

[Shri Jagannath Kaushal]

*The question was put and motion was adopted.*

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**I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE NATIONAL SECURITY (SECOND) AMENDMENT) ORDINANCE, 1984 (NO. 6 OF 1984) PROMULGATED BY THE PRESIDENT ON 21ST JUNE, 1984**

**II. THE NATIONAL SECURITY (SECOND AMENDMENT) BILL, 1984**

**SHRI KALYAN ROY** (West Bengal): I think each Member who has disapproved it should be allowed to speak. It is such a sinister Bill.

**MR. DEPUTY CHAIRMAN:** It is party-wise.

**SHRI JASWANT SINGH**(Rajasthan): Mr. Deputy Chairman, Sir, I beg to move the following Resolution:

"That this House disapproves of the National Security (Second Amendment) Ordinance, 1984 (No. 6 of 1984) Promulgated by the President on the 21st June, 1984."

Sir, this is not the first occasion when this House is discussing and expressing its views on ordinances converting themselves into Acts. I have various grounds on which my disapproval is based. My very first ground is that this particular ordinance relating to National Security Act Amendment is of questionable legality. It brings into conflict very serious legal, administrative and ethical questions, a substantive question between enacted law versus law in force. It also brings in its wake the question of executive veto over legislative will. To

enable me to put across what I am saying about questionable legality, enacted law versus law in force and executive veto over legislative will, it is necessary, Sir, to very briefly review the whole genesis of how National Security Act has come into being. Article 22 of the Constitution, as originally conceived and enacted, recognised preventive detention. As a permissible means even in ordinary time for abridging the civil liberties of the people. Chapter 2 on Fundamental Rights, Sir, envisages preventive detention but the legislative powers of Parliament and of the States have been controlled by certain constitutional safeguards and those safeguards are incorporated in clauses (3) to (7) of article 22. By the Constitution 45th Amendment Bill of 1978, which was later passed and enacted and after Presidential assent became the 44th Amendment, three further restrictions were placed on the power of Parliament and the State Legislatures in respect of laws relating to preventive detention. These three restrictions of the 44th Amendment related to the maximum period for which a person could be detained, secondly, it made obligatory that any preventive detention law must provide that a State advisory board, which will exercise supervision in all cases of preventive detention, had to be composed of such members as the Chief Justice of the appropriate High Court of the State recommended. It was also obligatory for the law to provide that the chairman of the advisory board shall be a sitting judge of the appropriate High Court and that the other members of the board shall be sitting or retired judges of High Court. That was the second provision. The third was that the system of preventive detention without reference to the advisory board, sub-clause (a) of clause (7) of article 22, was also to stand abolished.

Sir, here we came across situation wherein a very serious wrong was done when legislative will was nullified by an executive veto. The

Constitution 44th Amendment Act, 1978, dealt with various other provisions. I am not going into all those provisions. But it was more particularly section 3 of the 44th Amendment which liberalised the provisions of article 22. These provisions were enacted in 1978. They are constitutional law. Yet they are not in force till today. When the original National Security Act, which was the Ordinance of 1980, was promulgated by the President, the Parliament was not in session. If you would like to throw your mind back to 1980 and recollect that when that Ordinance was promulgated, this present Government had been returned to power and in that Ordinance there was a provision for the constitution of the advisory boards strictly in accordance with the provisions of section 3 of the 44th Amendment Act. Yet we were all witness to it and indeed my eminent colleague, Advaniji then moved a motion of disapproval to the NSA and despite the fact that the Ordinance was promulgated incorporating provisions of section 3 of the 44th Amendment, when it came to the House and when the Parliament eventually passed the National Security Act on December 27, 1980, replacing the Ordinance, it made the provision of the constitution of advisory boards in accordance with article 22(4) in its original form, and not in its amended form. Now, Sir, I have taken this much time from what is available to me to emphasise my first objection to this particular amendment, which is the Second Amendment to the NSA, that it is of questionable legality, that it creates a conflict between enacted law and law in force and that it perpetuates executive veto over legislative will. I would like, Sir, to quote here from an eminent jurist's viewpoint of what the consequences are of permitting such a thing to happen. I quote: "It has grave implications in the field of Constitutional law, graver still in the field of human rights. But this is not all that Parliament should have chosen to enact. . ." Please mark the

words because these are of very deep import to all of us today who are exercised with the consideration of this Bill; "... that Parliament should have chosen to enact a piece of legislation in express violation of an enacted Constitutional amendment." We are now going through a process which is in violation of something that this very House has enacted constitutionally. "A piece of legislation in express violation of an enacted Constitutional amendment does serious damage to law." "If the highest legislative body enacts legislation contrary to an amendment enacted by itself as a constituent body, how will Parliament or the Executive exercise its moral authority to command obedience to laws. There is only one word for law enacted in conscious disregard of a constitutional amendment—lawless." That is what takes me now to my second objection. Point has been made here about not just the illegality but an eminent jurist has gone to the extent of saying that it takes away the moral authority; it creates lawlessness. And that brings me to the dates of these various Ordinances. Before the current session of Parliament, three Ordinances were issued. On the 22nd of June, there was this Ordinance which has now come to the House, relating to National Security Act. On the 13th of July, there was an Ordinance on COFEPOSA. On 14th of July, Terrorist Affected Areas (Special Courts) Ordinance came. All of us received summons on 29th of June. The first Ordinance is issued on the 22nd of June; within a week of its issuance, Parliament is summoned. Having summoned the Parliament on 29th June, the Executive still continues to issue Ordinances on 13th and 14th July. The first one is issued just a week before Parliament is to be summoned, when the decision about summoning the Parliament was already known. Having done so, it continued to rule by Ordinances. On 13th and 14th July, barely 10 days before Parliament is to meet, the Government continued to bring these Ordi-

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nances. This is my second serious objection of and ground of disapproval.

We have often enough said as to now and why governance by Ordinance is wrong. Arguments in support of that are not necessary and it is not necessary for me to reiterate our objections to it. There is however one particular aspect which needs to be underlined, and that aspect is the contempt which the present Government displays about Parliamentary norms, Parliamentary functioning, and the importance it attaches to doing thing in a Parliamentary way. If an Ordinance were necessary, it could have waited for 10 days. Parliament had been summoned; it could have been the very first item to be taken up by Parliament for consideration; it could have been passed on the very first day of its sitting. But the Government did not do that. It issued one ordinance on 22nd June. On 13th July, having summoned Parliament, it issued another, and I cannot understand how or why it issued one Ordinance on the 13th July and again another on 14th July. I cannot help but regret that this spate of Ordinances making is indicative of the contempt that this Government has about Parliamentary norms, procedures and propriety. It is also reflective, if you would witness the dates on which these Ordinances were issued of the deep confusion within the Government's own mind as to what is required to be done about the prevailing situation in the country.

The second amendment to the National Security Act, with which we are currently occupied, has certain specific provisions and I have objections to these specific provisions also. What are the implications of this Na-

tional Security (Second Amendment) Ordinance? The Act authorises the Central and State Governments detain a person on grounds of activities prejudicial to the defence of the country or the States, security, of the country or the State, to foreign relations to the maintenance of public order and to essential supplies and services. The procedural safeguards are that the grounds of detention have to be communicated to the detenu within a specified period and there has to be a scrutiny of the detention first by the Government and then by the Advisory Board. The total period of detention is restricted to a year. In the case of Punjab it is 24 months because there is yet another amendment. The new Ordinance provides that where two or more grounds have been provided for detention, each shall be deemed to have been made separately and such an order shall not be deemed to be invalid or inoperative merely because some of the grounds—please mark the words—are vague, non-existent, unconnected or not proximately connected with the detenu. In any civilized jurisprudence, vagueness and inexactness are the grounds which go towards indicating that whichever authority of the State wishes to detain is not clear why it wishes to detain. Any jurisprudence that advocates that irrespective of whether the grounds are vague or unconnected or irrelevant a detenu can still be detained is not a civilized jurisprudence. Further, Sir, this Act provides that a person who has been freed may be detained again if fresh facts have arisen. I will have an occasion to come to this a little subsequently and, therefore, I do not want to labour on it here. I will just highlight it by two examples. You may give 50 grounds for arresting me. Tomorrow the hon. Minister of States, who is sitting here, may charge me with 50 offences. Forty-nine of them may be found to be infructuous. Forty-nine of them may be found to

be vague, inapplicable, not connected with anything that I am doing and yet on the 50th the State may continue to arrest me. Please look at the sheer illogic, sheer impropriety, sheer injustice of it. I can also not help in observing that there is a word used in the Ordinance about 'satisfaction'. Now, Sir, 'satisfaction' is a mental process. We had occasion yesterday to talk about satisfaction. How does one really establish objective satisfaction as against the subjective satisfaction of a Government as blinded by its own interests, as blinded by its own prejudice, as the present Government is? Are we to allow this whole country to be a slave to the subjective 'satisfaction' of blind authority which this present Government represents?

Sir, we talked yesterday about objective and subjective satisfaction. In particular case when everything is asked against the detenu and everything depends on the subjective satisfaction of the arresting authority, then where is that law that we are talking of? We witnessed an example, recently and we are currently going through a phase of examples where this whole thesis of subjective satisfaction is being questioned, whether it is of the Governor or of the executive, or it is of the Government itself. It is this criteria of subjective satisfaction that is creating so much disorder, so much discontent, so much disaffection in the whole country. I cannot, therefore, let pass a law which attempts to talk of 'subjective satisfaction' as being a ground which is sufficient to warrant continued detention of an arrested person.

There is also a mention here about industrial requirements, about services, etc. and that is yet another objection that I have to this particular Ordinance and to this particular Bill. The Government has in the course of debate in the Lok Sabha and elsewhere given economic offences as a justification for the NSA. To my mind that carries very little conviction.

It is a specious logic because Sir, there are provisions existing with the Government like the Essential Commodities Act, the Prevention of Black-marketing and Maintenance of Essential Commodities Act, COFE-POSA etc. All these provisions are available to the Government for economic offences. And yet if it continues to go and put across to us that this is another reason why it wishes to bring out an amended NSA, then the objection that we have raised holds that the provisions of this amended Act are to be made so comprehensive, so vague and are designed to give so much power to the executive that whether it is in the industrial field or in the labour field as political dissent or anything, the Government by its subjective satisfaction will be free to detain anybody whether the grounds are vague or not vague. This is something which is so radical a departure from civilised norms of law-making that I cannot but seriously object to it and seriously voice by dissatisfaction.

Sir, I would be very brief now. I would like to go on to the question of national security. This particular provision is called the National Security Act. When it was first introduced even then we had occasion to voice our objection. This provision, in effect, declares that in certain areas of public policy, Government is above law. This is a thesis which no civilised society can accept. It further goes on to suggest that this step has been taken in the interest of national security to protect this country from its enemies or potential enemies. Let us forget natural justice for a while I personally feel that this kind of a proposition is barely democratic. Sir, the natural assumption is that on national security issues, the Ministers always knows best. It is only on that assumption that this kind of enactment can come into being. This faith in the unlimited wisdom of administrative discretion is as illogical as it is dangerous. Why should Ministers

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alone know best on national security? What is there in their duty to protect this country from enemies that endows Ministers with supreme wisdom. And if it was the supreme wisdom of the Treasury Benches or of Ministers that were to carry conviction, then the state of the nation as it is today, would not be what it is. If it is the supreme wisdom that is guiding the Treasury Benches or the ruling party, then we would, as a country, not be where we are today. And therefore if a thesis which builds itself up on the proposition that only Ministers know about national security and they know best and they are somehow specially endowed, that the executive is somehow speciality endowed is to be accepted, then we will land up in a state which is not far different from this kind of blind law. (*Time Bell rings*).

Sir, I do not wish to impose, but because I think under the rules I am provided half an hour. . . Yes, Sir, the mover of the Resolution and the Minister. . .

MR. DEPUTY CHAIRMAN: The total time allotted is three hours for the whole of the Bill. Now if you take half an hour, then. . .

✓ SHRI JASWANT SINGH: I will finish very quickly. What does it do?

SHRI KALYAN ROY: It puts me in jail for 12 months.

✓ SHRI JASWANT SINGH: This kind of blindness to what we are doing results in a great loss to the State. Before coming to the loss to the State, I will say that it results in a militarisation of the State. This kind of layers upon layers of blind laws have already resulted in the militarisation of the Indian State. I would challenge the hon. Minister of State to refute the figures that now give: In the last two years, the CRPF and BSF have been called on 227 different occasions. In the last four years, that is,

during the tenure of the present Government—and it is to the unlimited wisdom of the ministerial ranks this Government that we are today being subjected—the army has been called out on 369 separate occasions. I challenge the hon. Minister of State to refute these figures.

Sir, the militarisation of the Indian State is a very serious question. Excessive reliance on force, on laws, is the first sign of the loss of moral authority of State. Why has this loss of moral authority of the State been brought about? It has been brought about because the present Government has deliberately, over time, obliterated the difference between nation, State, Government and party. It has gone to the extent of identifying the party with an individual. And if that is the kind of philosophy within which this Government works, then one individual begins to be identified to our nation, and that inevitably results in a loss of moral authority of the State. If there is loss of moral authority of State, then State will increasingly rely upon more and more laws and will fall in the trap of increasingly, enhancedly, more stringent laws because behind that law there would be no sense of justice and for the enforcement of that law there would be no moral authority of State.

क्योंकि मान्यवर, सरकार का इस्बाल मर जाता है और जब सरकार का इस्बाल मर जाता है तो आप लाखों कानून बना लेंगे, सिर्फ कानून के लिए उस कानून को इंगोर्ज करने के लिए, उस कानून को लागू कराने के लिए आपके पास अधिकार चाहिए हो जायें पर आपके पास उसकी अथारिटी नहीं रहेगी।

Sir, I submit to you that there was a mention made here early this morning about violence, as an interruption, about violence by this Government.

It is because of the loss of moral authority and increasing reliance on more laws and more force that a situation comes into being in India where such instances happen. This is a photograph which shamed me when it first appeared and which must shame every civilised Indian that witnesses it. It is a photograph of policemen beating girls in Goa because they were objecting to capitulation fees. This photograph has to be seen; it must be framed. It is in the "Indian Express" and if you have not seen it, Mr. Minister, I would request you to please look at this photograph and ponder deeply as to what our State has been brought to where police can do this, where police are assaulting young girls, who are college students in Goa merely because and the manner in which this assault they are objecting to capitulation fees is being carried out. This is what the State reduces itself to—uncivilised, barbaric, unthinking, increasingly relying only on more laws and more force.

When this provision of National Security Act was brought about in 1980 in reply to objections raised by my eminent colleague, the then Home Minister—who is now holding a very high office—assured that this Act—because legitimately and quite rightly objections were raised not just by my eminent colleague but by various other that the provision of this bill were going to be used against us. He had then said: "Don't worry. This is something that we are not going to use against you." And in a debate then at the introduction stage, the then Home Minister said:

"इंडवले जी और दूसरे दोस्तों को डर है कि इस बिल के मातहत उनको जेल में भेज दिया जाएगा, लेकिन यह गलती हम नहीं करेंगे।"

Sir, not assured with that on 15th December, yet again the then Home Minister was saying:

"मे कहता हूँ कि यह बिल चोरो के खिलाफ है, लुटेरों के खिलाफ है, बदयमनी पैदा करने वालों के खिलाफ है, नफरत पैदा करने वालों के खिलाफ है, गरबां को दबाने वालों के खिलाफ है, माइनोंस्टों को दबाने वालों के खिलाफ है, फलों फलों . . .।"

The ambit of the present bill is now considerably enhanced and despite that assurance fears remain, I have hear newspaper cutting which say "Pune BJP leader held under NSA", and yet another example "Visakhapatnam mayor held under NSA". They are my partymen; they do not fit the description which the then Home Minister went into, *chor* or *luteas*. How can I be assured about the bonafides of this Government if after an earlier enactment and despite assurances given, this is what actually took place? And recently in Orissa students who were voicing the discontent are driven by police like driven game—

शकार के तहत उनको ड्राइव किया— and twelve of them lost their lives, and the then Chief Minister had the temerity to say: "I will arrest all the students of Orissa under NSA." Our submission is about the fairness of this Act. For this I do not have to go to Vizag or to Pune. I have only to refer to a few days old debate which has taken place here. The hon. Minister of State for Home Affairs was present. A specific question was asked in this very House. I sought the verbatim record of those proceedings because they are very telling. The Minister was continuously asked by my friend Mr. Chaturanan Mishra about the charges—he was talking then about the Maharashtra-Bhiwandi riots and arrest and release of various people. The hon. Minister of State for Home Affairs, was then pleased to reply, among various other things, that the arrested people were found having links with the recent communal riots in Bombay.

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About Haji Mastan, he said he is the President of All-India People's Secretariat. Then he goes on to say that this organization was hatching a plan to do worse. In addition to hatching a plan, they were storing lethal weapons. The smugglers contributed money and provided weapons such as bombs, firearms and sharp weapons. Police raided the premises of the People's Secretariat on 27-5-84. Police also seized 43 bombs and some materials used for making explosives. I would not go into all that. It is all part of parliamentary record. To it, a minute later, what does the hon. Home Minister, Mr. Narasimha Rao, say?

MR. DEPUTY CHAIRMAN: You have two minutes more.

✓ SHRI JASWANT SINGH: All right. I will abide by that. What does the hon. Home Minister then say? Just a minute had elapsed and charges had been levelled and people were making queries about their release. You arrested them under NSA. These are the charges which are matter of record and matter of knowledge. Why have you released them? He says: "The matter is entirely within the purview of the State Government. Here, it is a question of detention under the NSA. There is no question of prosecuting them." It is a question of detention under the NSA. On what charges? Bombs, inciting communal violence, which the then Home Minister talked of, bombs and weapons in their possession. These are the charges. This is the evidence. The Home Minister then says: "Where is the question of keeping them? They were arrested. There is no question of charging them. When this Government talks in this way on issues which are of fundamental rights and personal liberty, it cannot carry conviction with us about what they are going to do. (Time bell rings). You have said about two minutes. I will try to do the same thing.

I would like to conclude, Sir, and I would appeal to the Treasury Benches, through you, Sir, they should reflect deeply. They were returned by the people of this country in 1971 and returned by a kind of mandate which would be the pride of any political organization. By 1974 that political mandate had been frittered away and they had to take an action <sup>1975 like the emergency.</sup> Do 1.00 P.M. not think about anything else. Reflect deeply to yourself . . .

MR. DEPUTY CHAIRMAN: Please conclude now. The time is over.

SHRI JASWANT SINGH: 1980 . . .

MR. DEPUTY CHAIRMAN: Please complete now.

SHRI JASWANT SINGH: In one minute I will conclude.

MR. DEPUTY CHAIRMAN: No. I cannot go on. Under the rules half-an-hour is over.

*The question was proposed.*

MR. DEPUTY CHAIRMAN: Mr. Home Minister.

SHRI LAL K. ADVANI (Madhya Pradesh): Let him complete the sentence.

MR. DEPUTY CHAIRMAN: Under the rules, the time is over. He should obey the rules. You cannot have both ways. Please conclude now.

SHRI LAL K. ADVANI: He is concluding.

MR. DEPUTY CHAIRMAN: The Resolution has been moved. I stick to the rules.

SHRI JASWANT SINGH: Would you allow me to complete my sentence?

MR. DEPUTY CHAIRMAN: No, not even that.

SHRI JASWANT SINGH: Mr. Deputy Chairman, Sir, will you allow me to conclude my sentence?

MR. DEPUTY CHAIRMAN: Forty minutes are over.

SHRI LAL K. ADVANI: He is concluding the sentence.

MR. DEPUTY CHAIRMAN: No. Please sit down.

SHRI JASWANT SINGH: Thank you. I will conclude my sentence.

MR. DEPUTY CHAIRMAN: No. You cannot have both ways, sometimes rules and same other times beyond rules.

SHRI JASWANT SINGH: What is required is the capacity of magnanimity in the governance; what is required is that....

MR. DEPUTY CHAIRMAN: No. Please conclude. You will go on. The Resolution has been moved. Please take your seat. Mr. Home Minister please.

SHRI LAL K. ADVANI: He is completing the sentence.

SHRI JASWANT SINGH: Mr. Home Minister, will you please show magnanimity, can you reflect magnanimity?

MR. DEPUTY CHAIRMAN: No.

SHRI JASWANT SINGH: I am requesting you, Mr. Home Minister.

MR. DEPUTY CHAIRMAN: I will follow the rules now. Please take your seat.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. VENKATASUBBAIAH): I have to obey the Chair. What can I do?

MR. DEPUTY CHAIRMAN: You will reply again. Then you ask that.

✓ श्री जसवंत सिंह : आप कमाल कर रहे हैं । एक वाक्य नहीं खत्म करने देते ।

श्री उरसभापति : आपका सेटस बहुत लम्बा है ।

✓ श्री जसवंत सिंह : हम एन० एस० ए० डिसकस कर रहे हैं जनाब ।

SHRI P. VENKATASUBBAIAH: Mr. Deputy Chairman,.....

✓ SHRI JASWANT SINGH: I object, Sir. I appreciate your agitation. It does not....

MR. DEPUTY CHAIRMAN: It is no agitation.

✓ SHRI JASWANT SINGH: I object.

MR. DEPUTY CHAIRMAN: The time is over. You sit down. The rules provide for 30 minutes. I gave more. What can I do? Follow the rules.

SHRI P. VENKATASUBBAIAH: My learned friend, Shri Jaswant Singh while moving the Statutory Resolution, has made certain points. It will be very brief in my reply.

Sir, he first questioned the constitutional validity and he also said, "questionable legality, administratively unethical". He has used strong words. Sir, I will only say that the constitutional validity of the National Security Act was considered and it was upheld by the Supreme Court. I would like to read the relevant portion of the judgment of the Supreme Court for the information of this hon. House. I quote:

"But the liberty of the individual has to be subordinated within reasonable bounds to the good of the people. Therefore, acting in public interest, the Constituent Assembly made provisions in entry 9 of List I and entry 3 of List III authorising the Parliament and the State Legislatures by article 246 to pass laws of preventive detention..... In view of this background and in view



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of the fact that the Constitution, as originally conceived and enacted, recognises the preventive detention as a permissible means of abridging the liberties of the people though subject to the limitations imposed by Part III....."

This is the judgement that the Supreme Court has given. When this Act was passed in 1980 this reality had been questioned, and the Supreme Court has given this judgement. Now he is going into the merits of the National Security Act. That has been passed by both the Houses of Parliament in 1980.

Number two, he said that the Government treated Parliament with contempt. It does not. He says that just on the eve of the summoning of the Parliament session it has promulgated three ordinances and that is how it has treated Parliament with contempt. Sir, I am going to say that the Government has no intention to treat Parliament with contempt. We have got the greatest regard for this august House. Sir, if the circumstances necessitated that we have to issue ordinances, under compelling circumstances, we have to issue the ordinances. Another point which the hon. Member has made is about the assurance given by the Home Minister that this has been indiscriminately used, Sir, I may inform the House that the working of the Act during the last three years have confirmed that the provisions of the Act has been used very sparingly in the rarest of the rare cases. The Central Government though empowered under the Act to order the detention has not issued even a single detention order during the promulgation of the Act till date. Sir, it is the State Government which the hon. Member has been mentioning. We know that the State Governments are autonomous. It is in their wisdom depending upon the circumstances they have promulgated and

taken such action under N.S.A. Sir, so far as the Central Government is concerned, we have not taken any action under the provisions promulgated till date. This is the provision.

Sir, the hon. Member also said that the entire Government is identified by a single individual. Sir, this is a party system of Government where we elect a leader and the leader who enjoys the majority she forms the Government and the Council of Ministers. Sir, unfortunately they could not follow that is why they came to grief within two to three years of assuming power. I need not mention about that matter.

Sir, I will just mention the reasons as to why this second amendment has to be brought before this House. Ever since the enactment of the National Security Act, 1980 some State Governments have been asking for amendment of certain provisions of the Act in the light of the practical difficulties faced by them so as to make it more effective and practicable. The suggestions thus made were given a serious thought by the Central Government. After considering all aspects, the Central Government came to the conclusion that some of the suggestions if incorporated, would make it more useful for attaining the objectives of the statute.

The hon. Members are aware of the extraordinary situation which has arisen in some parts of the country. The security environment in this region tends to become fragile. We are also confronted by forces of disruption and disorder. In this situation it was imperative that the NSA in the field of its operation should not suffer from internal infirmities. That is the objective for introducing this amendment to the legislation became necessary—more specific and more clearer.

Sir, this Bill seeks to amend the National Security Act, 1980 in two respects:

First, to provide that the different grounds of detention shall be severable from each other so that the detention order is not vitiated merely because some of the grounds suffer from infirmities. He has also quoted suppose there are 50 grounds, 49 happen to be invalid and the 50 are valid even then he says according to this Bill that is legal. I will put in this way, suppose out of 50, 49 are valid and one is invalid even then that suffers from the infirmity so far as this Act is concerned. It is only to remove such infirmities that amendment is being brought. It would now be possible for each ground of detention to stand on its own. Sir, I may recall that such a provision already exists in the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (52 of 1974).

Secondly, the Bill seeks to provide that the expiry or revocation of an earlier detention order shall not bar the making of a subsequent detention order against the same person, subject to the condition that the maximum period of detention will not exceed the limit of one year, when the subsequent detention order is based on grounds which have not arisen after the revocation of the earlier order, or its expiry. In the case of Punjab and Chandigarh the period as already provided for is two years. The wording of the existing legislation was such that even a higher authority could not detain a person on the basis of facts in its knowledge and on/for different reasons (grounds), if a lower authority had detained him for any reason, where the facts related to a period prior to the expiry of revocation of the order. Nor could the same authority revoke and issue a fresh order if fresh facts came to its knowledge relating to the prior period. The anomalies are proposed to be removed subject to the safeguard that the overall limit for which a person can be detained by the earlier and later orders put together would be one year. I have already stated that in the case

of Punjab and Chandigarh, it is two years.

So, Sir, I may again assure the hon. Members, notwithstanding the fact that Shri Jaswant Singh is not satisfied with what we have said, that the Bill is primarily meant to enable the authorities to immobilise anti-national and anti-social elements in the country.

Sir, I have tried to meet some of the points, and as the debate goes on, hon. Members can bring forward whatever suggestions they have. So, I move that the Bill be taken into consideration.

*The question was proposed.*

MR. DEPUTY CHAIRMAN: There is one amendment by Shri Satya Prakash Malaviya. He is not here. Now the resolution and the motion for consideration of the Bill are open for discussion. The first speaker is Shrimati Kanak Mukherjee. You just start.

SHRIMATI KANAK MUKHERJEE (West Bengal): Sir, I rise to oppose this National Security (Second Amendment) Bill, 1984 and to support the resolution moved by Shri Jaswant Singh.

MR. DEPUTY CHAIRMAN: You may continue after lunch.

सदन की कार्यवाही 2.10 बजे तक के लिये स्थगित की जाती है।

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

The House reassembled, after lunch, at twelve minutes past two of the clock. The Vice-Chairman (Shri Syed Rahmat Ali in the Chair.

SHRIMATI KANAK MUKHERJEE: Mr. Vice-Chairman, I rise to oppose the N.S. Amendment Bill and support

[Shrimati Kanak Mukherjee]

the Disapproval Motion. We from our party had always opposed any kind of preventive detention without trial. It is against the democratic rights of the people and against the main spirit of our Constitution. The fundamental rights given to us by the Constitution are taken away by this autocratic authoritarian, Government on some plea or other. The NSA is already repressive and draconian in character, and you want to make it more stringent by the two proposed amendments. What are the main things in the proposed amendment Bill? The first is to prevent the invalidation of detention if one of the grounds given for detention is found to be infirm, as it has already been explained by the honourable Minister himself. Hitherto the court invalidate such detention. Secondly, the expiry or revocation of the detention order shall not bar another detention order against the same person. That is, you want to provide for such frequent or continuous detention of a person without any trial. Although you say that these are necessary for curbing the terrorist and separatist activities or anti-social activities, etc. especially in Punjab, we know for certain that these are mainly intended for suppressing the political opponents, all democratic movements, all sections of the toiling masses, the workers, the peasants, employees, students, women, youth, etc. This is our experience. These draconian laws are used mostly against the political opponents. What is the history of the application of laws like the P.D. Act, the MISA, etc.? You misused them on the political opponents. It is a constitutional weapon in your hands to suppress and oppress the democratic people. These tyrannical laws are meant for suppressing civil liberties and political freedom of the people. What is the real problem now? The real problem is that the Congress-I Government is not able to solve the problems of the people. Therefore, they want to rule by special emergency powers. It is due to the political and economic poli-

cies of the Central Government that all round crisis are being precipitated—there is price-rise, inflation, unemployment, moral degeneration. All sorts of crises are being precipitated involving men, women, all sections of the people. This Government is in league with all sorts of anti-social communal, disruptive and reactionary forces. They are encouraging even divisive forces to suppress the democratic people. The examples are, Tripura, Assam and Punjab.

This Government is creating disunity among the people. The glaring examples are Andhra Pradesh, Jammu and Kashmir and Karnataka. They are doing it for their own partisan interests. This Government is not doing anything against the foreign imperialist forces acting here, trying to destabilise our country aided by the American imperialists. When they are destabilising this country and precipitating all sorts of crisis, this Government wants to apply NSA, MISA and ISMA against the people. West Bengal Government did not apply MISA and NSA on the people, but the law and order situation there is far, far better than at least in any Congress (I) Government in the States. This shows that this Government can not rule with the normal law. They always need some such preventive detention law or emergency law except when in 1969 having lost the majority the Government did not extend the P.D. Act and the Janata Government also did not renew it. Otherwise since 1950 the P. D. Act continued in one form or another. I know from my own experience in 1950 what happened when I was put behind the bars along with my colleagues some of whom were school girls, mothers and sisters. All were detained without trial for months in the Presidency and other jails in West Bengal and other States. Can I forget those days when I was detained in jail leaving behind my small child? Many mothers and sisters were there. The Government took

away the mothers from their little children; sisters from their brothers; sons from their mothers and husbands from their wives, showing no ground for their detention. Without any trial for months and years we were there. Can I forget the 27th April, 1949 when the Mahila Samiti held a demonstration supporting the cause of the detenus in the Presidency and Dum-dum Jails in West Bengal? They were shot dead by the then Congress (I) Government and thus they became martyrs. Can we forget the names of Lotika, Pratima, Amiya and Geetha who became martyrs to the P.D. Act at that time?

You will be astonished to know what sorts of charge-sheets were given at that time? The same mockery of charge-sheets and detention is going to take place again. This has been there since 1950, I remember. We were more than 100 women in the prison and we know from our experience that printed forms of charge-sheets were kept in the office at the disposal of the jail authorities. They used to give them to anyone without any discrimination, without knowing what charge-sheet was being given to whom. One astonishing example of this I can give you. I had a co-prisoner who was then only a school girl, though now she is an Hon'ble Minister of the Left-Front Government. When I was myself given the charge-sheet for murder, arson, this and that, you will be astonished to know what charge-sheet was given to this girl? She was given charge-sheet for murder, robbery, arson and rape also. Can you imagine this? She was a school girl then and now she is an Hon'ble Minister of West Bengal. The charge-sheets were printed and kept at the disposal of the jail authorities. On a fine morning they used to distribute them to anyone, just like that. This was the sort of mockery of charge-sheets and trial we had at that time. I cannot forget those days.

The intention of these amendments is to suppress the people's democratic

movements in the country. But the world has advanced far in civil liberties and human rights since 1950. The International Commission of Jurists has said that "the use of the Preventive Detention Act in peacetime is inconsistent with the normal Rule of Law." But then we are always under some sort of emergency or preventive detention law. Why? What was the meaning of the Indian Independence then? What was the meaning of democracy and economic independence? We got nothing. Where is the pledge for Independence? The monopolists have gained more and more all these years and the rich have become richer and the poor poorer. We have been victims under the British rule and the victims of all kinds of PD Acts under Congress rule. Now, when this Preventive Detention Act was introduced in 1950 by Sardar Patel, he said :

"I am bringing forward this preventive detention legislation to curb the communists."

That was why this legislation was enacted and we all were behind the bars. But this Government does not have that much of courage as Sardar Patel had and so, they cannot say: "Yes. We are bringing forward this law and bringing forward more and stringent amendments to curb the democratic rights of the people and to suppress their vice." So, they are not saying that. But they are saying that this is the National Security Act. But for whose security? Is it for the security of the nation? No. Then it is for whose security? It is for the security of the Congress (I).

SOME HON. MEMBERS: No, no. (Interruptions).

SHRIMATI KANAK MUKHERJEE: Yes, it is for the security of the Congress (I), and it is against the democratic opinion of the people. It is against the democratically-minded

[Shrimati Kanak Mookherjee]

people of our country, against the toiling masses of our country, and it is against the workers, peasants, students, youth and women of our country.

I want to say one thing to them and I want to quote the saying of a Nazi victim in Germany. The Nazi victim said:

"They came in for the Jews and I did not speak out because I was not a Jew; then they came in for communists and I did not speak out because I was not a communist; then they came in for trade unionists and I did not speak out because I was not a trade unionist; and then they came in for me and there was no one left to speak for me."

These are the words of the Nazi victim in Germany and the same thing will happen to the people belonging to the Congress (I), Party also. So, Sir, I would like to say that my friends on the opposite side, who are generally very happy over this National Security Act and the various stringent amendments, should remember these words and should be aware of the Nazi-type danger and they should remember that these amendments will be applied against them also if necessary.

With these words, Sir, I oppose the National Security Act and the present amendment and I do say again and again that unless all the preventive detention laws, the NSA, the ESMA, etc. and the various kinds of stringent amendments are done away with and unless we are free from these preventive detention laws, there will be no democracy in our country. Now, you have heard from my colleague how the NSA and the ESMA had been applied against the political figures. Therefore, I appeal to you to do away with these preventive detention laws. If democracy is to survive in our country. if we have to honour the spirit of our

Constitution and if we have any regard or respect for the democratic rights and civil rights of the people, we have to oppose this Bill and I hope that my friends will oppose this Bill alongwith myself and my party. Thank you, Sir.

THE VICE-CHAIRMAN SHRI SYED RAHMAT ALI): Now, Mr. Syed Sibtey Razi.

श्री सैयद सिब्ते रज़ी (उत्तर प्रदेश) : मान्यवर, मैं इस संशोधन का समर्थन करने के लिये आपके समक्ष इस सदन में खड़ा हुआ हूँ। मुझे कभी-कभी हंसी आती है उस समय, जब उन लोगों की तरफ से, जो संविधान के मौलिक आदर्श जो हैं, उन पर बुनियादी तौर पर कोई यकीन, कोई एतमाद नहीं रखते, कोई विश्वास नहीं रखते और वे संविधान और जनतंत्र की दुहाई देते हैं। मान्यवर, पंडित जवाहरलाल जो ने, जो हमारे देश के प्रथम प्रधान मंत्री थे एक बार कहा था कि जिन्दा मुल्क और कौम की मंजिल कभी पूरी नहीं होती। उसके हर काम से एक नयी मंजिल की शुरुआत होती है। कौम या मुल्क अपनी अन्दरूनी ताकत से अपनी खूबियों से और गुणों से तरक्की करते हैं। तरक्की के माने सिर्फ गुल मचाना नहीं है।

मान्यवर, हम ऐसा मान कर चलते हैं कि देश की तरक्की और देश की अन्दरूनी ताकत को बनाए रखने का सारे देश के लोगों का राजनीतिक दल और राजनीतिक स्तर से ऊपर उठ कर सारे लोगों का कर्तव्य होता है। लेकिन जब देश में बनी हुई ताकत को तोड़ने का सवाल उठता है और यह देखने में आता है कुछ ताकतें राजनीतिक स्वार्थ से प्रेरित हो कर या बाहरी ताकतों का सहारा ले कर देश के अन्दर बनी हुई एकता और ताकत को तोड़ना चाहती हैं तो उस

वक्त सारे देश के राजनीतिक दलों की जिम्मे-  
दारी नहीं बल्कि उस दल की जिम्मेदारी  
होती है उस बनी हुई अन्दरूनी ताकत को  
जिन्दा रखने के लिए जो उस वक्त राज कर  
रहा होता है, शासन में होता है। कांग्रेस पार्टी  
ने हमेशा-हमेशा अपने इस दायित्व को निभाया  
है। हम याद दिलाएंगे सन् 1975  
और उससे पहले का जमाना, आज जो जनतंत्र  
की दुहाई दे रहे हैं किस तरह से उन्होंने  
बिहार के अन्दर खुली सड़कों के ऊपर जनतंत्र  
के खिलाफ मुज्राहिरा किया, विधान सभाओं  
का घेराव किया, चुने हुए विधायकों को  
जबरदस्ती इस्तीफा देने के लिए मजबूर  
किया और उसके बाद समग्र क्रान्ति के नारे  
के पीछे देश की फौजों को, देश की आर्मी  
को सेना के लोगों को भी बगावत करने के  
लिए आवाहन किया। अब सवाल आता  
है कि कहीं यह विधेयक जो सन् 1980  
में राष्ट्रीय सुरक्षा अधिनियम के नाम से  
सदन में पारित हुआ था राजनीतिक लोगों  
के खिलाफ इस्तेमाल नहीं किया जाए। मैं  
यह मानता हूँ और यह मान कर चलता हूँ  
कि हमारी पार्टी और हमारी सरकार ने  
कभी दुर्भावना से, राजनीति से प्रेरित हो  
कर के कभी किसी के खिलाफ कोई  
कदम नहीं उठाया। याद आता है समय  
सन् 1980 का वह जमाना जब तीन साल  
की हकूमत के बाद देश की जनता ने जनता  
शासन के रवैये को देख कर देश की सत्ता से  
और प्रदेशों की सत्ता से उनको निकाल दिया  
और देश की प्रधानमंत्री श्रीमती इंदिरा  
गांधी ने दोबारा सत्ता में आने के बाद  
देश के आस इण्डिया रेडियो, आकाशवाणी से  
जो पहला सम्बोधन राष्ट्र को किया उस में  
उन्होंने स्पष्ट रूप से कहा कि हम कोई काम  
बदले की भावना से नहीं करेंगे। हर  
व्यक्ति को आजादी होगी। हमने जो  
कहा था, हमारी नेता ने जो कहा था, उसको  
निभाया। याद आता है सन् 1977  
से 1980 तक का जमाना जब कहा  
गया था कि छल आफ ला होगा, कानून

की अहमियत होगी, कानून की इज्जत  
होगी। किस तरह से राजनीतिक  
दुर्भावना से प्रेरित हो कर स्पेशल कोर्ब  
बनाए, शाहू कमीशन रचा गया, टी०  
वी० और रेडियो का किस तरह से  
दुरुपयोग किया गया। वह एक ऐसी  
कहानी है जो हमारे देश की जनता  
कभी नहीं भूलेगी और मैं इस समय  
सदन का वक्त नहीं लेना चाहूंगा।  
कुछ मान्यवर, सदस्य संविधान की दुहाई  
देते हैं। जब ऐसे प्रिवेंटिव डिटेंशन  
के बिल आते हैं, अभी हमारी बहिन श्रीमती  
कनक मुखर्जी बोल रही थी। मौलिक  
अधिकारों के बारे में उन्होंने कहा,  
अन्तर्राष्ट्रीय स्थिति के बारे में भी कहा  
और कुछ जयूरिस्ट्स के जो बुनियादी  
फैसले हैं उनको यहां पर कोट किया  
लेकिन मैं कहना चाहूंगा कि हमारे संवि-  
धान में मौलिक अधिकारों के साथ साथ  
मौलिक कर्तव्य भी दिये हैं क्या उसकी  
तरफ भी किसी ने इशारा करने का  
प्रयास किया? मैं सिर्फ यादगारत  
ताजा करने के लिए हमारे जो मौलिक  
अधिकार संविधान के अन्दर दिये गये हैं  
और फण्डामेंटल ह्यूटोज हैं उसका थोड़ा  
सा संदर्भ यहां पर देना चाहूंगा—

Article 51 says:

"It shall be the duty of every  
citizen of India—to abide by the  
Constitution and respect its ideals  
and institutions, the National Flag  
and National Anthem."

मैं माननीय सदस्यों से पूछना चाहूंगा,  
पुरानी बात नहीं कहना चाहूंगा, लेकिन  
क्या सन् 80 से लेकर आज तक पिछले  
4, साढ़े 4 साल के अन्दर विभिन्न  
प्रदेशों और सुबों के अन्दर ऐसे वाक्यात  
नहीं हुए हैं जहां हमारे राष्ट्रध्वज  
की बेइज्जती की गयी है, हमारे नेशनल  
एनथेम की बेइज्जती की गयी है। जो  
लोग हमारे ये मौलिक कर्तव्य हैं इनका  
मजाक उड़ाते हैं यदि ऐसे तत्वों के

[श्री सैयद सिद्दिके रज़ी]

खिलाफ कोई ऐसा कानून बनाया जाता है जिससे उनकी गतिविधियों को रोका जा सकता है तो मैं कहना चाहूंगा :

“(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;”

मैं कहना चाहूंगा, मान्यवर, कि क्या इस देश में कुछ ऐसी शक्तियाँ नहीं हैं जो मुल्क के आजाद होने के बाद भी आज देश के अन्दर हमारे उस इतिहास को जो हमने एक साम्यवाद देश के खिलाफ लड़कर बनाया था और जिसमें हिन्दुओं और मुसलमानों ने, सिक्खों और ईसाइयों ने, जैनियों और पार्सियों ने, हमारे सारे के सारे लोगों ने एक आवाज हो कर सहयोग किया था और कहा था ‘सफरोशी की तमन्ना अब हमारे दिल में है, देखना है जोर कितना बाजुएँ कातिल में है’ क्या आज भी कुछ ऐसे तत्व इस देश में काम नहीं कर रहे हैं जो हमारे उस मौलिक इतिहास को, हमारी उस मायानाज तारीख को बदल देना चाहते हैं और ऐसे ख्वाब इस मुल्क के लोगों को दिखाना चाहते हैं कि वे अपनी उस तारीख से हटकर उन पुरानी बातों में पड़ जायें जिससे देश की अखंडता को और देश की एकता को खतरा हो जाय । यदि यह प्रिवेंटिव डिटेंशन उन लोगों के खिलाफ इस्तेमाल होता है तो मान्यवर, मैं समझूंगा कि हमारी उस कसम को हम पूरा करेंगे जो एक राजनैतिक व्यक्ति होने के नाते संसद में पहुंचने के बाद हम खाते हैं, मैं थाद दिलाता चाहूंगा कि उसमें हम क्या कहते हैं । उसमें हम यही कहते हैं कि हम संविधान खी इज्जत करते हैं, उसमें यही कहते हैं कि हम इस देश के अन्दर इस देश की अखंडता और एकता को बनाये रखने के लिए जो हमको

कर्त्तव्य दिया जा रहा है उसको पूरा करेंगे । मैं आगे कहना चाहूंगा ,

“(c) to uphold and protect the sovereignty, unity and integrity of India;”

मान्यवर, क्या आज इस देश के अन्दर कुछ ऐसी शक्तियाँ नहीं हैं जो क्षेत्रवाद का नारा देकर, रीजनलिज्म का सहारा लेकर जाति, धर्म और सम्प्रदाय की बात करके देश को तोड़ देना चाहती हैं, देश को टुकड़ों-टुकड़ों में बांट देना चाहती हैं । यदि ऐसी शक्तियों को रोकने के लिए, उनके मनोबल को तोड़ने के लिए, उनके बढ़े हुये हाथों को रोकने के लिए, उनके बढ़े हुये कदमों में अवरोध लगाने के लिए देश की सरकार अपने दायित्व को निबाहने के लिये यदि इस किस्म का कोई प्रिवेंटिव डिटेंशन कानून पास करती है तो मैं समझता हूँ कि सदन के सारे विपक्षी लोगों को इसका समर्थन करना चाहिये ।

“(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;”

“(f) to value and preserve the rich heritage of our composite culture;”

“(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;”

“(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;”

“(i) to safeguard public property and to abjure violence;”

मान्यवर, मैं ज्यादा दूर नहीं जाना चाहूंगा ; पिछले 2-3 दिन के अन्दर

ग्रांध प्रदेश में जो घटनायें हुई हैं, लगता है कि जनतंत्र की दुहाई देने वाले जनतंत्र में विश्वास नहीं रखते हैं। यदि उनकी गद्दी को खतरा हो जाता है तो वे इन मामलात को सड़कों और गलियों में ले जाकर निहत्थे और मजलूम लोगों को पुलिस की गोलियों और सभा से भिड़ा देने की कोशिश करते हैं, अशांति और हिंसा का वातावरण पैदा करने की कोशिश करते हैं। अपनी कुर्सी को सलामत रखने के लिए तरह-तरह के नारे लगाते हैं, लोगों को जाति और धर्म के आधार पर बांटना चाहते हैं, क्षेत्रवाद का सवाल उठाते हैं, देश के नक्शे को जहनों पर से मिटा देना चाहते हैं। यदि इस एक्ट के जरिए या एन० एस० ए० के प्रावधान के जरिए, जो एक संशोधन की सूरत में लाया जा रहा है, उन शक्तियों के खिलाफ कदम उठाया जाता है तो मैं समझता हूँ कि सरकार यह काम इस देश के अन्दर अपने उस मौलिक दायित्व को निवाहने के लिए कर रही है जो संविधान की रक्षा का दायित्व उसने पूरी कटिबद्धता और प्रतिबद्धता के साथ करने का फैसला किया था।

मान्यवर, यह छोटा सा अमेंडमेंट है। इसके ऊपर बड़ी लम्बी चर्चा हमारी बहन और खास तौर से भाई जसवंत सिंह जी ने की। आर्डिनेन्सेज के ऊपर भी उन्होंने अटक किया कि आर्डिनेन्सेज बनाने की एक प्रक्रिया हो गई है और मौजूदा सरकार की। मैं समझता हूँ, मान्यवर, आर्डिनेन्सेज का मतलब कानून का एक स्वरूप है और जो संविधान के जरिए इस देश के सामने आया है। तो संविधान में किसी प्रकार के जो उसके प्राचीन-जन्म हैं, उसके जो अनुच्छेद हैं, उसकी उससे किसी प्रकार की अवहेलना नहीं होती।

मान्यवर, मैं कहना चाहूंगा कि आज हमारे देश के कुछ लोगों ने हमारी आर्मी और हमारी जो फौज है और हमारी पैरा-मिलिटरी फोर्स हैं, उसके इस्तेमाल पर भी बड़े अचम्भे की बात कही है। मैं कहना चाहता हूँ कि इसकी जिम्मेदारी किस पर है—इसकी जिम्मेदारी उन लोगों पर है, जो इस वक्त विरोध पक्ष में बैठे हैं जो क्षेत्रवाद का जहर हमारी पुलिस के पर्सनल के अन्दर भी फैलाने की कोशिश करते हैं अपने निहित स्वार्थों की पूर्ति के लिए, भिवंडी, जलगांव और बम्बई में फिसादात कराते हैं और उन लोगों को क्षेत्रवाद की भावना से इतना ओतप्रोत कर देते हैं कि वह अपने मौलिक कर्तव्य को भूल जाते हैं और वह लाठियां जो मजलूमों को बचाने के लिए उठनी चाहियें और वह गोलियां जो मजलूमों को सुरक्षा के लिए उठनी चाहियें वह मजलूमों के ऊपर चलने लगती हैं। कहीं-कहीं जब पुलिस अपने कर्तव्य के निर्वाहन के विपरीत हटती हुई और विचलित होती हुई दीखती है, उस वक्त हमारी फौजों का इस्तेमाल किया जाता है और यकीनी तौर पर हमें अपनी सेना के कार्य पर गर्व है।

अब पंजाब के अन्दर पिछले दो साल में कितनी दुहाई दी गई, कहीं-कहीं कहा गया कि सरकार वक्त से कदम नहीं उठा रही है। मैं कहना चाहूंगा कि वह लोग जो मौलिक अधिकारों की बात करते हैं—(समय की घंटी)—कहां यह मौलिक अधिकार कहते हैं कि लोगों को जिंदा बसों से उतार करके गोली मार दी जाये, कहां यह मौलिक अधिकार कहते हैं कि राजनीति से प्रेरित होकर कुछ लोगों के घर जला दिये जायें, कहां यह मौलिक अधिकार कहते हैं कि हमारे संविधान के अन्दर हम सड़कों पर खून बहाएं? हमारे संविधान के अन्दर तो



## [श्री सैयद सिब्ते रज़ी]

बार-बार इस बात को कहा गया है कि हम इस मुल्क के अन्दर एक ऐसा सेक्यूलर, एक ऐसा धर्म-निरपेक्ष वातावरण बनाएं, जिसके अन्दर सारे लोग एक आवाज होकर चल सकें, कदम से कदम मिला कर तरक्की और प्रगति में हिस्सा ले सकें।

आज जसन्तसिंह जी ने इंदिरा गांधी और इंदिरा गांधी की सरकार के इकबाल की बात कही है। हम यह कहेंगे कि हाँ, हमारा इकबाल बुलन्द है और इस इकबाल की बदौलत ही इस मुल्क में जनतंत्र, धर्म-निरपेक्ष और समाजवाद की बुनियादें मजबूत हैं। सन् 1947 से 1977 तक और सन् 1980 के बाद आज तक हमारे इकबाल की किरणें केवल हिन्दुस्तान की सीमाओं को ही रोशन नहीं कर रही हैं, बल्कि, हमारे इकबाल की किरणें—यदि साउथ रोडेशिया के अन्दर मजलूमों के ऊपर अत्याचार किया जाता है, तो हमारी किरणें उन पर रोशनी देती हैं। यदि फिलिस्तीन के अन्दर इजराईल का कुचक्र फिलिस्तीनियों को कुचल देने का प्रयास करता है, हमारा इकबाल उनकी मदद के लिए एक सोर्स आफ इंस्पिरेशन बन कर पहुंचता है। दुनिया के किसी कोने में, चाहे वह वियतनाम हो, चाहे रोडेशिया में, अफ्रीका के काले जंगल हों, चाहे वह लेबनान की घुराबन्दी हो—(समय की घंटी)—हमेशा-हमेशा इंदिरा गांधी और उनके सरकार में आ जाने के बाद मजलूमों के हौसले हमेशा बढ़े हैं और आगे भी बढ़ते रहेंगे।

**उपसभाध्यक्ष (श्री सैयद रहमत अली) :** अब खत्म कीजिये।

**श्री सैयद शिब्ते रज़ी :** बस, मैं खत्म कर रहा हूँ। भाई जसन्तसिंह ने कहा

कि सिंगल लीडर, केवल एक व्यक्ति के लिए यह सब हो रहा है। मैं कहना चाहूँगा—

इतना न बढ़ा पाकिये दामां की हिकायत,  
दामन को जरा देख, देख जर, बंदे कब  
देख।

आज सारा विरोधी पक्ष एकता के सूत्र में जुड़ने के लिए एक नेता और एक लीडर की तलाश में गली-गली, गांव-गांव, कूचों-कूचों और शहर-शहर घूम रहा है और राजनीति एकता न होने के कारण—(समय की घंटी)—आदर्श न होने के कारण इनको एक नेता नहीं मिल पा रहा है और सही तरीके से यह लोग संगठित नहीं हो पा रहे हैं। हमारा यह गौरव है कि हमें एक नेता मिला है, जिसने पार्टी को बांध रखा है, देश के पूरे ताने-बाने को बांध रखा है एकता के क्षेत्र में, धर्म-निरपेक्ष के क्षेत्र में, जनतंत्र के रास्ते पर चलाने के लिए देश को हम कटिबद्ध हैं और जनतंत्र का हनन सन् 1977 से 1980 तक हुआ है आगे आने वाला भविष्य उज्ज्वल है, देश की जनता हमारे साथ है, इसलिए कि हमारे पास कार्यक्रम है, हमारे पास फौसला करने की शक्ति है, हमारे पास समस्याओं से जूझने का बांकपन है, हम आगे बढ़ते रहेंगे, आगे बढ़ते रहेंगे।

इन शब्दों के साथ मैं इस संशोधन का समर्थन करता हूँ।

**उपसभाध्यक्ष (श्री सैयद रहमत अली) :** इस लिस्ट में 15 मੈम्बर और इस बिल पर बात करने वाले हैं। मुश्तसर वे अपने थोड़े वक्त के अन्दर अपनी बात रखें तो ज्यादा अच्छा है।

SHRI SUSHIL CHAND MOHUNTA (Harayana): Mr. Vice-Chairman, when this Government canvassed for votes in 1980, it promised to the people of this country that so far they had been having a Government which never worked and that they would give a Government which works. All these 4-1/2 years that have passed since then, we have had no evidence to show that this Government ever even intended to work, and if it can be said that this Government has worked, then this is the only evidence which has come before us in the form of National Security (Amendment) Act and we can see, and probably imagine that this is the measure or the yardstick of their working. If a Government wanted to work, it would not need the support of such draconian laws. A Government which comes into power because of popular verdict of the people, does not have to shy, away, or hides its face behind the army, the police and the para-military forces. A Government which is endeared to the people does not have to take recourse to arbitrary measures—the measures which are dreadful to everybody, and there is no limit, there is no line drawn beyond which this Act would be applicable. Everybody knows that this Government came to power on the basis of minority vote. It does not represent the whole population of this country. The majority of the population of the country—65 per cent of the people of this country—did not have confidence in Shrimati Indira Gandhi and her party... (Interruptions). This is the tragedy that a Government which we have to bear today, came into existence on the strength of 24 to 25 per cent of votes, and 74 to 76 per cent of votes have been cast against this Government.

Whom does this Government represent? It is the irony of fate that we have chosen this form of elections where according to proportional representation—and it is not proportion-

al representation—the minority vote can succeed and majority vote can lose. And that is what has been happening.

I really appreciate the sentiments expressed by the speaker before me that they are looking for *ekta*; they are going from village to village, from town to town, from city to city, but are not able to find *ekta*. This is your good luck. The day we are one, these 24 per cent votes cannot rule the country, and it will be where it was in 1977, looking for corridors of protection that side... (Interruptions)

MISS SAROJ KHAPARDE (Maharashtra): You came back again in the Government and we were sitting that side... (Interruptions)

SHRI SUSHIL CHAND MOHUNTA: I can understand what is agitating you, but, Madam, in 1977, you were looking for corridors of protection and that is why a rose, a beautiful rose, was sent to Mr. Charan Singh when he was addressing the rally; otherwise, there was no need to send that rose. You were looking for corridors of protection. And when the Janata Party was breaking up, the question came which side you have to lean to, and you automatically chose that side, because you probably felt...

**श्री सत्यपाल मलिक (उत्तर प्रदेश)**

पाइंट ऑफ ऑर्डर। मेरा आपसे निवेदन है कि यह हाउस को मिस-लीड किया जा रहा है। यह जो चौधरी चरणसिंह और श्रीमती इंदिरा गांधी के रिश्तेदारों के बाबत किसने किसको सपोर्ट किया, इस बात को अगर बहस में लेना चाहते हों, तो मैं फर्स्ट-हैंड इन्फॉर्मेशन देने के लिए आपसे परमीशन चाहूंगा। . . . (व्यवधान). . . मैं तो डाक्यूमेंटरी एवीडेंस देने के लिए तैयार हूँ। इनके नेता देवी लाल और दूसरे आदमी का नाम नहीं लेता, उसके लिए मैं डाक्यू-

[श्री सत्यपाल मलिक]

मेंटरी एवीडेंस दे सकता हूँ इस हाउस में ।

SHRI SUSHIL CHAND MOHUNTA: Mr. Malik was probably at all stages of time close to both of them and, therefore, I do not doubt whatever he says. (Interruptions) Lok Dal chairman never accepted when we said that there is a gentleman who is more close to the other side than to you. (Interruptions)

AN HON. MEMBER : Are you confused?

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI) : No Interruptions. Please allow him to complete.

SHRI SUSHIL CHAND MOHUNTA: On the strength of 24 per cent of votes I understand the difference of the present Government, which is wanting to rule with an iron hand. In a democratic set-up there are no iron hands. There the rule is by consensus. Whether you are elected by a majority of vote or on the strength of a minority vote, the rule in a democratic set-up is by consensus. It is the bounden duty of the Government of the day to take the whole country along with it. This is the only safeguard in a democracy. In a democracy set-up the country is to be saved from the rigours which Germany had when Hitler was ruling. If a person who is at helm of affairs, thinks that these are the only measures to be taken, whether they are wrong or right, he should make the countrymen accept those measures. In the process, the pace may be slow, but in a democratic set-up this has to be done, the countrymen should be made to accept the ideas, whether they are wrong or right. In a democratic set-up the pace may be slow, but it should be done. In their zeal to accord performance to their Government they have thought of such draconian measures by which they will keep all po-

litical opponents in confinement, without a trial or without evidence whatsoever. The little safeguard which was there so far is being taken away. They say, even if all the grounds of detention are vague, irrelevant, inadmissible, having no bearing, still the detention will be good even if some small ground holds good. This is not the way for a country which has now lived for 37 years in freedom and we want to put it back on the path of slavery. Whether it be slavery of the Britishers, whether it be slavery of any one out of us, whether it be slavery of any particular group, slavery is slavery and slavery can never be equated with freedom.

Therefore, I would only request the hon. Minister that we have entered into, a stage where people are mature enough to know their own interest and the interests of the country, they need not be treated like school children, with a rod. These people are mature. They can put you in power and take you out of power. They are mature enough to choose a Government which they like. Have trust in them. Do not use force against them. I do not put them under repression. Do not put them into jail without trial. Do not be unjust to them. And I can tell you that you will have solved no problem in this way. You have tried this measure in Punjab. With all vigour you have tried it there. You have tried it with police at your back. Subsequently, you have tried it with paramilitary force at your back. You failed. And ultimately you had to take recourse to the strength of the military. Even then this problem of Punjab is not solved. I am not going into the question whether you are justified in sending army to Punjab, probably you may be correct, but when are you taking it back? But can you give me a deadline when the Army will not be there in Punjab? Say, six months, one year, two years, three years. When do you think the Army can be withdrawn from Punjab?

On this point, Sir, I will conclude. If you cannot give us the deadline that within this period Army will be withdrawn, then have you solved the problem? Or you have created a problem? This is in the direction of creating a problem. First create a problem and then try to solve this problem and say to the people, "we are the ones who work". In Punjab, in Jammu and Kashmir and now in Andhra Pradesh definitely and we have already experienced it in Assam. Tell me where, you name a place where you feel you have been able to inculcate an impression that you are the persons who are close to the people, who want to solve their problems, not under duress, not by coercion but by persuasion. And I can tell you one thing more.

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): Now please conclude.

SHRI SUSHIL CHAND MOH-UNTA: I am just concluding. When crimes are committed by individuals, those crimes can be looked after by the ordinary law. But when resurgence of agitation takes place in large areas and when groups of people are involved, those people have to be tackled through political media. These are political struggles and political problems must be solved through political media. It cannot be solved through repression, through such draconian laws. Therefore, I would with all my emphasis oppose the Bill and support the Resolution. Thank you.

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): Shri Ramnand Yadav. Not there. Shri Anand Sharma.

SHRI ANAND SHARMA (Himachal Pradesh): Mr. Vice-Chairman, Sir, I rise to support the National Security (Amendment) Bill which has been moved by the hon. Home Minister. In my opinion, this amendment was necessary in view of the procedural difficulties and ambiguity from which the

earlier Act had suffered. This is aimed at removing the confusion, the ambiguity and is not prejudiced against any individual or against any person.

Much has been said about preventive detention. Much has been said by my friends in the Opposition about the very need of a Preventive Detention Act. They have wrongly questioned the need for the present amendment. When we talk of the National Security Act, it is essential that I remind my friends in the Opposition about what the Preventive Detention Act means and why it is required. Why a provision has been made for this. Those who oppose it have, in fact, referred to the Constitution of India. They have referred to the Fundamental Rights and when they question that they are questioning the very wisdom of the framers of our Constitution. When a reference is made to article 22, they forget very conveniently and ignore the proviso thereto. And what does the proviso say? If we go by the debates of the Constituent Assembly, eminent leaders like Sardar Patel, Pandit Jawaharlal Nehru and Dr. Ambedkar—I hope my senior friends in the opposition know more about it—felt the necessity of a Preventive Detention Act. And what does the Constitution say about the PD Act. I would like to read the relevant portion of article 22. It says:

"(3) Nothing in clauses (1) and (2) shall apply—

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention."

Of course they have referred to the subsequent clauses questioning the period of detention and where... by doing that they are, in fact, questioning the very right of this Parliament to enact a law. Clause (7) of article 22 is very clear that "the circumstances under which, and the class or

[Shri Anand Sharma]

classes of cases in which, a person may be detained for a period longer than three months..." I will not read the whole of it. Constitution empowers the Parliament to enact the law. So, the need for it was felt even when the Constitution was being framed. And for whom are such preventive laws meant? It is aimed against those who work against the freedom of the nation, those who work against the interests of the nation, those who create a situation where the unity and integrity of the nation itself are threatened. The National Security Act is aimed against those persons only and not against law abiding citizens.

Our friends have expressed, time and again, their apprehension about the misuse of the law. They have described the present amendment as a Draconian one. I will come to that later. Sir, in my opinion, no law can be misused and if the question of misuse is there, then, unless and until we all are careful about it you cannot prevent administrative misuse of any law. Then tomorrow you will question the very requirement of the Indian Penal Code also, which is meant for criminals and if the present preventive detention law which is meant for traitors, which is meant for saboteurs, which is meant for those who are working against India, who are working....(Interruptions)

SHRI SATYA PRAKASH MALAVIYA (Uttar Pradesh): We are working against Indira....(Interruptions)....You are working against India.

SHRI ANAND SHARMA: Sir, in fact I am amused by the comment of my worthy friend in the Opposition. I think he has not read the Constitution, he has not read the National Security Act or the proposed amendment. I agree that it is the right of our friends in the Opposition to oppose the Government, it is their right to criticise a Bill, to give an amendment, to express their views. But I think it is

most unfortunate if your criticism is made indirectly supporting anti-national forces. What are you trying to explain? What are you supporting—may I ask? There have been preventive detention laws earlier. One friend there has said that there is no necessity at all. We all know about COFEPOSA. Now, if you oppose that, do you mean that the smugglers in this country should not be arrested, the blackmarketeers should not be arrested? And you have always opposed COFFPOSA.

SHRIMATI KANAK MUKHERJEE: How many have been arrested since 1980? ... (Interruptions)

SHRI ANAND SHARMA: The figures can be given. But what I am saying now is that the only attitude or approach of our friends in the Opposition is to oppose. They are wearing coloured glasses. Their every criticism is motivated and guided by bias and prejudice against the Congress and its leadership and, in fact, it is guided—unfortunately—against the nation also. What are you trying to do? Whose cause are you taking up? Are you taking up the cause of traitors, are you taking up the cause of the terrorists? Are you saying that those who are responsible for killing innocent people, in their case if only one of the grounds of detention is vague, if it is irrelevant, then those persons should be set free? At whose cost?

Why should they be set free?

3 P.M. Sir, I would have been happy....(Interruptions) I am prepared to meet any ground. (Interruptions) Oh, yes.

AN HON. MEMBER: But they have no ground.

SHRI ANAND SHARMA: Mr. Deputy Chairman, Sir, I would like to request my friends in the Opposition to read with me the proposed amendment. I fail to understand the reason for us to explain it or for them to oppose it. No substantive charge has

been made. No big change or addition is there over the earlier Act. Even they should have appreciated it as it only clears the ambiguity. This is the first time that the prejudice to the person who has been detained has been done away with. There is no prejudice to detain him. There is no confusion for the officer who signs the detention order. What it says is that it shall not be deemed to be invalid if one or some of the grounds are vague, non-existent or are irrelevant. What is the need for it? Sir, we all know that if there is any law, whether it is preventive law, whether we talk of the interpretation of the Constitution or any Act, different judgments are there by the various courts, by the High Courts and even by the Supreme Court. About no judgment can it be said that it is the final word about the interpretation of any proviso to any law or any section of a Act. All the different judgments add to the confusion. It has been held by the Supreme Court also that if there is a procedural lapse, if there is a procedural mistake, nothing shall prevent the Government or the detaining authority to sign or to make a fresh detention order. That has been the view of the Supreme Court also. And that is what has been incorporated here. Now, Sir, the detachment or severability of the grounds of detention is most appropriate and it was definitely required. If there are 5, 6 or 10 grounds for an officer who signs the detention order, there are practical difficulties. In an area which is disturbed, in an area in which anti-national activities are going on, where a number of persons are indulging in violent activities which are threatening the unity and integrity of the country, the detaining officer or the law enforcing authority can receive information from various quarters. So there are practical difficulties which have to be appreciated. He is not supposed to be meticulously going through everything and then writing the detention order, and if one of the grounds happens to be vague... (*Interruptions*) That is what I have been explaining.

There is no prejudice. This amendment says, if the ground is vague, it is vague; if it is irrelevant, it is irrelevant; if it is non-existent, it is non-existent. That is correct. So the persons cannot be detained. But there are other grounds which are not vague, which are very much relevant. Then is the person to be set free? Just because only one of the grounds is vague. They talk of the Constitution. If there are other valid grounds which are existing and not vague, is that person to be set free? If it will in fact threaten the security of the nation or the State, why should that person be set free?

They were also talking about the second part of the amendment. That is the amendment of section 14 of the National Security Act. To what effect? It says:

"(2) The expiry of revocation of a detention order . . . shall not whether such earlier detention order has been made before or after the commencement of the National Security (Second Amendment) Act, 1984) bar the making of another detention order....

Provided that in a case where no fresh facts have arisen after the expiry or revocation of the earlier detention order made against such person, the maximum period for which such person may be detained in pursuance of the subsequent detention order shall, in no case, extend beyond the expiry of a period of twelve months from the date of detention under the earlier detention order."

I heard Mr. Jaswant Singh speaking in the morning. I heard other friends also. Mr. Mohunta has left. He has done the right thing, because I do not think they can face it. If the first detention order is not valid merely because one of the grounds does not sustain it as far as the detention is concerned, then the cumulative period

[Shri Anand Sharma]  
shall not exceed the total period of 12 months from the first order. That is the total period provided before this amendment also. Then, who is prejudiced? How can you define it as draconian? You should have appreciated it, you should have supported it. It is for the first time that the ambiguity has been removed. A person who will be detained will know the grounds on which he is detained. At least the scope of harassment resulting from various interpretations or misinterpretations will not be there.

The only change where the period of detention has been increased, is in the case of Punjab, Sir, there it will be for two years. (*Time Bell rings*) I would just take two minutes more, Sir, before concluding. I know there are many more friends who would like to speak on this subject.

Now, Sir, as far as this particular amendment is concerned, as I have described, it is appropriate. The preventive detention laws, whether it is the National Security Act or the COFEPOSA Act and other preventive detention Acts have been there in the past also. The State Governments have felt the need for some clarification or some amendment. The NSA has not been misused, since its enactment. Can my friends in the Opposition cite even a single instance when the NSA has been misused? Yes, it has been misused, if you say so, if any State Government has used it, by the Karnataka Government. They used it most. Mr. Sharad Pawar misused Preventive Detention laws.

I do not want to enter into this ugly argument, Sir, I am not like them. I do not want to name people. I do not want to name individuals. I know the acts in which our friends have indulged in. May I ask you. You have every right to oppose. But when you talk of freedom, when you talk of the Fundamental Rights, when you argue on the floor of this House,

please read the Constitution, please read the Fundamental Rights and please read this amendment, and then I am sure you will also be on this side as far as this act is concerned. I am confident about it. You have not followed it.

Sir, as far as the freedom is concerned, I do not think freedom of any individual is threatened by N.S.A. As far as this amendment is concerned, if it threatens the freedom of any person, it threatens the freedom of traitors, who work against the security of India, who connive with the enemies of this nation, who work against the unity and integrity of India. I say, no freedom is more important than the freedom of India the hard earned freedom. My friends are aware—and if they are not aware, it is a very sorry state of affairs—of the sacrifices which had gone in the freedom struggle, how we attained our freedom. I am from that generation which has inherited the freedom, Sir, We have read about the freedom struggle, we have read about the sacrifices made by our ancestors, and it is that freedom which we have to safeguard. We need not safeguard the freedom of the terrorists, the freedom of the smugglers, the freedom of the anti-national elements and those who are preaching for them. Those who are pleading their case, may I know for whom are they holding this brief? You have every right. Before concluding, Sir, I would like to appeal once again to my friends there. Therefore, you have every right to criticise—you have every right to oppose, but do not oppose the national interests. Do not oppose the nation and do not side with those forces who are, in fact, put and out working to destroy India. I do not know for what reasons they are siding with such forces. With these words, Sir, I conclude and thank you for this opportunity.

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): Mr. Satya Prakash Malaviya,

**श्री सत्यप्रकाश मालवीय :** माननीय उपसभाध्यक्ष महोदय, सन् 1980 में जब कांग्रेस पार्टी और उनके नेता श्रीमती इन्दिरा गांधी द्वारा सत्तारूढ़ हुई तो दुबारा उन्होंने मीसा जैसे निरोधक कानून को लागू किया। सन् 1977 में जब चुनाव हो रहे थे, उस समय जनता पार्टी ने आश्वासन दिया था कि इस देश में किसी भी व्यक्ति को बिना मुकद्दमा चलाये किसी भी सरकार को जेल में रखने का अधिकार नहीं है और इसीलिए सन् 1977 में जनता पार्टी शासन में आई तो उसने अपने आश्वासन को पूरा किया और गद्दी पर बैठने के दूसरे या तीसरे दिन ही सुरक्षा अधिनियम जैसे काले कानून को कानून की किताबों से समाप्त कर दिया।

जब सन् 1974 में या सन् 1973 में राष्ट्रीय सुरक्षा अधिनियम लागू किया गया था तो उस समय हमारे देश की प्रधान मंत्री और तत्कालीन प्रधान मंत्री ने, विरोधी पार्टियों ने जब यह आशंका व्यक्त की थी कि इसका दुरुपयोग अपराधियों के विरुद्ध नहीं किया जाएगा बल्कि राजनैतिक विरोधियों के विरुद्ध किया जाएगा तो उस समय इस राज्य सभा में और लोक सभा में प्रधान मंत्री ने आश्वासन दिया था कि इसका दुरुपयोग इस देश के किसी भी व्यक्ति के खिलाफ नहीं किया जाएगा। लेकिन सन् 1975 को हम लोग अभी भूले नहीं हैं। मैं इधर के बैठे हुये साधियों को याद दिलाता चाहता हूँ कि श्री चन्द्र शेखर जो कांग्रेस पार्टी के नेता थे, श्री कृष्ण कान्त कांग्रेस पार्टी के नेता थे, श्री

मोहन धारिया कांग्रेस पार्टी के नेता थे श्री लोकनाथक जयप्रकाश नारायण, श्री मोरारजी देसाई, चौधरी चरण सिंह, श्री अटल बिहारी वाजपेयी आदि अनेक इस देश के बीसियों और हजारों लोग थे जिनके विरुद्ध इस कानून का दुरुपयोग किया गया। श्रीमती इन्दिरा गांधी ने अपने को सत्ता में बनाये रखने के लिए श्री चन्द्रशेखर और श्री कृष्ण कान्त जैसे देशभक्तों के खिलाफ इसका दुरुपयोग किया। मान्यवर, मैं यह भी कहना चाहता हूँ कि वह दिन भी दूर नहीं जब अपने आपको गद्दी पर बैठाने के लिए इस निरोधक कानून का दुरुपयोग अभी जो उधर बैठे हुये हैं उनके खिलाफ भी किया जाएगा। जब वर्तमान कानून लागू किया गया था उस समय इस बात का पूरा आश्वासन दिया गया था कि इसका दुरुपयोग राजनैतिक व्यक्तियों के विरुद्ध नहीं किया जाएगा। लेकिन श्री राय, श्री नियोगी और जम्मू काश्मीर के चार विधायकों के विरुद्ध इस वर्तमान कानून का दुरुपयोग किया गया है। इसका नाम नेशनल सेक्योरिटी एक्ट या राष्ट्रीय सुरक्षा अधिनियम दिया गया है। मेरा मत यह है कि जिस समय हमारे देश का संविधान लागू किया गया था उस समय हमारे संविधान निर्माताओं को कभी भी यह मंशा नहीं थी कि इस निरोधक कानून और इस निरोधक कानून के प्रावधानों के अन्तर्गत बनने वाले कानूनों का राजनैतिक उद्देश्यों को पूर्ति के लिए उपयोग किया जाएगा।



[श्री काश मालवीय]

मान्यवर, यह जो वर्तमान कानून है, यह मान्य अधिकारों का भी दुरुपयोग करना है। हमारे देश के संविधान के अनुसार प्रत्येक व्यक्ति को नागरिक अधिकार हासिल हैं। उनके प्रति इसमें कुठाराघात करने का प्रयास किया गया है। इसमें जो संशोधन किया है उसकी ओर मैं आपका ध्यान आकर्षित करना चाहता हूँ। इसमें इस बात की चर्चा की गई है कि आप यह देखेंगे कि कितने निरंकुश और कितने असीमित इस संशोधन के जरिए सरकार न केवल अपने लिए बल्कि कांस्टेबल से लेकर कलेक्टर, सुपरिन्टेन्डेंट आफ पुलिस और जो गृह सचिव है, उनके लिए प्राप्त करने को साजिश वह सरकार कर रही है। धारा 5 में जो संशोधन किया गया है उसमें इस बात का प्रावधान किया जा रहा है कि—

“such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—

(i) vague,

(ii) non-existent,

(iii) not relevant,

(iv) not connected or not proximately connected with such person, or

(v) invalid for any other reason whatsoever....”

तो मान्यवर, इस संशोधन को करके तानाशाही हुकूमत जैसे अधिकार

प्राप्त करने की, हासिल करने का साजिश की जा रही है। साथ ही मैं कहना चाहता हूँ कि जो सरकारी अधिकारी है, चाहे गृह सचिव हो, जिले का कलेक्टर हो, दरोगा हो या सुपरिन्टेन्डेंट आफ पुलिस हो, उनकी योग्यता पर भी सरकार को शायद विश्वास नहीं है। यह सही है कि सर्वोच्च न्यायालय ने बार बार इस बात का आदेश या इस बात का प्रावधान अपने जजमेंट में किया है लेकिन इस देश में ऐसा हुआ है कि जैसे ही उच्च न्यायालय ने किसी व्यक्ति की रिट याचिका के अन्तर्गत उसकी नज्जरबंदी को अवैध करार किया और आदमी छूटा ही नहीं कि उसको जेल के फाटक पर ही दूसरे निरोधक आदेश के अन्तर्गत जेल के अंदर फिर बंद कर दिया। ऐसे पचासों उदाहरण हमारे सामने हैं। मान्यवर, इसमें इस बात का प्रावधान किया जा रहा है जिससे जो नागरिकों की स्वतंत्रता है, नागरिकों के जो मौलिक अधिकार हैं, उनका हनन करके, बिना मुकदमा चलाये किसी भी नागरिक को दस वर्ष तक के लिये जेल के अन्दर बंद किया जा सकता है। मान्यवर, मुझे याद आ रहा है 1953 का दिन, जब शेख अब्दुल्ला जम्मू और कश्मीर के मुख्य मंत्री थी। वर्तमान प्रधानमंत्री के पिता पंडित जवाहरलाल नेहरू उस समय इस देश के प्रधानमंत्री थे। शेख अब्दुल्ला को गिरफ्तार किया गया और मुख्य मंत्री के पद से उनको बरखवास्त किया गया तथा बिना मुकदमा चलाये शेख अब्दुल्ला को जेल में डाल दिया गया। लेकिन 1953 में समाजवादी चिंतक और विचारक डाक्टर राम मनोहर लोहिया इस देश के भाग्य से जीवित

थे। श्री सत्यपाल मलिक अभी चर्चा कर रहे थे। मलिक साहब हम लोगों के साथ समाजवादी पार्टी में रहे हैं। मैं उनको याद दिलाना चाहता हूँ कि 1953 में डा० लोहिया ने राष्ट्रवादियों का आह्वान किया था और सारे देश में उनके आह्वान पर शेर काश्मीर दिवस मनाया था कि किसी भी कानून के अन्तर्गत किसी व्यक्ति को बिना मुकदमा चलाये जेल में रखने का अधिकार दिया जायेका तो वह शासन निरंकुश हो जायेगा और वह शासन अतंकवाद की ओर बढ़ेगा। आज इस बात की दुहाई दी गई है कि जो विपक्ष के लोग हैं वे सड़कों पर जाकर सत्ता पार्टी का विरोध करना चाहते हैं। लेकिन मैं पूछना चाहता हूँ अपने योग्य सहयोगियों से कि हमारा देश क्या केवल श्रीमती इंदिरा गांधी या उनके परिवार तक सीमित रह गया है! मैं बरूआ साहब की यदि दिलाना चाहता हूँ। बरूआ साहब ने आपातकालीन स्थिति जब लागू की गई थी, तो उन्होंने नारा लगाया था कि 'इंडिया इज इंदिरा एंड इंदिरा इज इंडिया' "भारत ही इंदिरा है और इंदिरा ही भारत है।" आज फिर वही साजिश दोहराने की यहां कोशिश की जा रही है। इसलिये, मैं निवेदन करना चाहता हूँ कि इस संशोधन के जरिये सत्तापक्ष निरंकुश अधिकार अपने हाथ में लेने की साजिश कर रहा है और विशेषकर विरोधी पार्टियों के खिलाफ इसका इस्तेमाल करने की साजिश की जा रही है। इसलिये मैं इस संशोधन का विरोध करता हूँ और यह कहना चाहता हूँ कि इस देश के अन्तर्गत जो साधारण कानून हैं, जो रोजमर्रा के कानून हैं उनके जरिये वर्तमान सरकार शासन चलाने में असफल रही है। तीन, पौने तीन साल तक इस देश में श्री मोरारजी देसाई प्रधानमंत्री रहे, इस देश में तीन, पौने तीन साल तक चौधरी चरणसिंह (व्यवधान) ...

गृह मंत्री या प्रधानमंत्री रहे, श्री अटल बिहारी वाजपेयी, श्री हेमवती नंदन बहुगुणा जैसे लोग सत्ता में थे, चन्द्रशेखर जी सत्ता पार्टी के अध्यक्ष थे। लेकिन इन तीन वर्षों तक इस देश में एक भी व्यक्ति को मीसा जैसे काले कानून के अन्तर्गत गिरफ्तार करके जेल के अंदर नहीं डाटा गया। इससे (व्यवधान) ... यह बात साबित होती है कि आज की कांग्रेस पार्टी साधारण कानूनों के अन्तर्गत सरकार चलाने में अक्षम है और इस राष्ट्रीय सुरक्षा अधिनियम, इस काले कानून को लाने से पहले इस देश की वर्तमान प्रधान मंत्री श्रीमती इंदिरा गांधी को अपनी अक्षमता को स्वीकार करते हुये हट जाना चाहिये था और राष्ट्रपति के पास अपना त्याग-पत्र भेज देना चाहिये था।

**उपसभाध्यक्ष (श्री संयद रहमत अली) :**  
श्री बहुरूल इस्लाम।

**श्री सत्यपाल मलिक :** मान्यवर मेरा व्यवस्था का प्रश्न है। मैं एक प्रिविलेज का मामला उठाता हूँ। सदन में किसी भी स्टेज पर सदन को मिसलीड किया जाए तो यह मामला उठाया जा सकता है और मैं कोई घटिया या खराब बात नहीं करने जा रहा हूँ। अभी माननीय मालवीय जी ने कहा कि बहुगुणा जी के शासन काल में कोई गिरफ्तार नहीं किया गया। यह जानकारी नहीं कर ली जाए... (व्यवधान)

**श्री सत्य प्रकाश मालवीय :** मैंने यह नहीं कहा कि... (व्यवधान)

**श्री सत्यपाल मलिक :** 30 हजार आदमी उत्तर प्रदेश में गिरफ्तार किये

[ श्री सत्यपाल मलिक ]

गये (व्यवधान) बहुगुणा जी ने सब से ज्यादा स्थलेसली इस एक्ट का इस्तेमाल किया इमरजेंसी के दौरान... (व्यवधान)

श्री पशुपतिनाथ सुकुल : (उत्तर प्रदेश) मैं जानना चाहता हूँ (व्यवधान)

उपसभाध्यक्ष (श्री सैयद रहमत अली) : आप लाबी में बता दीजिए ।

श्री पशुपति नाथ सुकुल : 16 महीने मैं बन्द था मीसा में ... (व्यवधान)

उपसभाध्यक्ष (श्री सैयद रहमत अली) : श्री बहारुल इस्लाम । (व्यवधान)

श्री सत्य प्रकाश मालवीय : स्पष्टीकरण करना चाहूंगा । (व्यवधान)

उपसभाध्यक्ष (श्री सैयद रहमत अली) : मैं किसी को अलाऊ नहीं कर रहा हूँ । (व्यवधान) यह रिकार्ड पर नहीं जाएगा ।

श्री सत्य प्रकाश मालवीय : \*

उपसभाध्यक्ष (श्री सैयद रहमत अली) : आप लोग यह बातें बाहर कर लीजिए । (व्यवधान)

श्री सत्य प्रकाश मालवीय : \*

SHRI BAHARUL ISLAM (Assam): Mr. Vice-Chairman, I had no mind to make a speech on this subject. But after hearing some of the honourable Members I feel that there have been misunderstandings on the nature of this piece of legislation and I rise to remove those misunderstandings from my practical experience. The first

misunderstanding is on the score of ordinary criminal law and preventive detention law. One of the honourable Members suggested that when there is the ordinary criminal law, a man can be arrested, he may be prosecuted, he may be sent to jail; what is the necessity of the National Security Act? No, it is not possible. I give you an example from my experience as a lawyer in the late '40s. A man was prosecuted for murder in twelve cases. He could not be convicted. Then he was tried for dacoity in 120 dacoity cases. He could not be convicted. The reason was that the man was of such a criminal nature that witnesses did not dare to come out and give evidence. Therefore, at that time before independence, he was prosecuted for what was then called BLK case under Section 110 of the old Criminal Procedure Code. In such a case when the ordinary criminal law fails, there is necessity for such a preventive measure. Similarly, I have full belief that there is not a single Member in this House or in the other House who would say that an individual is more important than the safety, the security and integrity of this country. Therefore, when there is a clash of individual liberty with the security, safety and integrity of the country, then what is to be done? Certainly, whether the Congress-I party is in power today or some other party comes to power tomorrow, there is and there will be necessity for such a legislation. So long as society is not perfect, there is a necessity for such a law. Nobody can deny that.

Regarding number of grounds, I can tell you from my experience that there is lot of misunderstanding not only on the part of ordinary citizens, but even on the part of some courts. What has happened in COFEPOSA, MISA and NSA, for example? It is said that a man's activities are such that the security of the country is in jeopardy. For instance, when grounds are mentioned as 1, 2, 3, 4 and 5, the courts think or the defenue thinks that there

are 'number of grounds.' But actually the number of grounds is only one, namely, the character of the person is such that the safety of the country is in jeopardy. The numbered narrations really are instances of his conduct. May be in one or two cases there may be one or two grounds. For example, a person is an anti-social element of such a character that the law and order may be in jeopardy, or communal rioting is likely to take place if he is outside. Now, these are two different things. Then there may be two grounds. If one of them is vague, and if the person is arrested and detained, then that can be struck down. Generally the ground is only one and the others numbered etc. 1, 2 and 3 etc. are only instances which are wrongly construed by some of the courts as 'number of grounds'. And therefore it was held that if one of them was vague, the man could not be detained. But these are not really so many number of grounds. Till the end of 1982, this was the general approach of courts. But since then there is a change in the approach to such problems by the Supreme Court itself. They have said in some judgements that ground was really one and others were instances. In my opinion this piece of legislation was not necessary but perhaps by way of abundant caution Government thought it necessary so that persons who ought to be in detention are set at liberty because of this confusion regarding number of ground?

Now, who are the persons who frame these grounds? Lawyers know that when a young lawyer joins Bar; he is assisted by the Senior as to how to frame grounds in revenue appeals or criminal appeals or civil appeals or criminal revisions or civil revisions etc. So, they are trained persons. But these grounds are framed by young IAS officers who are working as District Magistrates, etc. When they frame grounds, there may be technical flaws because of which a person who is to be detained may not be at liberty. The Government must

have an idea of the magnitude of the offences under COFEPOSA. Crores of rupees are involved. When I was in the Supreme Court I heard that a senior lawyer who was engaged in a COFEPOSA case used to charge Rs. 1 lakh. Later on it was raised to Rs. 1½ lakhs, I was told.

SHRI JASWANT SINGH: What about NSA ?

SHRI BAHARUL ISLAM: I am giving an illustration and any preventive detention law is similar to NSA. Possibly even Mr. Jaswant Singh will admit that certainly the economy of the country is more important than the liberty of a smuggler. Similarly, if the court is satisfied that a man is really of such a character that his presence outside is dangerous to the safety and security of the nation, certainly he has to be in detention.

We are very much abtessed sometimes with criminal law, under which the guilt of an accused has to be proved beyond reasonable doubt. We are concerned more with the liberty of the accused. But should we not think of the victims of a murder? Should we not think of their widows or minor children? What about the society? Just think of the victims also. In this way when there is a clash of interests between the liberty of an individual and the safety, security, unity and integrity of the country, certainly I think the liberty of the individual has sometimes to be sacrificed for the good of the country.

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): Mr. Indradeep Sinha ... Not here. Shri P. K. Bansal.

SHRI PAWAN KUMAR BANSAL (Punjab): Mr. Vice-Chairman, Sir, after breaking off the shackles of foreign rule, the people of India ... (Interruptions)

[Shri Pawan Kumar Bansal]

SOME HON. MEMBERS: This is the turn of the Opposition. (*Interruptions*)

THE VICE-CHAIRMAN (SHRI SYED RAHMAT ALI): All right, Prof. Lakshmanna.

PROF. C. LAKSHMANNA (Andhra Pradesh): Mr. Vice-Chairman, Sir, we have a very extraordinary legislation before us. I call this extraordinary legislation for two reasons. Firstly, this is a legislation which is coming before the august House through the guise of an Ordinance issued just before the commencement of Parliament session. It has been an extraordinary legislation for the second reason. Hardly 4 1/2 months back we had one amendment to the NSA. I have not seen any reason. I have not any developments in this country which warrant another amendment within a span of 4 1/2 months. And still we are having this piece of legislation before us.

Sir, what is the function of legislation; what is the purpose of legislation? Whether that purpose is being fulfilled by this legislation is not the question. The function of legislation is to create conditions where an individual in the society can have a better functioning of his existence. That means any legislation made by any responsible Government has to be such that it creates conditions for an individual to function better than what he could do. Therefore, Sir, any legislation should be one to promote the freedom, to promote the understanding, to promote the well-being of an individual. Unfortunately Sir, the legislation which is under consideration now is an abridgement of the freedom of the individual. Sir, in this great country a fundamental change took place with the promulgation of the Constitution. But until that time the Indian society was conceived

in terms of collectively. It is for the first time with the promulgation of the Constitution that an individual was given primacy over everything else. But by its continuous acts this Government, which has been for the longest time in power, has been trying to abridge what has been given to the individual through the Constitution by such acts. Therefore, Sir, I am thoroughly opposed to this amendment Bill of NSA. I, therefore, support the Resolution given by Mr. Jaswant Singh.

AN HON. MEMBER: And all others.

PROF. C. LAKSHMANNA: And all others. This is No. 1. Secondly, Sir, what is NSA aiming at? The amendment is aiming at giving legislation teeth, not to discriminate between unlawful and illegal activities of an individual or a group but against an individual as an individual. On the other hand, Sir, it is aiming to strengthen the teeth of legislations, let me reiterate to go against the freedom of an individual. How is it affected, Sir?

Under the existing and the amending Rules, any individual can be detained, and can be detained without giving reasons. And what little was available, Sir, in the earlier ground, even that is being taken out. Therefore, Sir, the freedom of an individual is in peril. The great Nehru said: I shall defend the freedom of an individual to the last breath of my life. And in this great country of the great Jawaharlal Nehru, there have been continuous efforts to erode the concept of freedom of man. And still, Sir, these inheritors of the great legacy of Jawaharlal Nehru are now giving us the erosion and abridgement of the individual's freedom. Sir, however effective a Government could be, however good a Government could be, it is always dangerous to invest it with

much more powers than it could absorb. That is exactly what is happening with the Bills like this. These Bills are likely to invest more and more powers in the hands of a Government which could use them, at its own sweet-will and pleasure, to cut the freedom of the individual, to cut into the very existence of an individual. That is a bad day for the country. They are in the Government today, as it was pointed out by a learned Member there; they could be out of power tomorrow and they could be here. Given such a day, if there is a black draconian law in existence and if they were the victims, I will be the first person to stand up and say that it shall not be applicable. If they have got any conscience or any reason left or understanding left in them, it is in the interest of every individual, be he in the Government or in the opposition, to oppose this bad, black and draconian law. Therefore, I do not want to go into other details. My learned friends here have said how innumerable instance can be cited. One o'clock in the night and there could be a call bell for going to the jail. There have been any number of instances in 1975-76 when a call bell at mid-night meant to be taken somewhere else. That is the type of fear that had been instilled into the minds of the people of this country. If that has to be repeated once again, there is no answer for it. All that I am appealing to the Government is to reconsider, in the light of what I have said, that this Bill is an abridgement and an erosion into the freedom of an individual and we shall have to uphold the individual and the individual's freedom.

SHRI T. BASHEER (Kerala): What about country's freedom ?

PROF. C. LAKSHMANNA: He has raised a very pertinent question. I will answer that. Is anyone of the existing laws insufficient to deal with an individual who has proved to be detrimental to the security of the country, detrimental to the defence of

the country, detrimental to the integrity of the country ? I think there are enough laws in the country already available which could be used against such illegal activities of individuals who are a danger to the integrity, security and defence of the country. I do not think there is any problem about it. It is not the fear of that thing. It is the fear of losing office and therefore clinging to office. It is the fear that unless we have laws which could be used without justice, without legal justification .... (Time bell) Therefore, this black legislation has come here to become a law only to protect the party in power, the Government in power, to perpetuate its own power, to be forever in power, with the fond hope of being in power and nothing short of it. Therefore, I appeal to the Members here and to the Members there to dispassionately, coolly, objectively and rationally look into the various aspects. Is it necessary to have a draconian law ? I do not think there is any need. Therefore, I once again reiterate that I oppose this Bill and support the Resolution of Mr. Jaswant Singh and other friends here.

SHRI PAWAN KUMAR BANSAL: Mr. Vice-Chairman, Sir, after breaking off the shackles of foreign rule, the people of India gave themselves a Constitution which epitomises the yearnings and aspirations of our forefathers which they cherished for the succeeding generations. The Constitution secure to every Indian the liberty of thought, expression, belief, faith and worship. However, the framers of the Constitution, in their commendable wisdom also visualised a situation where a person misusing these liberties indulges in activities detrimental to the larger interests of the country. And thus empowered the Parliament to frame a preventive detention law. After all, freedom, as Pandit Nehru said, was pursuing ones own good in one's own way as long as one did not attempt to deprive others of their rights or their endeavour to attain it. Unfortunately, some

[Shri Pawan Kumar Bansal]

people exploiting the lofty ideals enshrined in the Constitution not only indulged in acts which obstruct the peaceable pursuits of others but also designedly do things which are prejudicial to the security and integrity of the country.

Buffled by the progress which India has made at home and the status which it has acquired in the comity of nations under the leadership of Shrimati Indira Gandhi, certain foreign powers are ceaselessly conspiring to weaken our country and for the execution of their nefarious designs unfortunately, they are able to operate through some of our own misguided people, howsoever few in number they may be. The anti-national activities in Punjab and Jammu and Kashmir and the communal riots engineered in Andhra Pradesh and certain other parts of the country are events which we would all like to forget as a bad dream. To take preventive action against anti-national elements, separatists, extremists and terrorists in the country we now have the National Security Act, 1980. But often it has been experienced that in our liberal judicial system this Act has not been effective in enabling the Government to deal stringently with such elements. It so happens that sometimes the Government or the officer passing the detention order has to do it instantaneously and urgently on getting to know of the prejudicial activities of an individual, as the failure to take immediate preventive action may greatly harm the nation's interest and cause irreparable damage and loss to public life and property. But if on a close and pedantic scrutiny of the grounds of detention the High Courts or the Supreme Court in the exercise of their extraordinary writ jurisdiction find even one ground to be vague, non-existent, not relevant or not connected or not proximately connected with the detenu or to be invalid for any other reason, the entire order is held to be vitiated and

the detention order set aside. Such a decision in the past often frustrated the very object of the Act. The Amendment Bill seeks to meet such an eventuality by providing that different grounds of detention shall be severable from each other and the detention order shall not be set aside simply because some of the grounds are not sustainable. In other words, one valid ground of detention will be sufficient to uphold the detention, irrespective of other grounds. Such an amendment was urgently required and the Government has done well to bring it about. But the opposition wants to create a situation, by their suggestions, that persons guilty of committing heinous crimes against the country go scot-free on such technical grounds.

Mr. Jaswant Singh bemoaned the use of the National Security Act against political activities. I would agree with him that in a democratic polity there has to be unhindered political rights. But it is with utmost respect that I have to submit that the mere fact that a person happens to hold any political position in a party does not cloak him with impunity to commit any offence or any crime he wishes and if in a given case the activities of a person fall within the ambit of any particular law, well strict action has got to be taken against him. Referring to the speech of Mr. Jaswant Singh, another thing that I would like to point out is that he lamented over what he called militarisation in the country and he cited a number of instances and the occasions during the last 4 years when military was called upon to assist the civil administration. But I am sure he knows the number of instances where Army was called in to assist the administration in flood control or in helping the State Governments to overcome various other natural calamities. And to cap it all, I am sure, he also knows that the States which requested the Centre to render military assistance are such that a number of them have non-Congress (I) Governments. To be

precise, I refer to Andhra Pradesh, Jammu and Kashmir, Karnataka, Tamil Nadu, Tripura and West Bengal as the instances of the non-Congress (I) Governments requesting the Centre to provide military assistance in over-coming various problems during the last one year.

Sir, to deal with the hardened delinquents, the present Bill also seeks to provide that the expiry or revocation of the earlier detention order, shall not bar the making of another detention order provided that in the absence of fresh facts, the total period of detention shall not exceed 12 months in general and 2 years in the case of Punjab and Chandigarh. I wonder, how this particular provision of law is termed as arbitrary or draconian by the hon. Members of Opposition. In my view, this provision, in fact, provides for an inherent safeguard to the effect that under no circumstances, a detenu who has been deprived of his liberty under the preventive law, that is, the present National Security Act, shall be detained for a period longer than that provided under this Act.

Prof. Lakshmana was emphatic in stressing that in the presence of various other laws in the country, there was no need of a law, such as this. But my submission is that it was precisely here that he forgot about the distinction between a preventive and punitive law. Without dwelling at length, I would only commend the necessity to bring about the present amendment. With the background that we have had, there was a dire necessity of having a little more stringent preventive law in the interest of the country, for the security and for the integrity of the country, for who lives if India dies, as Pandit Nehru asked in the Constituent Assembly.

In these circumstances, the present amendment would be outrightly approved by any impartial analyst of recent events in the country. But unfortunately, the hon. Members of Opposition criticise even this step

taken solely in the interest of the country. I do not doubt their integrity and their patriotism. But the high claims regarding the welfare of the country have got to be matched by the deeds and actions. One only hopes that their anti-Indira and anti-Congress obsession does not jaundice their view and afflict their thought which may unwittingly harm the national interest beyond repair.

SHRI AMARPROSAD CHAKRABORTY (West Bengal): Sir, I rise to oppose the Bill. The name of the Bill was very nicely coined as 'The National Security Bill' and the main Act was passed in 1980. I do not know for whose security this Bill was passed or is being passed. Whenever the ruling party or the ruling Government feels insecure, it tries to tighten the grip by passing laws like this draconian law in the form of 'The National Security Act'. Undoubtedly, it is not for the security of the nation though the Act has been given such a name, it is for the security of the monarchical system in a republic. For the last 37 years this dynasty rule is going on and for the security of this monarchical rule in a republic they are trying to tighten the grip by way of passing this sort of preventive laws, by way of taking this sort of security measures.

[The Vice-Chairman (Shrimati Margaret Alva) in the Chair]

Madam, this is not the Government for the people, of the people, by the people. It is not a democratic Government. It is a pure and simple authoritarian Government. And to protect it, all those measures, all those draconian measures are being taken. Now, Madam, what was there in the original Act? The Minister who was piloting the Bill said that the States had recommended that the grounds should be severable. Madam, we have seen the case of Gopalan. Even the Supreme Court was very much stringent with regard to this sort of measure. The severable grounds were criticised even by the Congress before the transfer of power, when we were detained and sent to jail by



[Shri Amarprosad Chakraborty]

Britishers. This sort of security Act was criticised then and now they are repeating the same thing which has been condemned by all in the past, including Pandit Nehru. Now this Government, the dynasty of Shri Nehru, wants to curb human rights, fundamental rights of the people. This is the irony. We are still living to see this day. This action of the then British Government was criticised by the Congress Party during several Congress sessions and now the same thing is being revived by this Government. Not only that, they have drafted the Bill in such a way that nobody can be let out. Even the Supreme Court has criticised this sort of security measure. Gopalan case is there. If you refer to sub-clauses (3) to (1) of article 22 you will find how the framers of the Constitution have laid down such safeguards as the fundamental rights of the citizen are not attacked, human rights are not attacked, his freedom is not attacked. This was the tendency of both the legislators and the framers of the Constitution. This was the tendency of the then leaders. So, we are very much pained to see this piece of legislation. In the substituent clause you will find what the hon. Minister, who has piloted the Bill, has said that the grounds of detention are severable. I know of several cases, not one or two but of hundreds of cases, I know of my own experience that grounds are framed against those persons who are trade unionists, who are in political parties or the ruling party cannot grow for certain persons, how those persons are being harassed, have been harassed and had been harassed by way of putting those grounds. We had seen that during Emergency also. Because when the grounds are drafted, some imaginary grounds are drafted there, some imaginary grounds are given there because there is nothing to give against such trade union leaders or political leaders or persons of social eminence. There is nothing to say against them. So they used to give some grounds which were

very very peculiar and which made one laugh at them. That is why they are making it severable. Supposing one ground becomes bad. I can give one instance. The ground was given that the person entered at 7-30 p.m. the house of a person and looted the property. So it was set as a ground for his detention. Afterwards it was found that that man was staying 20 miles away and he was not there at all and he could not by any stretch of imagination be in the house of that person at 7.30 p.m. The court said that the ground was non-existent. So the detention order goes. So to tighten up the entire position so that a man who is arrested and detained cannot find any scope to go out, they are making it severable. It is fantastic. They say "such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—(i) vague, (ii) non-existent (ii) not relevant, (iv) not connected or not proximately connected with such person, or (v) invalid for any other reason whatsoever. So if the Government feels that time is very much near and people might go otherwise because this is a Government for a few people, it is not a Government for the peasants and workers, it is a Government for 25 families and we are attacking this Government, so if the trade unions, the political leaders, the Opposition and others supporters of movement like the NTR's movement, they can have the whip in their hand as the Britishers used to do to arrest the political leaders in those days of the Congress. So to stabilise the position of a family, or to stabilise the position of monarchy, they are coming with this draconian law with this amendment. For that also, the framers of this Act have not even seen Article 22 of the Constitution and the spirit of the Supreme Court judgment which has been cited by the Supreme Court Judges on several occasions Mr. Islam is here. He should have this experience. They know that the situation is changing. So in this situation they have come with this more stringent law.

And you would please note one thing more. A person once detained can be detained again, if required. He cannot anyway be released or escape the wrath or anger of the ruling party. That is why in the next section, it is stated that even if it is revoked, he can be detained under another order.

If a man like Haji Mastan and others who were backing this Government, who were ruining the people were amassing wealth and were making the people poorer and poorer, are detained and if this draconian law is applied against such exploiters, we shall be happy to see that . . . if the honourable Minister assures that they will not apply it to political cases. On this 4.00 P.M.

ground West Bengal has refused to implement this law though it was passed in 1980. On the principle of freedom, on the principle of protection of freedom, on the principle of Fundamental Rights, on the principle of human rights, we did not accept this Act and we did not implement it. There are many laws. If the intention is good, under the Indian Penal Code and the Criminal Procedure Code anybody can be hauled up now. This law is not necessary. It is their sole purpose to establish an authoritarian rule and to get at the Opposition, to get at the trade unionists, to get at political leaders and to get at the working classes. That is the whole purpose.

Again you will see how they are discriminating. Please see the last section. In the previous section they say it cannot exceed 12 months. But, in the case of Punjab it will be two years. How can such a discriminatory provision be made? We fail to understand it, at least with our experience of law, why this special provision is being made in the last clause:

"(e) in section 14, in the proviso to sub-section (2), for the words 'twelve months' the words 'two years' shall be substituted."

I would tell the hon. Minister that this is discriminatory. Also, this is very stringent. Even if a person is set free, he can again be put behind prison bars. Because of all these points, we strongly oppose this Draconian law.

There are enough laws already and so I would request the Government, please do not bring this law into force. Bringing this law will benefit none. On the contrary, it may boomerang. Suppose somebody else comes to power tomorrow, it may be applied against you. So, on the principle of civil rights, on the principle of human right on the principle of Fundamental Rights, on the principle of fundamental freedom and on the principle of individual freedom we strongly oppose this Bill and hope this Bill will not be passed.

SHRI BIJOY KRISHNA HANDIQUE (Assam): Madam, I welcome this National Security (Second Amendment) Bill and oppose the Statutory Resolution moved by the hon. Member, Shri Jaswant Singh.

Madam, a few practical problems which have emerged in the implementation of the 1980 Act have been sought to be rectified by this amendment. This is just a pragmatic approach to plug the loopholes in the existing Act, which is intended to maintain the security and integrity of the State. Madam, there is not much change. On an analysis it will be found that till now an order of detention could be challenged and struck down if one of the several grounds on which the detention was made was considered by the court as invalid. According to the new amendment, each of the grounds of detention would be separate ground for the purpose of detention and revocation of one ground will not render the other grounds invalid. Besides, there is a second detention order after the first order has expired or has been revoked. As a result of these practical difficulties, Government have been compelled to release those persons involved in alleged anti-social and anti-national activities

[Shri Bijoy Krishna Handique]

with the full knowledge that such people are sources of potential danger to the community and the country. Madam, thus the Bill before us embodies certain corrective measures in the Act passed by this House in 1980 in order to make that a perfect piece of legislation. That is all.

The issue, Madam, needs to be viewed in the context of national integrity and security and not in the context of some minor changes in the existing Bill which has already been passed by the House. I do not think there is much room for a debate on this. These are non-issues. The main issue is whether we want the integrity and security of our country to be maintained. Madam, forces of de-stabilization are active not only in Punjab but also elsewhere. People are referring to Punjab. But I fear that same de-stabilization is equally prevalent in the north-eastern region. We have been seeing in the north-eastern region over the years how the integrity and security of the region has been threatened, and the involvement of foreign hand is too obvious. What has been happening in the north-eastern region, in Nagaland, in Manipur, in Mizoram, in various forms of terrorism. Sometimes it is insurgency, sometimes under-ground hostility, or any kind of hostility. It indicates the danger to which this country is exposed. There are unimpeachable evidences that arms have been procured, arms have been supplied by foreign countries, terrorists have been trained in foreign countries. And now arms have found their way into Assam. Dumps of foreign-made arms have been found in Assam. Clandestine gun factories have been detected, and recently a team of young men surrendered to the Chief Minister. Not only that. Right in the heart of the Gauhati city arms were found. But we are not concerned so much about arms. There were thousands of cyclostyled copies of an article which appeared in one paper published from Thailand, Bangkok, known

as Bangkok Post. The caption of the article is "Assam where South-East Asia ends", where they have sought to re-define the concept of South-East Asia, including Assam in South-East Asia and maintaining the view that South-East Asia extends to Assam-Bangladesh border. I quote a few lines from the article just to convince the House how national security and integrity of this country is in danger. I quote:

"Assam where South-East Asia ends: It is a very different part of India. In Assam and India's north-east region, the brown race meets the yellow. The great northern plain that is the cradle of Indian civilization terminates in the meandering channels of the Brahmaputra River delta. Further east, past the bulge of Bangladesh that nearly cuts the region off from the rest of India the land begins to crinkle. Isolated and little known to the rest of India, much less to the world, Assam and its neighbour States, Arunachal, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, have been India's gate-way to the Orient a point of fusion with the Mongoloid races of the Far East and here South-East Asia ends."

Madam, are the implications of this writing not clear? Can anybody deny that foreign power did not try to infiltrate and take advantage of the situation in this region? I never say that the agitation on foreigners' issue was inspired or guided by foreign hands. No far from it. But at the same time it is also true that there are many forces which are at work, in a clandestine way and the foreign hands trying to destabilize the region is obvious. It is interesting, Madam, to hear the criticisms on this particular Bill from the hon. Members on the other side of the House. But, Madam, they blow hot and cold in the same breath. They accuse the Government of its alleged failure to curb such forces and activities. But when the Government wants to take effective measures to do it they resist. Shri

Shanti Bhushan had already clarified preventive detention. Well, I would like to remind them. Recently also the same gentleman made a statement to the press. He was our Law Minister in 1978. Let us brush up our memory and try to recollect what he said about preventive detention in this House on August 28, 1978. I quote a few lines:

"But so long as there are certain weaknesses in our society, well, it may be necessary for the Government, whichever Government is in power—one day, one party may be in the Government, another day another party may be in the Government—the Government may require the use of these special powers for the benefit of the people themselves."

Further he says:

"But the situation at a particular time may demand that the special reservoir of power which is necessary in the interest of the people themselves with all the safeguards."

Madam, before I conclude, this is an interesting anecdote which was narrated by Mr. Shanti Bhushan in this House. His "revolver anecdote," Madam, between two persons. Refusing to be convinced of the effectiveness of the safety device of the revolver, a person posed the question, "Why not take away the pin which makes the revolver itself dangerous and effective?" Mr. Shanti Bhushan replies, "If the pin is taken away, what will happen? After all the Government does require power to deal with extraordinary situation."

Madam, are the situations not extraordinary? Is not there an extraordinary situation in Punjab? Is not there an extraordinary situation in the North-East region? I pose the question.

It has been said that the National Security Act has no safeguards and that it will be misused. We have seen in the last four years that there are no cases of misuse. Fears have been expressed that the National Security Act will be misused. But, Madam,

should we not consider the security and integrity of the country on the plea of some imaginary fears? If that is so, should we scrap all the criminal laws including the IPC and the Criminal Procedure Code? They may be misused also. So, I hope the hon. Members will realise the situation faced by this country, particularly the threat to the security and integrity of our country and reconsider their attitude. Thank you, Madam.

SHRI MURASOLI MARAN (Tamil Nadu): Madam Vice-Chairman, a preventive law is an abnoxious law whether it is brought forward by the Congress Party or any other party. It is perhaps one of the much abused laws in our statute book because I was one of the persons who were in jail for one year under the MISA. So, as a victim of this preventive detention, I would like to say that this abnoxious law is not at all necessary in a free country. Madam, by bringing this amendment they have made this law, this preventive detention more draconian and worse than notorious MISA. Madam, Mr. Venkatasubbaiah when he visited Madras in the last week of June had said that the Government was bringing in this amendment to meet the threat to country's secular character. Then he also said that this was only temporary and would continue till normalcy was restored in Punjab. Madam, he has gone on record saying that the measure was only temporary and would lose until normalcy was restored in Punjab. Then naturally this would be taken back. But look at the Statement of Objects and Reasons. What Mr. Venkatasubbaiah has stated in Madras is not to be found here. Here they say—they put the blame on the State Governments that they have been asking for the amendment of the Act to remove some difficulties. I would like to know from the Hon'ble Minister why there should be this discrepancy. Madam, it was like that—we trusted him and we believed him.

SHRI P. VENKATASUBBAIAH: In what context did I say. You please

[Shri P. Venkatasubbaiah]

explain to me. Then, I will be able to refresh my memory.

SHRI MURASOLI MARAN: It is stated in the National Herald dated 25th June. Based on your speech the Economic and Political weekly has written an editorial, I will pass it on to you. So, it is very clear that these amendments are not temporary at all. By using the Punjab situation they are bringing in a draconian Act for which I am very sorry. Because of these amendments, the cumulative period...

SHRI P. VENKATASUBBAIAH: I may say that the National Security Act is already kept on the statute book.

SHRI MURASOLI MARAN: Yes, we know that.

SHRI P. VENKATASUBBAIAH: I could not have said that it was a temporary piece of legislation.

SHRI MURASOLI MARAN: No, regarding amendment...

SHRI P. VENKATASUBBAIAH: This I might have said in a particular context. Now you read carefully the NSA (Second Amendment) Bill, 1984.

SHRI MURASOLI MARAN: I am reading from the National Herald dated 25th June.

SHRI P. VENKATASUBBAIAH: This amendment Bill we are bringing before the House to remove certain mis-conceptions and certain infirmities. We are giving a sort of explanation to this amendment so that there may not be any infirmities or doubts left there.

SHRI MURASOLI MARAN: I know what the State of Objects and Reasons says and what you have stated in the press conference at Madras. But both statements differ. I have a copy of National Herald and I will pass it on to you.

SHRI P. VENKATASUBBAIAH: Don't believe that. (*Interruptions*)

SHRI MURASOLI MARAN: Now, I have to believe you.

SHRI R. RAMAKRISHNAN (Tamil Nadu): National Herald have started Madras edition also.

SHRI P. VENKATASUBBAIAH: He said it was in June. Now we are in August.

SHRI MURASOLI MARAN: I have to trust what you have said. That is the worst situation, because one of the amendments says the cumulative period of preventive detention would be about two years in the case of Punjab and Chandigarh and one year in the case of the rest of the country. I do not know what sin Punjab was committed. Why the Government should provide two years for preventive detention in Punjab alone? As Professor who preceded me has stated it is very much discriminatory. Do you mean to say that Punjab situation is going to be as it is for ever? Don't you have confidence that Punjab situation will be corrected?

SHRI P. VENKATASUBBAIAH: For the disturbed areas of Punjab and Chandigarh we have provided two years. The provision is already there in the said Act which we have passed. So, it is not a new thing that this second amendment has been brought before this House.

SHRI MURASOLI MARAN: What is the cumulative period of detention regarding Punjab?

THE VICE-CHAIRMAN (SHRIMATI MARGARET ALVA): You don't ask questions. You can seek clarifications when the Minister replies.

SHRI MURASOLI MARAN: There is no time limit. The time limit allowed is...

THE VICE-CHAIRMAN (SHRIMATI MARGARET ALVA): There is a time limit here.

SHRI MURASOLI MARAN: It would be on the statute book for ever. I think the Hon'ble Minister will clarify the situation. Madam, the Supreme Court has been asking the executive to clearly state the grounds of preventive detention and justify the detention. So, from now on, the executive can give a hundred grounds and even if 99 of them are false or untenable and if one is there which will somehow stand judicial scrutiny, then the courts have to uphold the detention on that one ground. Another worst effect would be that an individual can be arrested again and again on the same ground. This is a very horrible situation. You have made preventive detention so iron-clad and as far beyond judicial review as should be necessary even for the most autocratic government. I am sorry to say that, in no civilised country in the world which calls itself a democracy there preventive detention during normal times. Take any country which calls itself a democratic country. Until 1950, the United States of America did not need preventive detention even during the World War. They passed the Internal Security Act only in 1950, but it can be implemented or anybody can be arrested without trial only during a declaration of war by the Congress or invasion of US territory or during insurrection within USA in aid of a foreign enemy. They cannot use it in peace time. So is the case in the United Kingdom. It is not the District Magistrate or the Commissioner of Police who can use this Act, this kind of preventive detention. The Home Secretary should sign the order. Madam advocates are allowed to appear to defend the detenu. They can call any person as witness. But, Madam, in 1941 during the peak of the World War, the number of detenu in the U.K. was only 1,400. In 1944, again during the World War, it was just 200. Only 200 people were in custody, were under preventive detention. We know what our history is. During the Emergency, more than 10,000 people were in jail without any

trial. Many hon. Members have stated that preventive detention is very essential; otherwise our society will be shattered and the system will not be there: democracy will go away, and all those things. Madam, I would like to say that the preventive detention Act lapsed on the midnight of December 31, 1969. There was no preventive detention Act, there was no MISA, there was no National Security Act for almost two years because at that time the present Prime Minister, Mrs. Gandhi was running a minority Government. The DMK party and the Communist Party of India were supporting Mrs. Gandhi but we clearly said that we would not support any kind of preventive detention. So, Madam, the Prime Minister did not bring in a legislation. The country was without any preventive detention for two years. I would like to ask my friends here: what happened during that period? Was our society torn as under? Was democracy sabotaged? Nothing happened. The heavens did not fall down. The earth did not cave in. Again during the Janata period after they assumed power, one of the first things they did was to remove the MISA from the statute book. Again nothing happened. So, I would say that preventive detention is not at all necessary in a democracy. You may have it during war time but such a situation is not prevailing in the country now. So I would once again emphasise that you have got enough arms in your armoury of the Criminal Procedure Code and the Indian Penal Code and they are enough to take care of the situation.

Madam, if you take the history of our country, every time this preventive detention legislation was introduced, there was terrific opposition. Actually the founding fathers of the Constitution introduced this provision with pangs of pain in their heart. In 1953 the law got its final shape when Dr. K. N. Katju was the Home Minister. At that time, Dr. N. M. Jaisurya—he was in the Opposition—made a scathing attack on the preventive de-

[Shri Murasoli Maran]  
ention law and concluded his speech  
like this:

"Such were the services of Dr.  
Katju. ...

Dr. Katju was the Home Minister  
then and he perfected the preventive  
detention system.

"Such were the services of Dr.  
Katju in the cause of preventive  
detention that he might to get a  
salute of 11 guns with live bullets  
and all those must be aimed at  
him."

I would not like to report the same  
to Mr. Venkatasubbaiah. He is an  
honest gentleman. But these are the  
fears we are having regarding this  
legislation. It is very undemocratic. It  
is unfit to be on the statute book of  
any democratic country in the world.  
I would say similar law was passed  
by the Andhra Pradesh Legislature  
but it was struck down by the High  
Court of Andhra Pradesh. One of the  
Judges who rescinded the law is today  
in the Supreme Court. I do hope  
wisdom will prevail and the Supreme  
court will come to the help of the  
people of India once again and throw  
away this measure as unconstitutional.  
Thank you.

SHRI DINKARRAO GOVINDRAO  
PATIL (Mharashtra): Madam Vice-  
Chairman, I rise first to oppose the  
move by the Opposition Members  
leading to the resolution disapproving  
the National Security Amendment  
Bill. The Opposition always raised  
anti-national voice; they want to  
create confusion in the minds of the  
people. The militant forces of BJP  
killed Mahatma Gandhi in order to  
create chaos and confusion in the  
country. The Opposition opposed the  
progressive programmes of Shrimati  
Indira Gandhi..

श्री कैलाशपति मिश्र (बिहार) :  
श्रीमन्, मेरा प्वाइंट ऑफ ऑर्डर है।  
यह सरासर बेकार बात है। (व्यवधान)

इस अन्वयापूर्ण भाषण से सदन की गरिमा  
गिर रही है। यह झुठा आरोप है।

SHRI JASWANT SINGH: I don't  
think it is a matter to be treated  
lightly, Madam Vice-Chairman. I  
appreciate that he is a member of  
your party and, therefore, per-  
haps you have been silent about it.  
But I think this is a very extreme  
statement.

SHRI V. GOPALSAMY (Tamil  
Nadu) That reference should not be  
allowed.

SHRI JASWANT SINGH: Madam,  
please come out with your ruling on  
this.

SHRI DINKARRAO GOVINDRAO  
PATIL: The BJP leader. Shri Atal  
Behari Vajpayee, roared on the floor  
of the House...

THE VICE-CHAIRMAN (SHRI-  
MATI MARGARET ALVA): Please  
don't go into a controversy, what he  
said in the other House or somewhere  
else. Don't quote the proceedings of  
the other House here.

SHRI SYED SIBTEY RAZI: I  
stand on a point of order. It is not  
the convention of this House that the  
proceedings of the other House should  
be quoted here or discussed here. But  
I would like to remind my learned  
friend, Mr. Jaswant Singh, today in  
this House he referred to a quotation  
from the speech of the then Home  
Minister made in the Lower House. I  
think if it was correct, then now he  
should also be permitted. If it was  
wrong then I think Mr. Jaswant  
Singh has no moral authority to say  
that the proceeding of the other House  
should not be quoted here.

✓ SHRI JASWANT SINGH: Madam,  
he is perfectly within his right and he  
is free to quote my leader, Mr. Vaj-  
payee; I have no objection. Whether  
he quotes in context or out of context,  
I don't think by his quoting I am  
going to become that which I am not.  
The honourable Sibtey Razi's objec-

tion is misplaced. My objection, Madam Vice-Chairman, is I understand your constraint; you belong to that political organisation now. But the fact is a reference has been made...

SHRI R. RAMAKRISHNAN: When she is in the Chair she has no colour.

SHRI JASWANT SINGH:..to a linkage of my political party to Mahatma Gandhi and his political assassination, etc. This is what is highly objectionable. That is the objection I am raising.

SHRI V. GOPALSAMY: That reference is outrageous. That must be expunged.

THE VICE-CHAIRMAN (SHRI-MATI MARGARET ALVA): Don't look into the record. If there is anything objectionable...

SHRI JASWANT SINGH: This is highly objectionable. BJP as a political organisation came into existence in 1980. He is being empirical....

THE VICE-CHAIRMAN (SHRI-MATI MARGARET ALVA): Don't mix up the RSS with the BJP.

SHRI HARISINH BHAGUBAVA MAHIDA (Gujarat): That party was involved in the murder of Gandhiji.

THE VICE-CHAIRMAN (SHRI-MATI MARGARET ALVA): Don't misquote names.

SHRI JASWANT SINGH: You are misquoting me.

THE VICE-CHAIRMAN (SHRI-MATI MARGARET ALVA): You said that the BJP did not exist till 1980 Let him say about RSS and not about BJP.

SHRI JASWANT SINGH: That is not my suggestion at all. My suggestion is about an extraneous matter. My submission is about insinuations which are false...

श्री प्यारेलाल खंडेलवाल (मध्य प्रदेश): वह भी गलत बोल रहे हैं।  
....कोर्ट का डिस्मिशन है।

SHRI JASWANT SINGH: My submission is about insinuations which are proven false by courts of law. My suggestion is about insinuations which are damaging, which are objectionable. That is my suggestion.

THE VICE-CHAIRMAN (SHRI-MATI MARGARET ALVA): If there is anything unparliamentary in what he has said, I will go through the proceedings and remove it.

SHRI MURASOLI MARAN: It is not unparliamentary; it is defamatory.

THE VICE-CHAIRMAN (SHRI-MATI MARGARET ALVA): I cannot prevent a Speaker from giving his opinion. Mr. Patil, I would request you to come back to the point.

SHRI DINKARRAO GOVINDRAO PATIL: The BJP leader, Shri Atal Behari Vajpayee roared on the floor of the House that the doors of the courts cannot be closed for the smugglers and their detention cannot be tolerated. This is the theory and ideology of the opposition.

Madam, this amendment is on two small points under sections 3 and 14-A of the Act. Firstly, the order of detention cannot be invalid only on one or two grounds. Secondly, the detention has to be extended for two years in the troubled State of Punjab.

The security of the nation is the need of the day and there is nothing wrong in amending this Act. Prevention is the best solution in a grave situation because conspiracy is so deep that even remote circumstances cannot be chained together within a short period. It will have to take months for investigation and, therefore, it ap-



(Shri Dinkarrao Govind rao Patil)

pears that external and internal reactionary forces are bent upon to destabilise the democratic set up of our nation.

From Pakistan side, the warning has been doubly vindicated. Firstly, Pakistan's unusual and extraordinary activities are on the border of Jammu and Kashmir. These forced Lt. Gen. P. N. Hoon to issue a special alert to all forces.

Secondly, Islamabad's official announcement on the formation of Jammu and Kashmir Liberation Front which press for the independence of the valley under Lt. Gen. F. A. Chisti, the second ranking leader after General Zia.

In November last, the American statesman of Great India Bogeylike Defence Secretary, Karl Weinberger, has been calling on our neighbours to incite them against the neo-coloniser of the sub-continent. As a result of their efforts, Gen. Zia started beating of war drums against India.

To the Eastern border of our nation, the military head of Bangladesh, Gen. Irshad, successfully visited America and met Mr. Reagan who promised and assured him full support. Support against whom? It is obviously against India.

To the Southern front of India, the partner of anti-Indian alliance is Sri Lanka. The Prime Minister of Sri Lanka, Ranasinghe Premadasa, has raised his voice against India.

To the Western frontier State of Punjab, America has chosen the minority of Akali Khalistan terrorists through Pakistan to blow up the strategic Punjab in order to clear the ground for the activities which Pakistan may be planning. Even recently, in Tripura some extremists formed an underground government with the help of foreign hands. Dr. Farooq Abdullah was encouraging anti-national activi-

ties. The more recent report from London of close links between Dr. Jagjit Singh Chauhan, the Chairman of so-called Khalistan National Conference and Aman-Ulla Khan, the President of Jammu and Kashmir Liberation Front, confirmed the worst implications. The fear is that India's security was threatened as never before and a cold war has been brought to its very door-steps. The great conspiracy has been deliberately and mostly criminally internationalised with the gruesome murder of Ravindra Mhatre and murders of some leaders in India. It is regrettable that these murderers have been sought to be glorified as martyrs and traitors like Maqbool Bhatt hailed and mourned as heroes in Indian Union with the intention to wreck the Union.

What is all this about? What internal hand is manoeuvring the scenario? Is it not the foul play of Pakistan's attack? Is it our beloved leader Smt. Indira Gandhi's blood they are after only because she is the most popular leader of this big democratic nation, having a dynamic leadership in the world, who, alone challenges the bid of Washington's hegemony over this vital region? Is it, Sir, all part and parcel of the international conspiracy in which the Opposition's Indira Hatao campaign fits so well? The answers are plain. The Opposition have no programmes and no policies. Their single-minded and one-pointed programme is 'Indira Hatao' and nothing other than 'Indira Hatao'. (*Time Bell*). On the other hand, 'Bharat Bachao' is the programme of Smt. Indira Gandhi. Therefore, I warn the Opposition that the people know that Indira backs India, and India would definitely back Indira in the coming national poll. (*Interruptions*)

Therefore, I urge upon the hon. Home Minister and specially the Prime Minister to save India under this grave situation. Whenever we move, from State to State, from town to town we meet the people, we hear them, we find that the people of this nation

have full faith and full confidence in Smt. Indira Gandhi. Therefore, the people expect from her deterrent and strong action and, if necessary, to the limit of declaration of restricted emergency, putting all these troubled States under the military rule only with the intention to eliminate the possibility of any stab in the back of our Mother India.

With these suggestions, Sir, I fully support this amendment. (*Interruptions*)

THE VICE-CHAIRMAN (SHRI-MATI MARGARET ALVA): Shri Madan Bhatia.

SHRI MADAN BHATIA (Nominated): Madam, Vice-Chairman, the scope of this debate has been expanded to attack the National Security Act. The problem of reconciling personal liberty with the security of the State has been a recurring problem which is faced in every democracy, in every generation. Sir, democracy cannot survive if personal liberty is mutilated, gripped and confined.

The Vice-Chairman (Shri Santosh Kumar Sahu) in the Chair.

But democracy also cannot flourish if it gets stuck in the groves of changeless laws which lose resilience to meet challenges which are forced on the nation. Every democracy has tried to find an answer to this dilemma according to its own historical experiences, its political developments and the nature of the challenges which confront the nation. It is this dilemma to which Abraham Lincoln gave an expression when he faced the Congress in order to justify his measures which he undertook to meet the forces of secession when he said: "Must a Government, of necessity, be too strong for the liberty of its citizens or too weak for its own existence". It is this very sentiment to which expression was given by Mr. Jawaharlal Nehru when he defended the Preventive Detention Bill in Parliament in 1952 and I just quote what he said :

"For my part, I cherish the freedom of the individual and I do not want that freedom to be restricted in the name of the State. But if the safety of the State is at stake, the freedom of certain individuals has to be curbed."

Mr. Nehru also commented upon the experience of Britain to which reference was made by the Members and he said:

"I must, however, point out that there is a vital difference between our country and that compact little island with centuries-old traditions of disciplined behaviour by the citizens and, above all, the rule of law."

Sir, as I have said, every country, every democracy in every generation has sought to reconcile this dilemma according to its own experience. What happened in the United States in 1950? When the United States, the self-styled bastion of personal liberty, worked itself up into anti-communist hysteria and felt itself besieged by an imagined world-wide revolution conducted by the communist parties, it went in for a compromise with personal liberty and passed what the hon. Members on this side would like to know what is known as the National Security Act, 1950. Take the experience of Germany. After the first Great War, Germany adopted one of the finest Constitutions which any democracy has ever adopted, namely, the Weimar Constitution. But this Constitution was misused by those to whom human freedom and personal liberty had been guaranteed by this Constitution in order to grab political power and those very people ultimately subverted and destroyed this Constitution. It was this historical experience which was at the background when Federal Republic of Germany after the Second World War, decided to adopt a new Constitution. In the new Constitution, the Federal Republic of Germany incorporated Article 18 which goes to the extent of saying that fundamental rights of a citizen

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are liable to be forfeited if they are abused by that particular citizen. I just read that article:

"Whoever abuses freedom of expression, of opinion, in particular freedom of the press, freedom of teaching, freedom of association, shall forfeit those basic rights."

And lastly take France in which the whole concept of freedom, liberty and equality took its birth. In 1958, when France was on the verge of chaos and anarchy and when there was a challenge to the very security and existence of France, De Gaulle was brought back to power. France decided to adopt a new Constitution and this new Constitution incorporated Article 16 which conferred ultimated and unprecedented powers on the President to meet any challenge to the integrity of the territorial sovereignty of the country. While moving this amendment to the Constitution, the French Prime Minister said:

"Democracy is inconsequential and anarchy if those who wield power by the will of the people do not, at the same time, also enjoy the authority corresponding to the responsibilities which they assume. I respectfully submit, Sir, that this is the basic problem. And, what is the position in this country today? A democracy which carries within itself the seeds of poison which can produce a man like Bhindranwale, a democracy in which helpless passengers are dragged out of a bus and are shot down by the dead of night in the open fields, a democracy in which innocent men, women and children who took shelter like frightened lambs in a lonely farmhouse are doused with kerosene oil and burnt to ashes, a democracy in which a poor old widow waits for her son to return home but that son does not return home because he is caught around the street corner and is stabbed to death by a few hooligans in the name of religion and community,

is not a democracy which can do without this particular step.

Sir, I would like to say only a few words about the proposed amendments. The hon. Minister of State for Home Affairs is perfectly justified in saying that this particular statute, particularly section 3 amendment is purely procedural. To my mind, this amendment is for the benefit of the detenu because under the existing provision he can get a procedural victory from the court but that does not promise him freedom from detention, because if one ground is struck down by the court, the court ends with the matter but it is open to the detaining authority to make a fresh detention order on the remaining grounds. As a result of this amendment, it will become incumbent upon the courts to decide the validity of each and every ground at one go and it will not be necessary for the detenu to have rounds of the courts in challenging each and every detention order which may be made after the first order is struck down on procedural grounds. Therefore, Sir, I respectfully submit that this particular Bill should be supported by the entire House. Thank you.

SHRI INDRADEEP SINHA (Bihar): Mr. Vice-Chairman, Sir, I rise to oppose this Bill. I have to oppose it not because I differ with my hon. friends on the other side who have been talking of growing threat to the security of India. I agree with them on many of the points about the conspiracy of hostile imperialist forces against the unity, integrity and independence of India. As a matter of fact, our party, the Communist Party of India, has from the very beginning been warning the Government against adopting a soft and conciliatory attitude towards these hostile imperialist forces. And our charge is that it is precisely this Government which, in the name of "pragmatism", "equi-distance" from "two super-powers" and similar other conceived theories has sought to have cordial relations precisely with these imperialist forces which are out to destabilise and dismember India. So, my difference is

not on that ground. My difference is on this point that the National Security Act and the repeated amendments to the National Security Act do not strengthen the security of India. They have not strengthened the unity and the integrity of India. They have not reinforced the independence of India. I am grateful to my friend, hon. Mr. Bhatia for having given us the parentage of this National Security Act, which is the product of MacCarthyism in the United States of America. The very title has been bodily lifted from the statute book of the United States of America where a National Security Act was passed in early fifties, where every independent and free-minded person was called upon to testify before a special tribunal that he was not a communist. So, hon. Mr. Bhatia unwittingly has revealed even the parentage of this anti-people, anti-democratic legislation. I am not surprised. Even the MISA, the Maintenance of Internal Security Act was only a carbon copy of a British law—a law which was enacted during the period of the Second World War and which was operated only during the period of the war. But in our country, such special draconian laws have become normal feature of the administration.

Sir, I remember, in one of her speeches, probably on the 14th January 1982, Prime Minister Indira Gandhi accused the Janata Party Government of having abandoned "true and tested policies." One of the "true and tested policies" of Smt. Indira Gandhi which was abandoned by the Janata Government was this preventive detention. Of course, the Janata Government did many bad things, and we had a big quarrel in this House when our friends of Janata Party were sitting on the Treasury Benches. But they did one good thing, they repealed the notorious MISA as Smt. Indira Gandhi herself had done a good thing in 1969 when she felt compelled to repeal the Preventive Detention Act. If we claim to be members of this august body whose business it is to draw lessons from the historical experience of our

own country and not be guided by what was written in the Weimer Constitution of pre-war Germany, then we should ask this question. Did the security of the country, did the unity and integrity of the country weaken to any extent when the Preventive Detention Act was repealed in 1969, or when the MISA was repealed probably in 1978? Was the law and order situation worse between 1969 to 1971 or between 1978 to 1980 than it is today? Figures given in this House in answer to various questions about the number of crimes committed in the country or about the number of atrocities committed against persons belonging to Scheduled Castes and Scheduled Tribes or the number of persons killed in communal riots would show that they have increased year after year despite the so-called National Security Act. So, the National Security Act has not helped the Government in any way in improving the law and order situation. It has not helped the Government in any way in fighting the fissiparous tendencies. My hon. friend, Shri Bhatia, has accused democracy of containing "The seeds of poison" which produced Bhindranwale. May I submit that it is not democracy but communalism, politics of communalism and opportunism which produced Bhindranwale instigated, egged on and supported by the ruling party and the Government headed by Shrimati Indira Gandhi. Bhindranwale grew into Frankenstein monster. Every body knows that Bhindranwale was built up by this Government as a counterweight to the Akali leaders and the Akali leaders paid the Government in the same coin by using Bhindranwale against the Government. So, he got the support both of the Government as well as of the Akalis. He grew into a Frankenstein monster. So, it is not democracy which produced the Frankenstein monster called Bhindranwale but it is the opportunist and communal politics of the ruling party and of the Akali Party which produced Bhindranwale. Let

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my friend Bhatia re-read his law books and not mislead this House with wrong insinuations.

Now, Sir, coming to the provisions of this Bill, my hon. friend over there has talked of the need for some kind of military rule in the country. Well, I do not know how far this represents the authoritative opinion of the ruling party. He was reading from a prepared brief and if that prepared brief has been handed over to him from the Rajiv Gandhi secretariat, then that must be taken as an alarming signal. It must be taken as an alarming signal if the brief has come from the secretariat headed by Shri Rajiv Gandhi. (*Interruptions*). Shri A. P. Sharma signals that it is not so. (*Interruptions*). Till now I would tend to agree with Shrimati Indira Gandhi that she does not want to establish a military dictatorship in this country. but the steps she is taking, whether she desires it or not, are leading in that direction. Nine States are already under virtual military rule. Now she has created conditions in Andhra Pradesh which may lead to a similar rule. Already para-military forces of the Central Government are being airlifted from different States to maintain law and order in Andhra Pradesh.

Now, what does this proposed Bill provide for? It says that from among several grounds on which a person is sought to be detained even if one ground is found to be valid the detention will be valid. Now, supposing the first ground of detention says that Mr. Venkatasubbaiah, who once belonged to the Congress(O) and then resigned and joined the Congress (I) and was the state Minister in the Ministry of Home Affairs.

SHRI P. VENKATASUBBAIAH: Mr. Sinha, you are only obsessed with wrong impression. (*Interruptions*). I must make personal explanation. (*Interruptions*). My dear friend, listen to me. Do not think that you are the only authority. You are being

carried away by your own rhetoric. I will tell you that I did belong to Congress (O), as Mr. 5 P.M. Gurupadaswamy belonged at one time, when the Parliament was dissolved I resigned from Congress (O) and stood as a Congress (R) candidate and sought the verdict of the electorate and got elected. So don't be under this misapprehension, always trying to score a point. You may be a great pandit and all that, but you do not know facts. Where ignorance is bliss . . .

SHRI INDRADEEP SINHA: I apologise to Mr. Venkatasubbaiah for having wrongly stated the facts. I will state the facts correctly now. If the grounds of detention once served against him say—(1) that Mr. Venkatasubbaiah who once belonged to Congress (O) but who after the Parliament was dissolved . . .

SHRIMATI USHA MALHOTRA (Himachal Pradesh): Why should he take the example of the Minister?

SHRI INDRADEEP SINHA: All right, I will say if Mr. A . . .

SHRI P. VENKATASUBBAIAH: How is it relevant here ?

SHRI INDRADEEP SINHA: I will take the name 'A' I hope there is nobody who is called Mr. A there.

SHRI P. VENKATASUBBAIAH: You please mention my name. I do not mind. I want to give you that much indulgence. You please mention my name.

SHRI INDRADEEP SINHA: Your members are objecting.

SHRI P. VENKATASUBBAIAH: But I do not. But why are you indulging in personal vituperation ? Where would it lead you to ? I have got great respect for you. In this manner you have brought down the tenor of the debate. Please excuse me. What is the purpose ? This is not at all relevant to the point which you are

mentioning. Please confine yourself to your point. I shall be thankful to you. Please don't indulge in this. That will not enhance your prestige.

**SHRI INDRADEEP SINHA:** If the ground of detention or grounds of detention against a person called Mr. 'A' state that "Mr. 'A' who was once a member of Congress (O) and then after the Parliament was dissolved, rejoined the ruling party—Congress (I),—and was elected to Parliament, is being detained" and there are several other grounds and all other grounds are found to be false but because his name. ....

**SHRI P. VENKATASUBBAIAH:** There is something wrong with you.

**SHRI INDRADEEP SINHA:** ... and designation are correct, the detention will be valid under this amendment. If the name of a person, his parentage, his residence, his occupation are correctly mentioned in the grounds of detention and if everything else is found to be false and incorrect, then merely on that one ground his detention will be held valid. This is the amendment proposed. Does any such law exist in any civilised country in the world? I shall be happy if the hon. Minister can give even one example.

Now coming to the second major amendment, ...

**THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU):** Please try to conclude in two minutes.

**SHRI INDRADEEP SINHA:** I am just finishing. Mr. Vice-Chairman, unfortunately my friends over there get very much excited when I start speaking.

**SHRIMATI USHA MALHOTRA:** Because you have got your facts wrong.

**SHRI INDRADEEP SINHA:** I am just concluding it my friends keep quiet. The second major amendment is this that a person who has been once detained on a number of charges

can again be detained on the same charges without being released from jail. Now I am not a lawyer. Probably you are. But I think it is an elementary principle of civilised jurisprudence that a man cannot be punished twice for the same offence under the same section. Now here a person will be punished twice. He will be detained first for a period of one year or two years initially and then when the detention order is about to expire, a fresh order can be served on him and again he can be detained for the same offence for another 12 months in the rest of the country and for 24 months in Punjab. I think the next amendment Shri Venkatasubbaiah will move is. ....

**SHRI P. VENKATASUBBAIAH:** The period of detention of 12 months will not change even if it is a second order. It is only a cumulative period of 12 months. Please read that thing.

**SHRI INDRADEEP SINHA:** Thank you very much for the clarification. I would only seek another assurance that the period of two years that you have provided for Punjab will not be extended to the rest of the country. If you can show us this little mercy, at least that will be one consolation.

**SHRI P. VENKATASUBBAIAH:** It is already there.

**SHRI INDRADEEP SINHA:** So, I am against both the major clauses of the Bill and my special submission is this that this Bill and its parent Act are only the logical result of the reactionary, anti-people, anti-democratic policies of the Government. It is the policies of the Government which are creating discontent inside the country; it is the policies of the Government which are leading to various types of agitations; it is the opportunist policies of the Government which help disruptive, fissiparous and even separatist tendencies; it is the policies of the Government that encourage communalism. For example, the Majlis has gone in alliance with Congress (I)

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in Andhra Pradesh. So, it is the basic policies of the Government which are responsible for all these problems, and no amount of amendment to the National Security Act is going to change the situation; rather it will worsen the situation. Preventive detention did not save the British rule in India and preventive detention under the National Security Act or under MISA or under any other name will not save this reactionary Government from people's wrath which is growing.

SHRI S. W. DHABE (Maharashtra):  
Mr. Vice-Chairman, Sir, I oppose this Bill and support the Resolution moved by my friend Shri Jaswant Singh.

Sir, the tendency of the Government to bring Bills to restrict freedom of the individual is not desirable. Another tendency which is exhibited by the Bill is that they do not want to leave it to the judiciary. Somebody else will scrutinise it as to what are the grounds for detention. For the first time in the history of detention law, a deeming provision has been made. As a lawyer you know that by legal fiction it will be construed in the Bill that it will be valid detention order.

The third point is consideration of the situation in Punjab. I would only quote just one paragraph from a Supreme Court judgment:—

"It may not be said that those who are responsible for the national security or for the maintenance of public order must be the same judges of what the national security or the public order requires. It is too perilous a proposition. Our Constitution does not give a *carte blanche* to any organ of the State to the sole arbiter in such matters. Preventive detention is not beyond the judicial scrutiny. While adequacy or sufficiency may not be a ground of challenge, relevancy and

proximity are certainly grounds of challenge."

The Supreme Court has given a decision that this power they have given must be open to scrutiny and if the loopholes are shown by the Supreme Court or High Court, detention orders are quashed. This Bill has been brought to plug the loopholes which are shown by the judiciary in certain orders of detention. Now, in clause 5(a) it has been stated that the order shall not be invalid if it is vague or non-existent. It will be very difficult to believe that order can be passed on a ground non-existent. It is misuse of the police power. As the police officer or the Commissioner passes an order, it is expected that they know the circumstances under which such order is passed. Such orders are based on relevance to circumstances and grounds. Assurance was given in this House by the Home Minister at that time that it will not be used against politicians or trade unionists in the country. But now mainly the Act has been used against politicians and trade unionists; in the Bombay textile workers' strike a number of trade union leaders were arrested. In Punjab even the President of my party, Punjab PCC, Mr. Swarup Singh, is also detained. Therefore, mainly this Act has been made use of against the political opponents or for political purposes. As regards smugglers, we were discussing about Haji Mastan and Yusuf Patel who were responsible for riots in Bhiwandi. They have been allowed to go scot free although there were various serious charges against them. The Act was not used against them. Under these circumstances, will it be proper for Parliament and also the people to accept this bill.

Sir, two things are emerging in the situation for the last one year. Government is relying more and more on the police power. The Press Council today has stated in reports that attacks on journalists are increasing. *Eanadu*, a daily newspaper of Andhra

Pradesh, reports that police raid was made and the Anantapur police beat the Indian Express reporter. Not only that, In Punjab and Assam still censorship is continuing. Individual freedom and the freedom of the press are the main bastion of democratic way of life. What is the reason? Why is still censorship being imposed in Punjab and Assam? The use of detention law up till now in these areas has not been against the smugglers. I would like to know from the Minister the percentage use against political opponents and political leaders and how many political leaders have been put under detention under this law. They give assurances in the House, but the experience in the last one year has shown that it has been misused and assurances are not kept. Therefore, in principle, it is bad. It was not necessary to bring it at this stage.

In clause 2 of this Bill the detention period in Punjab and Chandigarh area has been increased from one to two years. Under article 22 of the Constitution, there are powers given to Parliament to pass laws. Under article 22(7), law can be made for the class or classes of cases. I can understand classification of extremists as a class. But a law cannot be made only for Punjab and Chandigarh areas. If commission of an offence is a crime, it is a crime. It cannot be referable to a territory. We cannot make a law for a particular territory and say that detention there will be for two years while extremists are there. If an extremist is outside Punjab, he cannot be detained for two years. Similar situation is there in Assam, but the Act is not applicable there. Why? If the class of extremists pose a danger to the security, the Government should have come forward with an amendment to the law saying that extremists will be detained for two years. This is not the purpose. The purpose is only for Punjab and Chandigarh. But what is the time-limit? I would like

the Home Minister to reply why there is no time-limit for this. Does he think that permanently they are going to have a military rule there, as suggested by some friends. Do you think that the Army is going to stay there permanently and destroy our democratic fabric? If they do our democracy will be in danger, a danger which has become a reality in Pakistan and Bangladesh and that may come to India. Therefore, this provision is absolutely against the interests of democracy in the country. Permanently the Government is taking powers for Punjab and Chandigarh and the detention will be for two years unlike for other areas. That means, the Government still thinks that they will have extremists there permanently and the problem cannot be solved. If the problem of Punjab is to be solved, it cannot be solved by extending the detention law or amending the law. The solution lies in seeking it on political lines or somewhere else. I would like to repeat, the whole blame of the Punjab situation is on the Government. The religious demands, they accept; the territorial demands, they dispute. Who are ruling the four States, Punjab, Haryana, Himachal Pradesh and Rajasthan? The same Government is in power. And they are very proud that they got the mandate. In all these States the ruling party is the Congress(I). They all accept the leadership of the Prime Minister. The Punjab people want that Chandigarh should be given to Punjab, Haryana may differ. Why can all the four parties together not solve the question of Punjab territories? They unnecessarily blame the Akalis who are in minority according to them. Therefore, instead of having a political solution, if they try to make it a law-and-order problem, it is not going to help the country, and they will be having very bad traditions laid down for the future of our country.

Principally I am against the principle of detention. If we restrict the



[Shri S. W. Dhabe]

freedom of the press, it is still worse. Even if there is restriction on the freedom of the press in the British law or some other laws in other countries, the power of review they keep in tact with the judiciary. There are grounds which have been ordered to be deleted here, and a deeming provision has been brought to curtail the powers of the judiciary to a very large extent. It is not good. This will be against the interest of the country. Therefore, I oppose the Bill.

**श्री राम भगत पासवान (बिहार) :**  
उपसभाध्यक्ष महोदय, मैं गृह मंत्री महोदय को बहुत धन्यवाद देता हूँ जो समय के अनुसार नेशनल सिक्योरिटी अमेंडमेंट बिल लाये हैं। मैं इसका तहेदिल से समर्थन करता हूँ।

मान्यवर, देश की अखंडता, एकता और नागरिकों की सुरक्षा सर्वोपरि है। इसके मार्ग में जब किसी प्रकार की बाधाएं उपस्थित होती हैं तो यह सरकार का कर्तव्य है कि इसकी सुरक्षा की हर व्यवस्था करे। इसी के लिए यह बिल लाया गया है। मैं विरोधी पार्टी के भाइयों से पूछना चाहता हूँ कि जब कभी देश के कल्याण के लिए, नागरिकों की सुरक्षा के लिए, समाजवाद के लिए जो भी कदम उठाये गये हैं क्या किसी ने, आपने समर्थन दिया है! बल्कि सभी में आपने विरोध किया है, एक में भी आप समर्थन करते तो हम समझते कि आप भी जनता के सही प्रतिनिधि हैं। सब में, सरकार के हर कार्य में अड़ंगा लगाते हैं। जो गलत है उसका विरोध कीजिए लेकिन आप लोगों ने एक रवैया अपना लिया है कि सरकार जो भी कार्य करेगी, चाहे देश की सुरक्षा के लिए, अखंडता या एकता के लिए आप सभी में विरोध ही करेंगे। तो यह नीति जो है, इसको इनको छोड़ना चाहिए। प्रजातंत्र के इतिहास में इनका

रोल इतना दुखदायी रहा है कि जनता इनको अभी माफ नहीं करेगी। समय समय पर इन लोगों ने धर्म के नाम पर, जातीयता के नाम पर, भाषा के नाम पर और क्षेत्रियता के नाम पर देश में खलबली मचायी है। अब जनता इनकी चालों को समझ गयी है। और अब ये मर्जर या इस रूप में प्रचार करके जनता के सम्मुख आने वाले हैं लेकिन आपके तालमेल की नैया विन्तुल शंघ ही डूबने वाली है और डूब जायेगी। इसलिए इतना फस्टेड न हाइये। मान्यवर, सिक्योरिटी बिल के लिए कहते हैं कि नगरिकों की स्वतंत्रता पर कुठाराघात करते हैं। अभी तक इस कानून के अंतर्गत 154 केसेज आये हैं। इनमें आप देख लीजिए कि कौन से लग अरेस्ट हुए हैं। स्मगलर्स, प्रोफिटीयर्स, होर्डर्स और जितने कालाबाजारी करने वाले जो बड़े बड़े नाटोरियस अपराधी हैं उन लोगों को डिटैन किया गया है। आप लोग क्यों इतना भयभीत हैं। आप लोगों को भयभीत नहीं होना चाहिए। यह तो आतंकवादियों, उग्रवादियों और अलगाववादियों के विरुद्ध है। देश की अखंडता पर जो लोग प्रहार करते हैं उनके विरुद्ध है। आप क्यों भयभीत हो रहे हैं। क्या कहीं हम ही लोग न पकड़े जायें, इसलिए आप भयभीत हैं! क्या आपका काला दिल नहीं है! आपका दिल काला है।

राष्ट्र के प्रति आपको जरा भी नेह नहीं रहता, आपका देश के प्रति जरा भी नेह रहता, तो आप इस प्रकार से हर बिल का विरोध नहीं करते।

उपसभाध्यक्ष महोदय, मैं कहना चाहता हूँ कि आज जो बिल यह लाया गया है, क्या यह बिल लाने वाली परिस्थिति नहीं है! क्या यह भूल गये हैं कि अभी हाल ही में उग्रवादियों ने, आतंकवादियों ने देश की अखंडता पर प्रहार नहीं

किया है ! क्या अभी हजारों बेगुनाह खोप मौत के घाट नहीं उतारे गये हैं !

क्या रेल के डिब्बे नहीं जलाये गये हैं ! क्या बसेज नहीं जलाई गई हैं ! क्या वाणिज्यिक स्थानों पर हिंसा का वातावरण नहीं फैलाया गया है !

तो इस त्रा के विषय में जब कार्यवाही की गई है, तो इसमें आपको विरोध नहीं करना चाहिए । आपको तहेदिल से सोचना चाहिए क्योंकि देश की अखंडता, देश की आजादी की सुरक्षा के लिए कितनी कुर्बानियाँ की गई हैं तो इसकी सुरक्षा के लिए आपको समर्थन देना चाहिए । आपको अपने स्वार्थ के लिए अंधे नहीं हो जाना चाहिए ।

आपकी नीति जो है, वह कन्दोर्विशयल और ठगराव की नीति रही है, जनता की सेवा की नीति नहीं रही है । यदि जनता के कल्याण की भावना रहती आप में, तो आप जरूर ऐसी कठिन घड़ी में उसका समर्थन करते ।

मान्यवर, जब श्रीमती इन्दिरा गांधी दिन-रात देश के अन्दर जो विषम परिस्थिति हो गई है, उपद्रवादियों ने, आतंकवादियों ने जो विषम परिस्थिति, कठिन समस्या उत्पन्न कर दी थी और उसको सुलझाने के लिए दिन-रात प्रधान मंत्री व्यस्त थीं, उस समय इन लोगों ने हमारी प्रधान मंत्री के द्वारा किये गये कार्य के प्रति मखौल उड़ाया । श्री चन्द्र शेखर ने—जब वह देख रहे हैं कि निर्दोष जनता मौत के घाट उतारी जा रही है, बसेज जलाई जा रही हैं । हमारी भारत की अखंडता पर चुनौती है, तब वह कहते हैं कि यह जो सैनिक कार्यवाही की गई है, वह उचित नहीं है ।

तो इसमें आपके इस रवैये से कहाँ तक देश भक्ति की भावना प्रकट होती

है ! आप लोग स्वयं सोच सकते हैं । यदि आप अंधे हैं अपने स्वार्थ में, तो जनता समझ रही है और अब समय आ रहा है कि जनता आपको सदा के लिए दफना देगी ।

उपसभाध्यक्ष जी, इन लोगों ने जब यह संविधान की सुरक्षा नागरिक स्वतंत्रता की दुहाई बार-बार देते हैं, जब जनता का राज था, कर्पूरी ठाकुर और चरण सिंह थे, तो उस समय इन लोगों ने गुंडा एक्ट लागू किया था और बिना कारण हजारों नवयुवकों का भविष्य अंध-कारमय कर दिया था—बिना कारण कितनों को जेल में ठूस दिया था ।

श्री राम नरेश कुशवाहा (उत्तर प्रदेश) : आप भी बंद थे उसमें !

श्री राम भगत पासवान : बिना कारण जहाँ-तहाँ किसी नागरिक को पकड़ करके हर्जिनों को जिंदा जला दिया, हर्जिनो को कांग्रेस सरकार ने जो जमीनें दी थीं, उनको डिसपोसेज कर दिया । यह बेलची कांड इसका उदाहरण है कि जिंदा इन लोगों ने जलाया कि नहीं—किसी राक्षस के समय में भी लोगों को ऐसे जिंदा नहीं जलाया गया था, जैसा कि जनता राज में जलाया गया था । उस समय गरीबों के फण्डामेंटल राइट नहीं थे—आपके समय में आप लोगों ने जनता पार्टी के राज में जलाया, बेलची कांड लीजिए, दात्त (?) का कांड लीजिए, धर्मपुरा का कांड लीजिए, कैला का कांड लीजिए, यह सब हुआ है ना ।

मैं विरोधी भाइयों से पूछना चाहता हूँ कि क्यों आपने गरीबों के फण्डामेंटल राइट को खत्म करके, उन लोगों को जिंदा जलाया है ? उस समय आपके फण्डामेंटल राइट कहाँ चले गये थे । इसके साथ-साथ जब श्रीमती इन्दिरा गांधी लोक सभा का चुनाव जीत करके आई थीं, तो उस समय आपने क्यों लाखों

### [श्री राम भगत पासवान]

जनता के अधिकार को दफना दिया। तो समय-समय पर आपने जो फण्डामेंटल राइट्स को दफनाने का प्रयास किया है, अभी जो सरकार ने सुरक्षा व्यवस्था की, उसमें अड़ंगे लगाते हैं, तो यह देश-द्रोह का कार्य हो रहा है कि नहीं हो रहा है? और भूमि सेना, मान्यवर, जिसको सरकार ने जमीन दी सीलिंग के अन्तर्गत, भूमि सेना इन लोगों ने कायम करके घरों से पकड़-पकड़ करके घुड़सवारी पर पुलिस को चढ़ा करके सब गरीबों को खदेड़ा है जानवर की तरह।

तो यह कहां तक, मान्यवर, समाज की रक्षा करेंगे? आप भी जनता के रिप्रेजेंटेटिव हैं लेकिन आपके रवैये से यह मालूम पड़ता है कि आप जनता के रिप्रेजेंटेटिव नहीं हैं, आप आतंकवादियों के रिप्रेजेंटेटिव हैं, आप राजा-महाराजाओं के रिप्रेजेंटेटिव हैं, आप स्मगलर्स प्रोफिटीयर्स, ब्लैक-मार्केटीयर्स के रिप्रेजेंटेटिव हैं।... (व्यवधान) इसलिए आप अपने रवैये को बिल्कुल बदलिए। उपसभाध्यक्ष महोदय, अभी आतंकवादी, उग्रवादी तत्व जो हैं, पंजाब और जम्मू-काश्मीर में, अभी ये लोग सक्रिय हैं। सभी जगह छूट-पुट घटनाएं हो रही हैं। इसको भी दबाने के लिए यह बिल लाना बहुत जरूरी था और इसलिए ही यह बिल यहां लाया गया है। तो क्या यह आपको नहीं सूझ रहा है कि यह लोग अभी भी हमारी अखंडता पर कुठाराघात हैं, अभी भी ये हमारी आजादी को चुनौती दे रहे हैं। यह आपकी देशभक्ति है। आप देशभक्त रहते तो कम से कम सरकार ने यह जो बिल लाया है उसका तहेदिल से समर्थन करते। उग्रवादी तत्वों द्वारा जो उपद्रव हो रहे हैं शांति-

व्यवस्था में खलल हो रही है, विकास के मार्ग में जो बाधा पहुंचा रहे हैं, उनको दबाने के लिए यह बिल लाया गया है, आप भी उसके लिए प्रयास करते। लेकिन जनता के सम्मुख आपके इस रवैये का पर्दाफाश हो रहा है। इसलिए आपकी नैय्या बहुत जल्दी डूबने वाली है। जनता जल्दी डुबा देगी। उपसभाध्यक्ष महोदय, देश की अखंडता तो सर्वोपरि है ही और इसकी सुरक्षा के लिए सरकार यदि कोई बिल लाती है तो यह देश के के लिए बहुत ही हितकर है और हर दृष्टिकोण से इसकी सुरक्षा करना सरकार का धर्म है। आपने एक साल से दो साल किया ठीक है, लेकिन यह भी उनके लिए बहुत नरम है। इसको और कठोर बनाना चाहिए। इस प्रकार से ये लोग आतंकवादी और देश-द्रोहियों के साथ मिलकर देश के जीवन को अशान्त बनाते हैं। इस तरह से यह जो एक साल से दो साल हुआ यह भी नरम ही है। मान्यवर, मैं अनुरोध करूंगा कि इसको और कठोर से कठोर बनाना चाहिए।

उपसभाध्यक्ष (श्री सन्तोष कुमार साहू) :  
खत्म कीजिए।

श्री रामानन्द यादव (बिहार) :  
अभी चीन में सिविल रायट्स किया है, रूस में किया है, उस पर अभी बोलने वाले हैं।... (व्यवधान)

श्री राम भगत पातबोन : उपसभा-  
ध्यक्ष महोदय... (व्यवधान) आजादी  
की सुरक्षा के लिए,...

(व्यवधान) नागरिक स्वतंत्रता के लिए  
यह बिल लाया गया है, इसलिए मैं  
इसका तहेदिल से समर्थन करता हूँ।

श्री नेपाल देव भट्टाचार्य (पश्चिमी बंगाल):  
उपसभाध्यक्ष महोदय, मुझे यहाँ खड़ा  
होना पड़ा है इस बिल का विरोध करने  
के लिए, क्योंकि यह देख कर मुझे शर्म  
हो रही है कि इस सरकार को शर्म नहीं  
है कि आजादी के 37 साल बाद 33  
साल बाद एक बिल लाना पड़ा जिस  
बिल का नाम है "नैशनल सैक्योरिटी  
एक्ट" और उसके भी 4 साल बाद उसको  
अमेंड भी करना पड़ता है।.....

(व्यवधान) शर्म इसलिए होना चाहिए  
कि ब्रिटिश जमाने में भी ऐसा ही एक  
बिल उन लोगों का भी था जिसका वे  
लोग इस्तेमाल करते थे आजादी के  
लिए लड़ने वालों के खिलाफ। ...

(व्यवधान) आप ही की पार्टी के बहुत  
लोग हैं जो इस बिल पर बोल चुके हैं।  
लेकिन जिनकी उम्र 40 साल से भी  
कम है उनका आजादी की लड़ाई का  
अनुभव नहीं है। उन्होंने सुना होगा,  
पढ़ा होगा, उनको यह बताया गया होगा  
कि उस जमाने में जो लोग लड़ते थे,  
वही सिक्योरिटी एक्ट उनके खिलाफ  
इस्तेमाल किया जाता था और यहाँ ऐसे  
बहुत से बुजुर्ग कांग्रेस में होंगे या  
आपोजीशन में भी हो सकते हैं।

SHRI K. MOHANAN (Kerala):  
Very few are there.

SHRI P. VENKATASUBAIAH:  
You have not forgotten the role you  
have played in the Quit India move-  
ment. That also you should mention.

(Interruptions)

श्रीमती उषा मल्होत्रा : इतिहास  
पढ़िये अपना, फिर बोलिये कि किसके  
साथ हाथ मिलाया था आपने ?  
यही ब्रिटिश सरकार के साथ ?

.... (व्यवधान).

SHRI NEPALDEV BHATTACHAR-  
JEE: Sir, have you allowed her?  
Then I will sit down.

THE VICE-CHAIRMAN (SHRI  
SANTOSH KUMAR SAHU): You  
please continue.

श्री नेपालदेव भट्टाचार्य : ब्रिटिश जमाने  
में भी यही कानून का इस्तेमाल किया  
जाता था। अभी मंत्री महोदय ने कुछ  
कहने की कोशिश की। लेकिन जहाँ तक  
इतिहास का सवाल है। अगर ठप्पा  
हुआ इतिहास है, जो हुआ था।  
उस इतिहास में यही था कि आजादी  
की लड़ाई में इसी कानून को लागू  
किया गया था, जो लड़ रहे थे, उनके  
खिलाफ। आप क्यों ऐसा कर रहे हैं।  
आप इसीलिए कर रहे हैं...

(व्यवधान) ...

श्री विठ्ठलराव माधवराव जाधव  
(महाराष्ट्र): एंटी नेशनल के खिलाफ।

श्री नेपालदेव भट्टाचार्य : एंटी-  
नेशनल कौन है ?

एक माननीय सदस्य : आप हैं।

श्री नेपालदेव भट्टाचार्य : मैं हूँ।  
यह हुई न बात...

श्रीमती उषा मल्होत्रा : आप डिक्शनरी  
देखिए, हमसे न पूछिएगा।

SHRI NEPALDEV BHATTACHAR-  
JEE: Through you I want to tell the  
Minister, now from that side a word  
has come when I asked who an anti-  
national is,—promptly one Member  
from the Treasury Benches said, "you"  
pointing to me. Thank you very  
much, because you consider all Oppo-

[Shri Nepaldev Bhattacharjee]

sition as anti-national and you are the only contractor of "national".....

श्री रामानन्द यादव : आप हिन्दी में बोलिए । हिन्दी में अच्छा बोलते हैं ।

श्री नेपाल देव भट्टाचार्य : हिन्दी में मैं कोशिश कर रहा हूँ । आप बीच में बोल रहे हैं ।.... (व्यवधान).... मेरी मातृभाषा दूसरी है तो ब्रिटिश जमाने में जिसको इस्तेमाल किया जाता था, उसी बिल को आप फिर दुबारा यहाँ खुद लाए हैं :

This Government headed by Frs. Indira Gandhi in the biggest democracy in the world.....

तो यह जो होल-सार्जडिंग, ये सारी बातें हिन्दुस्तान को जनवादी बगैरह-बगैरह जो सब कहे जात हैं, इसमें सिक्योरिटी एक्ट लाकर सरकार ने खुद अपने आपको गंगा किया है । जनता के सामने एग्जैक्टली क्यों जाते मैं आपको यह एक उदाहरण देना चाहता हूँ कि जो नेशनल सिक्योरिटी एक्ट आपके सामने है, आपके हाथ में है, अमेंडमेंट के पहले ही आप उसको इस्तेमाल कर रहे हैं, आपको ही सरकार इस्तेमाल कर रही है उड़ीसा के स्टूडेंट्स के खिलाफ । हाजी मस्तान के खिलाफ नहीं । हाजी मस्तान को तो छोड़ दिया गया और उड़ीसा के विद्यार्थियों के खिलाफ इसे इस्तेमाल किया गया । इसलिए एंटी नेशनल हाजी मस्तान नहीं है.... (व्यवधान)

This Government headed by Mrs. Indira Gandhi in the biggest democracy in the world.....

श्री बिट्टल राव माधव राव जाधव : हाजी मस्तान को जयप्रकाश नारायण आर्डर आर्डर देते थे, यह न भूलिएगा....

श्री नेपालदेव भट्टाचार्य : मैं श्री

पी० एम० सदस्य हूँ....

We hate to arrest anybody under this Act.

(व्यवधान)....

नहीं आप नहीं जानते हैं । अभी ए० पी० शर्मा जी आएने । अभी बंगाल से लौटे कर आए हैं । एक भी हमने अरेस्ट नहीं किया है अण्डर दिस एक्ट.... (व्यवधान).... अभी माननीय सदस्य ने पूछा कि टेरोरिज्म को, डिवी-सियस को कैसे खत्म किया जाए, उसके खिलाफ कैसे लड़ा जाए । अगर यह सरकार यह सोचती है कि कानून में दो क्लाज अमेंड करने से टेरोरिज्म को फाइट कर सकती है, टेरोरिस्ट फोर्स को, डिवीसियस फोर्स को खत्म कर सकती है। तो आई एम सोरी दू से कि आप यह मुखता की बात कर रहे हैं । दो क्लाज में अमेंड करने से टेरोरिस्ट को फाइट नहीं किया जा सकता । हिन्दुस्तान की 70 करोड़ जनता इसके खिलाफ लड़ेगी । आप उनको नहीं कह रहे हैं लड़ने के लिए । मैं एक बार फिर दोहराना चाहता हूँ कि तीन साल आपने एलाऊ किया हेजीटेशन को ... (व्यवधान)....

उपसभाध्यक्ष (श्री सन्तोष कुमार साहू) : आपका टाइम हो गया । आप खतम कीजिए ।

श्री नेपाल देव भट्टाचार्य : नहीं साहब । अभी मुझे कुछ कहना है । अभी एक आनरेबल मेम्बर कह रहे थे कि

On every point we are opposed to Madam. No; so far as Assam is concerned, so far as Punjab is concerned, we supported her. But unfortunately, she has no courage to fight it in the proper way. She waited and waited and ultimately she depended on the military. It is a shame to the Government that she depended on the military, not on the 70 crore people of India.

तो आप हिन्दुस्तान की 70 करोड़ जनता के ऊपर नहीं, बल्कि सात हजार मिलिटरी के ऊपर डिपेंड करते हैं।

I want to tell them that this law to fight terrorism, eroris forces and divisive forces is not all useful.

मैं आपके माध्यम से मंत्री जी से जानना चाहता हूँ, वे एक भी देश दुनिया में बताएं जहां जनता के सहयोग के बिना टेरेरिज्म या डिवाइजिव फोर्सेज को फाइट किया गया है।

(समय की घंटी) बहुत समय बर्बाद हो गया, आप इसको सम्भाल नहीं सके। मुझे तो अभी बोलना है। मेरा कहना यह है कि एक-दो क्राज [ एमंड करके लागू करने से कुछ होने वाला नहीं ] भिड़रावाले और बासू को आप दबावेंगे पोलिटिकल प्रोफिट के लिए You cannot survive without your divide and rule policy. You have to divide the Indian people.

आप प्रोवोक करते हैं दो कम्युनिटीज के बीच लड़ाई की। काश्मीर में आप हिन्दू के साथ हैं, आसाम में आप मुसलमान के साथ हैं।

I know that Mr. Ghani Khan Choudhury went to Assam and spoke against Hindus and for Muslims. Mrs. Gandhi spoke in Kashmir against Muslims and for Hindus.... (Interruptions)

SHRI K. MOHANAN: On a point of order. Members on that side are not speaking from their respective seats. They are interrupting from other seats. Mr. Thangabalu is interrupting from some other seat. Kindly ask them to come back to their seats and speak.

श्री पशुपतिनाथ मुकुल : उपसभाध्यक्ष, जी, अभी हमारे साथी ने कहा कि काश्मीर में हम हिन्दू के साथ हैं और आसाम में हम मुसलमान के साथ हैं। उनको मालूम होना चाहिए कि काश्मीर का चीफ मिनिस्टर मुसलमान है, आसाम का चीफ मिनिस्टर हिन्दू है।

श्री नेपालदेव भट्टाचार्य : मुकुल जी आप बहुत दिन से पोलिटिक्स में हैं, आपको मालूम है, इस में कुछ आता जाता नहीं है। मैं इस बिल का इस लिए विरोध करता हूँ....

उपसभाध्यक्ष (श्री संतोष कुमार साहू) : कम्प्यूड करिए, टाइम नहीं है।

श्री नेपालदेव भट्टाचार्य : टाइम नहीं है तो मेरा क्या कुसूर है। आप चेयर में हैं, आप सम्भाल नहीं सके। मैं यह निवेदन करना चाहता हूँ....

SHRI DEBA PRASAD RAY (West Bengal): His time is over and still he is speaking. He has levelled very serious charges against our party. He is branding our Party as communal.

श्री नेपालदेव भट्टाचार्य : बंगाल में बहुत कम्युनिटी और कास्ट के आदमी हैं, लेकिन पिछले सात साल में एक कम्युनल राइट नहीं हुआ। (व्यवधान)

One out of seven people is a Muslim and still there had been no communal riot... (Interruptions).

SHRI DEBA PRASAD RAY: There was a communal riot... (Interruptions).

SHRI NEPALDEV BHATTACHARJEE: You tried for it.

मैं यह कहना चाहता हूँ कि डिवाइजिव फोर्सेज बंगाल में हैं, लेकिन हम नासा का इस्तेमाल नहीं करते। ए० पी० शर्मा आए हैं, उन से पूछ लीजिए, हम इस्तेमाल उसका नहीं करते हैं। जहां আমরা बंगाली

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का सवाल है, जहां झारखंड का सवाल है, उत्तराखंड का सवाल है, वहां हम नासा का इस्तेमाल नहीं करते हैं। हम उस का विरोध सदन में कर रहे हैं। मुझे मालूम है कि बूट मेजरिटी का इस्तेमाल करते हुए यह बिल पास हो जायेगा, लेकिन बाहर भी हम फाइट आउट करेंगे जब तक इस बिल के लाने वालों को जनता दफना नहीं देती।

**श्रीमती मैमूना सुल्तान** (मध्य प्रदेश) : जनाब बाइस चेयरमैन साहब, सब से पहले तो मैं आप को मुबारकबाद देती हूं कि आप ने मुझे बोलने का मौका दिया। मैं इस बिल के तमाम प्रावि-जम्स पर तो नहीं बोल सकती हूं। मेरे पास इतना वक्त भी नहीं है लेकिन मैं हाउस की तवज्जेह इस बात की तरफ दिलाना चाहती हूं कि इस बिल का ताल्लुक मुल्क की सावरैनिटी, इंडेपेंडेंसी से है। मुल्क की हिफाजत से है और देश को मुकम्मल रखना और इस की आजादी को कायम रखना हम सब का फर्ज है। लेकिन बात चूंकि हिन्दुस्तान की सावरैनिटी की है, इस की आजादी [को है, ह्यूमन राइट्स की है।

अच्छा हो कि हम थोड़ी-सी पुरानी बातों को याद कर लें और कुछ बातों को समझ लें। इस वक्त जो जखम मैं दिखाना चाहती थी और जिन्होंने यह आजादी हासिल की है उन शहीदों के जखमों से खून अभी टपक रहा है। यह बात कुछ साल पहले की है कि जब मुल्क आजाद नहीं हुआ था। उस वक्त यह मुल्क बंटा हुआ था। दूसरे मुल्कों की तरह ही हम गुलाम थे, बंटे हुए थे और उस वक्त एक ऐसा इंसान यहां पैदा हुआ जिस की इंसानियत की दुनिया में कोई दूसरी नज़ीर नहीं है। वह थे महात्मा गांधी। और उन के लिए कहा

गया है कि वह कोई पैगम्बर नहीं थे, लेकिन इंसानियत के लिए वह ऐसे पैगाम ले कर आये कि जिस की मिसाल दुनिया में नहीं है। उन का कत्ल हिन्दुस्तान के ही एक लड़के के हाथों हुआ। लेकिन उस को हम ने भुला दिया। हम उस को भूल जाना चाहते हैं।

**उपसभाध्यक्ष (श्री सन्तोष कुमार साहू)** : आप खतम करिये।

**श्रीमती मैमूना सुल्तान** : अभी तीन मिनट कहा हुए। तो मुल्क की फिरका-परस्ती की वजह से उनका कत्ल हुआ, लेकिन जसवन्त सिंह जी ने कहा कि आज कल मुल्क में जगह-जगह बी०एस०एफ० और दूसरे फोर्स लगे हुए हैं। अगर मुल्क में ऐसी हालत हो जाये कि हर जगह खुले आम कत्ल हो रहे हों तो क्या आप नहीं चाहेंगे कि अमन कायम करने के लिए कोई भी तरीका अपनाया जाय। इस के अलावा और एक चीज मैं कहना चाहती हूं कि यहां सवाल सिर्फ यह नहीं है कि मुल्क में अमन है या नहीं है, लेकिन सवाल यह है कि इस के पीछे बैरूनी ताकतों का हाथ किस हद तक है। (समय की घंटी) जिन बैरूनी ताकतों का हाथ इस में है उन को ध्यान में रखते हुए मैं गुजारिश करूंगी कि पाकिस्तान उन का एक आला है, इंस्ट्रुमेंट है ग्लोबल स्ट्रेटेजी में हिन्दुस्तान को डिसम्बर करने के लिए और इस के कड़े टुकड़े-करने के लिए और वे चाहते हैं कि इस को किसी तरह से तोड़ा जाये। इस के बहुत से सबूत हैं और इस लिए मैं चाहूंगी कि अगर जरूरत हो तो दूसरे तमाम मेजर्स भी हिन्दुस्तान की सावरैनिटी को बनाये रखने के लिए इस हाउस में लाये जायें।

**THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU)**: Shri Jaswant Singh to reply.

✓ SHRI JASWANT SINGH: Mr. Vice-Chairman, Sir, we are concerned with a matter of considerable importance. The debate has lasted for quite some time. It had been my expectation that in the course of the debate the grounds that we had put forth opposing such a provision would either be met or be adequately answered or reasons given to us which would make us change our mind or drop the grounds, drop the objections, drop the disapproval that we have voiced about the provisions of this particular Bill. I am loath to comment; but I have to admit that in the entire process of the debate and in all the contributions that the Treasury Benches have made, I have not been convinced of any one particular aspect of the disapproval proposals that we have made. I shall take some of the more inconsequential observations first before I come to what I consider are of some merit and deserving a reply. I think it is only right that at the very beginning I put across and set right a very grave wrong. A number of speakers attempted from the Treasury Benches to put across the viewpoint some in a guarded way that our objections to this particular enactment are because we are anti-national, because we are aligning ourselves with terrorists, because we are criminals for whom this Bill is being enacted and it is we who are to be arrested. In fact, when one of my colleagues, in a direct query, asked for whom you are enacting such an enactment, the whole of the Treasury Benches in a manner to which they are given, said: "For u". If it were merely an empty rhetoric, merely a spur-of-the-moment objection raised in the heat of the debate, one would let it pass.

AN HON. MEMBER: Nobody has said like that.

SHRI DIPEN GHOSH (West Bengal): That khadi-capped gentleman said it.

SHRI CHIMANBHAI MEHTA (Gujarat): Much worse remarks have come from your side. Don't forget

that. This is wrong. You are painting such a picture of your own self. We did not say 'the entire opposition'. The Members of the opposition can make such remarks. But we won't do it.

✓ SHRI JASWANT SINGH: That was an attempt made to equate our concern, to equate the articulation of our concern with sedition. There was a suggestion made from the Treasury Benches that we are expressing our opposition to this particular enactment.

✓ क्योंकि हम को राष्ट्र के प्रति स्नेह नहीं है, These are not empty words, empty objections. These are not deserving of the kind of concern with which this House must occupy itself. If the whole debate on National Security Act is to reduce itself to brand those of us who oppose the Government, as traitors, as anti-nationals, as seditious and, as our friends have been motivated to say, as those who do not love the nation, then I put it to you that patriotism is not the preserve of the ruling party alone. I put it to you, Sir, I for one am certainly not going to accept an interpretation of patriotism which only the Treasury Benches of the ruling party is trying to put across. The debate on the National Security Bill was a serious thing and not an empty debate. The ordinance came. We took the trouble of giving notices to this House so that we could have a proper debate. If the whole debate is reduced by the treasury to questioning our commitment to the nation, then I do submit to you that the very foundations of parliamentary system are being called into question. You cannot talk seriously about matters which concern the whole country by attributing sedition and disloyalty to the nation to those who do not agree with you. Sir, I would like to refer very briefly, because I share the hon. Members' views, about the ideals of the Constitution. Indeed I am inspired by those ideals.



DR. JOSEPH LEON D'SOUZA (Maharashtra): My dear friend, protection is better than cure.

SHRI JASWANT SINGH: I am inspired by these ideals. It is those very ideals that all of us here sitting in the House attempt to subscribe to, attempt to articulate and wish to adhere to. I would go along with my friend when he talks of abjuring violence. Indeed there is need to abjure violence in our national life. But I do put it to him, Sir, that whereas it is adequate for the Treasury Benches to come across to us and say that we are the perpetrators . . .

I waited, Sir, to enable you to complete your conference.

THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU): Please proceed.

✓ SHRI JASWANT SINGH: . . . Whereas there is need to abjure violence and, indeed there is too much violation in this nation, in this land of Gandhi, to which we all belong, and if there is one identification of this nation which is coming across now, it is coming across as an extremely violent nation. Therefore, I am entirely in agreement with my hon. friend when he talks about abjuring violence. But I do put it to him, Sir, that whereas it is easy for the Treasury Benches to put the responsibility of violence on those that oppose them politically and say that nothing is wrong with the Government, that all the evil lies with the people, that the Government is always right, that the people are always wrong, then in similar fashion I put it to you. I am all for abjuring violence. But who will take note of the violence of the State against the citizen and it is that violence that I speak of as being objectionable in this Bill.

Sir, when Mr. Justice Baharul Islam, an eminent jurist, intervened in the debate, I looked forward to his intervention with some interest. He is

a leading legal luminary and it was my expectation that he would come up with substantial points of law, that my submissions to the House, my objections that I have raised about this enactment, that he would find fault with them and correct me on legal matters. (Time bell rings). Sir, Justice Baharul Islam put forward a thesis that when it is a question of individual liberty and society as a whole, then the choice is for society, I put it to you, Sir, that that is not the question. The question is not as if individual liberty is standing in competition against social order. The question is not if/or. If that were the aim. Sir, then I put through you to Justice Baharul Islam that article 19 of the Constitution has a proviso which talks of reasonable restrictions. Article 22 empowers preventive detention. But even article 22 says that the Parliament has to be assured that circumstances obtain so that preventive detention may be brought about. It is all within the ambit. Sir, of article 22 and article 19, one talking of the existence of 'circumstances', and the other talking of 'reasonable restrictions'. The amendment about 'reasonable restrictions' to article 19 was the very first amendment to the Constitution. That amendment was enacted in 1951. In 1951, the country had already suffered the vivisection of the land. In 1951, we had already suffered one war with Pakistan on Jammu and Kashmir.

The integration of princely states was yet to fully take place; the country had faced operations in Hyderabad. We had contended with razakars and descendents, the political descendents of those razakars in Andhra Pradesh—Itahadul-Musalmeen—today sit with you. But all that is different matter. Having contended with with all those, even then, on the very first amendment to constitution, Parliament even then spoke of reasonable restrictions. It did not give unfettered right. It still said that the choice is not between individual liberty and the existence of

society. Every society is a collective of individuals. I put it in all humility to a legal luminary like Justice Islam that if this suggestion were carried to its logical extreme, that the choice is simply between individual and society, then there is no need for NSA. I think it is a very simple matter. If that is the philosophy with which you work, then bring in censorship; don't even have NSA or provisions for preventive detention. Arrest us, abolish the press. All that would follow. 'Reasonable restrictions' and 'circumstances' are the factors which enable us to continue and arrive at a constructive nexus between individual and society.

Sir, there was a suggestion made here by a very eminent lawyer, and I thought that, perhaps, in the process of what he conveys, I would also learn something about the legal aspect; I am not a lawyer, as you know. He too accentuated the aspect as to why it becomes necessary that individual liberty be forfeited. He talked about democracy containing within it seeds of certain poison. Those were his very words. He talked about France. **(Time bell rings)**. I am aware of the constraint and the agitation which currently afflicts the Treasury Benches. He talked about authority and that within a democracy, there ought to be authority also. I put it to you, where does that authority flow from? An authority of a Government—which ever Government—does not flow out of laws and more laws. The real authority in governance is, in acceptance, in its moral authority, and it is by repeated reliance on empty laws that you erode that moral authority. And when once you have eroded moral authority, then no amount of laws will ever replace it. It is in that light that when he suggested that France went about doing such things and curtailed personal liberties. I put it to you, what is good for France is not necessarily good for India. It was my expectation that the hon. Minister of State, Mr. Venkatasubbaiah, in reply to my initial objection, initial grounds of disapproval, would cover the points that I had made. I will not reiterate all my grounds of disapproval. I do feel

that one substantial ground remains and the hon. Minister of State passed it on by suggesting that Supreme Court has ruled out. I would reiterate it we are participating in the creation of an Act which is of questionable legality. We are continuing to participate in ensuing executive veto over legislative will. Section 3 of the Forty-fourth Constitutional amendment empowered the executive to restrict for a certain time the full effect of Forty-fourth Constitutional amendment. The present Government sat silent on it. Had that section 3 been put into force, this very NSA amendment could not have come about. By so doing, we are creating a very profound and fundamental dichotomy between enacted law and law in force.

6 P.M.

The Parliament had enacted it in the Forty-fourth Constitutional Amendment, but that enactment has not been put into effect because of executive veto. Therefore, we have brought about a theory of law in force as standing in competition with the enacted law.

I reiterate that this is highly dangerous thing which the Government is persisting with for a very short-sighted gain. If once you create these difficulties there is no knowing where the country will be heading for. **(Time bell rings)**. I will conclude. I will take only a minute for what I have to say in conclusion. I appeal to the Treasury Benches to please reflect very deeply. It was at that juncture that earlier in the afternoon the Chair was pleased to interrupt, but now I would appeal to you not to interrupt me because I shall not take even two minutes. I would request the Treasury Benches to reflect very deeply. In 1971 you were returned to power with a kind of popular mandate which would be the pride of any political organisation. By 1974 that popular mandate and that popular will had so eroded itself that the emergency of 1975 became by your own reckoning, is a necessity. Please reflect very deeply, what was it that moved you from the popular mandate of 1971 to emergency,

[Shri Jaswant Singh]

to 1977: In 1980 because we were inept, you were yet again returned to power by the people of this country. By 1983 a very great blot on independent India's history, the holocaust in Assam took place. In 1984 yet another blot on independent India's history, the storming of Darbar Sahib in Amritsar took place. These, Sir, are matters for the Treasury Benches to reflect very deeply about. I appeal to the Treasury Benches that when repeated popular mandates of this kind result in what has resulted in the country, find out for yourselves what is wrong. **(Time Bell rings)**. I will conclude now. While I was going through the debate I wrote out, so that I would not take more than half a minute, what I feel is necessary for me to say in conclusion to my objections to this particular enactment. What we are involved in today is nation building. What is needed, therefore, is to weave inextricably into national fabric all the various strands of our national diversity so that strains, which are natural are withstood and it is near impossible to disentangle the fabric of the nation. Not near impossible because there are so many laws, it is near impossible because the various weaves and threads that go into the national fabric do not want to disentangle. As against this, Sir, as Assam demonstrated and as Punjab has now demonstrated, you create such divisions within society that every tiny fissure within society becomes a huge yawning chasm of mutual hatred. **(Interruptions)**. It is not all right, Sir, **(Time bell rings)**. I am going to conclude in half a minute. You exploit by first creating it. This results in undigested and disgruntled minorities of opinion which distort our daily life. You create disaffection, then respond by repressive laws. This demonstrates a crippling lack of capacity for magnanimity and an ability to comprehend and compress, even mentally, the great diversity of this land, which is a must for any Government, more particularly for a or any Government of India.

Heed, what has happened. This is my appeal and this is why I object to this particular enactment. Thank you.

SHRI P. VENKATASUBBAIAH:

Mr. Vice-Chairman, Sir, a large number of speakers have participated in this debate and many things that are not relevant to the present Amendment Bill have been spoken. Mr. Jaswant Singh was very unhappy and indignant that some of our Members had made charges doubting his patriotism to the country. Sir, none of our Members has made such an allegation, as I could understand it. But unfortunately the Opposition is making such speeches and statements particularly aimed at the Prime Minister. If it is valid, constructive criticism, we all should welcome it. But the criticism should not degenerate into cynicism and sadism.

Sir, you know it and it will go down in the history of our country that the Prime Minister at her personal risk had taken this momentous decision about army action in Punjab to save the country from disintegration. It is a historic fact. Nobody will be able to erase it.

This is a Bill which has a limited objective and in the arguments at every point all sorts of extraneous things have been brought in here in every speech. So that is why perhaps our Members must have got agitated at the sort of allegations which are being made. It is in the interest of the nation, to protect its sovereignty and integrity, to preserve the secular character of the country, that certain measures have to be undertaken.

Sir, memories are very short. I may inform the hon. House that this National security Act has been brought in for specific purposes. These purposes are—defence of India, the security of India, the security of the State, the maintenance of public order, the maintenance of supplies and service essential to the commu-

nity. These are the main features for which this Act has been brought. This country is passing through extraordinary circumstances. All the time the Opposition makes the allegation that this is the creation of the party in power. Sir, the party in power has got a vested interest in maintaining law and order in this country. No party will create such disturbances, it should be understood in clearer terms. Every time a sort of Goebbalian propaganda is carried out that Bhindranwale is our creation. This has been refuted time and again. And our Home Minister has said that the first condition of the Akalis for coming to the negotiating table was unconditional release of Bhindranwale. It is on record. And every time if you say all these things, it will not become truth, it will not become a fact. These matters have been time and again mentioned and set very clearly on the floor of this House.

Sir, as I said, this Second Amendment Bill is very much limited in scope to clear certain misconceptions, certain infirmities. The National Security Act was itself promulgated in 1980. The criticism was made from different quarters that the said Ordinance may be misused. Some apprehensions were expressed when it was amended in April, 1984 in its application to the disturbed areas of Punjab and Chandigarh. The working of the Act over a period of three years has established beyond an iota of doubt that the provisions of this Act have been used essentially against anti-social elements. There had been absolutely no case where it may be stated that the Act in its earlier form or in the amended form was ever misused. The present amendment is designed to ensure that anti-social elements do not take advantage of the small or technical lapses. The actual implementation of the Ordinance for a period of about one month from 21st June, 1984 to 20th July, 1984 has indicated that the provisions of the NSA, as amended, continued to be used with due caution

and without any political motive whatsoever. The figures which are available from 21st June, 1984 till 20th July, 1984 from all the States indicate that only four detention orders have been made. This fact itself testifies that the necessity of using this provisions in the Bill will be in the very rarest of the rare cases. So, this is a factual thing which I wanted to bring to the notice of the august House. These amendments are brought before the House only to clear certain misconceptions and some infirmities which are inherent.

Sir, I may mention that the amendments do not create anything substantial. They only clear certain doubts which were created as a result of certain decisions. Sir, I would only quote what the Supreme Court has said. This was in 1981 in a COFEPOSA case where preventive detention was resorted to. It is not anything new; it is preventive detention itself. The Supreme Court has very clearly stated:—

“What the Act provides is that where there are a number of grounds of detention covering various activities of the detainee spreading over a period or periods, each activity as a separate ground by itself, and if one of the grounds is irrelevant, vague or unspecific, then that will not vitiate the order of detention. The reason for enacting section 5A of the COFEPOSA Act is that several High Courts took the view that where several grounds are mentioned in an order of detention and one of them is found to be vague or irrelevant, then the entire order is vitiated because it cannot be predicted to what extent subjective satisfaction of the authority could have been known by a vague or irrelevant ground. It was to place the basis of these decisions that Parliament enacted section 5A in order to make it clear that even if any one of the ground is irrelevant but the other ground are clear and specific, that by itself would not vitiate the order of detention.”

[Shri Jaswant Singh]

This is a Supreme Court judgment and it is only to make it clear and specific that this amendment has been brought.

Sir, another thing was about enhancement of detention in Punjab and Chandigarh. In the first amendment itself this has been incorporated. It is not now; it is only being repeated here. Another thing is, even when a second detention has been made, the cumulative period will be only 12 months. This has been clearly stated and there is no ambiguity about it.

(Mr. Deputy Chairman in the Chair:-

Sir, it has been said that such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds are vague, non-existent, not relevant, not connected or not proximately connected with such person or invalid for any other reason whatsoever. Sir, this is only illustrative. Because some of the court judgments have stated all those things, this is done only by way of illustration and it does not mean anything. As a matter of fact, there have been conflicting judgments from one court to the other. Only by way of abundant caution, whatever the courts said in their judgments have been incorporated here. They may mean anything or they may not mean anything, but in order to take every care, what the courts have opined, those words have been literally taken out and put in this Bill. There is nothing else that we are doing here. Sir, about the reasons why we have made them separable, a question has been put. This morning also Mr. Jaswant Singh had put the same question saying that if 49 are invalid, even on that score you are going to suffer and you have made the detention order. I put the same in a reverse manner. Suppose of the 12 grounds that have been laid 11 are valid and one is invalid, should it be struck down on that score? So, Sir, this is a matter which we have taken rea-

sonable care of without abridging the liberty of the person. He can go to the Advisory Board. The Advisory Boards are there. All in-built safeguards have been there. This amendment has been brought in order to clear certain misconceptions among the judges, among the authorities who are going to issue these detention orders. Only for that limited purpose it has been brought. Members should not raise the Army action in Punjab case of Haji Mastan in Bombay. All possible things were brought in. For everything they have got only one sort of attitude. It is nothing different, nothing peculiar about the whole thing. In the morning also I have explained the salient aspects of this amendment Bill and I hope the hon. Members will co-operate. As a matter of fact, we require national consensus on many of these matters. This is a national issue. Some friend said that you have come into power by a minority vote. I just wanted to tell him: Which party in this country has come with a majority vote?

AN HON. MEMBER: We did.

SHRI P. VENKATASUBBAIAH: Sir, he also said that you cannot claim superior wisdom. Sir, we are not claiming that. We are coming to Parliament for collective wisdom. This matter is placed before Parliament for its opinion.

Sir, there is another obsession they suffer from, that they represent the people and not we, on this side we are just nominated and they are elected. This is the sort of attitude. They take themselves as the representatives of the people, as though we are not. So this sort of obsession must go. The Prime Minister has time and again on the floor of the House taken the biggest risks to preserve the integrity and sovereignty of this country. Sir, we are passing through very difficult circumstances. Did we create all these conditions? You search your hearts and let me know who created these conditions. We are here because of the mandate of the people. We have to work for the people: main-

tenance of law and order, normalcy, peace, progress. It is our vested interest. We are prepared to do it under the leadership of our great leader Shrimati Indira Gandhi.

Sir, I did not want to enter into this sort of personal thing. But I want to tell my friend Mr. Inradeep Sinha that I have been in Parliament for the last 27 years, I have been elected on behalf of my party and under the leadership of Shrimati Indira Gandhi. I did not at any time go into indirect election. Because I got the mandate of the people, I am here. Even if Mr. Inradeep Sinha does not want me to be here, it is not possible. Constitutionally I have to be here. I only request the hon. Member not to make such sort of remarks. If he had not made that remark, I would not have said all this.

With these words, I commend to the House that this Bill may be taken up for consideration.

MR. DEPUTY CHAIRMAN: I shall now put the resolution of Shri Jaswant Singh to vote.

The question is:

"That this House disapproves of the National Security (Second Amendment) Ordinance, 1984 (No. 6 of 1984) promulgated by the President on the 21st June, 1984."

The House divided.

MR. DEPUTY CHAIRMAN: Ayes: 27  
Noes: 123.

Ayes—27

Advani, Shri Lal K.  
Barman, Shri Debendra Nath  
Bhattacharjee, Shri Nepaldev  
Bhattacharya, Shrimati Ila  
Chakraborty, Shri Amarprosa  
Chatterjee, Shri Nirmal  
Dhabe, Shri S. W.  
Ghosh, Shri Dipen

Goswami, Shri Biswa  
Jaswant Singh, Shri  
Joseph, Shri O. J.  
Khandelwal, Shri Pyarelal  
Kushawaha, Shri Ram Naresh  
Malaviya, Shri Satya Prakash  
Mazumder, Shri Ramkrishna  
Mohanan, Shri K.  
Mohunta, Shri Sushil Chand  
Mukherjee, Shrimati Kanak  
Patel, Dr. Shanti G.  
Paul, Shri Makhan  
Pradhan, Shri Badri Narayan  
Quasem, Shri Mostafa Bin  
Reddy, Shri P. Babul  
Sen, Shri Sukomal  
Sinha, Shri Inradeep  
Suraj Prasad, Shri  
Yadav, Shri Hukumdeo Narayan

Noes—123

Ali, Shri Syed Rahmat  
Alva, Shrimati Margaret  
Amarjit Kaur, Shrimati  
Ansari, Shri Hayat Ulla  
Arif, Shri Mohammed Usman  
Arun Singh, Shri  
Banamali Babu, Shri  
Bansal, Shri Pawan Kumar  
Basavaraju, Shri M.  
Basheer, Shri T.  
Basumatari, Shri Dharanidhar  
Bhandare, Shri Murlidhar Chandra-  
kant  
Bharadwaj, Shri Ramchandra  
Bhardwaj, Shri Hansraj  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Bhuyan, Shri Gaya Chand  
Chandrasekhar, Shrimati Maragatham  
Chatterjee, Prof. (Mrs.) Asima  
Chaturvedi, Shri Bhuvnesh

Chavan, Shrimati Premilabai Daji-  
saheb

Chowdhri, Shri A. S.

Chowdhury, Ram Sewak

Dalwai, Shri Husen

Darbara Singh, Shri

Das, Shrimati Monika

Desai, Shri Jagesh

Deshmukh, Shri Shankarrao Naraya-  
nrao

Dharmavir, Shri

D'Souza, Dr. Joseph Leon

Ganesan, Shri V. C.

Ganeswar Kusum, Shri

Ghan Shyam Singh, Shri

Govind Das, Shri

Gupta, Shri Vishwa Bandhu

Hanaique, Shri Bijoy Krishna

Hanspal, Shri Harvendra Singh

Hanumanthappa, Shri H.

Haridas, Shri C.

Heerachand, Shri D.

Heptulla, Dr. (Shrimati) Najma

Islam, Shri Baharul

Jacob, Shri M. M.

Jadhav, Shri Vithalrao Madhavrao

Jain, Shri J. K.

Joshi, Shri Krishnanand

Joshi, Shrimati Sudha Vijay

Kadharsha, Shri M.

Kalita, Shri Bhubaneswar

Kamble, Prof. N. M.

Kaushik, Shri M. P.

Kesri, Shri Sitaram

Khan., Shri F. M.

Khan, Shri Khurshed Alam

Khaparde, Miss Saroj

Kidwai, Dr. Mohd. Hashim

Kollur, Shri M. L.

Kureel, Shri Piare Lall Urf Piare Lall  
Talib Unnavi

Kushnoor, Shri Veershetty Moglappa

Lokesh Chanora, Dr.

Maddanna, Shri M.

Madni, Shri Asad

Mahida, Shri Harisinh Bhagut

Mahto, Shri Bandhu

Makwana, Shri Yogendra

Malaviya, Shri Radhakishan

Malhotra, Shrimati Usha

Malik, Shri Mukhtiar Singh

Malik, Shri Satya Pal

Manhar, Shri Bhagatram

Meena, Shri Dhuleshwar

Mehta, Shri Chimanbhai

Mirza Irshadbaig Aiyubbaig, Shri

Mishra, Shri Mahendra Mohan

Mohanarangam, Shri R.

Mukherjee, Shri Pranab

Naik, Shri G. Swamy

Natha Singh, Shri

Pachouri, Shri Suresh

Pahadia, Shrimati Shanti

Pandey, Shrimati Manorama

Pandey, Shri Sudhakar

Panicker, Shri K. Vasudeva

Paswan, Shri Ram Bhagat

Patel, Shri Ram Pujan

Patil, Shri Dinkarrao Govindrao

Patnaik, Shri Sunil Kumar

Prajapati, Shri Pravin Kumar

Prasad, Shri K. L. N.

Rai, Shri Kalpnath

Rajagopal, Shri M.

Ramachandran, Shri M. S.

Ramanathan, Shri V.

Rao, Prof. B. Ramachandra

Rao, Shri V. C. Kesava

Ratan Kumari, Shrimati

Rathvakoli, Shri Ramsinghbai Pat-  
liyabhai

Razi, Shri Syed Sibtey

Reddy, Shri Adinarayana

Reddy, Shri T. Chandrasekhar

Roshan Lal, Shri

Ray, Shri Deba Prasad

Sahu, Shri Rajni Ranjan

Sahu, Shri Santosh Kumar  
 Sankata Prasad, Dr.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Shukla, Shri Keshayprasad  
 Singh, Shrimati Pratibha  
 Singh, Shri R. K. Jaichandra  
 Singh, Dr. Rudra Pratap  
 Singh, Shri Vishvajit Prithvijit  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Swu, Shri Scato  
 Thakur, Jagatpal Singh  
 Thakur, Shri Rameshwar  
 Thangabalu, Shri T.  
 Tripathi, Shri Chandrika Prasad  
 Valiullah, Shri Raoof  
 Varadaraj, Shri G.  
 Yadav, Shri Ramanand

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the National Security Act, 1980, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

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

Clause 2 (*Insertion of new section 5A*)

MR. DEPUTY CHAIRMAN: There are two amendments, one by Shri S. W. Dhabe and the other by Shri Dipen Ghosh. Shri Dhabe, you have already spoken.

SHRI S. W. DHABE: I want to speak. Sir, I move:

1. "That at page 1, lines 18 and 19, be deleted."

SHRI DIPEN GHOSH: Sir, I move:

2. "Provided that where one of the two or more grounds on which the detention has been made is proved to be vague, non-existent, not relevant, not connected or not proximately connected with such person, or invalid for any other reason whatsoever, the person so detained shall not be detained for more than one month."

*The question was proposed.*

SHRI S. W. DHABE: Sir, the clause says "vague or non-existent". If the ground is non-existent, how can the detention be legal? It is a most obnoxious provision that has been made.

MR. DEPUTY CHAIRMAN: I shall put these amendments together to vote. The question is:

1. "That at page 1, lines 18 and 19, be deleted."

2. "That at page 2, after line 8, the following be inserted, namely:—

"Provided that where one of the two or more grounds on which detention has been made is proved to be vague, non-existent, not relevant, not connected or not proximately connected with such person, or invalid for any other reason whatsoever, the person so detained shall not be detained for more than one month."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: Now I shall put clause 2 to vote. The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

MR. DEPUTY CHAIRMAN: Clause 3. There is one amendment by Shri Dipen Ghosh.



(Mr. Deputy Chairman)  
*Clause 3 (Amendment of section 14)*

SHRI DIPEN GHOSH: Sir, I move:

3. "That at page 2, line 26, for the words 'twelve months' the words 'one month' be substituted."

*The question was proposed*

SHRI DIPEN GHOSH: Sir, I want to speak. (*Interruptions*) Why are they shouting?

MR. DEPUTY CHAIRMAN: Order, please.

SHRI DIPEN GHOSH: Sir, the hon. Minister of State for Home Affairs, while considering the Bill, had stated that this amending Bill was an innocuous Bill. I express my complete disagreement with what the Minister of State for Home Affairs has stated because this Bill, though apparently innocuous, seeks to take away the most cherished democratic rights of the people of our country. So, I have moved this amendment.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 2, line 26, for the words 'twelve months' the words 'one month' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: Now I shall put clause 3 to vote. The question is:

"That clause 3 stands part of the Bill."

*The motion was adopted.*

*Clause 3 was added to the Bill.*

MR. DEPUTY CHAIRMAN: Clause 4. There are two amendments—No. 4 in the names of Shri Dhabe and Shri Amarprosad Chakraborty, and No. 5 in the name of Shri Dipen Ghosh.

*Clause 4 (Amendment of section 14A)*

SHRI S. W. DHABE: Sir, I move:

4. "That at page 2, clause 4 be deleted."

SHRI DIPEN GHOSH: Sir, I move:

5. "That at page 2, line 36, for the words 'two years' the words 'one month' be substituted."

*The questions were proposed.*

SHRI AMARPROSAD CHAKRABORTY: Sir, I want to say a word. There can be uniformity. There cannot be discrimination on territorial basis under article 22. Under that article, you cannot discriminate between Punjab, Andhra and Bengal. In every place, the period will have to be the same. How can you make it two years in Punjab and one year in other places? So, I have given this amendment.

MR. DEPUTY CHAIRMAN: Now I shall put these amendments to vote. The question is:

4. "That at page 2, clause 4 be deleted."

5. "That at page 2, line 36, for the words 'two years' the words 'one month' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: I shall now put clause 4 to vote. The question is:

"That clause 4 stand part of the Bill."

*The motion was adopted.*

*Clause 4 was added to the Bill.*

*Clause 5 was added to the Bill.*

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

SHRI P. VENKATASUBBAIAH: Sir, I move:

"That the Bill be passed."

*The question was proposed.*

SHRI DIPEN GHOSH: Sir, I want to say, on behalf of all the Opposition parties and Members, that this is a draconian measure which seeks to take away the most cherished democratic rights of the people. So we do not associate ourselves with this type of draconian measure. We tear it in protest and we walk out.

SHRI LAL K. ADVANI: We walk out in protest.

[At this stage, some hon. Members left the Chamber]

MR. DEPUTY CHAIRMAN: The question is—

“That the Bill be passed.” The motion was adopted.

# ALLOCATION OF TIME FOR DISPOSAL OF GOVERNMENT AND OTHER BUSINESS

MR. DEPUTY CHAIRMAN: I have to inform Members that the Business Advisory Committee at its meeting held today, the 22nd August, 1984, allotted time for Government Legislative and other Business as follows:

Business	Time Allotted
1. Consideration and passing of the following Bills:	
(a) The Copyright (Amendment) Bill, 1984 . . . . .	1 hr
(b) The Administrative Tribunal Bills, 1984 . . . . .	2 hrs.
(c) The Family Courts Bill, 1984; and . . . . .	
(d) The Dowry Prohibition (Amendment) Bill, 1984, as passed by the Lok Sabha . . . . .	4 hrs.
2. Consideration and passing of the following Bills as passed by the Lok Sabha:	
(a) The Constitution (Forty-Seventh Amendment) Bill, 1984 . . . . .	1 hr.
(b) The Constitution (Forty-Eighth Amendment) Bill, 1984 . . . . .	2 hrs.
(c) The Constitution (Fiftieth Amendment) Bill, 1984 . . . . .	2 hrs.
(d) The Constitution (Fifty-First Amendment) Bill, 1984 . . . . .	1 hr.
(e) The Constitution (Fifty-Second Amendment) Bill, 1984 . . . . .	2 hrs.
(f) The Banking laws (Amendment) Bill, 1984 . . . . .	3 hrs.
(g) The Taxation laws (Amendment) Bill, 1984 . . . . .	4 hrs.
(h) The Life Insurance Corpn. Bill, 1984 . . . . .	4 hrs.
3. Discussion on the Resolution seeking approval for further continuance of the President's Rule in the State of Punjab . . . . .	2 hrs.
Discussion on the Resolution seeking approval for further continuance of the President's Rule in the State of Sikkim . . . . .	2 hrs.

The Committee also recommended that the current Session of the Rajya Sabha be further extended by three days and the House should accordingly sit on Monday, the 27th, Tuesday, the 28th and Wednesday, the 29th August, 1984 in order to transact will be no Question Hour on these days.

SHRI LAL K. ADVANI (Madhya Pradesh): Mr. Deputy Chairman, a series of Constitution Amendment Bills are to be adopted by this House and I think it would be proper if the

House is informed of the dates on which these Bills are likely to be taken up, because, today in the other House a situation has arisen when a Bill could not be passed. So, we