरी है कि हमारा जो भी प्रश्न उठे वह होशियारी से उठे। मेरी बहिन जी से खास अपील है कि वह इस प्रस्ताव को वापस ले लें, क्योंकि यदि पार्लियामेंट का इस बारे में कोई मत होता है तो फिर सरकार पर उसका एक असर पड़ता है। हमारे पार्लियामेंट के मेम्बरों को चाहिये कि वह यह बतायें कि अभी समाज की जिस तरह की हालत है, मुल्क की जिस तरह की हालत है, दुनिया की जिस तरह की हालत है, उसमें इस प्रस्ताव को लाने की जरूरत नहीं है। जैसा कि मैंने शुरू में ही कहा है कि जब दुनिया भर में, विश्व भर में एक समाजवादी सरकार होगी, तो खुद-ब-खुद प्राणदंड की, मृत्युदंड की जरूरत नहीं होगी। मैं इन शब्दों के साथ इस प्रस्ताव का सख्त विरोध करता हूँ।

KUMARI SHANTA VASISHT  
(Delhi): Mr. Deputy Chairman. Sir, I share the sentiments of the mover of the Resolution, Shrimati Savitry Devi Nigam, that capital punishment should be abolished, but realising the situation and conditions that exist today particularly in India and elsewhere also, I do not think that we can easily do away with capital punishment.

Sir, last time when this Resolution was being discussed, one of our hon. Members had said that the person who had committed the crime, not only that criminal was hanged or done away with, but his family also suffered and his children also suffered. They are made orphans. But he forgets that not only the criminal's family but the

[Kumari Shanta Vasisht.] victim's family also suffers—his wife and children suffer. Therefore, while we may feel much sympathy for the person who commits the crime, we should also realise that the victim has paid heavily for the mischief of the criminal and, therefore, I feel that our sympathy should not go to the criminal but to the victim, to the law-abiding citizen and the man who would rather follow the law and not those who would not follow the law.

Another word that I may say here about the criminals or whoever fall in this category in this. There are a large number of criminals who commit minor offences and who accidentally or by chance are provoked to commit a mistake or something of the sort. They are taken care of under the various sections of the Indian Penal Code and the Criminal Procedure Code and other criminal laws in the country, and every opportunity is given to such a person for a fair trial and for putting forward various pleas which will help him in his defence. But it is not always the minor mistakes for which a person is awarded capital punishment, there are a very large number of cases of regular habitual offenders and criminal persons who can never change for pathological reasons or persons who are easily provoked and highly disturbed. Even if they want to be good persons, they cannot be even if you give them the best conditions. There are certain people with very serious or severe disturbance in their psychology or in their behaviour pattern. No matter what you do, they can never be changed into good citizens. Of course, we have sympathy with a person who accidentally makes a mistake. He can be covered by various other sections of our criminal laws and so on. But capital punishment is meant for those who are hardened criminals, who cannot change their habits no matter what congenial surroundings you give them, who are by their very psychological make-up of such temperament.

Criminology is a highly advanced science now and psycho-analysis,

psychiatry give us enough information about the patterns of human behaviour, unconscious behaviour and so on. This is not a secret or anything new or unknown to our hon. Members here. They all know that the behaviour pattern of such persons is so highly motivated by crime that in spite of one's best efforts they cannot be changed.

Sir, sometimes we hope that people will not commit crimes when they will have plenty, when they will have enough food, clothing and shelter and everything in this world. But I beg to disagree with those who have this pious hope, because crime is committed not only for the sake of getting clothes, for the sake of getting money for getting shoes or medical treatment for one's wife and children but crime, or any other type of behaviour, is motivated by various other factors also, and these factors become more prominent and more intricate as the country becomes more and more industrialised. With the increasing pressures of modern life, and in an industrialised society, people have to work under very great stresses and strains which produce so many kinds of tensions that crime increases. Also with the struggle for life becoming more acute, with the social pattern changing *i.e.*, the village pattern and joint family system—or whatever it was—becoming less effective, crime is bound to increase. In that<sup>^</sup>slate normal sublimations of life were very great because of the joint family system and the village pattern or rural pattern. Now that Indian type of life or the satisfaction derived out of it is going to be no more there in this modern industrialised state of affairs, crime and all sorts of gangsterism and much things will increase in the modern world.

You know, Sir, that America is one of the most prosperous countries of the world. There are other prosperous countries also, and it is there that the crime rate is extremely high. I do not say that the crime rate in other countries has gone up because of other

things or because the capital punishment is there. Capital punishment, whether it is there or not, crime will be there. Even if you abolish it, crime will not go down. It is a fallacy to think that crime rate will go down if capital punishment is abolished. Crime will be there, whether capital punishment is there or not. Secondly, by and large, human beings are afraid of breaking laws and coming into conflict with laws and with society. They want to follow the society's rules and regulations. A certain percentage will break them and yet a very large percentage of the people will not break those laws. They will follow those rules and regulations of the society. Therefore, if we really abolish this thing, we are not helping the society very much because the fear of authority is very essential. A certain discipline is extremely essential in any society. Therefore, from this point of view also, I feel so. Particularly, some fear of authority and fear of laws should be there in the minds and hearts of the people. If they feel that they can do anything and get away with it, that is not a good convention or tradition for them to be guided by. So, I feel that the punishment should be deterrent. It would prevent people from committing crimes especially when human beings commit such serious crimes like brutal murders and all kinds of other crimes like dishonouring women, raping, killing of children and throwing them away—this happens day after day. But this is not happening because capital punishment is there but it might increase if capital punishment is not there or is done away with and they will be tempted that they can get money if they do such things. I do not think we should make it easier for such people.

Another thing I feel is this that even now a large number of cases have come before us, before the various psychiatric clinics. Even in our welfare projects, we come across many cases of people who have become highly pathological. Not only that in later stages they become hardened crimi-

nals but in some cases, even a child or a boy of 16 cannot be cured. Such have been some of my cases. They have been coming to my centre but have been mixed up with all sorts of gangs, going about with knives and they cannot be cured or helped by anybody. These are cases which are far gone and cannot be helped. You can treat an illness in the early stages but not in the later stages. When a T.B. patient is dying, you cannot help him, no matter even if he gets the best of medical help. The same applies to a psychological case. A person who develops a very strong criminal, pathological tendency can be helped in the initial stages but when he has gone far, no technical expert or other type of people can help him. Therefore, we have to appreciate the fact that those people cannot be cured. Maybe two or five out of 100 can be helped but by and large, 70 to 80 per cent, of these people cannot be helped. Sometimes even children of 9 or 10 years cannot be cured.—We have homes for all such adults in the various countries who cannot be cured" and helped. They go on pickpocketing and they go about with knives and cause a lot of damage to families and the people at large.

Another thing is, we today in India, have not got money for taking care of our orphans, or destitute women or, hospitals and medical facilities. We do not have enough for transportation facilities, for helping our rural areas and backward areas. We have no money even for essential things like primary education which, for the last 13 years, unfortunately, could not be implemented in spite of the provision in the Constitution and the best intentions of the people and the Government. When we do not have money even for the good things and for the basic amenities of life, what is the idea in our spending money for maintaining and prolonging the life of these criminals and pathological people? Therefore, I feel that we have no money for maintaining these people from 10 to 30 years. Therefore, I beg my hon. friend to withdraw th«

[Kumari Shanta Vasisht.] Resolution because it is a very expensive proposal apart from the various other handicaps that are there.

I feel that the money of the citizens should not be spent on maintaining these people who cause great harm. You may let them out of the jail but they repeat the behaviour pattern. You have innumerable cases where a person when let off, the moment he goes out he commits a crime. There is an inner compulsion—it is a compulsive neurosis—in him to commit a crime and he has to be punished. Punishment is also a very great satisfaction to such human beings. That person is wanting to get punished. He needs to be punished. For that reason also, the criminal would want to be punished. He would behave in such a way that he should be caught and punished. For all these reasons, I feel . . .

SHRI SUDHIR GHOSH (West Bengal): Where has she found these?

KUMARI SHANTA VASISHT: There are very widely accepted principles of psychology based on analytical conclusions. After all, you realise that in every religion and in every society you say that if we are good, we should be appreciated for it and if we are bad, we should be punished. This is a principle that every society and every religion believes in, so that when I make a mistake, I fear that I may be punished. It is ingrained in human nature that we feel so. Similarly a criminal also, when he makes a mistake, he wants to be punished . . .

SHRI SUDHIR GHOSH: So little is known about this question as to whether capital punishment does in fact act as a deterrent or not. So little is known that it is perfectly legitimate for Mr. Mani to suggest: "Let there be a body of jurists to go into this."

(.Interruptions.)

KUMARI SHANTA .^-SHT:

A good deal is known about human behaviour. As to what Mr. Mani says, I think it would be better for the jurists to spend their time on something more worthwhile and more useful to the society. That is all that I wanted to say.

SHRI N. M. ANWAR (Madras): Sir, I move:

"That the question be now put."

MR. DEPUTY CHAIRMAN: The question is:

"That the question be now put"

SHRI AKBAR ALI KHAN (Andhra Pradesh): Sir . . .

SHRI BHUPESH GUPTA: Let him have five minutes and then you put it.

MR. DEPUTY CHAIRMAN: It has already been moved.

SHRI P. N. SAPRU: He had got up before you put it.

MR. DEPUTY CHAIRMAN: No. The question is:

"That the question be now put." *The motion was adopted.*

THE DEPUTY MINISTER OF HOME AFFAIRS (SHRIMATI VIOLET ALVA): Sir, this has been a long debate and even so, it would have gone on if the closure was not accepted on this side. The problem that the hon. mover has posed before the House is not a new problem. She of course put it with a great deal of study of other countries and a good deal of sentiment as far as the abolition of capital punishment goes. It is nice to make a comparative study of the different countries but it is better still to see the realities as they exist in our own country.

SHRI BHUPESH GUPTA: May I ask one question? Are you opposing it?

SHRIMATI VIOLET ALVA: You will know it.

SHRI BHUPESH GUPTA: If she opposes it, let Mr. Datar oppose it. After all she is a woman.

SHRIMATI VIOLET ALVA: I think Mr. Gupta need not look upon me only as a woman. That is not a question of man or woman. It is a question of thinking rationally and having a correct approach in regard to the situation as it exists in India. A correct assessment has to be made, the question of man and woman and the question of sentiments should be put aside. I share the sentiments of all those who are here to abolish capital punishment but sentiment cannot give us the correct approach. What can give a correct approach is the correct assessment in the country, whether the time is ripe and opportune to bring in such a measure and to accept it by a mere resolution moved in this House.

Besides, Sir, there was nothing new that came out of this Resolution in this long debate than what had been said in 1959. It was the late Home Minister who intervened in the debate and gave the correct picture then as it existed when a similar motion was moved by Shri Prithvi Raj Kapoor. Nothing much has changed in the country. If things have changed, we have to be more vigilant about this particular crime of murdering people than we were even at that time when that Resolution was moved. Therefore, discussion on the academic level, that this country has abolished and that country has abolished capital punishment and *so on*, does not carry us very far. We have in India today a situation which we have to look into very carefully to see whether we have come to the stage when we can take this step. Perhaps; a time will come when it will be opportune and we ourselves will come and say that there is no dacoity, there are not many murders, that the rate has gone down to the minimum, that it is negative and therefore, we can now venture to take such a step and abolish

capital punishment. But as things now are, as they are before us today, I think, the time is not yet ripe. I would have very much liked the hon. mover to have given us an assessment of the situation which exists today in India, from State to State, from place to place or from region to region even in U.P. from where she comes. It would have been much better if she had given us an assessment of\* the situation at present, instead of quoting Gandhiji and his murderer and citing other instances in India and then pleading for the abolition of capital punishment.

SHRIMATI SAVITRY DEVI NIGAM: (Uttar Pradesh): But the Home Ministry failed to supply me those facts.

SHRIMATI VIOLET ALVA: The Home Ministry is not the only agency to supply facts to the hon. Member. The hon. mover, when she brings forward a Resolution of this nature, herself must do a little research. A little research on one's own individual level is good and it gives greater satisfaction.

SHRIMATI SAVITRY DEVI NIGAM: What about official records?

SHRIMATI VIOLET ALVA: If the hon. Member will only listen to me, I shall place the figures before the House which can be used if she wants to move the same Resolution after two years.

SHRIMATI SAVITRY DEVI NIGAM: But at that moment I did not have them.

SHRIMATI VIOLET ALVA: Let me say this, that social workers we all are basicarry, before we become this or that, and it is our duty to create public opinion in the country and to create conditions in the country so that we can safely say we can now abolish capital punishment. Of course, I do not say that India lags behind any other country in the matter of having a progressive approach to the treatment of criminals. We are very

[Shrimati Violet Alva.] progressive and we are constantly examining every day how we can not only reform the criminals but also how we can give up this retributive nature of punishment. Therefore, in this progressive approach, we lag behind none. Not long ago, we abolished whipping. Whipping punishment is no more there on our Statute Book. Recently we passed the Probation of Offenders Bill and that is also on the Statute Book. We are going on progressively. But as some speaker said just now\* we have to see if crimes are going down or going up. If these figures are not going up, are they definitely going down? Here I must say that it is not so yet and therefore, to think of abolishing capital punishment now is rather premature. Crimes in fact are now spreading even among juveniles.

SHRI BHUPESH GUPTA: Then how are we progressing?

SHRIMATI VIOLET ALVA: Please let me state the case. The circumstances or the conditions in our society are so vitiated that we still need deterrent methods to put down crime. Unfortunately, it is true that crime figures are not satisfactory even today to permit of Government's accepting a Resolution of this nature. Public sentiments at present and public opinion are two factors on which we should consider this Resolution. But the approach of the hon. mover was more theoretical than practical and as I have already said, on this issue there is no question of a woman's heart and a man's heart. I think the heart is sound, both of man and of woman. In former days, it was the man who brought about many penal reforms, but now woman is also coming out and joining man in this work and the approach to these problems has to be a rational one. Of course, a certain amount of sentiments also can play some part; but we should not be carried away by sentiments. The existing circumstances are such that a Resolution like the present one cannot be accepted. We talk about violence and non-violence. But this has no-

thing to do with violence or nonviolence. That may be there in political ideology or political theory and practice.

The hon. the mover has said that you should not equate life with life. I grant you cannot equate life with life. Yet we have to carry "on and if you see the figures and if you see our provisions in our Constitution and if you see the codifications of our laws and penal laws on the Statute Book, you will find that a murderer is given a chance and help at every stage. First, if he cannot have a defence counsel, the State gives him one. Then as an hon. Member said here, he can move the Governor. He can move the President. He can move the Minister. He can move anybody. And certainly people's hearts are not closed. Here I may say that even recently there was the case of a doctor who did away with his patient and commutation of sentence was granted to him. These cases should be very carefully seen and if a cold-blooded murder is committed, there is no other way by which society can be recompensed than by taking a life for a life. Sometimes murders are committed even for very small things. They are pathological cases, resulting in cold-blooded and calculated murders. I do not want to go back to the speech of the late Home Minister in which he cited how children were mutilated and murdered. Are such people now to escape the gallows? I had also stated how a child's eyes were pulled out and when the mother was offering alms, she found it was her own child. If this sort of things go on still, then certainly it is not yet time to do away with capital punishment.

It was argued here that a crime might be committed in a fit of insanity. I may say that if it is due to a fit of insanity, that is taken into account not only by the court of law but even afterwards, when mercy appeals are made. It was the hon. Member, Diwan Chaman Lall—I am sorry he is not here now—who said that many an innocent man has been sent to the-

gallows. While I cannot say that there never was an innocent man who went by mistake to the gallows, the manner in which he put forward the figures tended to show that a large section of them were innocent. That is not the case. I may point out to the House that the general feeling in the public is that we are lenient and even our courts are lenient. It should be so, for the judiciary is independent. Nevertheless this element should also be taken into consideration. Up to now we had the jury system. It is now being done away with. Nevertheless the process of law is so carefully considered in India and there are also the provisions in our Constitution so that a man's neck is always safeguarded up to the end.

Of course, again a difference has to be made between a mental case and a cold and calculated murder. In a mental case the man gets into a fit of insanity and commits the crime. An hon. Member said that psychiatrists should study the murderer while he is undergoing trial or is in detention. Now, with all the prison reforms that we have and the manner in which it is progressing from stage to stage, I may say that that time is not far away. Even now psychologists and psychiatrists are available for the prison inmates so that their psychology and their character and their subconscious mind could be not only studied but could also be treated.

As I said, a Resolution on this subject was moved by Mr. Prithvi Raj Kapoor two years ago and before that also we had one. We had one in 1956, another in 1959 and a third now in 1961. If the hon. Member expects this Resolution to be adopted in this House, then it was her bounden duty to say that since the past two occasions when this subject was discussed things have changed, conditions have changed and society has improved, that the madness of murdering and killing is not there as it used to be before. We hear now of political murders. Should we, in these circumstances, try to correct society or give

up capital punishment to begin with and then correct society? Let us not put the cart before the horse. We want to build up a Welfare State and a Welfare State does not fall from the heavens. If the other countries have abolished capital punishment, they have reached that stage by hard endeavour and then they have abolished capital punishment. The late Home Minister cited some figures and I shall give the latest figures in regard to the proportion of murders to one million of population in India in 1958 and 1959. In 1958, the number of murders was 10,661 and in 1959 it was 10,721. Now, the number of murders related to one million inhabitants was 29.6 and 29.8 respectively. Now, this figure is high. In the countries where capital punishment has been abolished, the figure is very low, it comes down to four in a million or less than that. In Netherlands it was one to a million, in Great Britain, for the first fifty years of this century it was 3.89 murders to a million—this is for England and Wales—for Scotland it was 2.52. So, it is clear that murders are being committed not only by the mentally deranged in India but by others as well. The mentally deranged people get attention automatically from the State and are offered other facilities. This is taken into account even when evidence is led in the courts of law. In the United States six States have no capital punishment and nine States have restored it after having been without it for periods varying from two to twenty-eight years.

SHRIMATI SAVITRY DEVI NIGAM:  
For political reasons.

SHRIMATI VIOLET ALVA: Political or no political. Why should we differentiate? Murder is a murder, and for political reason or any other reason, murder is a crime and murder should be put down. All the countries of the British Commonwealth have retained it excepting Queensland and New Zealand where it was abolished in 1941 but was re-introduced in 1950 on account of the rise in the number of

[Shrimati Violet Alva.] murders. Take our neighbour, Ceylon. They had abolished the punishment but re-introduced it after the murder of the late Prime Minister. In the United Kingdom, of course, the Bill was rejected by an overwhelming majority in the House of Lords. In the House of Commons it had a narrow majority. Nevertheless, in the United Kingdom, capital punishment *if* back. This means that even those countries that are Welfare States have found reason to introduce capital punishment though, of course, like us, they must be keeping it to the minimum.

All the States are against the abolition of capital punishment in India. The law on the subject is very elastic in our country. It gives greater discretion to the courts to award alternative punishment and if you sit in a court of law, you very often find that the alternative punishment is given and it is only when guilt is proved to the hilt that capital punishment is awarded. We have, of course, the jury system which is being given up in some States. Finally come the mercy petitions to the State Governors and the President. The State Governors and the President give reprieve. I shall give you the figures in regard to the number of mercy petitions that come from year to year. The number of mercy petitions received in 1959 was 257 and the number of cases in which the sentence was commuted was 56; in 1960, 263 mercy petitions were received and in respect of 47 cases, the sentence was commuted. Every case is analysed at every stage and even at the stage when the case comes finally to the Governor or the President it is looked into very carefully. It is true that even the hon. Members of Parliament and also those outside who are concerned about the welfare of the man who is going to be hanged take up his case. We always receive mercy petitions and we try our best to find out whether he deserves that little mercy or not and it is only in the final stage that his petition is rejected. I would like to know, grant-

ed hypothetically that capital punishment is abolished, whether the hon. Member would be prepared to say that murder would be no more committed, dacoities would be no more, heinous crimes would be no more or would vanish.

SHRI BHUPESH GUPTA: Would you say that the number of murders would be more?

SHRIMATI VIOLET ALVA: I am asking the hon. Member. We have to see the picture on the other side also, the manner in which the victim is hacked, the manner in which his people suffer, the manner in which society suffers and the insecurity that others feel if a criminal goes unpunished.

SHRIMATI T. NALLAMUTHU RAMAMURTI: Has deterrent punishment through enforcing of capital punishment decreased crime?

SHRIMATI VIOLET ALVA: I am not arguing that way. I am simply asking her . . .

SHRIMATI SAVITRY DEVI NIGAM: I never told her that . . .

SHRIMATI VIOLET ALVA: I never interrupted the hon. Member. She has the right of answering.

We ourselves have framed laws and make punishment more stringent for kidnapping, distorting, maiming and so on. These things are there in our country and we want to effectively use the law to make it deterrent so that in cases where deterrent punishment helps, it must be deterrent.

Finally, I would like to talk about the police and their responsibility and the risk that they run without the safeguard of capital punishment. There have been cases where murderers come out after decades, a decade or a decade and half and pursue the man who got them convicted. This type of cases are known to society. The approach of the police has to be looked into, the increased risk the polic\*



would be undertaking or would be exposed to in the capture of criminals without the safeguard of capital punishment. I do not want to go into all of these factors. There are so many factors that are known. Murder films and all that were discussed here but here we are discussing capital punishment and the abolition of it. When we discuss such a measure, I think, we should also take into account the other circumstances that prevail and the other conditions that are not discouraged sufficiently that bring about not only crime but sometimes small crime that leads on to a capital crime. I do not think the time is ripe. In principle I agree with her but in practice the time has not come and it is not ripe to accept this Resolution. I should, therefore, oppose it. In the present day society, India is not yet ripe for this reform. Historically, of course, we have known our country. I heard hon. Members speak about the historical background, about our philosophy, about our philosophy of live and let live, violence and nonviolence. That is beside the point. We want to govern and build up the country. We ourselves are keen on reforms but the time must be opportune when these reforms could be introduced. The community has not reached that stage when we can suggest the abolition of capital punishment. Therefore, I oppose this Resolution and would request the hon. mover to withdraw it.

Now, about the amendments, I will begin with the 4th amendment of Mr. Mani which suggests the setting up of a commission consisting of persons of judicial status and Members of both Houses. I do not think this amendment, if accepted, would carry us anywhere. We already have the Law Commission. We have then the different stages in the trial of capital offences. It is constantly receiving our attention. And if it is to be done the Law Commission could certainly examine it from time to time but to set up a separate commission would not help us in any way. Therefore, I oppose it.

Now, I come to the first amendment

SHRI SUDHIR GHOSH: Has the Law Commission gone into this question of whether or not capital punishment does . . .

MATT VIOLET ALVA: It can go into the question whenever we move it or even by itself.

Now, I come to the first amendment which wants a rationalisation of laws prescribing capital punishment.

SHRI SUDHIR GHOSH: But it is not the function of the Law Commission to go into this question.

SHRIMATI VIOLET ALVA: In any case a commission newly appointed could not come to any valid conclusions especially on this subject.

Now, the object of Mr. Sinha's first amendment is to extend the scope of the Resolution. The Resolution itself is not acceptable and therefore this amendment is not acceptable to us. Sir, I oppose both the amendments.

MR. DEPUTY CHAIRMAN: Shrimati Savitry Devi Nigam. You have seven minutes.

SHRIMATI SAVITRY DEVI NIGAM: I will have to continue because I will not be able to reply to all the points.

Sir, I am very very grateful to those Members who have supported my Resolution but I am also grateful to those who have not supported this Resolution directly because they have cited many horrid stories ; and stated a number of instances where in spite of the fact that capital punishment is *on* the Statute Book those crimes have been committed. So indirectly they have also supported me. They are also of the opinion that this capital punishment has proved to be useless. -I am also grateful to the hon. Deputy Minister because she has also supported me in a way quite strongly when she says that though this capital

[Shrimati Savitry Devi Nigam.]  
punishment has been on the Statute Book, still the number of murders is on the increase. That is quite sufficient to prove my case and that is quite sufficient to prove that Government should take immediate steps to appoint a commission as has been suggested.

SHRI K. SANTHANAM (Madras):  
Would the hon. Member suggest the abolition of the punishment for theft because thefts are going up?

SHRIMATI SAVITRY DEVI NIGAM:  
The hon. Minister put me this question as to whether after the abolition of capital punishment there will be no further cases of murder. Sir, capital punishment is not a cure for murder and how could the abolition of capital punishment be a cure for murder? The hon. Minister with her own arguments has supported me.

Sir, I have heard the views expressed by various hon. Members with great interest. I am sorry that some of the hon. Members were not present at the time when I put forward all the arguments, all the relevant facts, figures and statistics, to prove that this capital punishment has no deterrent effect. Whether we take the case of India or whether we take the case of Ceylon where it has been reintroduced, or whether we take the case of any other country, it has been proved that capital punishment has got no deterrent effect on the psychology of the criminals whatsoever. Even the hon. Miss Shanta Vasisht, after some arguments against it, has told in very clear words that it is a fallacy to think that capital punishment has got any deterrent effect and that it has been responsible for dissuading people from committing murders. If the other hon. Members who have spoken against the Resolution had been present here when I was quoting the evidence from the Report of the Royal Commission and from various other documents, they would never have repeated these hackneyed

arguments and hackneyed stories to prove their case which has got no relevance or substance in it.

Sir, many hon. Members have, stated that there is a class of depraved persons. It is a very wrong fact and this has been coming down from the Stone Age that because some persons are *sudras* they are depraved people. They have bad habits and that is why they are *sudras*. This has been an argument of the old days and I was very much surprised at this that this same argument should be advanced that any class or community or a race could be depraved. It is a barbarous argument and I would request my hon. friends that in this twentieth century this type of argument that a class could be depraved or a community could be depraved, should never be repeated. Take the case of our great *rtshi*, Valmiki. If he had been executed, we would never have had the Ramayana. Such a great religious book like Ramayana which is a part of our culture, which is the backbone of our civilisation, would never have been given to us if he had been executed because he was a murderer. He could be saved. Why not these innocent people who have got no defence, who are poor? Hon. Members have accused me of being theoretical. I am so sorry that they do not know this- fact that I have taken the life history, that I have interviewed 145 prisoners who had been condemned to death and I can tell you that they constituted pretty good human material. Many of them were innocent. And out of 145, there were 93 who came from the Scheduled Castes and Scheduled Tribes. If they had not been so poor, they would not have been condemned to death. Many people from the upper classes commit murders but because they can engage big lawyers, they are never condemned. They never even get punished for a few days; they are immediately bailed out with all their influence but I think the poor people are sent to the gallows. I am sorry that some Members have advanced

strange arguments. They say public opinion is not ready. It is most obvious. Public opinion is not ready but it is baseless to use it as an argument. I would ask th's question. Are we going to be guided, is this hon. House going to be led, by public opinion, or are we going to lead public opinion?

SHRI D. A. MIRZA: Have you ever moved with murderers?

SHRIMATI SAVITRY DEVI NIGAM: I have already stated that I have interviewed 145 murderers; not only that, I have cooked the last meal for 25 murderers.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): Sir, could the hon. Member . . .

MR. DEPUTY CHAIRMAN: Order, order. She is not yielding.

SHRI D. A. MIRZA: In which jail did you cook the last meal?

SHRIMATI SAVITRY DEVI NIGAM: I can tell you outside. Don't ask irrelevant questions.

Sir, the question of creating public opinion is a very relevant one. I can

say that this august House has 1 P.M. been blessed with so many

great leaders of society who are capable to creating public opinion and who are leaders of the society in every respect. For no social reform, even for the Hindu Marriage Act, there was any proper public opinion. Still we brought forward that legislation because here the leaders who are Members of this House are responsible *for* creating public opinion and are responsible for reforming society. That is why this argument is also quite baseless.

Some Members have said that you must have sympathy for the victims. I have every sympathy for the victims. If death could cure crimes, 'f

death could restore the life of the victim, I would say that I myself would support the retention of capital punishment. By just murdering the murderer, neither we show any sympathy for the victim's family nor do we show any sympathy for the victim who has been murdered by the State and his family. Our State is a welfare State. I wish some of the hon. Members could have advanced this suggestion that at least the family of the person who is murdered by the State, by capital punishment, should be given some protection, because his family and children, whose bread-earning is deprived of, are not given any protection by our so-called welfare society. So, I would again appeal that this type of argument, which has got no substance, should not be advanced.

The hon. Member, Shri Santhanam, advanced this argument for the retention of capital punishment, namely, in order to educate people. What a nice and reformed way of educating people! Capital punishment is there on the Statute Book and I would like to know whether it has been successful in giving education in the real form and of the type which Mr. Santhanam wants to give to the people. I would have supported the retention of capital punishment if it has been successful in giving education to the people. It is not a very civilised way of educating people. Even that uncivilised way and most barbarous way of educating people has not been effective. That is my point.

Some hon. Members have said that this type of capital punishment and other punishment have got some deterrent effect. I would like to ask them, 'Whipping also has a very great deterrent effect; why has it been abolished?' People used to shudder at whipping. Whipping has been abolished because, in spite of the fact that the Whipping Act was there, in spite of the fact that many people were used to be whipped, people were committing crime.

SHRI D. A. MIRZA: That was a mistake.

SHRIMATI SAVITRY DEVI NIGAM: Many countries' names have been quoted by hon. Members. I would like to quote some more names, which were very cleverly not mentioned, names of States where capital punishment has been abolished, viz., Norway, Sweden, Finland, Denmark, Holland, Belgium, Portugal, Italy, Latvia, Rumania, Lithuania, Czechoslovakia, Hungary, Russia and Switzerland.

(Interruptions.)

SHRI N. M. ANWAR: In Russia Beria was murdered.

SOME HON. MEMBERS: Not Russia.

SHRIMATI SAVITRY DEVI NIGAM: I am not going to yield, please. Time is very short. They have not got this capital punishment on their Statute Books. And then in about ten States in South America and many more countries, which I am not going to quote because time is very short capital punishment has been abolished. The hon. Minister has said that . . .

SHRIMATI VIOLET ALVA: May I know, Sir, from where she brings the information about the U.S.S.R. having abolished capital punishment?

SHRIMATI SAVITRY DEVI NIGAM: This information has been given by the reference section.

SHRI D. A. MIRZA: Liquidation goes on there.

SHRIMATI SAVITRY DEVI NIGAM: The hon. Minister has advanced the argument that it <sup>na</sup>s been reintroduced in a number of countries. I would like to say, here is the Royal Commission's Report, if she goes through th's Report, she will find that in most of the countries where it has been reintroduced, it has not been reintroduced because the rate of murder increased by the abolition of capital

punishment. It ha<sub>s</sub> been reintroduced to punish a particular person, political person, by the political group elected to power. In most of the States that has been the reason for reintroducing capital punishment. Take the case of Ceylon, a living example before us. I can read out the relevant passage from the Ceylon Commission's Report. It has been accepted in the Ceylon Commission's Report that it has not been proved by any evidence whatsoever that in the absence of capital punishment the number of murders increased. Because, they wanted to punish the murderer of Shri Bandara-naike, they have reintroduced capital punishment. Instead of killing these persons . . . (*Time bell rings*). I want one minute more.

MR. DEPUTY CHAIRMAN: No You have already taken eight minutes. No extension of time on Resolutions. Order, order.

SHRIMATI SAVITRY DEVI NIGAM: Instead of killing the person, please maintain human dignity. Please find out what the criminal has lost. Actually the execution is over in hardly two minutes. If that man is kept in prison, if he gets the time to repent and reform himself, then the actual purpose of punishment of a criminal would be served.

MR. DEPUTY CHAIRMAN: What do you do with your Resolution?

SHRIMATI SAVITRY DEVI NIGAM: Capital punishment was first invoked for murder at a time when prisons of the modern type were non-existent. But as prisons of the modern type are in existence, I do not see any reason why capital punishment should not be abolished.

Some Members have criticised Diwan Chaman Lall's argument that many innocent persons are executed.

SHRI A. D. MANI (Madhya Pradesh): May I ask the hon. Member whether she is pressing her motion or I withdrawing it?

MR. DEPUTY CHAIRMAN: You have to finish now. The time is up.

SHRIMATI SAVITRY DEVI NIGAM: I want two minutes more.

MR. DEPUTY CHAIRMAN: No more two minutes. Please let me know what you want to do with your Resolution. Your time is over. There is no extension of time on Resolutions.

SHRIMATI SAVITRY DEVI NIGAM: But then the House agreed to sit for a few minutes more.

MR. DEPUTY CHAIRMAN: Only to the extent of time allowed by the rules.

SHRIMATI SAVITRY DEVI NIGAM: I will again say that the death penalty is irreparable. It is irreparable because it has been proved by a number of committees appointed by the English Parliament in 1811 and a New York Legislation in 1845 that a number of persons are executed who are quite innocent.

*(Time bell rings.)*

MR. DEPUTY CHAIRMAN: Let me know what you do with your Resolution. You have to sit down now.

SHRIMATI SAVITRY DEVI NIGAM: Lastly, I will say this.

PROF. M. B. LAL (Uttar Pradesh): She is pleading for unfortunate men.

SHRIMATI SAVITRY DEVI NIGAM: The hon. Minister herself accepted the very principle of abolition of capital punishment and she has also assured us that the time is, according to her, not ripe for it. That is why I beg leave to withdraw it.

MR. DEPUTY CHAIRMAN: I have to put the amendments to vote first. The question is:

1. "That after the words 'in India' the words 'and for the rationalisation of laws prescribing capital punishment' be added."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

4. "That for the words 'undertake legislation for the abolition of capital punishment in India' the words 'set up a Commission consisting of persons of judicial status and Members of both Houses of Parliament to enquire into and report on the desirability of undertaking legislation to abolish capital punishment in India' be substituted."

*The motion was negatived.*

SHRIMATI SAVITRY DEVI NIGAM: Sir, I beg leave to withdraw my Resolution.

MR. DEPUTY CHAIRMAN: Has she leave of the House to withdraw her Resolution?

HON. MEMBERS: No.

MR. DEPUTY CHAIRMAN: I will put it to vote. The question is:

"This House is of opinion that Government should take immediate steps to undertake legislation for the abolition of capital punishment in India."

*The motion was negatived*

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2.30.

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

The House reassembled after lunch at half past two of the clock, THE VICE-CHAIRMAN (SHRIMATI T. NALLAMUTHU RAMAMURTI) in the Chair.

## **RESOLUTION RE SETTING UP COMMISSION OF ENQUIRY ON PUBLIC HEALTH**

The VICE-CHAIRMAN (SHRIMATI T. NALLAMUTHU RAMAMURTI): Mr. Jugal Kisore may now move the Resolution that stands in his name.