

[Shri Jaswant Singh]

on a commercial basis, then the State of Rajasthan would be benefited. This is my final recommendation. Thank you.

**REFERENCE TO THE DEMAND FOR IMMEDIATE GROUNDING OF AVRO 748 AIRCRAFT**

MR DEPUTY CHAIRMAN: Shri Shahabuddin. Not here. Shri Kalmadi.

SHRI SURESH KALMADI (Maharashtra): Sir, I would like to bring to the notice of the House a very serious matter in the field of aviation. I stand here to demand the immediate grounding of the Avro-748 aircraft which is being used by the Indian Airlines, the Vayudoot and also the Indian Air Force.

An investigation into the crash of a British Aerospace 748 aircraft in 1981 in the United Kingdom has established some serious design and manufacturing defects in the plane. The aircraft which crashed killing three persons on board belonged to the Dane Air. The investigation into the Dane Air crash which had been concluded just a few days back shows that the aircraft baggage door flew open during the flight, causing violent damage to the plane's aerodynamics. The plane became uncontrollable and plunged to the ground with its wings ripped off. This is not the first time that the baggage door had opened and the wings ripped off during flight. There have been at least 35 such instances in the past throughout the world.

Sir, this Avro aircraft is used in the Indian Airlines and is being manufactured under a licence from the British Aerospace at the HAL. It is also in the VIP Squadron of the Indian Air Force. So I demand the immediate grounding of HS-748 Avro aircraft. A thorough check should be carried out and a team or committee must be flown to the British

Aerospace to check up all the faults and rectify these in the aircraft. Only then the aircraft should be flown. It is a very serious matter and I bring it to the notice of the Government through you, Sir.

**I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE PREVENTION OF DAMAGE TO PUBLIC PROPERTY ORDINANCE, 1984 (NO. 3 OF 1984)**

**II. THE PREVENTION OF DAMAGE TO PUBLIC PROPERTY BILL, 1984.**

श्री साइली मोहन निगम (मध्य प्रदेश) : उपसभापति जी, मैं गृह मंत्री जी द्वारा लोक संपत्ति नुकसान निवारण विधेयक, 1984 का निरनुमोदन करने के लिए खड़ा हुआ हूँ। इस सारे विधेयक को पढ़ने के बाद मुझे ऐसा लगता है कि जिस मंशा से यह बिल बनाया गया है वह मंशा इसके पीछे नहीं है। कुछ कहने के पहले मैं एक बात आप से कह देना चाहता हूँ कि अध्यादेशों के जरिए जो हम बिलों को लाते हैं वह संसदीय प्रणाली पर एक बहुत बड़ा कुठाराघात है। मेरा जो बिन्यादी मानभेद है वह यह है कि अगर बिल पहले आता है तो सदन में उम पर बहस होता है, बातचीत हो जाती है। हो सकता है कि उस के बाद गेलेक्ट कमेटी को भेजा जाये और पूरे तरीके से छानबीन के बाद अच्छा बिल निकाल आता है। मुझे ऐसा लगता है कि उस के बाद जो कानून बनते हैं वह कानून अच्छे और टिकाऊ होते हैं। हिन्दुस्तान में जब से अध्यादेशों की परम्परा शुरू हुई है तब से कानून इतने लचर और गन्दे होते हैं कि एक कानून बनने के बाद दूसरा कानून लाना पड़ता है उस के संशोधन के लिए या उसमें कुछ और जोड़ने के लिए।

मेरा जो बुनियादी झगड़ा है वह यह है कि सदन बैठने वाला था, 15-20 रोज में आममान नहीं फट जाने वाला था। तत्काल अध्यादेश निकालने की जरूरत नहीं थी। मैं यह भी मान कर चलता हूँ कि ऐसा अध्यादेश इस वास्ते भी जरूरी नहीं था कि हमारे पास आज भी क्रिमिनल प्रोसीजर कोड है ताजोर्राते हिन्द है जिन के तहत कानून और व्यवस्था सदियों से चला आई है। मैं यह मानता हूँ कि हम को आजादा के बाद अपने ताजोर्राते हिन्द में परिवर्तन करना चाहिए था। आजाद हिन्दुस्तान के जो मंजू बेचे, संवेदनाएं थीं उन के अनुसार उस में बदलाव होता। दो तीन लाख करोड़ बँटें, उन्होंने भी मुझसे दिये, आप भी कुछ संशोधन लाये। तो क्या उम्मीद थी आप के दिमाग में ताजोर्राते हिन्द में संशोधन। के लिए यह बात नहीं आई कि ऐसी संभावनाएं हो सकती हैं। कानून ताल्कालिक समाज के लिए नहीं बनते। कानून बनते हैं भविष्य में आने वाले समाज के लिए। जिनके दिमाग में यह नहीं है कि भविष्य के समाज की कल्पनाएं क्या हो सकती हैं वह कानून कभी अच्छा बना नहीं सकते। ताल्कालिक कानून के जरिए आदमी ताजोर्राते हिन्द को और तानाशाह अपने फरमान के जरिए कानून बनाया करता है। मैं समझता हूँ कि हिन्दुस्तान में प्रजातांत्रिक व्यवस्था बहुत सोच-समझकर स्वीकार की। किसी के मौलिक अधिकारों पर कुठाराघात न होने पाये हम लगे से जरूरी है कि हमेशा कानूनों को पहले संसद में लाओ, बहस करो, उस में कुछ छानों, अच्छा निकालो, उस के बाद कानून को अमल में आना पड़ना। मुझे ऐसा नहीं लगता कि आज का जो मौजूदा कानून है ताजोर्राते-हिन्द के तहत, क्रिमिनल प्रोसीजर कोड के तहत आप जो घटनाएं आमजन की हों या लूटपट को हों, उनको रोक नहीं

सकते। पर मंत्री जी, यह कानून तो तब का होगा जब घटना घट जाय, घटना घटने से पहले के लिए भा तो आप के पास औजार हैं। आप के पास ऐसे अधिकार हैं कि कोई घटना घटने वाली है आप को पता चल जाता है तो उनको रोकने के लिए कांवाला कर सकते हैं। मैं इतना ही कहना चाहता हूँ कि अच्छा होता, घर मंवा जा, अगर आप इस कानून को न मानते और ताजोर्राते-हिन्द में ही कोई परिवर्तन करते—तब हम आपके साथ खड़े होते क्योंकि इस कानून को लाने से तो अधिनियम को लाने में मुझे लगता है कि आप के संसूचे साफ नहीं हैं। कैबिनेट पता चलने से ही इस में कौन आता है। कल को ताजोर्राते हिन्द में आग लग जाये या कुछ और हो जाये और मैं उसके बगल में खड़े रहूँ और कोई मेरा दुश्मन मेरा नाम बता दे तो मैं भी फाँड़ा जा सकता हूँ। तो मेरे कहने का मतलब यह है कि इस कानून को लाने से तो अच्छा होगा कि आप अपने विभाग में इस पर जब तक पूरा तरह से, अच्छी तरह से सोच विचार नहीं कर लेते तब तब इस को न लायें और मैं तो चाहता कि ताजोर्राते हिन्द में ही कुछ परिवर्तन आप को करना ही तो करा लें। लेकिन अधिनियम का शक्ति में ले आये और फिर तो संसद को इसे झूठ मार कर पास करना पड़ेगा। तो बहस को गलत तरीके से बर्बाद या बहुत पुराना बर्बाद करना अच्छा नहीं होगा और इसी लिए मैंने यह निरनुमोदन का प्रस्ताव दिया है। इतना ही मैं कहना चाहता हूँ।

*The question was proposed.*

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. VENKATASUBBAIAH): Mr. Deputy Chairman, Sir, I did not expect a person of eminence of Shri Ladli Mohan Nigam to have raised objection with regard to introducing a Bill in place of an Ordinance. It

[Shri P. Venkatasubbaiah]

is a very simple Bill. He should not read so much into this and also doubt the *bona fides* of the Government in bringing the Ordinance. Sir, the Ordinance was brought for valid reasons. It is not that we wanted an Ordinance to be brought for no valid reasons. That was brought, of course, before the Parliament session. Our intention in bringing this Ordinance was the exigencies of the circumstances. That is why this Ordinance was promulgated by the Government. And we have not taken a day more, when the Parliament is in session, in bringing it in the shape of law before this House.

The hon. Member has raised some points with regard to certain provisions of this Ordinance. Sir, as a matter of fact in sections 424 and 440 of the Indian Penal Code in Chapter XVII of the Indian Penal Code the word "mischief" is there. The word "mischief" has been defined to include both public and private properties. So we wanted to specify the public property by the Ordinance and this Bill and we have come forward to make the punishment more deterrent because of large scale vandalism that has been indulged in the country. So, Sir, there is no valid objection of the hon. Member for opposing the introduction of this Bill.

So, with these words, I beg to move:

"That the Bill to provide for prevention of damage to public property and for matters connected therewith, be taken into consideration."

Sir, public property, particularly buses, telephones, railways, Government buildings, etc. are the main targets of attacks during riots, bandha or other agitations. In the past there has been a very large number of cases of damage to public property by anti-social elements and other persons, on such occasions.

The basic law relating to damage to property and punishment for causing such damage is contained in Chapter XVII of the Indian Penal Code under the head "mischief". The punishment for the offence of mischief is graduated according to the nature of the offence as well as the manner in which damage is caused. This law does not make any distinction between private and public property.

Faced with the need for curbing vandalism and damage to public property, some States like Tamil Nadu and Kerala have adopted special legislation which makes a distinction between public property by providing for deterrent punishment for causing willful damage to public property while in most States only the basic law contained in the Indian Penal Code is available.

12 Noon.

Sir, as you know, riots, bandhs and agitations at the slightest pretext seem to be the order of the day. Public property is a national asset, and damage to it is a national loss. It was considered necessary to make immediate provision for deterrent punishment for causing damage to public property. Accordingly, on 28th January, 1984, the President promulgated the Prevention of Damage to Public Property Ordinance, 1984. Sir, this Bill seeks to replace that Ordinance.

Except for the provision to repeal the Ordinance and some necessary verbal changes, the Bill is identical to the Ordinance. "Public property" has been defined as meaning any property, whether immovable or movable, including any machinery which is owned by, or in the possession or control of, the Central Government or any State Government or any local authority or any Corporation established by, or under, a Central, Provincial or State Act, or any company as defined in section 617 of the Companies Act, or any such other institution, concern or undertaking, financed wholly or

substantially by funds provided directly or indirectly by the Central Government or by one or more State Governments, or partly by the Central Government and partly by one or more State Governments, as the Central Government may, by notification in the Official Gazette, specify in this behalf. Under this proposed law a person who commits mischief in respect of any public property, being any building, installation or other property used in connection with the production, distribution or supply of water, light, power or energy, or any oil installations, sewage works, mine or factory or means of public transportation or tele-communications etc., is punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years and with fine. Mischief in respect of any other public property will be punished with imprisonment for a term which may extend to five years and with fine. However, for a person who commits mischief against any type of public property by means of fire or explosive substance, the punishment will be stiffer, namely, rigorous imprisonment for a term which shall not be less than one year but which may extend to ten years, and fine. No person accused or convicted of any offence under this law shall, if in custody, be released on bail or on his own bond without giving the prosecution an opportunity to oppose the application for such release.

Sir, he has also suggested that we could have discussed it threadbare, and the hon Member is free to discuss it. Now that the Bill has come, if any useful suggestions he can make during the course of the discussion, the Government would welcome certainly these suggestions.

So, Sir, I commend this Bill which is simple and much needed measure, to this august House.

*The question was proposed.*

MR. DEPUTY CHAIRMAN: There is one Amendment by Shri Shiva Chandra Jha for reference of this Bill to Select Committee of Rajya Sabha. Shri Shiva Chandra Jha.

SHRI SHIVA CHANDRA JHA (Bihar): Sir, I move:

"That the Bill to provide for prevention of damage to public property and for matters connected therewith, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri R. R. Morarka.
2. Shri Biswa Goswami.
3. Shri Shridhar Wasudeo Dhabe.
4. Shri Sankar Prasad Mitra
5. Prof. Sourendra Bhattacharjee.
6. Shri G. C. Bhattacharya.
7. Shri Rameshwar Singh.
8. Shri R. Ramakrishnan
9. Shri Hari Shankar Bhabhra.
10. Shri Kalraj Mishra
11. Shri Dipen Ghosh.
12. Shri Nepaldev Bhattacharjee
13. Shri Suraj Prasad
14. Shrimati Mohinder Kaur
15. Shri Shiva Chandra Jha

with instructions to report by the first week of the next Session."

*The question was proposed.*

MR. DEPUTY CHAIRMAN: The Resolution, the Motion for consideration of the Bill and the Amendment are now open for discussion.

श्री रामलखन प्रसाद गुप्त (बिहार) : माननीय उपसभापति जी, यह जो बिल लाया गया है "प्रिवेंशन आफ डैमेज टु पब्लिक प्रापर्टी 1984" मैं इसे बिल्कुल अननावश्यक समझता हूँ। मुझे यह बात समझ नहीं आती है और न यह मंत्री

**[श्री रामलखन प्रसाद गुप्त]**

महोदय ने बताया अपने भाषण में कि क्या वजह थी, किस कारण से 20 जनवरी को, राष्ट्रपति जी को आर्डिनैस करना पड़ा। इसके बारे में कोई खास इस्टांस इन्होंने नहीं बताया कि इसके कारण से यह आर्डिनैस करने की आवश्यकता पड़ी। मैं जब देखता हूँ, आई पी सी के सेक्शन 425 को, उसके अंदर मिसचीफ की परिभाषा है। उस मिसचीफ की परिभाषा में, लगभग जितनी बातें इसमें हैं वे सारी बातें उसमें आती हैं, प्राइवेट प्रापर्टी, पब्लिक प्रापर्टी और गवर्नमेंट प्रापर्टी आदि के बारे में। बाकी इसमें एक शब्द जरूर है वह प्रापर्टी जिसको गवर्नमेंट डिक्लेयर कर दे वह प्रापर्टी भी इसमें शामिल होगी। यह मिसचीफ की परिभाषा में नहीं है।

इसमें काफी जोर दिया गया कि क्या डिटरेट पनिशमेंट हो? काफी सख्ती से सजा दी जाए जिस तरह से कि रायट्स, बंग और दूसरी बातों में सजा दी जा रही है। परन्तु जब मैं पीनल कोड को देखता हूँ तो जितनी सजा यहां रखी हुई है उससे ज्यादा सजा इसके अंदर पहले से ही है। यह रखते हैं यह सजा 6 महीने की कम से कम हो और अधिक से अधिक 5 वर्ष की हो। कुछ केसेज में इन्होंने 5 साल से ज्यादा भी रखी है लेकिन उन केसेज को स्पेसिफाई नहीं किया। मैं मंत्री महोदय का ध्यान इस बात की ओर खींचना चाहूंगा कि सेक्शन 429 देखें तो

“Mischief by injury to works of cattle...”

इसमें भी सजा 5 साल की रखी गई है। सेक्शन 430 में

“Mischief by injury to works of irrigation.....”

Again five years. Then section 432;

“Mischief by injury to public road, bridge, river, channel, etc.”

Again 5 years. Then section 432:

“Mischief by inundation or obstruction of public drainage attended with damages.”

इसमें भी पांच साल की सजा रखी गई है। सेक्शन 433 में

“Mischief by destroying or rendering less useful a light house or sea-mark.”

It is seven years.

इसमें सात साल की सजा रखी गई है। सेक्शन 435 में

“Mischief by fire or explosive substance with intent to cause damage to an amount Rs. 100 or more.”

That also is seven years.

5 वर्ष से 7 वर्ष की सजा है। सेक्शन 430 से 435 तक में मिसचीफ करने के लिए पहले से ही सजा मौजूद है। जो आपने सजा रखी है उससे ज्यादा पनिशमेंट इस पीनल कोड में मौजूद है। इसमें यह भी है 50 रुपये से अधिक की चोरी को नुकसान पहुंचाने पर इतनी सजा होगी।

**श्री उपसभापति :** यह तो अमेंड नहीं कर रहे हैं।

**श्री रामलखन प्रसाद गुप्त :** यह ठीक है इसको अमेंड नहीं कर रहे हैं लेकिन मैं यह कहना चाहता हूँ कि यह फिजूल का ला बनाया जाए, इसकी आवश्यकता नहीं है। जो पहले से ला है मैं उसके खिलाफ नहीं हूँ। लेकिन मैं यह समझता हूँ कि इसकी आवश्यकता नहीं है। जहां तक डिटरेट पनिशमेंट का सवाल है वह इनका तर्क उचित नहीं है। दूसरी बात यह कहता हूँ कि इसके अंदर डैमेज रखा गया है पब्लिक प्रापर्टी का,

अब पब्लिक प्रापर्टी के अन्दर भी देखा जाये, पब्लिक प्रापर्टी के लिए जितनी बातें इसमें लिखी गई हैं वे सारी बातें पब्लिक प्रापर्टी के अन्दर आती हैं। पब्लिक प्रापर्टी: गवर्नमेंट प्रापर्टी, कारपोरेट प्रापर्टी, म्युनिस्पल प्रापर्टी, ये सारी प्रापर्टी, रोड, टनल, ब्रिज जो कि म्युनिस्पैलिटी के अन्दर आती हैं, ये सारी चीजें पब्लिक प्रापर्टी के अन्दर लाने के लिये और महज एक आध शब्द के लिये यह बिल लाया गया है और इसी के कारण यह बिल लाने की जरूरत पड़ी। इसलिये मैं इस विधेयक का विरोध तो नहीं करूंगा और मैं इसका विरोध करना भी नहीं चाहता लेकिन मंत्री महोदय से यह कहना चाहता हूँ कि यह बिल्कुल अनावश्यक है और इसको लाने की कोई आवश्यकता नहीं थी। फिर भी यह लाया गया है, यह उचित नहीं है।

उपसभापति महोदय, मैं आपका ध्यान इस ओर खींचना चाहता हूँ कि ये जो सारे कानून हैं, बहुत जगह ऐसी बातें होती हैं, पुराने जो कानून हैं, हम लोग समझते हैं कि पांच वर्ष और दस वर्ष अगर कर देंगे, सजा कर देंगे तो वह काम रुक जायेगा। लेकिन हकीकत में ऐसा होता नहीं। उसको अगर पांच वर्ष की सजा या दस वर्ष की सजा होगी भी तो दस वर्ष मकदमे लड़ने में लग जायेंगे और इस कारण इसका कोई असर नहीं पड़ता। यदि डेमेज के लिये फांसी की सजा भी कर दी जाए फिर भी इसके कारण कोई ऐसा नहीं करेगा ऐसी बात नहीं। वह सोचता है क्योंकि इसमें दस-बीस वर्ष तो लगेंगे ही देखा जायेगा। इसलिये इस बात का कोई असर नहीं पड़ता है। उपसभापति महोदय, अभी कांस्टिट्यूशन के आर्टिकल 25 को जलाने के लिये एक इनवोक किया गया। प्राविजन है कि ऐसी हालत में कम से कम पांच वर्ष की सजा होगी। फिर भी खुले आम कांस्टिट्यूशन को जलाया जा रहा है। खुले आम इस तरह के काम हो रहे हैं। वे लोग उस सजा से डर नहीं गये। अगर पांच वर्ष की सजा के

बजाय फांसी की सजा भी कर दी जाए तो भी ऐसे काम चलते रहेंगे, इससे डरने वाले नहीं हैं। डर तो यह होना चाहिये कि जैसे ही आफेन्स कमिट हो तो उसके बाद तुरन्त क्या कार्यवाही हो, उसको कैसे रोका जाए, इसको रोकने के लिये लोगों के मन में डर पैदा हो तभी वह समझेगा और आगे इस काम को नहीं करेगा, अन्यथा वह उस काम को करता रहेगा। इसलिये उपसभापति महोदय, मेरा कहना है कि यह बिल बिल्कुल अनावश्यक है और इस बिल को लाने की कोई जरूरत नहीं थी।

SHRI K. MOHANAN (Kerala):  
Mr. Deputy. Chairman, at the outset I would like to register my protest against the manner in which the Government is dealing with the power of issuing or promulgating or re-promulgating ordinances. In the last Session of this House we had a detailed discussion on this issue. But unfortunately the Government is repeating the very same anti-democratic method of the past. I don't think there was any emergency to promulgate such a draconian law as an ordinance on the eve of the Session. I call it a draconian law and I shall explain why later. I and my party are second to none in protecting the public property from miscreants and anti-social elements because it is the property of the nation. But my point is that the present Government could not, can not and would not be able to protect the private as well as the public property with any legislation like this. I don't think there is any dearth or lack of laws in our stock of laws to present such activities and to book the culprits. There are enough legislations with us to prosecute the cul-

[Shri K. Mohanan]

prits. But even then the criminals are free to do anything right under the nose of the very seat of the supreme power of this country. Let us examine the situation in Delhi itself. Not a single day or night is passing without at least a dozen crimes like murder, looting, cheating, raping, bride-burning and the like. Every-year the crime rate in the country is increasing. It was not because of the lack of any law to prevent this or to prosecute the culprits. We have enough of them with us. But the authorities and the enforcement machinery have thoroughly failed to book the culprits and to prosecute them. What is happening in Punjab? What is happening today in Punjab and what has happened in Assam yesterday, where many innocent people are being killed? Your law-enforcing machinery and your intelligence department have failed to contain these activities; they have thoroughly failed. There is no use simply pouring the police, paramilitary or even military forces into these areas. I would like to know whether the atrocious criminal activities are being continued due to any lack of legislation. No, Sir; not at all. That is not because of any lack of legislation. But the Government and the law-enforcing machinery have failed to implement the laws which are there even now with us.

Another thing that I would like to point out is that usually these types of laws are not being used against the real criminals or anti-social elements, but they are being used only to suppress the mass movements in this country and to suppress the political opponents of the ruling party of this country. That is why I am calling this a Draconian law. Sir, we have our own experience of the ESMA, that is, the Essential Services Maintenance Act and the National Security Act and so many other legislations of this kind. In this context, Sir, I would

like to draw the attention of the House to the manner in which the Congress (I) Governments are using such laws against the workers and other poorer sections of the people in this country. Even before the promulgation of this Ordinance by the Centre, the Kerala Government had promulgated an Ordinance on the same lines and it had lapsed and so, it was repromulgated recently. But the provisions of that Ordinance are not being used against the anti-social elements or the criminals or the miscreants, but are used against the working class, against the NGOs, against the students, etc. on false grounds and on false charges. We all know that. I do not want to go into details. But I would like to give or two examples only. The NGOs and the teachers in Kerala were on strike from the 16th of February to the 22nd February, demanding interim relief and bonus. They were brutally attacked by the police and the mercenaries of the ruling party. On the 16th and 17th February, the State Home Minister stated to the Press that there were no untoward incidents and the strike was peaceful. But, Sir, on the very same day, the police had registered a number of cases using the very same provisions of the Prevention of Damage to Public Property Ordinance promulgated by the State of Kerala. Not even a single instance or incident of damage to public property was there. Their only crime was that they had boycotted their offices and had picketed and demonstrated before their offices. Not only the NGOs, but also the students, had staged demonstrations in support of the teachers and they were taken into custody and charged under the provisions of this very same Ordinance. My point is that when you are passing such a legislation, the real intention behind it is not to contain the criminal activities, but to suppress the movement of the working class and the democratic-minded people of the country by misusing the provisions. Actually, the Government is not against this

kind of vandalism, and they are not for preventing it. On the other hand, the Government and the ruling party are always encouraging this kind of vandalism everywhere in the country, especially in the States where the non-Congress(I) Governments are ruling. I just want to draw the attention of the House and also the Government to some recent incidents in West Bengal.

Sir, recently, when the Kashmir Chief Minister visited West Bengal, the Congress (I) workers, under the leadership of well-known Congress(I) leaders, attacked his car and they were arrested. Then the Congress (I) followers came out into the streets and damaged public property, damaged the buses and trams and other things and also public buildings in Calcutta on a large scale. I would like to know whether the Central leadership of the Congress (I) or the Central Minister concerned has uttered a single word against this kind of vandalism. Have they uttered a single word? Not at all, Sir. It is not only that. This is the culture of the ruling party. Sir, two days back, not only in the streets, even in the so-called sanctuaries of this democratic set-up in this country, inside the legislature, they have tried to attack the presiding officer and snatched the papers from him. This is the kind of culture you are cultivating in this country. So you cannot contain such kind of vandalism through this type of law. That is why I am saying, Sir, that this is draconian. This is not to suppress vandalism and this is not to protect public property. You have failed to protect or given protection to private property and life of the people of this country. You have enough laws with you. But even then you have failed. Now, with this Bill, with this law, you would not be able to prevent the culprits, the mischief-makers, terrorists and other miscreants of this country from damaging the public property. Sir, this law is mainly intended to suppress the democratic movement and the workers against

workers and students and other sections and other categories of our society. That is why I am calling this as draconian law and I oppose it, Sir.

MR. DEPUTY CHAIRMAN: Mr. Bhandare.

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): Mr. Deputy Chairman, Sir, I rise to support this Bill. This Bill is simple. This Bill is innocuous. But there would not be a debate unless the hon. Members of the Opposition were either to say that this Bill is unnecessary or to say that Bill is draconian or to say that this Bill is intended to suppress democratic rights of workers and students. The first objection which has almost become a ritual, whenever an Ordinance comes before this House for being enacted into an Act, is that why was the Ordinance issued? Now, all the Members know that there is a specific provision in our Constitution which enables the President to legislate when the Parliament is not in session, and that provision has been invoked by one and all, whichever party may be in power. And I think if there was one single Ordinance in respect of which the conditions for enacting an Ordinance were fulfilled, it is the present Ordinance under discussion.

One knows the setting in which the Ordinance was promulgated in the month of January 1984. I do not think that this Ordinance would have ordinarily waited till we met and till a Bill was introduced and passed. One knew about the deteriorating situation in Punjab and the fact that public property was constantly under attack. I think that in that circumstance it was necessary to come up with a measure to create an atmosphere by which the hands of the law enforcement machinery would be strengthened and stiff action would be taken against the anti-social elements who were indulging in vandalism and destruction of public property. Now, I do not think

[Shri Murlidhar Chandrakant Bhandare]

and I do not agree with the hon. Member when he says that this is really to suppress the democratic rights of the students and the workers.

SHRI K. MOHANAN: It is the experience in Kerala.

MR. DEPUTY CHAIRMAN: He has already said that. It is his birth right.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: I have the same concern, if not more, about the students. I have been a teacher for a long time. I claim to be a student all my life. I have also been known for my rather partisan, one-sided and whole-hearted support to the cause of labour in this country. I do not subscribe to the view that if the students go on rampage or if the workers go on rampage and destroy public property, they are vindicating their demands in a manner permitted by the Constitution or they are enforcing any of their democratic rights. I think a time has come when every citizen, every member of the society, should treat public property as his own property. I think all those who demonstrate in a manner which is intended to be curbed by this legislation should think twice. Would they set fire to their own houses, or cycles or scooters or cars? If they won't, then they do not have a right to destroy public property because it belongs to them, it belongs to every citizen. To the extent this Bill tries to put down these acts of mischief against public property, it has to be welcomed because we have chosen a path of democracy. We have gained our Independence through a non-violent revolution and we must stick to that path. Violence must be abhorred, must be abjured and must be discarded and discouraged and, if necessary in extreme circumstances, repressed as is the case with the extremists in Punjab.

There was one novel thing mentioned by an hon. Member, Mr. Ram Lakhani Prasad saying that this is un-

necessary because the punishment is already there. I think he had section 435 in mind which is the most heinous form of mischief known to the Indian Penal Code. Now, in Section 435, the sentence is 7 years. Here it is made 10 years. Therefore, it is being made more deterrent. I do not subscribe to the view that everybody who destroys public property should be hanged. That is an extreme view of the matter. To the extent this legislation makes a valid distinction between private property and public property and puts public property on a special footing treating it as society's property, everybody's property, providing for a more deterrent punishment, providing for a special provision regarding bail, I think it is not only necessary but it was due since long. All in all, I must say that this provision will raise an awareness among all sections of our society to put down all anti-social elements, to put down all elements who, on the slightest pretext, are out to exploit a situation playing it out of all proportion and who are itching all the time to destroy public property. I think this Bill, when enacted into a law, will go a long way in putting down these anti-national and anti-social forces. I support the Bill.

श्री शिव चन्द्र झा : उपसभापति महोदय, मैंने तो संशोधन यही पेश किया कि इसको सेलेक्ट कमेटी में भेजा जाये। आज जो बातें मुझ से पहले उठी हैं उन से इस बात की और गुंठि हो जाती है कि इस विधेयक में कमियां हैं। चाहे डिटेन्शन हो, बिल और कड़ा हो या कम हो, उसके अलावा भी बातें हैं, लेकिन उन सबों से पहले जो बात है वह यह है कि आर्डिनंस ले जाये जो इनकी आदत है जिसके मुताबिक आप ने भी क्लिग दी है कि जब सब बैठ रहा है तब आर्डिनंस लाना नहीं चाहिए। यह संविधान की गरिमा और दर्शन के खिलाफ बात जाती है, लेकिन इस सरकार की आदत

यही है—संविधान की गरिमा को न बचाने की। तो ऐसी आदत होना एक बड़े दुर्भाग्य की बात है। अब इस विधेयक में आप गुंडाइज्म और वेडालिज्म से जो पब्लिक प्रापर्टी है उसके डैमेज को रोकने की बात है। तो इस की जड़ में हम लौग जायें। इस विधेयक से यह बात साबित होती है कि यह चीजें बढ़ी हैं और बढ़ रही हैं। किस वजह से और किन कारणों से यह बढ़ रही हैं? क्या आप कानून से इस को रोक पायेंगे? यदि पंजाब की जनता इसी प्रकार आंदोलन करती रहेगी? आप का कानून वहां कुछ नहीं रोक सकता है। जो आंदोलन आज पंजाब में हो रहा है और जिस प्रकार उसका जवाब हरियाणा दे रहा है। वहां आप का कानून उन लोगों का कुछ नहीं बिगाड़ सकता है। हमारे भंडारे जो ने राष्ट्रीय आंदोलन का जिक्र किया। वह एक लम्बे चौड़े वकील हैं सुप्रीम कोर्ट के।

श्री उपसभापति : अच्छे वकील हैं।

श्री शिव चन्द्र झा : इसीलिये मैंने कहा कि लम्बे चौड़े वकील हैं। भारी भरकम वकील हैं। मैं तो कहूंगा कि शायद उन्होंने राष्ट्रीय आंदोलन में भाग लिया ही नहीं। वह तो इसी तरह से बोल रहे हैं। 1942 में क्या हुआ? अब मैं ब्लंटली बोल रहा हूँ। 42 में जनता ने क्या किया और उस की सब की जिम्मेदारी पं० जवाहर लाल ने खुद ली। उन्होंने कहा "आईएम इंटायरली रेस्पॉसिबिल फार ब्लाट हैपेन्ड इन 1942" सारी जितनी तोड़ फोड़ हुई उसकी सारी जिम्मेदारी उन्होंने अपने ऊपर ले ली। तो उन दिनों भी पब्लिक प्रापर्टी की बात थी। अंग्रेज भी जनश्रम की बात करते थे, हुकूमत करते थे, लेकिन हमारे नेता ने दिखाया

और किया। तो सवाल यह आ जाता है कि पब्लिक प्रापर्टी की बात करने से ही काम नहीं हो जाता है। सवाल यह है कि जो परिस्थिति देश में पैदा हो गयी है, चाहे वह पंजाब में हो या हरियाणा में हो या आसाम में हो, या दूसरी जगहों पर हो और यह अशान्ति जो बढ़ रही है उसको रोकने के लिये क्या आप कोई कारगर कदम उठा रहे हैं या नहीं? मतलब यह है कि जो समस्याएँ हैं और जो परिस्थितियाँ पंजाब, हरियाणा और आसाम में चल रही हैं वह सब मिथिला में भी होने जा रहा है....

श्री उपसभापति : वहाँ मत कराइये। जो हो रहा है वही काफी है।

श्री शिव चन्द्र झा : उत्तरी बिहार में भी यह होने जा रहा है और वह पंजाब या आसाम से पीछे नहीं रहेगा। वह हरियाणा से पीछे नहीं रहेगा। वहाँ भी जनता उठेगी और जागेगी। इसी लिये मेरा कहना है कि यदि आप तात्कालिक कुछ रोकने के लिये प्रावधान करना चाहते हैं तो कम से कम बिल तो ठीक बनाइये। लेकिन इस की जड़ में जो परिस्थिति है उसको रोकने के लिये अगर आप कोई कारगर कदम नहीं उठावेंगे तो काम नहीं चलेगा। वह आप नहीं कर रहे है। उन्होंने कहा कि बिल अनाकुअस हैं। बेकार की चीज हो जायेगी। इसमें जो बडिम्स हैं उन को 5 साल कर दीजिये या कालापानी कर दीजिए सजा के तौर पर, कुछ नहीं होगा। यह ठीक है कि हम बड़ी सजा के पक्ष में नहीं हैं, लेकिन इसके लिये कड़ी सजा होनी चाहिए इसमें कोई शक नहीं। लेकिन इसके पीछे जो फिजा है उस को रोकने के लिये आप कौन से कारगर कदम उठा रहे हैं यह मूल प्रश्न है। कल आल इण्डिया रेडियो के बुलेटिन की तरह से हमारे

[ श्री शिव चन्द्र झा ]

प्रधान मंत्री का भाषण हो गया एंड्रेस पर, तो यह सब करके आप परिस्थिति पर कंट्रोल नहीं कर पा रहे हैं। मेरा कहना इतना ही है कि इस बिल को आप सेलेक्ट कमेटी में भेजें और वह विचार कर के देखें कि कौन कौन दिक्कतें हैं जिस से पब्लिक प्रापर्टी को नुकसान होता है और कैसे उसे बचाया जा सकता है इन शब्दों के साथ मैं इस बिल का पार्शियल सर्पोर्ट करता हूँ।

**SHRI P. VENKATASUBBAIAH:** Mr. Deputy Chairman, Sir, I am highly thankful to all the hon. Members who have participated in this debate and given their valuable suggestions. Unfortunately, a freedom fighter, a man of Shri Jha's erudition and knowledge of history, has equated the freedom movement with the present type of vandalism and rampage. I cannot understand his argument with regard to comparing what we have done in the Quit India Movement. Sir, I had also the good fortune of participating in the freedom struggle and Shri Jha is a very eminent freedom fighter. Those days when Gandhiji gave the call 'Do or DIE'...

श्री शिव चन्द्र झा : सैक्रेटेरियेट पर झंडा लहराने में मैं भी था। पंडित जवाहरलाल ने कहा था मैं इसकी गारंटो लेता हूँ ....  
(अवधान)

श्री उपसभापति : उन्होंने आपको एमिनेंट फ्रीडम फाइटर कहा है।

**SHRI P. VENKATASUBBAIAH:** Sir, if I refurbish his memory there was one controversy by name called the Andhra Circular. Those days the Andhra Congress Committee, if I remember aright, issued a circular exhorting the people to create problems to cut telegraph wires and derail trains and all that. It became a very controversial circular. Then Gandhiji unequivocally condemned such acts. It is a question of history and it was a foreign Government which we were having in those days. Sir, it is un-

fortunate that he should equate the freedom movement with the type of vandalism and rampage that is going on now in this country, which is indulged in by anti-social elements, criminals.

Sir, the opposition parties have got an obsession. They will see behind every Bill a political motive. I cannot help them. Nor can I be responsible for their thinking in this manner. Sir, there is no political motive involved in this Bill. It is intended, as Shri Bhandare has very correctly put it, to curb the growing vandalism and rampage indulged in by the anti-social elements unmindful of the national duty who damage the public property. Public property does not belong to the Government alone. It belongs to the entire nation. The growing vandalism and anti-social activities, I agree, are to some extent, because of the socio-economic events that are taking place in this country. That is why the Minister has said that these anti-poverty schemes that are now being implemented by the Prime Minister and the Central Government are intended to give a fair deal to all sections of the society. Sir, these are matters which in a growing society like ours are concomitant variations that come in our life. But if a peaceful bandh, a protest or a strike, or a protest against the Government in a peaceful manner is permitted. It is also necessary in a democratic set up that we should express our opinion, or we must criticise the Government in a constructive manner, i.e., within the framework of our Constitution. In such a case the Government will never come in the way of any section of the population in voicing their grievances against a particular act of the Government or a particular system. This Bill is intended to meet the problem of preventing the destruction of public property by anti-social elements who are on a rampage and who are creating problems for the Government.

Sir, our friend, Shri Ram Lakhan Prasad Gupta, has asked what is the purpose of this Bill? He says five years imprisonment is already provided. For that Mr. Bhandare has given the answer. In the very same section, he has said there is no minimum punishment. Now, through this Bill we have made six months as the minimum punishment and also one year minimum for the various offences that are being committed.

Sir, I have already read out the distinguished features of this Bill. I would again like to place before the House the salient features of this Bill. Firstly, Sir, it makes a distinction between public property and private property. The existing provisions on 'mischievous' in the IPC are included for public property. In view of the fact that the agitators' wrath is concentrated on the public property, it has been considered to provide for stiffer punishment in respect of damage to public property, and that is why, a distinction has been made. Public property has been defined as property owned by either the Central Government or a State Government or a local authority or a body corporate or a company in which the Government has majority shares, or any institution that may be notified for this purpose in which the Government has made substantial contribution. If a property is under the control or possession of the Government or any such body, it is again a public property. For damage to public property, punishment is now enhanced. Ordinarily, punishment of 5 years' imprisonment and fine is provided and if the damage is to property of a specified kind, like sewage system, oil installations public transport etc. there will be a minimum punishment for six months, and if the damage is caused by fire and explosion, minimum punishment will be one year and the maximum, 10 years' R.I. Again, we have incorporated a provision that an accused or a convict cannot be released on bail unless prosecution is given an opportunity of being heard. So, these are

the salient features. As Mr. Bhandare said, it is an innocuous Bill; there is no political motive involved and if the hon. Members read through the lines and get themselves worked up, I cannot reply to those points. I again plead that this Bill be passed.

श्री शिव चन्द्र झा : मंत्री महोदय ने यह कहा कि जनता के ग्रीवसेज को दूर करने के लिये हम तैयार हैं। मथिली भाषी लोग मथिली को मान्यता देने के बारे में मांग कर रहे हैं।

श्री उपसभापति : इसका जवाब इस समय कहाँ से दोगे ?

श्री शिव चन्द्र झा : नहीं करेंगे तो वे लोग आन्दोलन करेंगे ही।

श्री उपसभापति : जब करेंगे इसको देखा जायेगा। इस समय क्या जवाब दे सकते हैं।

श्री शिव चन्द्र झा : वह यहां पर कहे कि संविधान की अष्टम सूचि में शामिल करने की जो मांग है उसको हम पूरा करने जा रहे हैं। अगर नहीं करेंगे तो बवंडर उठेगा।

SHRI P. VENKATASUBBAIAH: If the hon. Member means that he is free to engage in such type of anti-social activities, I don't think, that is the correct view.

श्री रामलखन प्रसाद गुप्त : मैं मंत्री महोदय का ध्यान सेक्शन 3 में जो प्रोविजन है उसकी ओर आकर्षित करना चाहता हूँ। इन्होंने कहा है कि मिनिमम पनिसमेंट 6 महीने का रखा है। लेकिन प्रोविजन में कहा गया है कि

"Provided that the court may, for reasons to be recorded in its judgement, award a sentence of imprisonment for a period of less than 6 months."

SHRI P. VENKATASUBBAIAH:  
They can give their reasons.

MR. DEPUTY CHAIRMAN: Proviso is already quite clear; it does not say that there shall not be any imprisonment. Imprisonment has to be there.

I shall now put the Resolution of Shri Ladli Mohan Nigam to vote. The question is:

"That this House disapproves of the Prevention of Damage to Public Property Ordinance, 1984 (No. 3 of 1984) promulgated by the President on the 28th January, 1984."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: I shall now put the amendment of Shri Shiva Chandra Jha for reference to Select Committee to vote.

The question is:

"That the Bill to provide for prevention of damage to public property and for matters connected therewith, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri R. R. Morarka
2. Shri Biswa Goswami
3. Shri Shridhar Wasudeo Dhabe
4. Shri Sankar Prasad Mitra
5. Prof. Sourendra Bhattacharjee
6. Shri G. C. Bhattacharya
7. Shri Rameshwar Singh
8. Shri R. Ramakrishnan
9. Shri Hari Shankar Bhabhra
10. Shri Kalraj Mishra
11. Shri Dipen Ghosh
12. Shri Nepaldev Bhattacharjee
13. Shri Suraj Prasad
14. Shrimati Mohinder Kaur
15. Shri Shiva Chandra Jha

with instructions to report by the first week of the next Session."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to provide for prevention of damage to public property and for matters connected therewith, be taken into consideration."

*The motion was adopted.*

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

*Clauses 2 to 7 were 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 put and the motion was adopted.*

MR. DEPUTY CHAIRMAN: I think we can adjourn and reassemble at 2.

सदन की कार्यवाही १२ बजे तक के लिये स्थगित की जाती है।

The House then adjourned for lunch at forty-five minutes past twelve of the clock.

The House reassembled after lunch at two minutes past two of the clock, Mr. Deputy Chairman in the chair.

MR. DEPUTY CHAIRMAN: We now take up the Oilfields (Regulation and Development) Amendment Bill, 1983.

### THE OILFIELDS (DEVELOPMENT AND REGULATION) AMENDMENT BILL, 1983.

THE MINISTER OF ENERGY (SHRI P. SHIV SHANKAR): Sir, I beg to move:

"That the Bill further to amend the Oilfields (Regulation and Develop-