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***ON THE BOMBAY POLICE ACT AMENDMENT BILL : 2**

Dr. B. R. Ambedkar (Bombay City): Sir, I am sorry to find that my amendment, as worded by me, has created a wrong impression, a totally different impression from what I wanted to have by my amendment I would like to say one thing at this stage. I do not think this is an occasion on which any one of us should really stand on dignity. And I would like to say this over again, because I think the occasion is a very important occasion. Sir, I also like to say this that the Honourable the Home Minister has not taken into consideration, in making his reply that we have already amply empowered him to deal with cases of emergency and the powers which we have given him by my amendment which is so wide in character that he can deal with persons who have merely entertained designs in their minds and I beg to remind him of that. Therefore, Sir, having armed him with the most extensive powers possible to deal with an emergency, it is perfectly proper for members on this side to adopt, if I may say so, a somewhat carping spirit in giving him powers for normal occasions. He has totally forgotten that the amendment with which we are dealing now is an amendment which gives powers for normal occasions. It does not deal with abnormal situations, and therefore I do not see any conceivable case in which the Police Commissioner exercising the power that we are giving him under my amendment would not be able to deal with the situation. I therefore submit that it would be in the interest of the public and in the interest of all sections concerned, that my amendment should be accepted. Sir, I do say that this is a very important occasion and the Bill deals with so important a subject, namely, the liberty of the citizen that I think it is one of the most eminent occasions on which, as far as possible, there should be agreement on all sides. I therefore appeal to the Honourable Home Minister not to stand on dignity, as I am not standing on dignity at all, and to accept this amendment.

Sir, I accept the amendment of my honourable friend Mr. Chundrigar and also the amendment of my honourable friend Mr. Bhole.

The Honourable Mr. K. M. Munshi: It is not a question of standing on dignity. We went into every word, considered the implications of every

*B.L.A. Debates, Vol. 3, pp. 2509-12, dated 28th April 1938.

suggestion. After that there was no question of a person habitually engaged.

Dr. B. R. Ambedkar: Better thoughts come again some times.

The Honourable Mr. K. M. Munshi: Sir, as I said, there is no question of dignity. The question is of difference of opinion, because if in every case we have to find out whether a man engaged is habitually engaged and not a man who is about to engage for the first time, he would escape. It would reduce the section to nullity and the Police Commissioner or the Government would also be reduced to a worse position than they are in under the existing section.

Dr. B. R. Ambedkar: My honourable friend must understand that no member on this side is opposed to taking powers to deal with gangs. In fact, the Opposition says : "Retain gangs". If you want to have an amendment to deal with gangs. I am prepared to support it; I have not the least objection. I remember that the Leader of the Opposition said that power should be given to deal with gangs. But you are wanting power to deal with individuals and, therefore, we are putting these restrictions. If we are to deal with gangs, by all means, let somebody bring in an amendment and I for myself would support it, provided it is a reasonable amendment. Here, you are dealing with individuals.

Sir, if you like, we might adjourn for a short time and have a discussion.

Mr. S. H. Jhabvala: Sir, you see this shows the utility of a select committee I proposed.

The Honourable Mr. K. M. Munshi: Sir, I am quite willing, but it is no use adjourning for such a thing. I am trying to convince the honourable mover of the amendment that by putting the word "habit" there, he has reduced the operation of this section practically to a nullity. I cannot consider it further, unless he is willing to drop the word "habit". If he wants to keep the word "habit" in the section, then the section becomes more or less useless. That is why, I say it is no use adjourning. There is no common ground.

Sir Ali Mahomed Khan Dehlavi: That describes the pucca mavali.

The Honourable Mr. K. M. Munshi: A pucca mavali is not necessarily a person engaged habitually in unlawful activities. He may be a mavali in the sense of a bully or a dada. Members are putting something in my mouth which I never said. When I said "pucca mavali" I did not say a person habitually engaged in unlawful activities. That is what you are attributing to me.

Sir Ali Mahomed Khan Dehlavi: Sir, I should like to say that when the Honourable Minister said "pucca mavali" we at once understood that there were a number of classifications of mavalis in his own mind.

The Honourable Mr. K. M. Munshi: That I agree ; there may be a series of mavalis.

Dr. B. R. Ambedkar: Surely, the Honourable Minister does not want to deal with the case of a man who has done once a certain thing.

The Honourable Mr. K. M. Munshi: I gave the honourable member the

instance of the gang which came down from Calcutta. There were 11 persons who had not committed an offence, but who were about to engage in certain unlawful activities. They had not been convicted in Calcutta in spite of the vigilance of the Police there. Some of them were persons who were—

Dr. B. R. Ambedkar: If the people have been committing offences in Calcutta, they would be habitual. It does not mean that one should habitually commit an offence in Bombay.

The Honourable Mr. K. M. Munshi: They were not convicted for carrying on unlawful activities.

Dr. B. R. Ambedkar: May I draw the attention of the Honourable Minister to the wording of my amendment? It is “;who is so desperate and dangerous as to render his being at large in the City hazardous” A member of a gang would come under this.

The Honourable Mr. K. M. Munshi: If the honourable member will have patience, I will tell him. The man may not be desperate as I gave you the Instance of the leader of the very coterie which I mentioned. He was perhaps moving there in Calcutta in a motor-car. He was a European and was accepted in good society in Bombay, but he was not a desperate character in the sense that he took a lathi and ran about in the streets.

Dr. B. R. Ambedkar: But the word dangerous is there.

The Honourable Mr. K. M. Munshi: Now, Sir, what is meant by the word “dangerous”—

Dr. B. R. Ambedkar: I have taken the words used in the section and I am sure they are perfectly intelligible words.

The Honourable Mr. K. M. Munshi: Sir, the words “dangerous and desperate” are intended for bullies who are running amok and threatening people or proving dangerous in the physical sense of the term. They would not apply to the head of a counterfeiting gang.

Dr. B. R. Ambedkar: But there is a separate chapter altogether which deals with that, namely, Chapter XVI of the Indian Penal Code, which I have omitted.

The Honourable Mr. K. M. Munshi: But you have stated “habitually engaged”.

Dr. B. R. Ambedkar: Sir, I may mention to the House that the words which I have now proposed will restrict the scope of the section only to the persons of a certain type and will not include the large number of cases of persons who would be included even by the present section as it stands.

The Honourable Mr. K. M. Munshi: Sir, as the honourable member himself has admitted that the words restrict the scope of the Bill, and if that is the case, there would be no meaning in having this Bill at all. If it is going to water down the section to such an extent, it becomes a useless weapon for the purpose for which it is designed. Therefore, it is not possible for me to accept the amendment.

The Honourable the Speaker: I have now to put the amendment and

the amendments to the amendment to the House. I will first take up the amendments to the amendment. So, I will first put Mr. Bhole's amendment to the amendment of Dr. Ambedkar. Need I read it? (Honourable Members : No). So, I will now put the question.

Question put.

The Honourable the Speaker: The Noes have it.

Dr. B. R. Ambedkar: Sir, it was only a question of expressing the intention. It is not an amendment of substance at all.

The Honourable the Speaker: It is not, and, after all, the amended amendment of the honourable member Dr. Ambedkar will have to be put to the House at the end. So, it makes really no difference either way. I shall take the voices again.

Amendment put, and agreed to.

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†*Dr. B. R. Ambedkar (Bombay City):* Sir, I rise to support the amendment which has been moved by my honourable friend Mr. Chundrigar. The amendment requires that, before the Police Commissioner takes any action on the material in his possession, he should produce the person, whom he wants to expel, before the Magistrate and place the material before him and shall not take any action, unless the Magistrate is satisfied. Obviously, that amendment is intended as a further safeguard in order to see that no arbitrary action is taken by the Commissioner of Police. Now, Sir, whether this amendment which is by way of a safeguard asks something which is more than due to those persons or whether it is something that is unnecessary, is a matter which I think can be better understood if one institutes a comparison. Now, I take the case of the revolutionary, those who indulge in revolutionary crime. It is obvious that these persons who are intended to be dealt with by the present amendment to the Bill are certainly not so great a source of danger as the revolutionary. Obviously, therefore, they certainly need a far greater safeguard, a far greater protection, than the revolutionary. Now, let us stop for a moment and ask what are the safeguards that did exist in the law of India as against revolutionary criminals? I do not want to go into the past history of the matter but I have before me the report of what is called Sedition Committee that was appointed by the Government of India in 1913. The terms of reference do say "to report upon the existence of revolutionary movement in India, to examine the difficulties that arise in dealing with criminal conspiracies and to suggest measures for bringing such offenders to book." It is unnecessary for me to go into the revolutionary crime in India which has been dealt with exhaustively by the Committee. What is relevant for the purpose is the safeguard that was suggested by the Sedition Committee.

The House might be interested in knowing the composition of this

†B.L.A. Debates, Vol. 3, pp. 2533-34, dated 28th April 1938.

Committee. Therefore, I may mention the names of the gentlemen who constituted this Committee : Mr. Justice Rowlatt, Judge of the King's Bench Division, Sir Basil Scott, Chief Justice of Bombay, Diwan Bahadur C. V. Kumaraswami Sastri, Judge of Madras High Court, Sir Verney Lovett, Member of the Board of Revenue, United Provinces and Mr. C. P. Mitter. The Committee consisted of a large number of persons who were judiciary minded. It is a fact that during all the period that Government of India wanted to deal with revolutionary crime, they have accepted the principle that the revolutionaries, before they are punished, must be tried by a tribunal. They were never dealt with by judicial action. The point was that the tribunal consisted of persons who were engaged in the executive of the Government of India. The Committee says in paragraph 182 :

“While, however, we recommend in substance the procedure established under the Defence of India Act, we think the constitution of the tribunals as provided by these Acts should be altered. It seems to us inadvisable that these tribunals should to any extent be composed of persons not already members of the judiciary but selected by the executive for the purpose of the specific case. Nothing that we have seen suggests that the special tribunals hitherto appointed have been unfair towards the accused, but we think the objections in principle cannot be overlooked. Moreover, as the right of appeal is taken away, the tribunals should be of the highest strength and authority.”

If this safeguard is necessary for the purpose of seeing that nothing that is harsh and nothing that is unjust is done to revolutionaries, I submit every man of common sense will think that a far greater safeguard is necessary for dealing with persons contemplated in this Bill. After all, what is it that the amendment asks ? The amendment does not ask that a tribunal consisting of Magistrates should be appointed in order to investigate the allegations made by the Police Commissioner against a person whom he wants to send out of the city. Nothing of the kind is asked for. Nor does the amendment demands that the material, when placed before the Magistrate, shall be investigated into as though it were a trial. The amendment does not require that the Police Commissioner, when he places the material before the Magistrate, shall disclose the name of the informants. Nothing of the kind is asked for. The amendment is of the mildest character. It does not require the Magistrate to sit in judgment over the material of the Police Commissioner. All that it says is this, that the Magistrate may look into it and give a certificate that it is a satisfactory case in which the Police Commissioner may, if he chooses, act. Now, Sir, by all standards, I am prepared to say that this is the mildest kind of safeguard that could be provided and ought to be provided. I submit, Sir, that in view of the fact that the amendment of the honourable member Mr. Pataskar has now been carried and the powers of the Police Commissioner are more unlimited than they would have been if my amendment had been carried, it

becomes all the more incumbent upon the opposition as well as upon the whole House to see that this little safeguard—I call it a very little safeguard—is provided in this Bill, in order to see that the Police Commissioner does not act in an arbitrary way.

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