

[Shri C. C. Biswas.]
introduced for amending Section 44A of the Code of Civil Procedure much on the same lines as it is proposed to amend the Maintenance Orders Enforcement Act. For some reasons which it is not necessary to refer to, there will be some delay. There is to be some correspondence between U.K. and our country. Possibly that will take some time and the Bill will come up before this House next session. So a similar amendment is being made in the Code of Civil Procedure.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill further to amend the Maintenance Orders Enforcement Act, 1921, as passed by the House of the People, be taken into consideration

The motion was adopted.

MR. DEPUTY CHAIRMAN : Now, we shall take up the clause by clause consideration of the Bill.

Clauses 2, 3, 4 and 1, the Title and the Enacting Formula were added to the Bill.

SHRI C. C. BISWAS : Sir, I beg to move that the Bill be passed.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill further to amend the Maintenance Orders Enforcement Act, 1921, as passed by the House of the People, be passed.

The motion was adopted.

THE REPEALING AND AMENDING BILL, 1952

THE MINISTER FOR LAW AND
MINORITY AFFAIRS (SHRI C. C.
BISWAS) : Sir, I beg to move :

That the Bill to repeal certain enactments and to amend certain other enactments, as passed by the House of the People, be taken into consideration.

This, again, is a formal measure. It is one of those measures which are brought before the House from time to time in order to effect some necessary changes in our Statute Book. I do not know if hon. Members have cared or have had time to read the Explanatory Statement on clauses which is appended to the Bill, and if you go through that note, Sir, you will see the objects for which these changes have been made. The changes are of two types—one relates to amendments of certain Acts and the other relates to repeal of certain Acts which are now obsolete or which have become superfluous. Many of these Acts should have been repealed long before, but somehow or other they escaped notice. I would only draw your attention, just as a matter of interest, to the first item in the Explanatory Note. That is about the repeal of the Bengal State Prisoners Regulation, 1818, the Madras State Prisoners Regulation, 1819 and the Bombay State Prisoners Regulation, 1827 and there is also the repeal of the State Prisoners Act, 1850. In view of the Preventive Detention Act, all these laws have become out of date. And so we can bid good-bye to these ancient friends of ours without any pangs of compunction.

AN HON. MEMBER : They have appeared in new forms.

SHRI C. C. BISWAS : They may have appeared in new forms, but we know how to grapple with our new friends.

You will also find there are other Acts for the retention of which, as has been pointed out, there is no further justification. Some again related to English laws ; but the number of persons to whom such laws could be applicable now is so limited that it is not worth while retaining these Acts any further on our Statute Book. Then again, in India many new Acts have been passed which make it unnecessary to retain the provisions of old Acts.

Then we come to the Second Schedule, which refers to amendments.

Most of these amendments are in consequence of the Adaptation of Laws Orders which followed the passing of the Constitution. Other reasons are also given. It is an interesting list.

That explains why this Bill has been introduced. Sir, I move.

MR. DEPUTY CHAIRMAN :
Motion moved :

That the Bill to repeal certain enactments and to amend certain other enactments, as passed by the House of the People, be taken into consideration.

SHRI J. R. KAPOOR (Uttar Pradesh) :
Mr. Deputy Chairman, I have a few observations to make with regard to the manner in which this Bill has been presented to us. Sir, we are called upon to give our assent to the repealing and to the amending of a very large number of Bills, numbering, I believe, over 100. I very much wish that in the Statement of Objects and Reasons we were told the reasons for the repealing of these Acts and for the amending of these Acts in a little more detailed manner. The Law Minister just now said that he wondered whether we had the time and the inclination to go through the notes on clauses which have been appended to this Bill. I may assure him that I for one have taken pains to go through these notes very carefully because I was anxious to know as to what actually were the reasons why we are being asked to repeal some of these Acts and why we are being called upon to amend some others, but I am sorry to say that I could find very little help from these notes on clauses. Some of these notes do not tell us definitely and in a precise manner as to what the reasons are for the repealing of those Acts. And I also find that with regard to some of these Acts absolutely no note has been appended. When I was going through these few pages which contain the names of the various Acts, my eyes happened to fall on one such enactment which is sought to be repealed, and it is the Taj Mahal's Pension Act, 1881. I just wanted to find out what this enactment could be dealing with. Coming as I do from

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Agra, which has the privilege of having this great monument Taj Mahal, which in the words of Dr. Tagore is a "tear drop of love made immortal", and which monument has been rightly described as one of the seven wonders of the world, I was most horrified to see that an enactment dealing with the Taj Mahal should be sought to be repealed altogether. And as the name indicated that it is the Taj Mahal's Pension Act, 1881, I thought that perhaps this Act dealt with some contribution which the Central Government might be making for the maintenance of the Taj Mahal. I looked through the notes on clauses, and all that I found mentioned therein was that this Act is being repealed as spent, and that the Government of Uttar Pradesh had no objection to its repeal. I then went to the Library and looked into this Act and I found to my great satisfaction that this Act had absolutely nothing to do with the Taj Mahal or any pension relating to it, but it related to a certain Act according to which some relation of Wajid Ali Shah was granted a pension and that relation of his bore the name of Taj Mahal. My fears were allayed when I came to know that.

11 a.m.

SHRI C. C. BISWAS : The pensioner lady is dead and therefore the Act is spent.

SHRI J. R. KAPOOR : I know that that lady is dead. But the Taj Mahal stands all the same. My point is that if a really clear note had been appended on the subject as to what "Taj Mahal" was, I would have been saved the anxiety, and all the botheration of looking through this Act.

Then, Sir, I find that with regard to some of these Acts absolutely no notes have been appended, and one such Act is the Indian Emigration (Amendment) Act, 1949. There being no note appended, I asked as to what is the necessity for repealing this Act which was as recently enacted as in 1949. I would very much like the hon. the Law Minister to throw some light on the subject. It is the last

[Shri J. R. Kapoor.]

item on page 3. I would very much like to know what are the reasons which have made it necessary for the Government to come before us with this proposal. I have looked into the Indian Emigration (Amendment) Act, 1949, and I find that it was found necessary to amend the principal Act so that the Act might be made applicable to the whole of India. Until 1949 the principal Act which was sought to be amended and was actually amended by this amending Act of 1949, was not applicable to the whole of India but was applicable only to that portion of India which was then British India. Therefore it was considered necessary that an amendment should be made in the principal Act so that it would be made applicable to the whole of India. Now, Sir, I do not see any reason why we should repeal the amending Act and go back to the old Act of 1922, because after this amending Act is repealed the old Act of 1922 will stand as it stood before 1949, which would mean that it would be applicable only to those parts of the country which then were called British India. Maybe, Sir, that by the Order of the President that Act would automatically be applicable to the whole of India, but then I find that if this Act is now repealed altogether, then the provisions of the old Act which contain the words "Provinces" would hold good; and I do not know what distinction is sought to be made between the words "Provinces" and "the whole of India" now. According to the amended Act, we have the words "the whole of India". Now the words "the whole of India" are sought to be omitted, as it were, by this Act being repealed, so that the word "Provinces" would continue to hold the field. What actually is the implication of that I would very much like to know. Will it still be the case that the Act of 1922 in its original form would still continue to be applicable to the whole of India, or will any portion of India be out of the purview of the Act? That is what I am particularly anxious to know. In any case I would like that hereafter notes on clauses of Bills

may be a little more explanatory. I hope the Law Minister will look to it.

SHRI B. GUPTA (West Bengal) : Mr. Deputy Chairman, looking at this Repealing and Amending Bill I feel that wonderful are the ways of our Congress Rulers. Here in this First Schedule of this Bill we find the three State Prisoners Regulations, the Bengal State Prisoners Regulation, the Madras State Prisoners Regulation and the Bombay State Prisoners Regulation are being repealed. The country would have congratulated the Government for repealing these shameful measures had it not been for the fact that in the other House they are now busy in incorporating the tyrannical provisions of these laws and Regulations in the Preventive Detention Act. Therefore, Sir, what is being promised here to the ear is being broken at the heart in the other House. Now what the Judicial Minister is here to repeal, the Home Minister in the other House is there to enact. His own colleague the Home Minister in the other House is trying to incorporate these provisions to enchain us. Now, Sir, this is the only thing I can say. The country would have congratulated this Government if these preventive detention measures which have disgraced India for the last century and even more would have been totally repealed from the Statute Book, not only from the Statute Book but from the minds of the present rulers, the praetorian guards of the Congress. They have nothing good in their mind. Therefore they come here to repeal certain things and to re-enact the same measures in a different form in the other House, and I think his colleague will come here with the same thing and therefore, Sir, one cannot congratulate the present Government at all for what it is proposing in this House.

I would request the Judicial Minister to prevail upon his Police Minister to do away with the preventive detention measures and see that justice which had been a casualty in the British regime is enshrined in the new order

of which they are boasting all the time. I have nothing more to add.

PROF. G. RANGA (Madras) : Mr. Deputy Chairman, my friend who has just spoken said that while one Act is being repealed here, something else is being enacted somewhere else. It is all a matter of time. Here is an Act which is sought to be repealed. That is the Punjab Murderous Outrages Act. Why is it now sought to be repealed ? It is because it is no longer necessary. Such murderous outrages are not taking place. Therefore it goes. Similarly if the need for this detention and all these things is also not there, there won't be a Preventive Detention Act at all. The Bengal State Prisoners Regulation, the Madras State Prisoners Regulation and the Bombay State Prisoners Regulation—these three Acts—are no longer necessary. Therefore they go. And moreover if these three Acts were to be kept on the Statute Book and if people were to be detained, the State also would have to spend very much more money. Hundreds and hundred of rupees have had to be spent every month upon all those detenus who were detained under these Regulations, whereas according to the new dispensation the State need not have to waste so much money and people can be treated as ordinary citizens and not as State prisoners or State guests in a pompous and princely fashion.

But there are one or two things which are rather interesting features in this Bill about which I would like to say a word. There is one Act here, Sir, called the Indian Slavery Act, 1843. Now this was passed in 1843 to put an end to slavery that used to prevail in this country and that Act is to go because there is no longer any need for any such Act as there are no slaves. The whole country has emerged out of her political slavery.

Then there is the other Act—the Female Infanticide Prevention Act, 1870. This also is to go. These two Acts indicate how this country has progressed during the last one century. We got rid of ordinary sla-

very in the matter of trade and of commerce. We have got rid of female infanticide also as a matter of social convention. And we are now getting rid of the State Prisoners Regulations because we have not only become free but we are so free as to make it possible for our friends—such of them as choose to rise against the State and organise themselves politically and for various other purposes—to be obliged to be kept in detention only for a few days before they are brought by the compulsion of law before a judge, a properly constituted court or a tribunal. We have discussed such a measure, Sir, at some length in the last Parliament and it is likely to come up again. Now it is being discussed in the other House and it is likely to come up here for our consideration. And I am sure this House will give its best possible consideration to it. Therefore I need not go into that.

But before I sit down I have only to say that there is no justification at all for my friend who has just spoken to maintain that here is a Government of free India which is interested in deceiving the public by appearing to be repealing some Acts while actually trying to enact them in another shape. That is not at all the case. The only difference would be this. The present day detenus will not be as well paid as the earlier detenus that used to be paid highly. The present detenus need not have to be kept in jail for more than a few weeks before their case is brought before a judge and advisers, whereas in the past they could be kept indefinitely as so many of us were kept without any trial at all, without our case being brought before any Tribunal.

Therefore it is no good comparing one with the other and then saying that this Government is just as bad as the past Government. However much I may be opposed to the present governmental dispensation in this country, I am not prepared to allow my friend or any one like him to say that the present day Government of Independent India is not different from the Government that we used to have 100 years ago or is not different

[Prof. G. Ranga.]

from the kind of Government that we used to have before we became free.

SHRI RAJAGOPAL NAIDU (Madras) : Mr. Deputy Chairman. I find certain amendmends are proposed over certain very important Acts such as the Indian Penal Code, the Special Marriage Act, the Indian Christian Marriage Act and so on and so forth. These have been enumerated more elaborately in the Second Schedule. I feel that however simple the proposed amendments are, some time should be given to us to judge them after going through the amendments proposed and find out whether the amendments are simple or not. This Bill has been distributed to most of the Members only yesterday or the day before yesterday—say about two days back—and within the short space of time, I feel, Sir, that we are not in a position to go through the entire amendments and to give suggestions. I would therefore suggest that some time should be given to us—at least a few days—and the Bill may be taken up on Tuesday along with the other Bill which the hon. the Commerce Minister has suggested.

MR. DEPUTY CHAIRMAN : The Bill was distributed on the 14th as soon as it was received.

SHRI K. S. HEGDE (Madras) : Sir, these are formal amendments which have been necessitated by the progress of time and I do not think they need be held over to another day and thereby have a certain amount of maladjustment in our work. I do not think this calls for any adjournment. Apart from that, I did not expect a big debate on this. Of course, my hon. friend of the Communist Party wants to oppose everything for one reason or another. It may be good reason or bad reason. He could not even wait for two days for the other Bill to come up before this House. I can appreciate his anxiety about it. If the Preventive Detention Act is to be extended, may I say that he and his party are mainly responsible for it, a party whose activities always come into conflict with the laws of the country.

As I said, I do not think this is a case where we should have an adjournment and I think we should go through the Bill today. We can do our work on Tuesday more satisfactorily if we do not have more work for that day than we can adequately deal with.

SHRI TAJAMUL HUSAIN (Bihar) : I would ask one question of the hon. the Law Minister. I find that the Slavery Act is being abolished. Before this Act was enacted, there was slavery in India and the Government of those days wanted to abolish slavery from India and therefore this Act was enacted. This Act prevented us from buying, selling and keeping slaves. My question is, when this Act is abolished, would it mean that we can buy, sell and keep slaves.

PROF. G. RANGA : The Constitution will reply.

SHRI C. C. BISWAS : I said in my opening remarks that hon. Members might not have had time or the inclination to read the whole of this Bill. I think I made a mistake, at least with regard to the hon. Member who spoke first. I would say that, so far as he is concerned, he had read it, only that he did not apply his mind to it.

SHRI J. R. KAPOOR : Not applied my mind to a blank.

SHRI C. C. BISWAS : To the contents of the Bill. I confess I did not read the Taj Mahal's Pension Act, although it was included in the list attached to the Bill which I am sponsoring. In fact I have not read many of the original Acts which are being repealed or amended. But it did not take me a minute to understand that the Pension Act related to the grant of a pension, and the pensioner was dead.

As regards the other Act, the Indian Emigration Act which has been repealed, my hon. friend did not read the General Clauses Act. I refer to Section 6A of the General Clauses Act which provides the answer.

SHRI J. R. KAPOOR : My point was that there is no need to repeal it.

SHRI C. G. K. REDDY (Mysore) : He himself says that he does not know what it is about.

SHRI C. C. BISWAS : As a matter of fact, Sir, in that case, I can only express my regret that no reference was made to me or to the Ministry ; for any information which is not available here, if sought, could be readily furnished. It is not to be expected that when a Bill of this kind, which is more or less a formal measure, is brought before Parliament, there should be a long elaborate statement giving the full reasons which have led to the proposed repeal of the enactment. If this had been done, hon. Members would perhaps have complained that so much money was being wasted unnecessarily on stationery etc.

PROF. G. RANGA : No.

SHRI C. C. BISWAS : You have only to ask for the information and you will get it.

As regards some of the other points I submit, Sir, that they are irrelevant to the discussion of this Bill. This Bill is more or less a formal measure. The Ministry of Law has to find out which of the existing laws have become obsolete or unnecessary, without going into the merits. It is not the purpose of this Bill to go into the question as to whether the legislation should have been passed or not. The proper occasion for it did arise when the

enactment was passed. A proper occasion may arise again when it is proposed to enact a new law in its place. The Preventative Detention Bill will be placed before this Council and hon. Members will have the fullest opportunity of expressing whatever views they have on the propriety or impropriety of that measure, but this is not the time to embark upon a discussion of those questions. That is all I need say, Sir. I do not think I need detain the House with any reply to the other points which were made.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill to repeal certain enactments and to amend certain other enactments, as passed by the House of the People, be taken into consideration.

The motion was adopted.

Clauses 2, 3 and 4, Schedules I and II, Clause 1, the Title and the Enacting Formula were added to the Bill.

SHRI C. C. BISWAS : Sir, I move.

That the Bill be passed.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill be passed.

The motion was adopted.

MR. DEPUTY CHAIRMAN : The House stands adjourned till 8.15 a.m. on Monday, the 21st July 1952.

The Council then adjourned till a quarter past eight of the clock on Monday, the 21st July 1952.