

**MOTION REGARDING NINETEENTH  
REPORT OF THE COMMITTEE ON  
PRIVILEGES**

THE LEADER OF THE HOUSE (SHRI PRANAB MUKHERJEE): Sir, I also beg to move:

"That this House agrees with the findings contained in the Nineteenth Report of the Committee on Privileges presented to the Rajya Sabha on the 3rd December, 1980, and the recommendations contained in the Twentieth Report of the Committee presented on the 19th December, 1980, and resolves that Shri Dinesh Chandra Garg, Shri Anil Kumar Garg and Shri Vishnu Kumar Garg, authors of the book entitled 'Garg's Income Tax Ready Recokoner 1980-81 and 1981-82' published by Messrs Law and Managemen House, 126, Nai Basti, Ghaziabad (UP.) be summoned to the Bar of the House and reprimanded during the current Session of the Rajya Sabha on a day and time to be fixed by the Chairman." The question *was put and the motion was adopted.*

MR. DEPUTY CHAIRMAN: I shall fix the date and time on which the contemnors will receive the reprimand and the Secretary-General will issue the necessary summons accordingly.

**1. STATUTORY RESOLUTION SEEKING  
DISAPPROVAL, OF THE  
NATIONAL SECURITY ORDINANCE,  
1980—Contd. "**

**H. THE NATIONAL SECURITY  
BILL 1980—Contd.**

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MR. DEPUTY CHAIRMAN: May I inform the Members that today there will be no lunch-hour and the debate will continue, and the House will sit till the Bill is passed. *(Interruptions)*

SHRI SUNDER SINGH BHANDARI (Uttar Pradesh): Only one Bill.

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): The House will sit till the Bill is passed

or rejected, *(interruptions)* Till the passing or the rejection of the Bill... *(Interruptions)*

MR. DEPUTY CHAIRMAN: Till the Resolution and Bill are disposed of, I amend myself. *(Interruptions)* Shri Ramakrishnan.

SHRI R RAMAKRISHNAN (Tamil Nadu): Mr. Deputy Chairman, Sir, the other day when on behalf of our party, the All India Anna D.M.K., I supported the Bill there were a few friends who said that we are trying to defend an indefensible Act. I am sorry that I do not agree with them. We are not supporting this Bill just for the sake of record. We are doing it because we also run a Government in our State and we know what the difficulties are in enforcing law and order, how difficult it is to control anti-social elements and how difficult it is to control communal strifes. So I just want to say that what we are doing is out of reasonable conviction, and not just trying to toe the line of Shrimati Indira Gandhi. There is also a lurking suspicion in the minds of some of the people that we are just trying to support whatever Mrs. Indira Gandhi says. I can assure you this that the All-India D.M.K. is a nationalist party and we are always for any cause, whatever it may be, if it is for the growth of the country, if it is for ensuring stability and progress of the nation.

Sir, I would like to say that the National Security Bill can be described what we call in Tamil Nadu as 'Kashayam' a bitter mixture. When a person is sick, this 'Kasha-yam' is administered to make him healthy. No doubt, it may taste bitter but it is necessary if the malady is to be cured. Similarly, the National Security Bill is the like a medicine which has got to be given. But like all anti-biotics, too much of it also should not be there, otherwise the "person will become immune. I only say that just because a person or the Government is armed with all the powers as under this Bill, these should not be used against innocent

persons, these should not be used against political adversaries. I am happy to note that the Home Minister and all the other responsible Ministers are making statements inside and outside the House that this Bill will not be used against political adversaries. I have absolutely no doubt about their *bona fides*. I can tell you that in case it is misused, there is an old saying in Tamil by poet and saint Thiruvalluvar which reads as under:

"ALLARPATTU AARATHU AZHU-DHA  
KANNEER ANRE  
CHELVATHAI THEY KKUMPA-DAI"

It will be the tears of the people which will be more powerful and more efficient than any armaments to destroy a land where this is done. So, I think that the Home Minister and all the others who are in power including our State Government will never misuse this Bill and will not use it against their political adversaries.

Every Government in power has realised the need for preventive detention. Our Constitution makers themselves were for it. Here I can quote from Mr. Alladi Krishnaswami Iyer who, while participating in the Constituent Assembly Debates, said,

"...Preventive Detention (particularly in the prevailing conditions) in the country is a necessary evil, since there are certain undesirable people determined to undermine the sanctity of the Constitution, the security of the State and even individual liberty itself."

Every Government, right from Sardar Patel to our hon. Mr. Morarji Desai and Chaudhary Charan Singh, have felt that preventive detention, in some form or the other, is necessary. In this connection, Sir, there are many people who said that Sardar Patel spent two sleepless nights and that he was very unhappy about the introduction of this Bill. I have extensively gone into the Constituent

Assembly Debates and the 1951 debates. Although Sardar Patel spent two sleepless nights prior to introducing the Bill, he felt that he had no other option. He said, "When law is flouted and offences are committed, ordinarily there is a criminal law which could be put into force. But when the very basis of law is sought to be undermined and attempts are made to create a state of affairs in which, to borrow the words of Pandit Motilal Nehru; "Men will not be men, then law will not be law", we feel justified in invoking emergent and extraordinary laws like this National Security Bill." I would only remind this statement of Sardar Patel to those who say that Sardar Patel did not want preventive detention. I would like to say that even in 1950, in A. K. Gopalan's case the Supreme Court observed;

"...Preventive Detention is not a punitive but a precautionary measure.' The object is not to punish men for something but to intercept them before they do it and to prevent them from going it. The justification is suspicion or reasonable probability."

This was widely accepted by all the High Courts when MISA was in force. Even the Madras High Court said:

"In times of rare emergency, certain restrictions have to be placed on personal freedom of the individual for the common good."

Sir, I am quoting from various people not because I want to justify something which should not be justified. Even Abraham Lincoln, the father of modern democracy, said:

"A limb must be amputated to save a life, but a life is never taken to save a limb."

Today, what is it that we see in various parts of the country? There is communal tension all over. The wagon of State does not move. There appears to be a break-down of law and order. How is the country to progress? It is 33 years since we got independence and freedom. But India,

[Shri R. Ramakrishnan]

with such a vast population which is 70 crores according to the latest census, has not got its pride of place in the comity of nations. If Germany, after the war, can be what it is today and if Japan, which is a small country with very little natural resources, can be, after the war, what it is today, why is India, with its vast natural mineral resources, with its vast talent in all spheres, not able to have the pride of place in the comity of nations? It is because we are always concerned with petty and small things, there should be an opposition. There is definitely place for opposition. But the opposition should not be a hindrance to the functioning of the Government. If violence is to be encouraged and if our attention is concentrated only on law and order breakdown, then how will the economy grow? There will be no stability. What is the use of having such a big country if we are engaged only in petty things. Everyday you find farmers' agitation, students' agitation, policemen's strike and all these things. These things should be contained effectively. People say why is the Prevention of Black-marketing Act is not being used? I tell the Government and I tell the hon. Minister: "Please use it. Why are you having this law? Even the opposition is for using it. You are allowing so many black-marketeers and hoarders." We heard that Sukhnarain Bhatia, Yusuf Patel and all these people have surrendered. Now these people are going scotfree. In the streets of Delhi, Bangalore, Bombay and everywhere, you find so much quantity of foreign goods. How does this come? You please be firm with these smugglers and black-marketeers. Put them in jail, and not the Opposition, and nobody will shed a tear. I can only request the Minister to use it against those people and not just keep quiet. And why should you not use the COFEPOSA? I am sure the Finance Ministry, the Intelligence Bureau, the CBI and all these people have got all the figures and the names

of these smugglers. Put them in jail. Put them under detention. Nobody will shed a tear, and please do not sleep off. I would like to remind that this is the special time when the distasteful expediency, the bitter pills like this are required. Sir, Swdar Patel said, "When we think of the civil liberties of the extremely small number of persons concerned, let the House and the people think of the liberties of the millions of people threatened by the activities of individuals whose liberties have been curtailed." Sir, there is so much of talk of civil liberties here. I am not saying that the civil liberties should be taken away. But if a handful of people, if a few agitators try to think that they can stop the ship of the state, then these people do not deserve a place in our democracy. They should be put under preventive detention. This is for what preventive detention is meant. There is a very grave threat to the security of the State if a small thing is not nipped in the bud now by such effective measures and strong measures; then it will become such a massive thing which nobody can control. We know what is happening in Assam. I am not against the people of Assam and I am all for their rights and just demands. But this sort of agitations take no time just to spread like wild fire, and the whole country will be sunk. That is why I express my support over this Bill. Sir, my friends do not want a proper justification. I think, they are content with the justification, the views expressed by the Treasury Bench. Sir, there was a great exponent of civil liberties and democracy, Rousseau. Everybody knows Rousseau as a philosopher. Do you know what he said about the concept of liberty and of emergencies? He said that "in such a case there is no doubt about the general will, and it is clear that the people's first intention is that the State shall not perish." If the State should not perish, then definitely such emergency—I am not talking of that emergency—measure, this type of emergency measures are required.

Sir, I would like to say one more thing. When I am saying this, I am not irresponsible. There should be built-in safeguards. In this Bill, it has been tried to be provided by the Advisory Boards. But here I have a kittle difference of opinion with the Bill-makers. Section 9(2) says that every such Board shall consist of three persons one of whom is to be a past or present High Court Judge and two persons who are qualified to be appointed as Judges of a High Court. Sir, we know that every lawyer with 10 or 15 years of experience is Qualified to be a High Court Judge. But I am sure that that is not the intention of the Government. The Gov-nent is a responsible one and they should try to put men of standing, men of integrity in these Advisory Boards because, Sir, I draw your attention to what Prof. David Bayley wrote about the prevention detention and the need for safeguards. He said: "The members of the Advisory Boards should be more than quitey impartial; they must be positively disposed to defend the rights of the detenus. For the members of the Advisory Boards are more than mefe judges; they are called upon to play the role of the defence counsel for the otherwise bereft detenus."

As you know, Sir, they do not have a right to be defended by the lawyers. So, it is necessary that these members who are in the Advisory Boards should not be just committed partymen. They should be men of character, they should be men of sterling character who are not only to see into the merits of the case but should see that not even one innocent man is detained for a minute longer than is necessary if no proper t-ase is made out.

Sir, I would like to say a few things . bout what happened in 1974. 1975 and 1976. I am not trying to recall those dark days of emergency. But then, there were days when so many people were trying to do so many things. I can only speak of Tamil

Nadu. We can only say that at tha time because of these stern measures, what would have been a possible calamity was averted. And *it* is so, then definitely a Bill of this sort will come in handy at such times.

Before concluding, Sir, I would like to say one or two things. I have been to many foreign countries. And we know what is happening in the Central America, in South America, etc. Everyday on<sub>e</sub> dictatorship or some coup or some military junta coming to power takes place. It should not be our case. Ours is an ancient, country and is protected by sages and saints. This sort of thing should not be allowed to happen here. Freedom is a very cherished commodity. But freedom has no meaning if there i<sub>s</sub> no order and discipline in the country. I would like to conclude by quoting what Mr. Justice Jacksoa said. You know, Sir, he was a very eminent Judge and this is what he said: 'The choice is not between order and liberty. It is between liberty with order and anarchy without teither.' Sir, *he* is a very important judge. If there is only anarchy then it is a different thing. If you are going to have order and if our nation is to grow then we must have this thing. And, finally, Sir, I will conclude by quoting what Shrl Tiruvalluvar Said:

"MURAI SAIYDHU KAPPATRUM  
MANNAVAN  
MAKKATKKU ERAI ENRUVAIKKA-  
PPADUM"

It means: A person or a ruler who rules according to the rule of law and justice, he will be equal to God and he will be praised by all. I an sure that our Government and Mrs Gandhi with our Mr. Zail Singh, wh( appears to be a very quiet man, bu is in fact a very strong man, **will** apply it justly and in the interests 0 the nation.

MR. DEPUTY CHAIRMAN: TVI P.  
N. Sukul, not here. Yes, Pro I Kamble.



SHRI L. GANESAN (Tamil Nadu): I hope that the Government of Tamil Nadu will not use it against political adversaries and it will not be misused. (*Interruptions*).

MR. DEPUTY CHAIRMAN: Order, order. Your party will have a chance to speak. Please sit down. (*Interruptions*). Order please. Why are you all standing?

PROF. N. M. KAMBLE (Maharashtra): Mr. Deputy Chairman, Sir, I appose the Resolution moved by hon. Mr. Advani and wholeheartedly support the Bill before this House. Much is always said about the promulgation of Ordinances. But no Government, duly constituted under the Constitution, would like to rule by Ordinances. And, at the same time, no Government would say that they would not at any time resort to this power of promulgation of Ordinances. Had it been so, the provisions for promulgation of Ordinances would not have been there in our Constitution. The founding fathers in article 123 have specifically given the power to the President under special circumstances to promulgate Ordinances. And, not only the Congress Government but even the Janata Government had made use of and taken recourse to this provision in the Constitution. Now, what are the circumstances which compelled our Government to come forward with this Ordinance and, thereafter, this Bill? The hon. Home Minister had made it amply clear in the Statement of Objects and Reasons and he has said that in the prevailing situation of communal disharmony, social tensions, extremist activities, industrial Unrest and increasing tendencies on the part of the various interested parties to engineer agitation on different issues, it was considered necessary that the law and order situation in this country is tackled in a most determined and effective way. If this is the position, then I do not think that the opposition should not have any grievances for the promulgation of such ordinances. Now, when such

tendencies are coming up shall we not need to prevent such tendencies, such anti-national activities in the interest of defence, internal security, public order and smooth flow of services extended to the community at large? Is there anything new in this measure? No. The Bill is meant for these anti-national and anti-social elements and to prevent their activities, Article 22 of the Constitution gives ample powers to the Parliament to prevent and curb these activities and nip them in the bud. My friend from AIDMK has quoted from various saints, from....

AN HON. MEMBER: From Rousseau also.

PROF. N. M. KAMBLE: Yes, including Rousseau also a philosophers and politicians that prevention of crimes is better than punishing. It is only the person who wears the shoe knows where it pinches and my friends from AIDMK who are running a Government in Tamil Nadu, have rightly said what their difficulties are in running a Government. So my friends who were formerly running the Government, themselves had also come forward with preventive detention measure of course, they later on withdrew it; is a different thing. I may go a step forward and say that it has become necessary to have this as a national policy if it were to be so and if we were to put down the violent forces let loose by those who are trying to sabotage the very existence of democracy.

Let us look to the past and find out how preventive detention has become a part of our national policy, Whether there was this Government or that Government. Earlier, before Independence, we had the Defence of India Rules; thereafter, from 1950 to 1969, we had the Defence of India Act; then, thereafter, in 1971 we had the MISA, the COFEPOSA and we had several measures of preventive detention in various States. This Bill is brought only to uniformise all these preventive detention measures.

What happened during the Janata Party rule? A similar Bill was brought, but it was withdrawn. As a matter of fact, in Madhya Pradesh, there was mini-MISA actually. They forget all these things... (*Interruptions*). Not only this but the Janata Party Government made a very futile attempt to codify...

SHRI HAREKRUSHNA MALLICK  
(Orissa): Fertile or futile?

PROF. N. M. KAMBLE: You can pronounce it any way you like; "out don't attempt to make me go a different way."

Sir, they made a futile effort to incorporate in the Criminal Procedure Code what was clearly a MISA and they wanted MISA to be a part of the Criminal Procedure Code as a permanent thing on the Statute Book. I do not know with what face they are now opposing this particular preventive detention. The Home Minister of Janata Party had justified preventive detention laws on the floor of the Lok Sabha by saying that no Government can function without powers of preventive detention. Shri Charan Singh's Government promulgated an Ordinance for preventive detention without any support or the sanction of the Parliament. So, these were... (*Interruptions*). Therefore, Sir, preventive detention Act is necessary, though it is a necessary evil. We are amongst the most indisciplined people—I am sorry to say this—in the world. We have no political discipline, no social discipline, no religious discipline, no industrial discipline and you and I, all of us, fall a prey to it. It is no use blaming the Government. We must blame those mischievous type of people who have no good of the nation at their heart. Sir—They want to use, rather misuse, freedom and liberty for destroying peace and harmony in the country. It is the people of India, as a matter of fact, who want such elements to be firmly dealt with and such activities to be curbed and nipped in the bud. It is only the interested people who iri-

I stigate the anti-social elements to endanger the integrity and solidarity of our country. What is happening today? What do we see in Assam? Have not we witnessed in Moradabad, Bhagalpur? Have not we witnessed elsewhere? All over the country, these things are going on without any hinderance. The existing provisions...

SHRI SYED SHAHEDULLAH  
(West Bengal): Which incidents you mean in Bhagalpur? The police blind - ing the undertrialg or the policemen's agitation against the suspension of some of their colleagues?

PROF. N. M. KAMBLE: You can take anyone you like. It is the human tendency I am referring to.

The existing provisions for prevention of crimes are really outdated and grossly ineffective. No party worth its name, which has occupied the seat of power, in the name of the people, can betray the people and leave the people to the mercies of the anti-social and anti-national elements. This Bill, as a matter of fact, provides ample opportunity to prove the *bona fides* of the person who is detained. This Bill, is only preventive in nature. As my friend has said, we have to prevent such activities and if the person detained proves his "*bona fides*," he is automatically out. Clause 9 of the Bill provides for advisory boards and just now as my friend has said these detained people look at these members of the advisory boards as their defence lawyers I am sure, the Government also has got the same view in their mind. And, therefore, there is one judge and two prominent people who are qualified to be judges or who are in that field. Similarly, under clause 11, the advisory boards can ask new information from the Government or any other person or it can also have trial of the detenu. This is not meant for political opponents. As a matter of fact, they should not have any fear in their mind. They can carry on their legitimate activities. They need not fear. But what can we do? The

[Prof. N. M. Kamble]

cap is thrown in the air. If it fits them, let them wear it. We have nothing to say, because,...

MR. DEPUTY CHAIRMAN: You have two minutes more.

PROF. N. M. KAMBLE:... because, it is anti-national and anti-social elements whether they belong to this party or that party, who hold the nation to ransom. We should not allow such anti-national and antisocial elements to have their say in everything. Today, we find, these people are actually ruling the mofus-si!s. The atrocities on the Scheduled Castes and the Scheduled Tribes, the Harijans, the Adivasis and the wer.ker .sections, all these activities, should be curbed. What is the use if they ar\_e tried and punished after committing these crimes? We know the approach of judiciary. I do not want to say anything about it at this stage. Instead of giving punishment, rather, we should rather prevent these elements from committing such crimes I think, this Bill is meant for this.

With these words, I support this Bill.

SHRI HARKISHAN SINGH SUKJEET (Punjab): Mr. Deputy Chairman, Sir it i\_s unfortunate that my friend Giani Zail Singh who is a political sufferer and who hails from the land of Jalianwalla and the heroic fighters against the Rowaltt Bill, has been forced to present this Draconian legislation in our House, forgetting all the values created by our national movement. That is why I see nobody here quotes what Mahatma Gandhi said during the national Independence movement or what Pt. Jawahar-lal said at the Lucknow Congress about preventive detention. Scrupulously everybody wants to avoid what they have been telling the people when we were fighting for Independence and democracy. Now, after so many years of Independence, you have come to the conclusion that you cannot rule without tikis Draconian legislation. Sir, after the; 1971 elections, it took them

more than 4 years to come to the conclusion in 1975 that the problems of the people cannot be solved, that all talk of socialism which they have been indulging in is not realisable by tBem, that the ^Garibi Hatao" programme cannot be materialised. It was after 4-1/2 years that they came to the conclusion that it was only through emergency that they could suppress the working class movement, they could suppress the historic railway strike. Not only that,, they had to unleash all kinds of oppression to to suppress the democratic aspirations of the Indian people through the imposition of emergency. Now, Sir, I am amazed that after less than a year, the Government has come to the same conclusion. They came to power with the slogan that they would arrest the prices; they would solve the problem of the masses. But what we have seen is, despite \_ll their talk that they want t\_ control the anti-social elements and the law and order situation, the real meaning behind is the failure of the Government to solve the problems of the people. We have seen how inflation, in spite of the tall talk they are indulging in is rising very day and it is the Poor people who are the worst sufferers. All talk of controlling it has failed. After all that they have come to the conclusion that they cannot bring down the prices, they cannot ensure remunerative prices to the peasantry, they cannot eradicate unemployment, they cannot remove disparity and they cannot provide food and shelter. Now they are not in a position to satisfy the genuine aspirations and demands of the common man and they have come toward with Draconian laws to suppress the growing movement of the people. That is why, Sir, the Criminal Procedure Code has been amended, the National Security Bill has been introduced and being not content with that, they are allowing a propaganda to be unleashed about the Presidential form of Government to replace the present .system We are already in for dark days ahead and this Bill is an instalment and a warning about what is going to happen in the future.

Sir, why are they resorting to these methods? Have they forgotten what was the meaning of Independence? Have they forgotten that Independence meant democracy? When we are struggling during the Independence movement we always talked about democracy and Independence. Every where the slogan was—and we had told the Indian people—that Independence had no meaning without democracy and if the economic independence was not achieved. It is this failure—the failure of the Government to achieve economic independence which is responsible for all ills. Can they challenge it? They have been ruling the country for 31 years. During these 31 years, who has gained out of this Independence? Whose profits have been enhanced? Whose money bags have been filled? Their own reports say that it is the monopolists who have gained the most during this period. It is the tenants, the landless labourers who have been deprived of their land. It is the landlords who still have the land monopoly. That is why there is this disparity which has grown. Those who were living below the poverty line in 1961-62, according to their own figures, numbered 45 per cent; they have grown now according to them, to more than 62 per cent. This is the achievement they have made and, after doing that, they are coming to the conclusion, "No, we can't do that. We cannot implement our pledges. So the only method left is to rule through these Draconian measures by suppressing the movements of the workers." That is why in the morning we have discussed about repression in Maharashtra. All talked about it because they have mentioned it in the Bill itself. The Bill does not in the beginning say that the smugglers, antisocial elements and blackmarketeers have entered into the society and are creating such a situation that they have "to be severely dealt with although the pretext is taken in the Objects and they started saying, "In the prevailing situation of communal disharmony, social tensions.. What is meant by it? I would request the

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Home Minister to go through the Report of the Home Ministry of 18\*69 when all those extremist movements were studied. Then the Home Ministry came to the conclusion that the root cause of social tensions lay in the failure of the Government to implement land reforms. Unless you do that you cannot remove social tensions. Have you forgotten this? Now they cannot touch a single acre of land, they cannot provide a single acre of land to the agricultural labourers, to the poor peasants. Now, instead of learning something from that Report, they want to impose restrictions and put those struggling for land behind the bars.

Then they come to industrial unrest. Perhaps they have come to the conclusion that the Indian working classes have achieved socialism, and they are happy. These prices are not affecting them. So, what are they going to do? If you demand more wages, you will be suppressed. This is the call being given by the Home Minister here through this legislation and they are going to tell the working classes. "We will deal with you the same way we dealt with the railway strike. Not only that. They are not content only with that they say that, there is "increasing tendency on the part of various interested parties to engineer agitation on different issues." As if agitations can be engineered by the different political parties without reason. Why do they yield to the agitations? First they announce Rs. 13 for sugarcane. Then they say Rs. 16; then Rs. 20 and they then give Rs. 23. Is it something given to the thieves? Is it not the produce of the peasants? It is not something which they have stolen, and which is being auctioned. If they protest it is called an agitation of the peasantry and they are saying, we are going to suppress these agitations. This is what they are doing. I am saying this because some people have less experience and some have more experience. People in the ruling party, in their 31 years of rule, have been enjoying the fruits and before Independence also they are very few among them now who have been put

[Shri Harkishan Singh Surjeet] behind the bars under preventive detention. They have gone to prison but there are very few among them. We have been victims under the British and Congress rule under preventive detention and not once but so many times, we know, how all these restrictions they have put there. They say that there is protection against misuse, this can be done, that can be done and there is some Board that has been set up. But what has been happening to us? I have been to prison many times and four times I have been detained without trial. What happens is, in midnight the same cyclostyled paper is circulated through-out the country and police are asked to arrest people. They have got lists, list A, list B and list C. It is already ready in the Home Ministry and instructions are sent to the various States. 'Now let list A go, now let list B go.' Like that it is done. It was Sardar Patel who categorically and clearly stated,, "I am bringing this preventive detention legislation to curb the Communists"<sup>1</sup>. He had the courage to say so. But present rulers are cowards? They do not say categorically, we are bringing this for suppressing the democratic movement. They are saying, we are bringing this to suppress anti-social elements and other things. They do not have the courage. I wanted to know the figures from the Home Minister that since 1950. So many times the Preventive Detention Act has been enforced; against whom it is used. My friends from the ADMK have not the opportunity of enjoying a taste of it. That is why they do not know how it is used. I have tried to know from the Home Minister as to how many times this has been used against the politicals. Since 1950, how many political people have been put behind the bars and how many anti-social elements have been put behind the bars? The Home Minister knows it full well that while he was the Chief Minister of Punjab I wrote to him a letter about a political sufferer who had undergone imprisonment for many years and

was still considered to be a bad character and his name was still on the rolls in the police stations. He was not in a position to do anything. The same thing will be done to the political workers now. This is what is being done. They can say: "We believe in this thing; we believe in that thing". Nobody can say that we can be victims of communalism. I know it because even the Congressmen, most of them, became victims of communalism in 1947, It is we who were defrauding the minorities at the cost of our lives. Now, a few days back, under this Ordinance, warrants had been issued in respect of a comrade of ours, Arshad Parvez of Moradabad. His house was searched, the property of his father, mother, brother and sister, their clothes, utensils and other things were taken away. It is the Supreme Court which had to intervene. This is what is happening and this is what is going to happen. It is not that the anti-social people are going to be arrested. Sir, can the Home Minister enlighten us how far the anti-social elements have been curbed? During these 31 years, every time a statement has been made like this, but how many anti-social elements have been arrested? During these 31 years, have the activities of blackmarketeers or the smugglers been curbed? In reality, they have flourished like inflation is flourishing today, and they have flourished in league with the police and the bureaucracy, under the patronage of the ruling party. This is what has happened. Not in one but in every State the situation is the same. They cannot name the anti-Social people. In fact, the political life is being influenced by the smugglers and blackmarketeers. Nobody touches them. Nobody dare touch them. They have wide contacts with the bureaucracy and the politicians. They will resort to what they have tried to resort to. It is all tall talk that they will do this thing or that thing. They talk about the antisocial elements. But in the Congress (I)-run States what is happening? Every day we hear of somebody putting poison in the liquor and so many

people dying and yet nobody touches them. So many lives are lost. The Harijans are losing lands and atrocities against them are committed. In 1976, the Government had declared that that year would be observed as a year of land records. What has happened to that? Now there is no manifestation of such a declaration anywhere, not even in the documents of the Planning Commission. That is gone. Everything has failed. The poor tenants in Bihar are being ejected and deprived of their lands and reduce to the position of the agricultural labourers. This is the situation which is emerging. They talk about the social tension and they do not want to touch the landlords. Not a single Congress (I) Minister can touch the land of a single landlord. But against whom will they resort to suppression? Against the Harijans, against the minorities, against the weaker sections of the people. They say it is to protect this section or that section. But what has happened so far? All this is tall talk. The real propose of the Bill is different. Earlier also, whenever they presented such a Bill, the real purpose has been found to be different. Sir, I would say that this Bill is not in reality meant for national security.

It cannot be called a Bill for national security. Where is the national security in danger? Can the I PJVT. Home Minister enlighten us if national security is in danger? Are we under attack from a foreign power? Wherefrom? We are prepared to join in defending the country. But is there any reality? Nothing. In reality it can be called the Congress (I) Security Bill Sir, 'May be' they are in difficulty internally. They are not able to solve the problems of the people. They are in difficulty. Everywhere people voted them in a big majority in January. But what happened in the Assembly elections. Their votes had come down. They should have learnt a lesson that unless they solve the problems, they could not consolidate their party unless democracy

was expanded people are not able to assert their rights. Now they want to suppress democracy. This is what they want to resort to.

I want to remind them that a lot of agitations are on against this attack on democracy including by intelligentsia. The Delhi teachers—800 of them— have signed a representation and sent it to the Government, in which they have said:

"We the teachers of Delhi University and its colleges are deeply distressed by the draconian National Security Ordinance issued by the Government of India. It is a direct attack on the democratic, civil and political liberties of the people. It is experience of the MISA, the Preventive Detention and the Essential Supplies Acts etc. that they have been used against the teachers, journalists, lawyers, trade unions, peasants and other mass and democratic movements and opposition parties. We, therefore, condemn the National Security Ordinance and appeal to Parliament not to endorse it"

This type of representation has been sent. Public meetings are being held. But they have no ears. Sir, I only want to remind them one thing. Maybe, they do not able to listen to this. The Opposition is also not fully aware of it today. Many congressmen who stand for the democratic values are not aware of it- I want to tell them what happened at the time of the Nazi Germany's atrocities. One person, Pastor Nimeral, who was a victim of Nazi as had stated this. I am saying this because I want everybody to be aware of the dangers ahead. He stated, Sir, 'First they came for the Jews. I did not speak out because I was not a Jew. Then, they came for the Communists, and I did not speak out because I was not a Communist. Next they came for the trade unionists, and I did not speak out because I was not a trade unionist. Then they came for me, and there was no one left to speak for me."

[Shri Harkishan Singh Surjeet] Sir, I want to ask the Congressmen who have cherished democratic values, that if this type of draconian laws are legislated and passed what is going to happen to the country. And I want to remind them what Mahatma Gandhi said in a telegram to Mr. Srinivasa Shastri when the Rowlatt Bill was being discussed. Here in this House the speech of Mr. Srinivasa Ji was read out. Mahatma Gandhi was campaigning at that time throughout the country going from State to State. Then he sent a telegram from the railway train on March 11, 1919. In the telegram Mahatma Gandhi said to Mr. Srinivasa Shastri:

"So far as able to gauge public opinion during wanderings I state it is intensely strong. Being unused to sacrifice the selves for public good they may seem to remain inactive. But the cup of bitterness will be filled to the brim if the Bill? are persisted in. I think that though we differ as to the methods of op-posing, I hope you will duly voice public opinion by opposing passage of the Bills."

This was the warning given by Mahatma Gandhi at that time. I want to appeal to the Opposition that this is not an attack only against us or only the Maharashtra peasants or the working class in the factories. It is an attack coming on all as it came during the Emergency itself. So, it should be a big warning to them to be alert and defend from it. After the experience of Emergency a lot of democratic forces have been unleashed to defend democracy, if the Government at the time of the elections had gone with the pledge. "Yes, we want Emergency", nobody would have voted them to power. Because there were economic problems, they wanted some solutions and taking country as a whole there was no alternative to the Congress (I), they voted them to power. Sir, now they resort to this method. That is why even at this late stage, I would request the Home Minister not to press for this. He is coming from the State as I mentioned

earlier, which is the land of Jallian-wala Bagh, which sacrificed a lot in the struggle against the Rowlatt Act. I would plead with even Congressmen who cherish democratic values, because if these values go, nothing remains of independence. If somebody says that this is for protection against this or that, it is all wrong talk. That is why I support the Resolution and oppose the Bill. I hope that even at this stage—don't make it a question of prestige—even the Congress Party members, many of them, will rise to oppose this Bill and say. "We do not want to rule with Draconian laws; we want to serve the people and solve their problems". Thank you, Sir.

MR. DEPUTY CHAIRMAN; Shri R. B. Paswan. Not here. Shri J. K. Jain. Members who have given their names should be present in the House. Otherwise once their names are called and they are not present, I am sorry, they will not be called again. Shri J. K. Jain.

श्री जे० के० जैन (मध्य प्रदेश):

उपसभापति महोदय, जनवरी, 1980 में जब से देश की जनता ने जनता पार्टी—लोक दल वगैरह को ठुकराया है और श्रीमती इन्दिरा गांधी एवं उनकी पार्टी को सत्ता सौंपी है तब से इन दलों ने न जाने क्यों शीर्षासन चालू कर दिया है। यही वजह है कि इन्हें हर चीज उलटी दिखायी देती है, अच्छी चीज को भी बुरी नजर से देखते हैं, बुरा सोचते हैं और बुरा समझते हैं। राष्ट्रीय आर्डिनेन्स लोकतंत्र की रक्षा के लिए लाया गया था, पर इन विपक्षी राजनीतिज्ञों की नींद पता नहीं क्यों हराम हो गयी। इस आर्डिनेन्स का इस्तेमाल गुंडे, बदमाशों, सामाज विरोधी तत्वों के खिलाफ किया जा रहा है। जनता—लोक दल हुकूमत में गुंडे बदमाशों, चोर, डाकुओं, लुटेरों, फिरका परस्तों का काफी बोलबाला हो गया था। इसी तरह आर्थिक अपराधी जमा खोर कालाबाजारिये, मुनाफा खोर, स्मगलर वगैरह

भी जोर पकड़े गये थे। विरोधी दलों की सरकार ने विरासत में हमारी सरकार को यही कुछ किया। इसीलिए राष्ट्रीय सुरक्षा आर्डिनेंस का इस्तेमाल इन तत्वों के खिलाफ करना जरूरी था और किया गया है क्योंकि मौजूदा कानूनी ढांचे में इस के लिए भरपूर गुंजाइश नहीं है। अफसोस है, लोक तंत्र और जनता की झुठी दुहाई देने वाले पिछड़े हुए दलों, तुम ने तो चोर-डाकुओं की हिमाकत को इस आर्डिनेंस के खिलाफ जलूस निकाले, नारे लगाये। हमारी प्रधान मंत्री, हमारे गृह मंत्री एवं कानून मंत्री कई बार संसद् में और संसद् के बाहर आश्वासन दे चुके हैं कि विपक्षी या राजनैतिक दलों के खिलाफ इसका इस्तेमाल नहीं होगा, पर इन लोगों को तसल्ली नहीं है, इत्मीनान नहीं है। चोर की दाढ़ी में तिनका वाली बात हो रही है। ये बार-बार इसलिए चिल्लाते हैं कि इन के मन में बराबर दहशत बनी हुई है। जाहिर है कि इनके आका तो चोर डाकू और स्मगलर ही होंगे। इतना जरूर है कि किसी राजनैतिक व्यक्ति को समाज-विरोधी, देशविरोधी काम करने की इजाजत नहीं दी जा सकती। समाज-विरोधी तत्वों को यदि ये विरोधी दल वाले भी भड़कायें तो उन्हें भी बख्शा नहीं जायेगा। आज हमारे देश में बेहतर और बाहर से कई खतरे हैं। उनका कारगर ढंग से सामना करने के लिए हमारी सरकार के हाथ में कारगर साधन भी होने चाहिए। आसाम में जो कुछ हो रहा है, मुरादाबाद, अलीगढ़ वगैरह में जो कुछ हुआ वह सब क्या है इस प्रकार की घटनाओं की रोकथाम के लिए ताकि ये भविष्य में न हो सकें। ताकि हम जबरदस्त राष्ट्रीय नुकसान से बच सकें, ऐसा कदम उठाया जाना जरूरी था। इसी लिए महामहिम राष्ट्रपति ने

22 सितम्बर, 1980 को यह राष्ट्रीय सुरक्षा अध्यादेश जारी किया।

हां, एक बात मैं जरूर कहना चाहूंगा। कुछ विरोधी दल तरह-तरह के आन्दोलन भड़का कर देश को तबाह कर ने की साजिश कर रहे हैं। आन्दोलन लोक तंत्र में ठीक हो सकता है, पर आन्दोलन के नाम पर तोड़-फोड़ को बर्दाश्त नहीं किया जा सकता। तोड़-फोड़ से बांटेज करने वाले तत्वों के खिलाफ भी राष्ट्रीय सुरक्षा अध्यादेश का इस्तेमाल किया जाना जरूरी है। तोड़-फोड़ की ऐसी कार्यवाहियों से राष्ट्रीय सुरक्षा को खतरा होता है। राष्ट्रीय सुरक्षा को खतरा पहुंचाने वाली किसी भी हरकत को दबाने-रोकने में अगर अध्यादेश का इस्तेमाल होता है तो गलत ही क्या है। मैं इन विरोधी दलों के सदस्यों से पूछना चाहता हूं। उपाध्यक्ष महोदय, जैसा कि हमारे गृह मंत्री जी ने लोक सभा में कहा, राष्ट्रीय सुरक्षा अध्यादेश को एक विधेयक का रूप इसलिए दिया जा रहा है ताकि लोकतंत्र की रक्षा हो सके, गरीबों, मजदूरों, किसानों और आम जनता के हितों की रक्षा हो सके। अगर सरकार उनकी रक्षा नहीं कर सकती तो सरकार का फायदा ही क्या है। हुकूमत आखिर होती किस लिए है? यह चौधरी चरण सिंह की सरकार नहीं है, जिन्होंने प्रधान मंत्री बनने के बाद यह कहा था कि मेरी तो मन की इच्छा मात्र पूरी हुई है। जरा बागपत वाला किस्सा याद कीजिए। वहां डंडों और बन्दूकों की नोक पर हरिजन भाइयों को बोट डालने से रोका गया। क्या ऐसे हालात में सरकार तमाशा देखा करे। ऐसा कदापि बर्दाश्त नहीं किया जायेगा। राष्ट्रीय सुरक्षा आर्डिनेंस को देश के हर शान्तिप्रिय नागरिक का समर्थन प्राप्त है। नेशनल सिक्योरिटी आर्डिनेंस को इस लिए लाना



[श्री जे० के० जैन]

पड़ा कि जिस गुडागर्दी को जनता लोक दल सरकारों ने चरम सीमा तक पहुंचा दिया था, उस पर काबू पा सकें। और आडवाणी जी ने यहां अपने भाषण में कहा कि उन की सरकार, जनता सरकार प्रिवेंटिव डिटेंशन ऐक्ट नहीं लायेगी। पर मैं पूछना चाहता हूं कि मध्य प्रदेश में क्या हुआ? क्या वहां पर यह लोग मिनो मीसा नहीं लाये? इस सदन में आडवाणी जी का अपनी तारीफ करना सिर्फ याद दिलाता है इस बात की कि चोर को कहो चोरी करे और शाह को कहो जागते रहो। पकड़े गये तो कह दिया कि हमने तो पहले ही कहा था कि सावधान रहना। आडवाणी जी अपने भाषण में बोले कि इन्दिरा जी ने कहा था कि लेजिटीमेट पालिटिकल एक्टिविटीज पर मीसा का इस्तेमाल नहीं होगा। उन्होंने ठीक ही कहा था। आडवाणी जी, पहले आप यह बतलाइये और उनको शायद यह याद नहीं रहा कि उन की एवं उन की आकाशवाणी की एक्टिविटीज लेजिटीमेट रह ही कहा गयी थीं? उन लोगों ने अपने शासन काल में पांच लाख कांग्रेस जनों को जेलों में भर दिया। खाना, पीना, रहना किस प्रकार का था, यह किसी से छिपा नहीं था। उन लोगों को ऐसी जगह रखा जहां पांच छः सौ लोगों के लिये छः लेट्रीन्स थी। नारकीय जीवन से भी बदतर जीवन था। सीवर बंद पड़ा था। पर इन्दिरा जी का हर कार्यकर्ता लौह पुरुष सिपाही की तरह था जो हर तरह की यातनायें सहता रहा। वह तुम्हारी तरह कायर नहीं था जो माफी मांग कर जेल से बाहर आ गया हो और तो और आडवाणी जी के गुरु बालासाहेब देवरस जी ने भी माफी नामा लिख कर भेज दिया था। कांग्रेस के कार्यकर्त्ताओं को जब तुम्हारी यह बेहया सरकार आधी रात को पकड़-पकड़ कर

ले गयी तो उस समय क्या इन विरोधी दलों की सरकार बहमों का शिकार हो गयी थी? 19 दिसम्बर, 1978 का वह काला दिन भारतवासी कभी नहीं भूलेंगे, जब अंतराष्ट्रीय नेता श्रीमती इन्दिरा गांधी को ...।

{interruptions}

DR. BHAI MAHAVIR. (Madhya Pradesh) :  
Point of order.

SHRI J. K. JAIN.- Don't disturb. Sit down.

डा० भाई महावीर : उन को कुछ तमीज सिखाइये। उन को संसदीय तमीज कहीं सीखनी पड़ेगी। प्वाइंट आफ आर्डर मेरा यह है कि...

SHRIMATI MONIKA DAS (Kama-taka);  
When you spoke, 'we never disturbed you.  
You have no right to disturb others.

SHRIMATI SAROJ KHAPARDE  
(Maharashtra): You first listen. Later on you ask whatever you want to. Why do you disturb him now?

MR. DEPUTY CHAIRMAN; Both of you please sit down. Let me hear his point of order. It is a point of order. Mr. Jain, you also resume your seat.

डा० भाई महावीर : उन को भी खड़ा कीजिए। (Interruptions) मेरा प्वाइंट आफ आर्डर यह है कि बराबर जब किसी ऐसे व्यक्ति का नाम इधर से उठाया जाता है कि जो सदन में उपस्थित नहीं है तो यह बात उठा कर हल्ला किया जाता है कि जो व्यक्ति सदन में उपस्थित नहीं है और अपने को डिफेंड नहीं कर सकता, उस का नाम यहां पर नहीं लिया जाना चाहिए। तो मैं खाली यह कहता हूं कि परोपदेशम पंडितम ही यह रहेगा। यह औरों के लिये ही नियम है या उन के लिये

भी है। कोई नियम उन के लिये भी लागू होगा ? किन्हीं व्यक्तियों का जिक्र यहां किया गया, जिन के लिये हरगिज अपना बचाव करना यहां संभव नहीं है, यह कहाँ तक उचित है ?

श्री जे० के० जैन : फालतू बातें करते हैं। यह उन की आदत पड़ गयी है। उपसभापति महोदय,।

DR. BHAI MAHAVIR: Please have some parliamentary decency. You should address the Chair.

श्री जे० के० जैन : उपसभापति महोदय, जब अंतर्राष्ट्रीय नेता श्रीमती इन्दिरा गांधी को जनता पार्टी के इन तथाकथित नेताओं ने न सिर्फ संसद् से हटाया बल्कि जेल में भी डाल दिया सन् 1978 की 19 दिसम्बर के दिन इन्हीं लोगों ने इस संसद् के दोनों सदनों में बैठ कर अपने बहुत बहुमत के बल पर ऐसा जघन्य कार्य किया। आडवाणी जी को कहते हुए लाज भी नहीं आयी। वह कहते हैं कि हम ने तो इन्दिरा गांधी को अदालत के जरिये जेल भेजा... (Interruptions)

श्री सदाशिव बागाईतकर (महाराष्ट्र) : प्वाइंट आफ आर्डर। मेरा प्वाइंट आफ आर्डर यह है कि नियमानुसार कोई सदस्य बोलने के समय अपने नोट्स को देख सकता है, लेकिन पूरी तरह पढ़ नहीं सकता...

श्री उपसभापति : सब बोलते हैं।

श्री सदाशिव बागाईतकर : यहां तो वह पूरा भाषण ही पढ़ रहे हैं। (Interruptions)

श्री उपसभापति : माननीय सदस्य अंशों को देख सकते हैं... (Interruptions)

आप अपना भाषण जारी रखिये। आप इनको जवाब मत दीजिए... (Interruptions)

श्री जे० के० जैन : श्रीमन्, इस बात के लिए इनको ऊपर जाना पड़ेगा क्योंकि जिनको ये अपना नेता मानते हैं डा० श्यामाप्रसाद मुखर्जी, जरा ये प्रोसी-डिंग उठा कर देखें तो इन्हें पता चलेगा कि जब वह भाषण करते थे तो लिख कर लाते थे, पता नहीं किससे लिखवाकर लाते थे। ये तो मेरे नोट्स हैं, मेरे लिखे हुए हैं... (Interruptions)

जरा श्यामा प्रसाद मुखर्जी जिनको आप अपना नेता मानते हैं उनको देखो, वह लिखवा कर लाते थे। (Interruptions)

MR. DEPUTY CHAIRMAN: You address the Chair. You please address the Chair.

श्री जे० के० जैन : श्रीमन्, इस माननीय सदन में बैठ कर इन्होंने ऐसा जघन्य कार्य किया, आडवाणी जी को कहते हुए जरा भी लाज नहीं आई। वह कहते हैं हमने तो श्रीमती इंदिरा गांधी को अदालतों के जरिये जेल में भेजा। अदालतों के प्रति आस्था दिखाने वाले आपकी सरकार ने संसद् को ही अदालत में तबदील कर दिया था। आपकी संसदीय अदालत ने इंदिरा जी की सदस्यता ही खत्म नहीं की, उस संसदीय अदालत ने उन्हें जेल भी भेज दिया। इससे बढ़ कर सबत और क्या हो सकता है कि इन लोगों का विश्वास अदालत से हट चुका है। चोर, डाकुओं का साथ देने का अपने दिमाग को साफ करो।

अध्यक्ष महोदय, विरोधी दल के नेता लोग इमरजेंसी के खिलाफ कहते नहीं सकते। यह तो देश की जनता ने 1980

में साबित कर दिया है कि श्रीमती इंदिरा गांधी का एक-एक कदम कितना जरूरी था, एक-एक कदम कितना माकूल था और कितना समयोपयोगी था। यहां पर मैं कुछ ऐसे उद्धरण पेश करना चाहूंगा जो जाहिर करते हैं, कि इमरजेंसी के खिलाफ चिल्लाने वाले इन गुण्डों के जनता पार्टी की हुकूमत के दौरान किये गये नाजी बर्ताव पर कभी गौर नहीं किया गया। जनता पार्टी को सपोर्ट करने वाले एक प्रमुख अंग्रेजी पेपर में 31 जनवरी, 1979 को एक आर्टिकल है, आप इजाजत दें तो मैं इसकी कुछ लाइनें इस आनरेबल हाउस को पढ़ कर सुनाऊंगा। इसका शीर्षक है 'वैदर इज फेयर'—

"The measure was misused to intern people either on penal charges or on breach of peace or on trumped up charges. There was a desire to prolong the internment period. Most of the agitators were herded together with practically no toilet facilities....."

ये शब्द उस अखबार के हैं जो उस जमाने में और अभी भी जनता पार्टी का हिमायती रहा है। इन थोड़े से शब्दों से अन्दाज लगाया जा सकता है, जनता पार्टी के नाज़ी शासकों ने कैसे कैसे जुल्म उस समय इंदिरा गांधी के सिपाहियों पर ढाये थे। अंधों और अपाहिजों को भी इन पापियों ने नहीं बख्शा। इंदिरा जी की गिरफ्तारी पर इन्होंने उन्हें जेल में डूंस दिया, गलत-गलत धारारें बनाकर अंधे लोगों के ऊपर भी मुकदमे बनाये। ये बातें बताई गईं तो उन्होंने झूठा वायदा कर दिया कि प्रोब करेंगे। मोरारजी देसाई को जब यह कहा कि अंधों के ऊपर तुमने झूठी धारारें बना कर उनको गिरफ्तार करके जेल भेज दिया तो

उन्होंने झूठा वायदा किया कि हम प्रोब करेंगे लेकिन उन्हें तो सिर्फ इंदिरा जी के खिलाफ कमीशन बिठाने का टाइम था, उनके खिलाफ प्रोब करने का समय नहीं था।

उपसभापति महोदय, टाइम्स आफ इंडिया के 21 जनवरी, 1979 में छपा है कि उन्होंने अंधों की गिरफ्तारी के लिए प्रोब का आर्डर दिया, लेकिन जांच नहीं कराई गई। जांच कराते कैसे? इनके प्रधान मंत्री जी देसाई ने अपने मुंह से कह डाला कि यदि कांग्रेस जनों को जेल में ज्यादा सुविधाएं दी गईं तो ये लोग रोजाना जेल जायेंगे। उपसभापति महोदय, यह सारी अखबारों की कटिंग है, मैं डेट दे रहा हूं। 21 जनवरी, 1979 को इन्हीं के प्रधान मंत्री के कहे थे।

श्री उपसभापति : बहुत टाइम आपकों दे दिया। अब एक मिनट में खत्म कीजिए।

श्री जे० के० जैन : श्रीमन, पीलू मोदी साहब ने उस दिन कहा कि हम कांग्रेस जन बंधुआ मजदूर हैं। मालूम होता है पीलू साहब अपने घर में बंधुआ व्यक्ति रखते हैं। इसलिए इनको हर व्यक्ति बंधुआ मजदूर लगता है। वह क्या इतने अनुशासनहीन हो गये हैं कि अपने घर में भी लोगों को बंधुआ मजदूर मानते हैं? अनुशासनहीन समाज एवं अनुशासनहीन पार्टी वाला, हमें बंधुआ मजदूर कहने की हिमाकत मत कीजिए, कहीं ऐसा न हो कि सी आई० ए० के बंधुआ मजदूरों का यहां पर भंडाफोड़ हो जाए।

यहां पर हर दार ब्लाईडिंग की बात कही जाती है। हम तो पहले ही कह चुके हैं कि हम ब्लाईडिंग के खिलाफ हैं हम

ब्लाइंड करने वालों की खुली रूप से भर्त्सना करना चाहते हैं। परन्तु उपसभापति महोदय, मैं यहां पर कहना चाहता हूं कि जो लोग ब्लाइंड किये गये हैं वे कौन हैं? वे हिस्ट्रीशीटर ही नहीं हैं ये वे लोग हैं जिन्होंने बिहार में बहू-वेटियों के साथ बलात्कार ही नहीं किया बल्कि बलात्कार करने के बाद उनके स्तनों को भी काट कर फैंक दिया। उपसभापति, आज विरोधी दल के मात्र विरोध के कारण राष्ट्रीय सुरक्षा अधिनियम को बिल के रूप में पास न होने दिया जाना है। मैं पूछना चाहता हूं कि क्या गुंडों और बदमाशों को खुला छोड़ दिया जाए और ये गुंडे हमारी बहनों के साथ, महिलाओं की इज्जत के साथ खिलवाड़ करते रहें। हम ऐसा नहीं होने देंगे और हम इस बिल को पास करेंगे।

श्री उपसभापति : समाप्त करिये।

SHRI J. K. JAIN; Sir, please allow me. I will have a little more time because they have disturbed me for two or three minutes.

श्री उपसभापति : समाप्त करिये।

श्री जे० के० जैन : काश विरोधी दल के यह सदस्य चोर और गुंडों का साथ न दे कर इस बिल के पक्ष में वोट देते। दिनेश गोस्वामी जी ने अपने भाषण में कहा कि इतना बड़ा मैनडेट मिलने के बाद इस बिल की क्या जरूरत थी। गोस्वामी जी इस बिल की जरूरत उसी प्रकार से है जिस प्रकार से हर व्यक्ति—अपने घर की रखवाली के लिये ताजा लगा कर रखता है और यदि ताजे से काम नहीं चलता तो चौकीदार रखता है और जब चौकीदार से भी काम नहीं चलता तो उसको इंद्रकधारी चौकीदार की जरूरत पड़ती है। देश की जनता ने हम को इतना बड़ा मैनडेट इसलिये दिया है कि हम इन गुंडों और बदमाशों से, रेज

की पटरी तोड़ने वालों से जनता की रक्षा कर सकें। (Interruptions)

श्री उपसभापति : समाप्त करिये।

श्री जे० के० जैन : इन नेताओं को हम नपुंसक की तरह से देखते रहें? दुनिया भर के सांप और बिच्छू को छोड़ कर ये लोग सत्ता से बिफरे हैं। (Interruptions)

श्री उपसभापति : ठीक है।

श्री जे० के० जैन : उनसे बचने के लिये यह बिल उनको याद दिलायेगा। (Interruptions)

श्री उपसभापति : समाप्त करिये।

श्री जे० के० जैन : विरोधी दल में कांग्रेस (यू) के सदस्यों से पूछना चाहता हूं कि जरा वे अपने गरेबान में हाथ डाल कर देखें कि सन् 1975-76 में . . .

श्री उपसभापति : समाप्त करिये।

श्री जे० के० जैन : वे लोग क्या करते रहे। हमारी पार्टी हार गई तो तुम्हें हर प्रकार के दोष दिखाई देने लगे। मलाई की हांडी चटकने के बाद बिल्ली की तरह जनता पार्टी के नेताओं के तलवे चाटने लगे। (Interruptions)

श्री उपसभापति : ठीक है। समाप्त करिये।

SHRI RAMAKRISHNA HEGDE (Karnataka): Sir, on a point of order. (Interruptions)

श्री जे० के० जैन : मुझे बहुत कुछ कहना था लेकिन अनुशासनवद्ध होने के नाते, इन्होंने मेरा समय लिया फिर भी मैं इनके रेजोल्यूशन का विरोध करते हुए इस बिल को सप . . . हूं। इन शब्दों के साथ मैं आपका धन्यवाद करता हूं।

SHRI BHUPESH GUPTA (West Bengal). Sir, I rise to oppose this Bill, not so much in anger as in pain, because we thought, when in 1978 we repealed in this very House, on July 27, the MISA, that we would be no more returning to the lawless law of preventive detention. When I say "we", I include all in this House. The MISA was repealed not only because the Government had brought forward a repealing Bill, but also the Opposition including those who are sitting now as the ruling party, the Congress (I), supported that Bill. Here, Sir, I have got before me some of the debate, and the speeches from the Government side, even from the Opposition—now they are the ruling party people—Mr. Kalp Nath Rai and Mr. Khurshed Alam Khan. Sir, both spoke in Hindi and they wholeheartedly welcome the repeal of the MISA and they not even remotely suggested that there should be some kind of a provision for such an Act. One of them, Mr. Khurshed Alam Khan, also spoke and now he is a member of the Government. In the other House, Sir, Mr. Sathe also spoke. This is what Mr. Sathe had said in another place while supporting the repeal of the MISA on the 19th July, ten or nine days earlier. He said;

"We would never try to overthrow the government by violence. Therefore, there will be no danger to internal security from us, from the Opposition. Hence it is right that you have decided to abolish the MISA. I am happy over that because there is no case for the continuance of the MISA. But be careful: Even an element of these laws will endanger the whole country. Be careful about that."

So, these are the words of Mr. Sathe, now a Cabinet Minister. All of them congratulated the Janata Government which, in fact, they always tried to pull down and ultimately pulled down along with the other parties of the Opposition.

Sir, now again, barely a year has passed; nearly two years have passed since then and we are back to the MISA again. Only the name is changed. Mr. Vallabhbhai Patel was brutally frank in 1950 because he called it the Preventive Detention Act. One of his qualities was that he was a strong man and he was of course very much anti-communist, as you all know. But he did not mince words. He called it the Preventive Detention Act, called it by what it really meant. Then Sir, the name was changed into the MISA. Now, the title is "The National Security Act".

Sir, as far as the title is concerned, this title of the Bill is concerned, I would call it a gigantic legislative fraud, a colossal deception of the masses in order to acquire extraordinary, arbitrary, draconian powers; not only to put people in detention, but also to intimidate those who dissent with the Government or try to agitate against the Government.

Sir, where is the national security business in it? It is now only the National Security Act. Is the security of the nation the concern of this Government alone, of Shrimati Indira Gandhi and her party alone? Is it not our concern also? Whenever a testing time came for the security of the nation or its territorial integrity, the Government benches and the Opposition joined together for the defence of the national security. Why then such a term is used? "National security" is so solemn, serious and grave a term to be so misused or bandied about for the convenience of the ruling party in order to get away, by a sleight of hand, with a measure of this kind in order to suppress the democratic movement and agitation in the country and to browbeat its political opponents. That is why I call it a gigantic legislative fraud—Here, Sir, this Bill is nothing new and we have been accustomed to such things. For the last 28 years, Sir, in this House I have been fighting against

such measures. Unfortunately, today, most of my colleagues of the 1952 batch are gone; only three of us remain: one in this House and two in the other House, Mr. Jagjivan Ram and • Mr. Tridip Chowdhury.

We had thought that it would be possible to remove the blot from the Statute Book by eliminating completely, once and for all, the preventive detention law which was against our national tradition to abolish which we were committed. But somehow or other, Shrimati Indira Gandhi, Prime Minister now of the country, cannot think of ruling the country without the Preventive Detention Act. Even Mr. Morarji Desai, for whom I have no love lost, nor even Mr. Charan Singh, thought ultimately that they must have (he Preventive Detention Act. They wanted something, to retain it in another form, by amending the Criminal Procedure Code. But ultimately, they had to give it up and they thought that they would continue without the Preventive Detention Act, and that was why the law was repealed, the MISA was repealed. But it is a strange thing in the case of Shrimati Indira Gandhi.

Sir, in 1969, towards the end; when the Congress was split, Shrimati Indira Gandhi lost her majority, her number in the Lok sabha came to 222 in a House of 530. Well, Sir, we thought; in those days, that, because of the advancing forces from the right, she should be protected and we did not bargain with her and we did not ask for ministerial seats. We of the opposition, some of us, not all; of the left and democratic opposition, supported Shrimati Indira Gandhi and she survived for one year and more in power despite the fact that she was heading a minority Government. We did it in the national interest. We did it in the interest of democracy. We thought at that time that parliamentary institutions should function. We thought that if the parliamentary institution functioned, the extreme right forces would not be allowed to go

ahead. She understood our gesture and there was no preventive detention law in 1970. She agreed not to renew it. At that time, it was not a permanent law.—It was a temporary law renewable after every three years. It lapsed on the 31st of December, 1969. Shrimati Indira Gandhi, on our suggestion, did not renew it.

On May 6, 1971 almost immediately after she had won her massive majority, she forgot 'Garibi Hatao' and she promulgated an ordinance to bring the preventive detention law back calling it Maintenance of Internal Security Ordinance and in July next it was passed into a law—Maintenance of Internal Security Act. Now, we have it again.

After her election, within ten months of it, she has come out with this measure again, first by an ordinance as before in 1971 and then by legislative proposal which we are discussing now. It seems that our friend Shrimati Indira Gandhi cannot think of ruling the country without being armed with the Preventive Detention Act. I thought that she was a leader of a better calibre. I thought that she had more confidence in herself than in the Preventive Detention Act. But it does seem that she has been in detention in her lust of power, she thinks that the only way to sustain her in power is this measure.

This measure, as I said, is nothing new. I will give a little historical background of this measure. It has come now with this name. But we had it before. It comes from the British days and the British passed such a measure. For example, the first preventive detention law was conceived under East India Company's Act of 1800 and 1784. It was reinforced in the State Prisoners' Regulation Act, Re eruptions of 1812 and 1818. in the notorious Regulation 3. That it was again revived as the Defence of India Criminal Law Amendment Act, 1915. It was again brought up in the

[Shri Bhupesh Gupta]

so-called Anarchichal Revolutionary Act of 1919. Then, Sir, it came in the Defence of India Act of 1939. These are the Central laws, provincial laws were also there. There was the Bengal Criminal Law Amendment Act of 1930 of which I myself was a victim. Therefore, sir, these laws are nothing new. The tradition is like that. Shri Giani Ji is here. May I remind him of one little incident? These laws were protested against not only by the Congress Party but by all sections of the people in the days of the British and there came two youngmen from Punjab, Bhagat Singh and Bhatukeshwar Dutt. They went to the gallery of the other House, threw a bomb in protest against the Public Security Bill. From the same Chamber, this measure has come to us to be passed by U9 now. It is now ready. That is how we pay tribute to our past tradition, to our own leaders who, spoke against the Preventive Detention—Gandhiji, Jawa-harlal Nehru and Rabindranath Tagore.

Sir, Rabindranath Tagore was one who raised his voice against the Preventive Detention. When he heard that prisoners were attacked, he came from his sick-bed to a public meeting in Calcutta in 1931 to say, and I quote:

"JAHARA TOMAR BISAICHHE  
BAVTJ NTVATfTTHE TABA ALO  
TUMT KI TATTR^ KHAMA KAR\*  
ACHHA TUMT KI BESECHHA  
BHALO?"

The English rendering of this is,

Those who have poisoned the air Those  
who have extinguished the fire, the light.

Have you forgiven the?

Have you loved them?

Such was the sentiment expressed in exquisite language by one of the greatest poets of our land. Now, we are back to it. back to it permanently the MISA. The WA with its origin in the days of the East India Company

recalls to mind the 1818 Regulation III, the Bengal Ordinance, the Defence of India Rules and other Acts of the British against which we protested and which put many a patriot in detention under false charges. Sir, that is why we are in principle opposed to the Preventive Detention. From the beginning we did it and now again I am doing it. Here, Sir, why are we particularly concerned today? We are concerned because this is the background in which the law is being passed. Smt. Indira Gandhi is not a thoughtless person that way. Smt. Indira Gandhi is one who is a calculating person. She foresees things in her own way. And we are having it because, it seems, Prime Minister Indira Gandhi and her Government have come to the conclusion that a situation has arisen because of the failures of the policies of the Government when the basic problems of the masses whether the rising prices or the growing unemployment or the atrocities against the Harijans or the Muslims minority could not be solved or the law and order could not be maintained. Then, Sir, there is the need for the review of the policies, for the overhauling of the Administration. Instead of that, they return to the very simple device of Preventive Detention Act. But will that solve the problems? I ask you, the Home Minister. During these 30 years, since the PD Act came to the Central Statute Book in 1950 only for 29 months, there was no Central Preventive Detention Act or the Central Preventive Detention law. On the Statute Book. What, happened? Did the communal incidents go down? Have the crimes declined? Have the social tensions been relieved? Nothing at all. On the contrary, during Smt. Indira Gandhi's 11-year rule, according to the Home Ministry's documents supplied to us in the first 11-year rule, more than 3,310 communal incidents, including some major ones had taken place, the atrocities against the Harijans grew, and also the crimes grew. What is

happening now? what happened under

the Janata rule? What happened under the Janata rule and the Congress rule, the past and the present one? One thing has been made abundantly clear that the causes that give rise to certain imbalances in the society, certain crimes cannot be eliminated or tackled without carrying out an important reforms and social changes. The problem is to go to the roots of the social ills in our country.

You are now doing that. Sir, no wonder the Preventive Detention Act is being supported by the monopolists and other vested interests. Sir, here you see the Statement of Objects

- B and Reasons. That will not go when the Bill is passed. In the first paragraph there is the word 'national security'. Later it does not at all occur. It is supposed to be for national security but what do we find? The mention of defence are there, then security, public order, services essential to the community and all the rest of it. And, then in the very opening paragraph of the Statement of Objects and Reasons, it is said and I quote: "In the prevailing situation of communal, disharmony, social tensions, extremist activities, industrial unrest and increasing  
w tendencies on the part of the various interested parties to engineer agitation on different issues, it was considered necessary that the law and order situation in the country is tackled in a most determined and effective way". But what have we got here? Is it for national security? When our national security was endangered by the external forces, we heard a different type of thing. We spoke in one voice. But what do we see here? Here we read exactly what is written in the Preventive Detention Act or the Special  
r Powers Ordinance or the local, State Acts for detention without trial. Sir, this is what is happening. That is why it is causing us anxiety. The Government is arming itself with draconian powers to be used at will,

when they like, to suppress the opposition. We had the worst of it during the emergency when 35,000 people were detained without trial under the MISA only. And, it is known and it is common knowledge that blank papers were there signed by the detaining authorities and they were filled and people were whisked away into prison. The same thing will happen here.

Sir, even as an Ordinance, in reply ^ to Unstarred Question No. 414 in this House, on the 20th November, according to them, even before this discussion was taken up, 250 people had been detained under the National Security Ordinance. Now the number is more than 300 already, even before the law is passed by Parliament.

I mention this thing because it is a gross outrage on the Constitution that is committed. The Constitution did not envisage that the Fundamental Rights of citizens would be deprived by an executive action; Ordinance making is an executive action. Yes, sometimes, I know you pass a law to deprive the liberty; but they passed an Ordinance which was an executive action in order to deprive the fundamental right guaranteed in the Constitution. That was the grossest misuse of not only the Ordinance making power but of the State power for reasons well known. Sir, this is what we find. Therefore, I say your objectives will not be met if you have that in mind. In fact you do not have that in mind. You have abundantly made it clear when one of our comrades in Ghazi-abad has been arrested, a trade-unionist. Other trade-unionists are being arrested. More and more of such people will be arrested. Who are the arresting authorities; district magistrates, commissioners and the police. Imagine the police is being given the power to arrest. If Mr. Zail Singh said that he was the only arresting authority, that he would look into the cases. I would try to trust him. But it is not that. The system



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is such that the arresting authority will necessarily be the executive at the lower level, the magistrate and the police, those who blinded the un-dertrial prisoners, those who shot at the students in Orissa, those who beat up the students in Haryana, those who molested women, those who committed rape in police lock-up and these will be the detaining and arresting authorities. Therefore, let us not forget this fact. My friend from the A. D. M. K. supported it. Well, I felt very sorry because I had here on these benches as my colleague, Shri Annadurai, and Shri Annadurai's voice I remember. He was a staunch opponent of the Preventive Detention Act and I have lived to see the day when the party bearing his name sends them in this House who get up and support the Preventive Detention Act. This is an irony of history. Sir, let us not go into the question of the purpose. The purpose is clear, as clear as it was at the time of the P. D. Act. It is the same thing. In fact, the language of MISSA is taken verbatim, is the same as in this Act or this Bill, the National Security Bill. If Mr. Zail Singh is called Mr. Darbara Singh, surely Mr. Zail Singh would not become Mr. Darbara Singh, or the *vice-versa*. Therefore, MISA will not be, with this kind of a new name, something different from what it is. But he has been so frank; he said it is MISA. So, you have the MISA revived.

Why not in the Congress election manifesto was there a statement or a hint that should Mrs. Indira Gandhi and her party be returned to power for the sake of the security of the nation, they would bring back the

Preventive Detention law or the MISA under other name? Why was this silence there? Why did you not tell the people while seeking the mandate of the people? Why on the country being in the Opposition, !

you were joining with us in fighting for the repeal of MISA and, on the other hand, thinking privately that should you come to power, you would bring it back? Am I to take it that you have come to such a position in public life that when you sit in the Opposition, you would denounce the Preventive Detention and the moment you come to power, you will pass it and use it? This is double think a double standard, an insult to the culture and civilisation, if I may say so. I would have understood it if while in the Opposition they had supported the Janata Party in passing the Preventive Detention Act or during the elections, they had said that they would bring back the Preventive Detention Act. No, that was not done. They did exactly the opposite. They are now disowning their own past, a temporary past from which they seem to have learnt nothing.

I have said enough on this, only a few more and I shall sit down, because I have spoken for so many years. What shall I say? I have spoken in the face of Pandit Jawaharlal Nehru, Dr. Katju, Shri Govind Ballabh Pant, who were then speaking in this House, they spoke with subtlety; they spoke with some finesse; although the Act was bad, they spoke with some amount of frankness. But here, whom are we arguing with? Sardar Patel even said that he had to pass two ; sleepless nights before bringing the Preventive Detention Bill before the Provisional Parliament. But none of these people here says such a thing. They are mightily happy—I do not mean my hon. friends there; they are mightily happy; Treasury Benches are mightily happy and they must be having very good sleep, sound sleep, honey-moon type sleep, before coming with this Preventive Detention Bill to get the House put its seal. I regret. If some of my friends from this side of the House had not defected to that side, today, perhaps, Rajya Sabha would have made a history by ! preventing the enactment of the Pre-

ventive Detention law. I regret that some of our friends left us, not to strengthen the forces of democracy but to strengthen such Draconian laws as we are passing. After all, only last August, they had 67 Members with them. Today, they are more than 122. Well, the Preventive Detention Act has been facilitated by large-scale defections. You can understand. When you pass such laws, there will be fraud, there will be manipulation, there will be double talk and that is how, these things are done. Does it bring credit to Shrimati Indira Gandhi? May I ask? Sir, another thing, I would like to say. I am afraid. I am afraid of the occasion. Sir, there was a time in the past, when there was some discussion within the ruling party, namely, Congress, at that time. Now, it seems, every single tongue within the ruling Congress (I) Party is under preventive detention, to prevent anything being said which would displease the supreme leader. I feel very sorry for our friends. Their tongue is under preventive detention now. I do not know whether you will call it internal security detention or India security detention or Indira security detention. That is for you to decide. But it does appear that in the meetings of the AICC or in the meetings of similar other bodies there is not one who gets up and who has the courage to say something which the Prime Minister, their leader, may not like. Yet, we saw men getting up at the AICC and saying things, which Jawaharlal Nehru did not like, and knowing that he would not like. Those days are gone. Where is the check then? Where is the check? I ask you. A situation of terror has been created. My friends, I tell you, the Preventive Detention Act, once it is on the statute book, it may be used against the members of the ruling party also, including members of the Working Committee, of the highest leadership. Was it not done in 1975? What is the guarantee

that it will not be done some time later if some of you show the guts against either the Presidential form of Government or subversion of the

judiciary which the Congress (I) General Secretary, Shri S. S. Mohapatra, is *openly* pleading today? That is what I ask.

I am afraid of the situation, Sir. This lends a dangerous dimension to the measure which we are passing, which was not there before, either at the time of the P. D. Act or at the time of the MISA in 1971. Today, it seems, dark clouds are gathering over the future of democracy. Forces of authoritarian power, dictatorial power, are springing up and aspiring to gain positions of advantage and other positions in order to see Parliamentary democracy is made a shame. The Opposition is intimidated, silenced and terrorised. The working class, the working people, are attacked; all these things are there. Therefore, if we take his speech along with what his colleagues like Shri Shiv Shankar, Shri S. S. Mohapatra, Shri Antulay and others are saying outside, they seem to be a part of a grandiose plan against democracy. That is why, it is not just a question of some individual liberties, important as they are.

Now, do not talk about these assurances and other things. Take it from me Sir. I know I am in the Opposition. My friends will not believe me. But they believed me for two years at least, on this side of the House. We had been given such assurance as he is given now, the present Home Minister, by greater personalities like Jawaharlal Nehru, Katju, G. B. Pant. Were they kept? How were they violated? At one time in the beginning of Independence, 10,000 Communist and their sympathisers were in detention without trial. I had been under detention without trial at that time. This assurance did not work because the preventive detention law by its very nature is a measure which leads to arbitrary arrest, arbitrary detention, political vendetta and intimidation. My objection is not merely that so many people are detained. Apart from the actual detention, the law is a terrorising threat to the country. This is another

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thing. Its aim is to intimidate. Must we allow our system to live under such terrorisation and intimidation, apart from the fact that the people will be arrested and put under detention, is the process has already started?

So, Mr. Zafu Singh and Mr. aMakwa-na do you expect Bhupesh Gupta to accept your assurances when he found assurances given by such greater men like Pt. Jawaharlal Nehru and Shri Govind Ballabh Pant could not be kept? Why give these assurances here? You say: "We are in power; we have the majority; we will have the big stick to beat the Opposition with". This is frank enough.

In this connection. I must make another observation. Again and again, the Prime Minister accuses sweeping-ly the Opposition and calls for cooperation. Sir, I can understand the Prime Minister of the country in a parliamentary system calling for cooperation. There is nothing unnatural or wrong on her part. But then, Sir, 'o you promote cooperation when you pass such measures? Why did you not refer to any of the Opposition if national security was at stake? Was it not necessary for the Prime Minister to call the Opposition leaders and put the cards on the table and seek their opinion as to how national security should be safeguarded? This is done in democracy. But it was a unilateral act. An Ordinance was issued in the style of the proclamation of the emergency. I do not know whether the Cabinet was consulted. But certainly there was no meeting of the Congress Parliamentary Party.

My friends, may I appeal to you? You are sitting there. The Janata Party was a conglomerate party. You know my views about the old Janata Party. But voices were raised against the Criminal Procedure Code (Amendment) Bill thereby they wanted to perpetuate preventive detention. Must we not expect some voices being rais-

ed within the Congress (I) Party today? What has happened? Do I take it that you are men of much lesser calibre than those in the Janata Party at the time when that party was ruling the country? Answer that. Not to me but answer to your conscience. If you do not answer to your conscience, your children and children's children will one day ask: "What were our forefathers doing? Did they protest against this? No, not a word of protest. I know you don't like the word "sycho-phancy" and I will not call all of you "sychophants" and all that. I do not want to hurt your feelings today because I am not in that mood. But you have been muted. Honesty in you has been suppressed, is being suppressed. The finer thoughts in you—I still believe you have many of them are not being allowed to have their outlet and expression. That is the tragedy—not for the ruling party only but for the nation as a whole, because it is happening in the party in power. Therefore Sir, I should only 2 P.M. like to conclude by saying, "We oppose it." I of course, support the disapproval Motion. Sir, I oppose the Bill. My regret is that in 1978 I have been deceived. I thought, when my friends of the Congress (I) Party sitting there voted for the repeal of MISA, that we had turned a new leaf, a new chapter in the life of our polity and our system when we should be able to rule the country without having recourse to this kind of Draconian, lawless, law. I have been disillusioned, I have been disappointed, I have been frustrated and I have been proved wrong. But, what does it matter what happens to me? The nation has been let down.

I still ask Shrimati Indira Gandhi, before I sit down, it is not enough to ask for cooperation from the Opposition The Opposition must be shown some little respect, and cooperation will be on the basis of an agreed thing which is good for the nation, good for the people. Who says there cannot be co-operation for communal harmony? I tell Shrimati Gandhi, standing here,

even if you put me under preventive detention without trial in Tihar Jail, for maintaining Hindu-Muslim unity. Bhupesh Gupta's co-operation or, for that matter, his party's co-operation, will not be missing. I am saying to her, whatever you may do to us, however you may despise us, if the national security is endangered, people like us shall rally, as we did on previous occasions, for the defence of the nation. Security of the nation is one thing, security of the Government is another thing. We are bound by the Constitution, by our patriotism to defend the security of the nation and we are equally bound by our ideology and policy, by our commitment to the people to do away with the system in Administration which encourages monopolistic growth, poverty line to expand and more people to become poorer and poorer, which allows the communal disharmony to go up, minorities to be attacked, Harijans to be attacked, people to be blinded in Bihar and other places. We want them in police lockup, we want to destroy them, and their security we do not want". We do not like the security of the policies of the Government which appeases Tatas and Birlas or multinationals or encourages the atrocities of the police or similar other hostile forces. No. Therefore, I would ask my friends there. Draw a line between the security of the nation on the one hand and the security of the Government on the other. You don't expect us to be the guardians for your party's security. Try to look after yourself. But, you can expect us to play our role for the security of the nation. But, for that, co-operation must be on the basis of justice, democracy, mutual respect and correct policies, none of which is guaranteed in this. On the contrary, side by side with the harangues and homilies about co-operation from the Opposition, we find repression let loose on the Opposition on the one hand and we get this so-called National Security Bill, a big stick of repression which bears the imprint of the days of the British and the Government still seems to be living under that legacy. Sir, I oppose this Bill. I know some of my friends will 1500 RS—4

appeal to them to withdraw it. My friend Shri Surjeet, who is a very courteous man, has appealed to them like that. They would rather withdraw from the Government than withdraw the preventive detention law. This is what I feel. The preventive detention law they need for survival. The masses are moving away from them, they are in ferment, they are in struggle, they are marching, whether you call it 'dindi' march or some other march. The farmers are not allowed to agitate. Disillusionment is going far. Disillusionment will give way to resentment; resentment to political consciousness, political consciousness to a political fight; and economic fight for social justice. That is why my friends Mr. Sita Ram Kesri and Mr. Makwana and others who are on the Treasury Benches and have deserted these benches have come to the conclusion that

they must go back to the tradition of the Rowlatt Act and repeat a new, after 33 years of Independence, that drama of shame and cowardice, of brutality, of double talk. of prosecution and harassment. That is the reason, Sir, I strongly oppose this Bill. I would not appeal to them to withdraw it because they have not come here to withdraw it. They have to strike a blow to democracy and our job is to raise our voice against it, register our protest against it—and what we shall do from State to State, leaving it to the people to judge again and see why there should not be another 1977.

MR. DEPUTY CHAIRMAN: You have now come to the close.

SHRI BHUPESH GUPTA: That we are confident of, apart from other things. Now my friend wants to speak. I know he will speak in sup-

port.

श्री धनवीर (उत्तर प्रदेश) : माननीय उपसभापति महोदय, नेशनल सेक्युरिटी ऑर्डिनंस बिल का मैं समर्थन करने के लिए खड़ा हुआ हूँ।

[The Vice-Chairman (Dr. Rafiq Zakaria) in the Chair.]

अभी हमारे भूषण गूण जी ने अपने भाषण में इस ऐक्ट के विरोध के लिए जो भी तर्क प्रस्तुत किये, मैं उसके बारे में सिर्फ इतना ही कहना चाहता हूँ कि उनको दिल और दिमाग में यह शंका या यह अन्देश क्यों है जबकि हमारे गृह-मंत्री जी ने बराबर इस बिल को यहाँ पर लाने के पहले यह साफ़ कर दिया था कि राजनीतिक बदले की भावना से हम इन अधिकारों का प्रयोग नहीं करेंगे। लेकिन फिर भी इतने आश्वासन के बावजूद भी विरोध पक्ष के नेताओं ने और हमारे सम्मानित सदस्य ने इसका विरोध किया। लेकिन मैं उनसे पूछना चाहता हूँ कि आज जो स्थिति देश की है, जिसके बारे में श्री पीलू मोदी जी ने भी और श्री आडवाणी जी ने भी लगभग दोनों दलों के कई साथियों ने यह चिन्ता प्रकट की है, क्या इस देश की एकता और देश की जनता की इच्छाओं पर कुठाराघात नहीं हो रहा है और इसके लिए सरकार को मजबूती के साथ कदम नहीं उठाने चाहिए? एक तरफ वह कहते हैं कि देश की एकता को बनाये रखने के लिए जनता की इच्छाओं का और कानून और व्यवस्था को स्थापित करने के लिए, बाज़ारों को नियंत्रित करने के लिए, सस्ती चीज़ें मुहैया करने के लिए, सख्ती से काम किया जाए। एक तरफ बागपत में जो घटना होती है उसके लिए सख्ती से काम किया जाए, एक तरफ वह साम्प्रदायिक उपद्रव शुरू होते हैं तो सरकार से कहा जाता है कि इनका सख्ती से दमन किया जाए, इनको नियंत्रित किया जाए, तो मान्यवर, यह समझ में नहीं आता कि एक

तरफ हम चाहते हैं कि देश की जनता छिन्न-भिन्न न होने पावे और जनता का जीवन सुखी और समृद्धशाली बनाया जाए, दूसरी तरफ वह चाहते हैं कि ऐसे अराजक तत्वों के ऊपर हम किसी तरह की कार्यवाही न करें। ऐसी स्थिति में शान्ति और व्यवस्था कायम रह सकेगी? दोनों बातें नहीं चल सकती हैं। पिछले ढाई-तीन वर्षों में जो मीसा की बात वह कहते हैं, कैसे वह स्थिति पैदा हुई जिसकी वजह से श्रीमती इंदिरा गांधी को और तत्कालीन सरकार को मीसा लागू करना पड़ा? लेकिन मैं पूछना चाहता हूँ कि जब सारे देश की कानून-व्यवस्था को अपने हाथ में ले ले, चारों तरफ डकैती, चोरी, अराजकता, ट्रेन लूटना, स्कूल और कालेज बन्द करना, मजदूरों को भड़काना, उत्पादन बंद करना, बड़े-बड़े कारखानों को काम करने से रोकना आदि काम हो और इसके साथ-साथ कानून-व्यवस्था को समाप्त करने के लिये पुलिस और फौज को इन प्रकार से भड़काना कि वह सरकार के आदेशों को न माने और यहां तक कि डायनामाइट के बारे में सारी जनता जानती है, इन सारे कामों को रोकना क्या हमारा कर्तव्य नहीं है। जब ऐसी स्थिति हो तो कोई भी सरकार कैसे काम कर सकती है। चाहे गुजरात हो, चाहे बिहार हो, ऐसी स्थिति में और क्या रास्ता रह जाता है देश की सुरक्षा को बनाए रखने का, देश को मजबूत करने का। इनके लिये कोई न कोई संवैधानिक कदम उठाने जरूरी हैं। आज तक किसी भी विरोधी पक्ष के नेता ने इस बात की भर्त्सना नहीं की कि इन्दिरा गांधी ने कोई असंवैधानिक कदम उठाया है। सैन्ट्रल हाल में बैठ कर, बहुमत से अधिकार सरकार को प्रदान किये गये हैं जिससे देश की स्थिति मजबूत हो। देश की एकता को कोई आंच न आए।

श्री संयद शाहेदुल्ला : एक बार भी स्मगलर के खिलाफ, ब्लैक मार्केट्स के खिलाफ कोई काम नहीं किया।  
This should be noted.

SHRIMATI USHA MALHOTRA:  
(Himachal Pradesh): Please do not dis-  
'turb.

श्री धर्मवीर : आप मुनने का मादा पैदा करें। मैं आपसे कहना चाहता हूँ कि यही नहीं भारत की संसद ने उस भीसा को प्रबल बहुमत से पारित किया था। जनता की आकांक्षाओं को पूरा करने के लिये जितने भी कदम इन्दिरा जी ने उठाये वे सब संवैधानिक तरीके से उठाये लेकिन हमारे भाई जनता पार्टी के और लोक दल के लोगों ने अपनी असफलता को छिपाने के लिये अपनी आयोम्यता को छिपाने के लिये आज वे इन सारी बातों का विरोध करते हैं। उनके दिलों में डर पैदा हो गया है कि कहीं ऐसा न हो कि हमारे साथ सख्ती हो। हमारे गृह मंत्री जी ने अपने भाषण में बड़ी शालीनता से कहा है आपको इसमें भयभीत नहीं होना चाहिये। आप जनतांत्रिक रास्ता अपनाएँ आप संवैधानिक तरीके से कुछ काम करें इसमें हमें कोई आश्चर्य नहीं है, कोई एतराज नहीं है लेकिन अगर आप देश की एकता को देश में अराजकता पैदा करने के लिये कोई कदम उठायेंगे असमाजिक तत्वों को भड़काने का कार्य करेंगे देश की अखंडता को समाप्त करने के लिये अगर कोई कार्रवाई करेंगे तो मैं आपसे पूछना चाहता हूँ कि देश का कौन सा नागरिक होगा जो इस चीज को बर्दाश्त करेगा। देश की इन्दिरा के प्रति जनता में एक आशा बंधी हुई है। वह आज देख रही है कि इन्दिरा गांधी क्या कर रही है। साधारण कानून से हम उन अपराधियों को दंडित नहीं कर सकते। आज आए दिन बहन-बेटियों की इज्जत लूटी जा रही है, इकतिया हो रही हैं, जुल्म हो रहे हैं, अत्याचार हो रहे हैं बाजारों के अंदर भाव को ऊंचा करने के लिये बाला-

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बाजारी बढ़ रही है तस्करी बढ़ती जा रही है। इसी कारण से आज देश की जनता इन्दिरा जी से पूछ रही है कि वह इनको रोक क्यों नहीं पार रही। देश की जनता उनकी तरफ आशा भरी निगाहों से देख रही है। देश की कानून व्यवस्था की विफलता को देख कर देश में अराजकता की स्थिति को देख कर ही यह चीज पैदा हुई और जनता पार्टी को देश की जनता ने ठुकराया। जनता ने इस तरह से ठुकराया कि सारे देश के अंदर विप्लव बहुमत के साथ इन्दिरा गांधी आई देश की शासन व्यवस्था को मजबूत तरीके से चलाने के लिये। जनता यह जानती थी कि देश को विश्व में सम्मान जनक स्थान प्राप्त करने के लिये, देश को आत्म निर्भर बनाने के लिये सिर्फ इन्दिरा गांधी और कांग्रेस पार्टी ही है। इसीलिये जनता ने इनको सपोर्ट किया। (Time bell rings) मैं आपसे कहना चाहता हूँ कि अभी बहुत कहने के लिये बाकी है। मैं बहुत कम समय लेता हूँ। पहली बार सदन में बोल रहा हूँ।

श्री विश्वम्भर नाथ पाण्डेय (नाम निदेशित) : यह मेडन स्पीच है।

श्री धर्मवीर : इसलिये यह आवश्यक है कि हम आज उन कदमों को उठायें जिनके द्वारा देश की जनता को सुख-सुविधा पहुंचा सके। देश की एकता को बनाए रख सकें। जो उत्पादन में रुकावट आ गई है उसको खत्म करके उत्पादन में बढ़ोतरी कर सकें। देश की जनता जानती है ये सब काम हम कर सकते हैं इसलिये और इन्हीं की वजह से इन्दिरा जी जनता में विख्यात हुई हैं। कल परसों श्री पीलू मोदी साहब ने यहां पर जेलों में आने-जाने की बात कही। मैं उनसे पूछना चाहता हूँ कि क्या वे इस बात को जानते हैं कि इस देश की

[श्री धर्मवीर ।]

जनता किस को अपना नेता मानती है ? इस देश की जनता श्रीमती इंदिरा गांधी को अपना नेता मानती है। यह इस बात से सिद्ध हो जाता है कि जब आपके नेता विरोधी दलों के नेता श्री चरण सिंह या श्री वाजपेयी या श्री मोरारजी देसाई जेलों बन्द थे तो इस देश की जनता में से किसी ने भी इसका प्रतिकार नहीं किया, इसके विपरित जब आप लोगों ने अपने शासन काल में श्रीमती इंदिरा गांधी को असंवैधानिक तरीके से जेल में बन्द किया तो सारी दुनिया जानती है और और इसका इतिहास में दूसरा कोई उदाहरण नहीं मिलेगा, तब श्रीमती इंदिरा गांधी के साथ इस देश के लाखों लोग जेलों में चले गये। इस बात से यह साबित होता है कि इस देश की जनता का किस पर विश्वास है। आप कहते हैं कि हम लोग 18 महीने तक जेलों रहे। लेकिन मैं पूछता चाहता हूं कि आप चाहे श्री पीलू मोदी की किताब उठा कर देख लीजिये या कोई आंकड़े उठा कर देख लीजिये, जितनी सुख-सुविधाएं और आराम आपको जेलों में दिया गया उतनी सुख-सुविधाएं और आराम अन्य किसी को भी नहीं मिला। हमारे गृह मंत्री जी यहां पर बैठे हैं। इन्होंने इतिहास को देखा है और इतिहास इस बात का साक्षी है, अंग्रेजों के जमाने में इन्होंने कितने जुल्म और अत्याचार सहे हैं। जीप के साथ बांध कर इनको सड़कों पर घुमाया गया। हमारे नेताओं की कुरबानियों को सारा देश

जानता है। इतने जुल्मों और अत्याचारों के बावजूद इन्होंने उफ तक नहीं की। आप लोगों में काम करने की हिम्मत नहीं है। आज हमारे देश में जिस प्रकार की स्थिति है उसमें आपको इस बिल का समर्थन करना चाहिए। मैं यह कहना चाहता हूं कि आप लोगों का कोई उद्देश्य नहीं है। अगर आपका कोई उद्देश्य होता तो जब देश की जनता ने आपको एक बार शासन करने का मौका दिया था तो आप देश को बनाने की कोशिश करते। सारे देश की जनता ने आपको मौका दिया था। लेकिन आप लोग देश की खिदमत करने के बजाय श्रीमती इंदिरा गांधी के खिलाफ कमीशन बनाते रहे और श्री संजय गांधी को तबाह करते रहे। आपने श्रीमती इंदिरा गांधी के खिलाफ कमीशन बैठाने के अलावा अन्य कोई काम नहीं किया। इसी वजह से जनता पार्टी की सरकार इस देश का शासन नहीं चला सकी और आपस में लड़ती रही। आज जनता पार्टी अनेक टुकड़ों में बंट चुकी है। जनता पार्टी, भारतीय जनता पार्टी, लोक दल और जनता (एस) आदि अनेक इसके टुकड़े हो चुके हैं। एक दिल के हजार टुकड़े हुए, कोई यहां गिरा, कोई वहां गिरा वाली बात इन पर पूरी तरह से लागू होती है।

श्री राम लखन प्रसाद गुप्त (बिहार) :  
श्रीमन् मेरा प्वाइन्ट आफ आर्डर है ...  
(Interruptions)

श्री धर्मवीर: श्रीमन् मैं यह कह रहा था कि जनता पार्टी को शासन करना नहीं आया, इसीलिए उसके अनेक टुकड़े हो गये। हमारे सारे देश की जनता श्रीमती इंदिरा गांधी को अपना नेता मानती है। अपने शासन-काल में इन लोगों ने कोई काम नहीं किया। सिवाय इसके कि श्रीमती इंदिरा गांधी और श्री

नजब गांधी पर आरोप लगाने और उनको बदनाम करने के अलावा इन लोगों ने कोई काम नहीं किया। लेकिन इन लोगों ने मैं पूछना चाहता हूँ कि जब आपके प्रधान मंत्री श्री मोरारजी देसाई और गृह मंत्री श्री चरण सिंह पर आरोप लगाये गये और उसके संबंध में वैशलिगम रिपोर्ट भी आई। आपने उन आरोपों की जांच क्यों नहीं कराई? आप में हिम्मत नहीं की। हमारे देश का बच्चा-बच्चा जानता है कि हमारा नेता कौन है। आप लोग तो विरोध करने के लिए विरोध करते हैं। विरोधी दलों के पास कोई उद्देश्य नहीं है, कोई कार्यक्रम नहीं है। इसलिए मैं विरोधी दलों के नेताओं से यह कहना चाहता हूँ कि भावनाओं में आकर कोई काम नहीं हो सकता है। आज आप देश की स्थिति को देखिये और उसको देख कर सरकार के साथ सहयोग कीजिये। हम चाहते हैं कि इस देश से गरीबी दूर हो। आप जानते हैं कि जनता पार्टी के शासन में आने से पहले श्रीमती इंदिरा गांधी की सरकार ने एक 20 सूची कार्यक्रम गरीबों की भलाई के लिए लागू किया था। इस कार्यक्रम के अन्तर्गत हरिजनों को जमीन बांटी गई थी ताकि उनकी रोजी और रोटी का कुछ साधन बन सके। लेकिन आपने शासन में आते ही हरिजनों की अपनी जमीनों से बेदखल कर दिया और उनके खिलाफ मुकद्दमें चलाये। श्रीमती इंदिरा गांधी चाहती है कि देश आगे बढ़े। उन्होंने कहा है कि मैं देश की प्रथम सेविका हूँ श्री पीलू मोदी साहब ने हमको बंधुआ मजदूर कहा, मैं उनसे कहना चाहता हूँ कि इस देश में उत्तर से लेकर दक्षिण तक और पूर्व से लेकर पश्चिम तक कहीं आप चले जाइये, कोई ऐसी जगह नहीं होगी जहाँ पर श्रीमती इंदिरा गांधी और नेहरू परिवार को लोग नहीं जानते हों। केरल में चले जाइये, आसाम में

चले जाइये, पंजाब में चले जाइये, आप देखेंगे कि श्रीमती इंदिरा गांधी को और उनके परिवार को सारा देश जानता है। देश का बच्चा-बच्चा उनको जानता है। आपके पास ऐसा कोई नेता नहीं है। मैं विरोधी दल वालों से पूछना चाहता हूँ कि क्या आपके पास कोई ऐसा नेता है जिसको सारे की जनता जानती हो। आप देश के किसी भी कोने पर जा कर लोगों से पूछिये कि श्रीमती इंदिरा गांधी जी के पिता का क्या नाम है तो सारे देश के लोग बता देंगे कि वे पंडित जवाहर लाल नेहरू की पुत्री हैं। इसके विपरीत अगर आप उनसे पूछिये कि श्री वाजपेयी के पिता का क्या नाम है तो किसी को मालूम नहीं होगा...

(Interruptions).

हिन्दुस्तान के किसी भी व्यक्ति को नेहरू परिवार के किसी भी सदस्य का नाम अगर पुछेंगे तो वह बता देगा मगर अगर यह पूछे कि चौधरी चरणसिंह के नाना का क्या नाम है तो कोई नहीं बता सकता। हिन्दुस्तान की जनता नेहरू परिवार को अच्छी तरह से जानती है और वह इस लिये जानती है कि इस परिवार ने, नेहरू खानदान अपनी कुर्बानी से मशहूर...

SHRI SUSHIL CHAND MOHUNTA (Haryana) Point of order, Sir...

उपसभाध्यक्ष (डा० रफीक जकरीया) : जरा बैठ जाइये, प्वाइंट आर्डर है।

SHRI SUSHIL CHAND MOHUNTA (Haryana): That the Prime Minister is known through the length and breadth of the country and that people do not know so many people of the Opposition parties, is that an argument to put forth?

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): This is no point of order. You continue, Mr. Dharamvira,



**श्री धर्मवीर :** तो मुझे कहना है कि जिस परिवार के प्रति सारे देश की जनता में आस्था है, जिस इंदिरा जी के प्रति सारे देश की जनता में आस्था है, उसका कारण है कि इस परिवार ने हमेशा देश की सेवा की है। पंडित मोतीलाल नेहरू से लेकर मंत्रय गांधी तक और राजीव गांधी का भी देश की जनता स्वागत करेगी। मैं आप से कहना चाहता हूँ कि अगर आप कहते हैं कि आप इंदिरा गांधी के बंधुआ मजदूर हो तो हमें इस बात का फर्क है कि जो देश की सेवा करता है, जो देश को बनाता चाहता है, उसके साथ हम बंधुआ मजदूर हैं। हम ऐसे व्यक्ति के बंधुआ मजदूर हो सकते हैं लेकिन अमेरिका के एजेंट होकर देश की इज्जत और शान को मिट्टी में मिलाने वालों के साथ नहीं चल सकते।

**उपसभाध्यक्ष (डा० रफीक जकरीया)** धर्मवीर जी, देखिये आपको 10 मिनट का टाइम दिया गया है। चूंकि यह आपकी मेडन स्पीच थी इसलिए मैंने बहुत ज्यादा बक्त दिया है। मेरी आपसे विनती है कि जरा जल्दी समाप्त करें।

**श्री धर्मवीर :** श्रीमान्, मैं एक अनुशासित दल का सिपाही हूँ और मैं अनुशासन में ही रहूँगा। इन शब्दों के साथ मैं अपने विरोधी दल के नेताओं से कहना चाहता हूँ कि आपके उद्देश्य आपके आदर्श, आपके सिद्धान्त अलग अलग हैं। न तो आप एक साथ मिलकर चल सकते हो और न ही कोई विकल्प जनता के सामने दे सकते हो और न सरकार को चैलेंज कर सकते हो, आप केवल सड़कों पर अफसोस और दुःख जाहिर कर सकते हो कि हिन्दुस्तान की स्थिति अच्छी नहीं है। चाहे कानून और व्यवस्था की बात हो, चाहे बढ़ती हुई मंहगाई की बात हो,

चाहे देश का उत्पादन गिराने के लिये बात हो, चाहे अन्तर्राष्ट्रीय श्रेष्ठ में जो बादल मंडरा रहे हैं, यह बात हो, ऐसे मौके पर देश की जनता की सुरक्षा को बनाये रखने के लिये, देश की जनता को आगे बढ़ाने के लिये उन अराजक तत्वों और अराष्ट्रीय तत्वों ने निपटने के लिये हमारे पास और कौन सा रास्ता है? साधारण कानून द्वारा आज हम कोई काम कर नहीं सकते, न ही साधारण कानूनों में यह क्षमता है। अगर साधारण कानून में क्षमता होती तो 20-25 साल कांग्रेस ने शासन किया है लेकिन जब साधारण कानूनों में बात नहीं बनी तो आवश्यकता पड़ने पर प्रिवेन्टिव डिटेन्शन ऐक्ट का सहारा लेना पड़ा है। इसलिये हमारे लिये देश का हित सर्वोपरि है, राष्ट्र का हित सर्वोपरि है, जनता का हित सर्वोपरि है, उनकी हितवाजत करने के लिये, उनकी इच्छा की पूर्ति के लिये देश की जनता इंदिरा गांधी की तरफ आशा भरी निगाहों से देख रही है कि मंहगाई कम हो, अराजकता कम हो, गरीबों को रोटी मिले, रोजगार मिले और हिन्दुस्तान में हरिजनों और कमजोर वर्ग के लोगों को आगे बढ़ने का मौका मिले। इसका विरोध करने वाले जो तत्व हैं उनसे निपटने के लिये, जो अवरोध पैदा करने वाले तत्व हैं उनके निपटने के लिये, ताकि देश में शांति और व्यवस्था कायम हो, ऐसी स्थिति में राष्ट्रीय सुरक्षा अधिनियम का कोई विकल्प नहीं है। मान्यवर, इन शब्दों के साथ मैं विरोधी दल के नेताओं से निवेदन करूँगा कि वे अपने संशोधन वापस लें और दिल में किसी प्रकार की शंका पैदा न करें। देश की नेता इंदिरा जी देश की जनता को कह चुकी हैं कि देश के हित में जा होगा वह उसी को करेंगी और जनता उसको स्वीकार करती है। इसलिये

[ श्री धर्मवीर ]  
 आइये हम मिलकर इंदिरा जी के हाथों  
 को इस ऐक्ट को पास करके मजबूत  
 करें।

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Before I call other honourable Members, I have to beg of them to cooperate with me as far as the time schedule is concerned, which has been decided in accordance with the strength of various parties.

Xo/y Shri Murasoli Maran..

SHRI NARASINGHA PRASAD NAN-DA (Orissa): Mr. Vice-Chairman, the Deputy Chairman said that he would call Mr. V. B. Raju after Mr. Dharam-vir. . .

SHRI V. GOPALSAMY (Tamil Nadu): No, we should have been called in the first round itself. This is the seventh round.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Mr. Nanda, I have not been given any such indication.

SHRI NARASINGHA PRASAD NAN-DA: It is for you sitting in the Chair to decide. I am telling you what the Deputy Chairman had told me.

SHRI V. GOPALSAMY: Alreay Mr. Maran's name has come to the seventh round. He should have been called earlier.

SHRI NARASINGHA PRASAD NAN-DA; Mr. Dharamvir's was sixth and Mr. Raju's name was put in the seventh...

SHRI V. GOPALSAMY: No, no.

संसदीय कार्य विभाग में राज्य मंत्री  
 (श्री सीताराम केसरी) : महोदय, मेरा  
 निवेदन है कि 7 घंटे का जो समय अलाट  
 हुआ है... (Interruptions)

सुन तो लीजिये। दोनों पक्षों को 3.30  
 घंटे दिये गये। यह दूसरी बात है कि अधिक

भी बोल लें परन्तु यह आलरेडी डिसाइड  
 हो चुका है। तो मैं यह कहना चाहता हूँ  
 कि 50-50 प्रतिशत इसका अनुपात है।  
 जब विरोधी दल से कोई सदस्य बोल लेता  
 है तो फिर हमारी तरफ से बोलते हैं। अब चूँकि  
 भूपेश बाबू जी बोले थे इसलिए श्री धर्मवीर  
 जी बोले। अब आपकी तरफ से, विरोधी  
 दल की तरफ से बोलेंगे फिर हमारी तरफ से  
 बोलेंगे फिर उसके बाद आपकी तरफ से  
 बोलेंगे। यह मेरा कहना है। इसलिए न  
 बोलने का तो प्रश्न ही नहीं उठता।

श्री. नरसिंह प्रसाद नन्द : जो बात  
 नहीं है... (Interruptions)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): If J&e Deputy Chairman had given that assurance, i do not know. I see on the top Mr. Raju's name as far as Congress(U) is concerned.

SHRI V. GOPALSAMY: If you permit me. I will tell you something. On behalf of the DMK Party Mr. Murasoli Maran should have been called in the first round. After Mr. Surjeet's speech, one Member from the Congress (I): after Mr. Bhupesh Gupta's speech, one Member from the Congress (I) and after Mr. Murasoli Maran, one Member from the Congress (I) will speak. That was the pattern agreed upon. That cannot be changed.

SHRI NARASINGHA PRASAD NANDA: The pattern was not agreed upon...

THE VICE-CHAIRMAN (DR. ' RAFIQ ZAKARIA): I will call Mr. Raju later.

SHRI V. GOPALSAMY: Mr. San-kar Ghose from Congress (U) has already spoken.

SHRI NARASINGHA PRASAD i NANDA; After Mr Dharamvira, Mr. Raju should have been called.

&amp; others

SHRI V. GOPALSAMY: No. 7 is against Mr. Maran's name. I have seen it.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKAHIA): Mr. Maran, you are being given 8 minutes.

SHRI MURASOLI MARAN (Tamil Nadu): Sir, I have been listening with rapt attention to the speeches made here regarding the Bill which is really extraordinary. I have heard CPM's Mr. Surjeet and CPFs of Mr. Bhupesh Gupta speaking with emotion, with sentiments and lot of feelings. I can understand the leaders of the Communist Parties attacking the Bill because there was a time when in this House and in the other House Preventive Detention Bill was brought in just to suppress the Communist movement, and at one time about 10,000 comrades of the Communist Party were languishing in prisons. Therefore, I can understand the Communists attacking the Bill. But, Mr. Vice-Chairman, I cannot understand how the members of the erstwhile Janata Party could oppose this Bill. I want to ask of my friends of the erstwhile Janata Party one question. Who incorporated preventive detention in the Code of Criminal Procedure? It was the Janata Party which did it. Here in this House they brought in a Bill called the code of Criminal Procedure (Amendment) Bill, 1977, and incorporated all the principles of preventive detention in it. (Interruptions). Mr. Advani told us and Mr. Piloo Mody told us and Mr. Hegde now tells us that it was not passed. My question is not whether it was passed or not. How could they bring forward such a measure when in 1977 they promised the people that they would repeal MISA and review all other unjust laws? When they came into power the first thing they did was to bring forward this Bill incorporating all the principles of preventive detention in the Criminal Procedure Code. ■

In that Preventive Detention Bill even - mischief within the meaning of section 425 of the Indian Penal Code would attract preventive detention, if somebody is suspected of committing a mischief, that would attract preventive detention. Sir, I am not a lawyer. But the Indian Penal Code has given *goras* illustrations for 'mischief'. If A's cattle enters upon B's field and causes damage, then 'A' will be deemed to have committed a mischievous act and would be punishable with imprisonment for a maximum period of 3 months for this minor offence under the Indian Penal Code. This kind of mischief is also one of the ingredients to attract preventive detention in the Bill introduced by the Janata Party. How could they do it when they were in power? Here is the *Statesman* dated 26-6-1970 which says, "Mr. Desai today announced his intention to bring a preventive detention law to deal with anarchists who were posing a threat to the democratic system." Then, Sir, here is the "Madhya Pradesh Chronicle" dated 28th June, 1979 with this news: "Sakhalecha favours Preventive Detention". Then, Sir, the "Indian Express" dated 30th June, 1979 with this item: "Assam wants PD law to be revived.". Then, Sir, Mr. H. M. Patel, the then Home Minister, was reported to have said like this. "The Hindu" of 2nd July, 1979 says:

"Shri H. M. Patel, the Home Minister, said here in Dehra Dun today that enactment of the PD Act might become necessary if the Government found that it could not stop this kind of trouble through the ordinary laws."

Then, Sir, there is another newspaper saying: "The Prime Minister asked to enact PD law.". Then, Sir, Mr. Kanwarlal Gupta, MP, urged the Prime Minister to enact the PD law. The paper reads:

"Shri Kanwarlal Gupta, MP, today urged the Prime Minister, Mr. Morarji Desai, to enact the PD law

in order to enable the Government to tackle the law and order situation in the country more effectively."

Like this it goes on and on. But my point is this: When they went to the people in 1977, they gave a categorical assurance that they would repeal the MISA and review any other unjust law. But when they came back to power with that as the main plank of their platform they tried to do the reverse. Not only that. We know how the Janata Party was opposed, to the 42nd Amendment of the Constitution. So, Sir, they brought forward another amendment, called the 45th Amendment, to dismantle some of the provisions of the 42nd Amendment, if what the 42nd Amendment Act contained. Sir, while introducing that Bill, during the passing of the Bill, Shri Shanti Bhushan, the former Law Minister, advocated preventive detention. We know who Mr. Shanti Bhushan is. Shri Shanti Bhushan pleaded for so many detenus in every High Court and also in the Supreme Court and the same Mr. Shanti Bhushan advocated here on the floor of this House the necessity of preventive detention. I want to quote from the proceedings of this House, that is, from the proceedings of the House on the 31st August 1978, and this is what Mr. Shanti Bhushan said:

"The attempt has been to see that while in certain situations, do deal with more hardened criminals of the *Mafia* kind, etc. special powers may be needed."

What are those special powers?

Mr. Shanti Bhushan says that the special powers are the powers of preventive detention.

Then, sir, he goes on to say:

"This is not the time to ban preventive detention in the country and to wipe out that from the Constitution. I know that India has had a glorious past and I am sure it is going to have a glorious future

and I am sure that a time will come—and it will come in our life time and not later, perhaps sooner —When we would be in a position to ban the PB Act completely when the society has only the normal processes to deal with such situations. I recognise that preventive detention is an evil. But I do not think that a stage has come when we can completely ban it."

Sir, these are the words of Mr. Shanti Bhushan, one of the apostles of the Janata Party. He wanted preventive detention. He said: "The time has not come to wipe it out from the Constitution." Now, look at the situation. On the other day. Mr. Shanti Bhushan was saying that the time was not ripe to do away with preventive detention. Now, Mr. Zail Singh is taking a leaf from the gospel of Mr. Shanti Bhushan and says the same thing: "The time is not ripe." So, Sir, my point is that if the Communists attack the preventive detention law, I can understand that. But, if the Janata Party members attack it, then I say, "you have no moral authority to attack this Bill. You have no *locus standi*." You cannot put your sanctimonious "No" when you oppose this Bill. So, this is my point. One more thing is there somehow or the other. The ruling parties always feel the necessity for the preventive detention law. This is not for the first time that we are having the preventive detention here. Since independence we have been talking about it and we are having it. We have been having it even before independence. As Mr. Bhupesh Gupta said, the concept of preventive detention is there in India right from the days of the East India Company, that is, right from 1780, and, in fact, we must celebrate the bicentenary of the preventive detention concept now. Another aspect of it, Sir, is that the Constitution has provided for it. \* In 1950, they enacted it to suppress the Telangana movement. When Rajaji was the Home Minister in 1951, he said: "Preventive detention is needed to suppress the

[Shri Murasoli Maran]

Communist movement." So, Sir, from Sardar Patel to Mr. Zail Singh, or, let from Robert Clive to Mr. Zail Singh, we are having preventive detention. So, I am not in a position to impute them alone.

Sir, regarding this provision, many judges have commented upon it. In 1950-51, Mr. Justice Mukherjee and Mr. Justice Mahajan said, in the A. K. Gopalan's case, that it was unfortunate that the founding-fathers of the Constitution of India had incorporated this. I understand Government needs some extraordinary powers to deal with some extraordinary situations. What is the extraordinary situation? Sir, in Britain, in a serious crisis like war they may use preventive detention, not in peace time. In peace time there is no preventive detention\* at all. Even during War time the preventive detention\* be applied not by the junior official but by the Presidency Magistrate not by the Commissioner of Police, only by the Home Secretary; that means, only by the Home Minister. Sir, I would be glad if there is such kind of provision and safeguard here. So also in USA there was no preventive detention until 1950. Then they passed the Internal Security Act in 1950 which can be implemented only at the time of declaration of war. (*Time bell rings*). Two minutes more, Sir. It would be better if there is preventive detention only during war. But I know, preventive detention came to an end on the midnight of 31st December, 1969, because at that time the D.M.K., the Congress and the CPI parties did not support any kind of preventive detention. That is why. For one and a half years in the history of India there was no preventive detention. At that time we were in a position to influence them. Today even without our support they can pass the Bill. That is why we want to make use of our friendship and say: Please do not misuse it. We want to request them: Please see that this Act is not

misused, not only by this Government but by any State Government.

Sir, India enjoys a good reputation in the comity of nations because we are the most populous democracy in the world. We all know, two-thirds of the people of this world live under the totalitarian system. Only one-third of the people are enjoying the breeze of democracy. Only in a few countries we have democracy. What we practice, what we preach and what we enjoy. Others may have different kind of democracy like guided democracy. But the democracy which we practice here and understand exists only in Britain in Western Europe, in America, in Australia, in Canada in New Zealand and only in India. Every Indian can walk with pride because we have democracy. But we know that *habeas corpus* is the corner-stone of freedom and democracy. It does not go hand in hand with preventive detention. Judge after Judge has stated that preventive detention starts when the rule of law ends. Sir, I would be the happiest person if this Prevention Act is removed from the Statute Book and when there is no need at all of it. Sir, I am very glad to note that the hon. Home Minister, Shri Zail Singh, said in the other House that this is going to be a temporary measure. I am glad to hear that. I would beseech the hon. Minister that he should live up to his speech and translate his words into action. In the meanwhile I would request the hon. Home Minister with folded hands not to misuse it, so that you may put an end to this Act as soon as possible. I am assured by you, our flag of democracy can fly with it all over the world.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Mr. Yadav. Only ten minutes.

आप मुझसे सहयोग कीजिए ।  
श्री रामानन्द यादव (बिहार) :  
आपका जो हुक्म होता है, वह मैं

मानता हूँ । उपसभाध्यक्ष महोदय, मैं इस बिल का समर्थन करने के लिए खड़ा हुआ हूँ . . . Interruptions)

SHRI NARASINGHA PRASAD NANDA: Sir, i register my protest. I am siavvy that . . .

श्री रामानन्द यादव : यह समय मेरे समय में से काट दीजिएगा ।

SHRI NARASINGHA PRASAD NANDA: The order of speeches is changing. I am only register my pro. - against this. The new ' system has introduced...

THE VICE-CHAIRMAN (DR. RAFTQ ZAKARIA): Mr. Nanda, I have shown you the chart that has been given to me. I do not know what transpired between you and the Deputy Chairman. (Interruptions) Unfortunately, the communication that took place between you and the Deputy Chairman was not told to me. On the chart I find the position is different. But I will try to accommodate, as quickly as possible, Mr. Raju, because I have the highest regard for Mr. Raju.

श्री रामानन्द यादव : उपसभाध्यक्ष जी, अभी आप लोगों के बीच में जो बात हुई है वह हमारे समय में नहीं जाना चाहिए, वह काट दोजिए ।

उपसभाध्यक्ष महोदय, मैं इस बिल का समर्थन करने के लिए खड़ा हुआ हूँ । जब आडवाणी जी बोल रहे थे—अभी वह नहीं चले गए—तो मुझे ऐसा लगता था कि क्षमा-याचना की भाषा में इस सदन के सामने वह बोल रहे थे क्योंकि जब जनता पार्टी की सरकार के समय कैबिनेट में खुद भी थे, तो इस तरह का एक बिल लोक सभा में पेश हुआ था और उसकी उन्होंने चर्चा भी की और क्षमा-याचना भी की । मैं इस तरह के बिल के इतिहास में जाना नहीं चाहता लेकिन मैं निश्चित रूप से यह कहता हूँ कि जब तक कोई बिल कैबिनेट के माध्यम से स्वीकार नहीं होता है, उसका अग्रवर्ग नहीं होता है, तब तक वह पार्लियामेंट में

इन्दोइयस नहीं होता है, उसके बाद बहस के लिए नहीं आता है । लेकिन ऐसा लगता है, आडवाणी जी गिल्टी महसूस कर रहे हैं जब वे बोल रहे थे । इतना ही नहीं, इस तरह के समर्थन में चरण सिंह ने लोक सभा में खुद अपने बयान में कहा था और अपना समर्थन देते हुए बताया कि इस तरह का बिल नहीं लाया गया तो प्रशासन देश का नहीं चल सकता । जैसा कि मेरे साथी डी० एम० के० के जो हैं उन्होंने बताया, शशि भूषण ने भी यही कहा कि भारत के विभिन्न प्रांतों के चीफ मिनिस्टर्स की मीटिंग में मोरारजी देसाई ने स्वयं स्वीकार किया कि इस तरह के बिल को विद्वत् करके, हाऊस से, बहुत बड़ा अनर्थ किया गया है, देश का प्रशासन नहीं चलाया जा सकता । उस वक्त की पार्टी कौन थी ? ये सारे विरोध पक्ष में बैठे हुए लोग, इन्क्यूबिंग सी०पी०एम० थी । तो मैं पूछना चाहता हूँ, उस वक्त आवश्यकता थी क्या । क्या इस वक्त आवश्यकता नहीं है ? खुद जन संघ और दूसरी पार्टियां जो उस समय जनता पार्टी सरकार को मदद कर रही थीं, वे सभी इसको समर्थन दिए हैं । आज क्या कारण है कि इस का विरोध कर रहे हैं ? इसलिए कि वे विरोध पक्ष में बैठ गए ? उपसभाध्यक्ष जी, मैं यह जानना चाहता हूँ, क्या कारण है, क्या इस की आवश्यकता है इस बिल को इस समय लाने की ? हां, मेरी समझ में आवश्यकता है । उपसभाध्यक्ष जी, आप देख रहे हैं इस देश के अंदर एक इस तरह का आंदोलन चल रहा है जिससे देश टुकड़े-टुकड़े में बंट जाए । पूर्वांचल की परिस्थितियों को देख लीजिए, असम की परिस्थितियों को लीजिए, नागालैंड की परिस्थिति को लीजिए, मिजोरम की परिस्थितियों को लीजिए, मणिपुर की परिस्थितियों को लीजिए, त्रिपुरा की परिस्थिति को लीजिए और फिर पंजाब की परिस्थिति को देखिए और दक्षिण भारत की परिस्थिति को देखिए—यह

[ श्री रामानन्द यादव ]  
निश्चित मालूम होता है कि आज हमारे देश की इंटर्नल सेक्योरिटी डेंजर में है । इसलिए इस तरह के बिल की आवश्यकता है । फिर क्या बाहर से डेंजर हम देश को नहीं है ? निश्चित रूप से है । क्या आप नहीं सोचते कि चीन वाले आपकी सीमा पर काफी अरसे से मिलिटरी ब्रिगड्स कर रहे हैं और सड़के बना रहे हैं, अपनी फौजें खड़ी की हैं ? पाकिस्तान अभी-अभी आपके आँखों के सामने—आपने इस सदन में भी डिस्कशन किया—मिलिटरी का, एयर फोर्स का डिमांड-ट्रेंशन कर चुका है । क्या आप यह भूल गए कि किस तरह से अमरीका, चीन और पाकिस्तान तीनों मिल कर भारतवर्ष के खिलाफ साजिश कर रहे हैं ? क्या उन शक्तियों के साथ कोलेबोरेट करने वाले इस देश में उपस्थित नहीं हैं ? हैं ; दलों में हैं, पार्टियों में हैं, व्यक्तियों में हैं, एक प्रांत से दूसरे प्रांत तक जगह-जगह भरे हुए हैं । क्या ऐसी परिस्थिति में कानून की आवश्यकता है ? निश्चित रूप से है ? बाहर की शक्तियों से कोलेबोरेशन करने वाली शक्तियों के, ताकतों के, लोगों की इस देश में कमी नहीं है । क्या आप नहीं देख रहे हैं किस तरह से इस देश में पूँजीपति चीजों की कीमतें बढ़ाते जा रहे हैं ? क्या आप नहीं देख रहे हैं, ब्लैकमार्केटियर्स, होर्डर्स, स्मगलर्स आज खुले-आम सर उठा रहे हैं ? क्या आप नहीं देख रहे हैं कि आंदोलन के नाम पर घेराव किया जाता है ? रेलवे का चक्का जाम किया जा रहा है, सामान एक जगह से दूसरी जगह पहुँचने नहीं दिया जाता, बिजली का उत्पादन कम किया जा रहा है, प्रोडक्शन को गिराया जा रहा है । क्या आप समझते हैं कि देश का विकास प्रोडक्शन को रोक कर किया जा सकता है ? नहीं, आज आवश्यकता इस बात की है कि हम इस तरफ देखें कि देश में किस

तरह से गरीब तबके के लोगों का सतारा जा रहा है, हरिजनों पर एट्रोसिटीस होती है, आदिवासियों और गरीब तबके के लोगों का शोषण होता है और देश में फिरकापरस्ती बरतने वाली पार्टियाँ और दल इस देश के हिंदुओं और मुसलमानों को लडा कर चाहती हैं कि इस तरह की परिस्थिति पैदा कर दें ताकि हमारी आंतरिक स्थिति खराब हो जाए । क्या आप देख नहीं रहे हैं कि दंगा कराने वाली कीन सी शक्तियाँ हैं जो, हिंदुओं और मुसलमानों को आपस में लड़ानी हैं, चाहे मुरादाबाद को ले लीजिए, चाहे मेरठ को ले लीजिए, चाहे जमशेदपुर के दंगे को ले लीजिए... क्या आप चाहते हैं कि इन शक्तियों को लाइसेंस मिल जाय कि ये इस तरह की चीजें कराती रहें । निश्चित रूप से जरूरत है कि इस तरह का कानून लाया जाय कि इन शक्तियों पर काबू किया जाय और देश में अमनचैन पैदा कर के इस देश की पैदावार को बढ़ाया जाय । हमें ला एंड आर्डर को मेन्टेन करना है, अमन-चैन को मेन्टेन करना है ।

उपाध्यक्ष जी, एक प्रश्न पूछा जा सकता है कि क्या एग्जिस्टिंग ला के माध्यम से इन शक्तियों पर काबू नहीं किया जा सकता । आप ने देखा है कि आज देश में ऐसी ताकतें हैं जो रुपये के बल पर सारे कानून को खरीद लेती हैं । ब्लैक मार्केटियर्स, होर्डर्स जो उड़ीसा में पकड़े गये, बिहार में पकड़े गये दूसरे दिन सभी की बेल हो गयी । इनकम टैक्स का बड़े से बड़ा ईवेंड करने वाला इस देश का पूँजीपति अपने पैसे के बल से सारे कानूनों को अपनी जेब में रख कर धूमता है और सरकार उसका बाल बाँका नहीं कर सकती । इस लिए आज आवश्यकता है कि इस तरह का कानून बने जिस से इन शक्तियों पर काबू किया जा सके ।

इस विषय का विरोध इंडीवीजुअल फ्रीडम और डेमोक्रेसी के नाम पर हमारे आडवाणी जी ने किया। मैं उन से पूछना चाहता हूँ कि आप का सिद्धांत तो कैपिटलिज्म में विश्वास करने का है, ब्लैक मार्केटियर्स जो बाहरों में रहते हैं और जिन्होंने महंगाई बढ़ा कर इस देश के लोगों को तबाह कर दिया है, आप तो उन की खैरियत चाहते हैं—क्या आप चाहते हैं कि ऐसे लोगों को लाइसेंस मिलें ? क्या आप चाहते हैं कि मणिपुर नागालैंड, आसाम, त्रिपुरा इन सब प्रान्तों में, पूर्वांचल में लोगों को विद्रोह करने दिया जाये ? क्या आप चाहते हैं कि नागालैंड और दूसरी छोटी-छोटी स्टेट है इस देश से अलग हो जायें। जो अभी कानून है वह इस स्थिति के लायक नहीं है। इंडीवीजुअल फ्रीडम का यह मतलब नहीं होता कि इतनी स्वतन्त्रता दे दी जाये कि रेलवे का चक्का जाम कर दिया जाये और सामान पहुँच नहीं। देश की सीमा पर पाकिस्तानी फौजे खड़ी हैं, वहाँ हमारा सामान न पहुँच, हथियार न पहुँच सकें, जीप न जा सकें, ट्रक न जा सकें, गोलाबारूद न जा सकें, हम अपनी सीमाओं की सुरक्षा न कर सकें—क्या यही फ्रीडम है ? आप बड़े भारी इंडो-वीजुअलइज्म, व्यक्तिगत स्वतन्त्रता के पुजारी हैं। क्या आप भूल गये कि जब इन्दिरा जी चिकमगलूर से जीत कर आयीं तो आप ने—उन्हें अधिकार था पार्लियामेंट में बैठने का—उन्हें पार्लियामेंट में बैठने नहीं दिया, कानून बनाये, झूठे प्रिविलेज मोशन को अपने बहुमत के बल से पास कर पार्लियामेंट से निकाल उन्हें जेल में भेज दिया। इतना ही नहीं जीतने के बाद भी जो कांग्रेस के लोग थे उन सबों पर आप ने केस चलाये। मैं आप की इंडीवीजुअल फ्रीडम की बात करना हूँ। आप ने बखशा नहीं।

डेमोक्रेसी की बात हमारे भूपेश बाबू के लिए सही नहीं है। यह डेमोक्रेसी में...

श्री हुक्मदेव नारायण यादव (बिहार)  
श्रीमान्, दूसरे सदन में जो प्रिविलेज मोशन हुआ क्या इस सदन के किसी सदस्य को हक है कि उस के बारे में...  
(Interruptions)

श्री रामानन्द यादव : डेमोक्रेसी के पुजारी हमारे कम्युनिस्ट पार्टी के लोग...

उपसभापक्ष (डा० रफीक जकरीया) :  
आप जवाब मत दीजिये, अपने पोइन्ट पर बोलिए।

श्री रामानन्द यादव : अपना पोइन्ट कहना हूँ। डेमोक्रेसी के सम्बन्ध में हमारे केरल के भूतपूर्व मुख्य मंत्री नम्बूदिरिपाद जी ने क्या कहा है। उन्होंने कहा कि इस कांस्टीट्यूशन को तोड़ देना चाहिए, खत्म कर देना चाहिए और हिन्दुस्तान की डेमोक्रेसी फास है। यह उन का स्टेटमेंट है। इन्दिरा जी पर केस चलाने के लिए, उन्होंने सारे कानून को ताक पर रख कर कहा कि कानून में जाने की आवश्यकता नहीं, उन्हें डिटेन में दो। यह कम्युनिस्ट पार्टी के लोग डेमोक्रेसी में तब तक विश्वास करते हैं जब तक उन का काम उस से सधता है। उन की पार्टी का कहना है कि डेमोक्रेसी आगे बढ़ने का तरीका है। यह चाहते हैं कि सरकार में आकर कांस्टीट्यूशन को विदिन से ब्रेक करें। वही केरल में कर रहे हैं। आज क्या हो रहा है ? बंगाल में चले जाइये। आज बंगाल की स्थिति क्या है ? बंगाल में सी पी आई एम के लोग क्या कर रहे हैं। वहाँ वे यूनिवर्सिटी के कोर्स को बदल रहे हैं, बच्चों की पढ़ाई को बदल रहे हैं और कांग्रेस और विरोध के जो नेता हैं उन को जेल में डालना चाहते



[श्री रामानन्द यादव]

हैं। उन्होंने उन की फ्रीडम को नमान कर दिया है और हजारों हजार मर्डर आज वेस्ट बंगाल में हो रहे हैं। फिर केरल में देख लीजिए। वहाँ डेमोक्रेसी की बात करने वाले...

SHRI AMARPROSAD CHAKRABORTY (West Bengal): Sir, he is making false allegations.

उपसभाध्यक्ष (डा० रफीक़ ज़क़रीया): अब यादव जी महारानी कीजिए मुन पर।

SHRI SYED SHAHEDULLAH: Sir, on a point of order.

श्री रामानन्द यादव : सभी कम की बात है कांग्रेस (यू) के दफ्तर में कम्युनिस्ट पार्टी के लोगो में हमला होगा और वहाँ सरकार के माध्यम में अरन्ट करवाई। तो कम्युनिस्ट पार्टी के नाम, डेमोक्रेसी में विश्वास करने वाले लोग कहते हैं कि वे डेमोक्रेसी के बड़े रक्षक हैं, लेकिन वे प्रजातंत्र के रक्षक नहीं, उस के भक्षक हैं। (Interruptions) डेमोक्रेसी तो इन को भाँतिग पैदा है। उन के माध्यम में वे सरकार में आ कर डेमोक्रेसी को नबाद करना चाहते हैं। मैं कम्युनिस्ट पार्टी के भूपेश बाबू से पूछना चाहता हूँ कि क्या आप जब गवर्नमेंट में आयेंगे तो आप भारत का जो कांस्टीट्यूशन है उस में कोई परिवर्तन नहीं लायेंगे ? (Time bell rings).

SHRI AMARPROSAD CHAKRABORTY: Sir, he is making baseless allegations. It is not proper. (Time bell rings)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): I will have to call Mr. V. B. Roju now.

श्री रामानन्द यादव : मैं एक एम्प्योरैस भूपेश बाबू से निश्चित रूप में चाहता हूँ और यह डिमांड करता हूँ कि भूपेश बाबू मुझे बतायें कि उन की पार्टी जब सरकार में आयेंगी तो वे किस तरह में कांस्टीट्यूशन की पवित्रता को भंग करेंगे। जैसा वे इस समय कह रहे हैं वैसा वे उस समय भी करेंगे और जिन तरह से प्रेसीडेंशियल फार्म ऑफ गवर्नमेंट और पार्लियामेंटरी फार्म ऑफ गवर्नमेंट को रद्द करने का विरोध इस समय कर रहे हैं वह वैसा ही उस समय भी करते रहेंगे क्या ? इन शब्दों के माध्यम से उन विल का समर्थन करता हूँ और कहना है कि तथाकथित जनता पार्टी, भारतीय जनता पार्टी के लोग, कम्युनिस्ट पार्टी और सी पी एम के लोग जरा मोचे और खाम पर कहता हूँ कांग्रेस यू के लोगों को कि आप की संमत खराब हो गयी है। आप लोग अपने को इन से बरी कीजिए और प्राबल कहें कि वे अपने स्वयं को बदलें और जनता के सामने मही रा में अपने को दिखाने नाकि प्रणामन मही रूप में चल नकें।

SHRI V.B. RAJU (Andhra Prad Mr. Vice-Chairman, Sir, I wondering why this Bill is being brought at this point of time and ' was the Ordinance issued and what has happened in this country to provoke the Government of India to bring this piece of legislation? Just for a moment let me submit to the ruling party and to the Hon Minister, who is present here, and ask what is the challenge to the security now? I will come a minute later to the objectives mentioned in the Preamble of the Bill. But what is the challenge? According to my understanding, the challenge is the change that is emerging, the change of the times, the social change, that is natural in the process, in the democratic process. The change is essential and it is happening and, those

social groups which had no opportunity and which had no access to the good way of life, they are trying to express themselves, assert themselves, if necessary to pressurise. Mr. Home Minister, do you think that there is any clash of ideas going on in this country on the nature of social change. I do not think that in the past 12 months the ruling party has overtaken the trouble of uttering socialism.

SHRI RAMAKRISHNA IIEGDE: It is not necessary.

SHRI V. B. RAJU: Nor did the opposition adopt a very progressive line. No. I find that the political system "has forgotten about it. The dash of ideas, Mr. Vice-Chairman, is not in respect of the policy towards the change. Whatever has been mentioned in the Preamble of the Bill as objectives what are those objectives? "In the prevailing situation of communal disharmony..." I do not think there is any communal disharmony here in the country today. If anything had happened in Moradabad, it was between the police and a section of society.

SHRI SYED SHAHEDULLAH: Exactly.

SHRI V. B. RAJU: I have yet to luiow where there was any Hindu-Muslim clash in this country. We are creating it for our own political ends. Do you think in India there are only Hindus and Muslims? • Are there not other religious groups? When you talk about the minorities you mean only the Muslims. I think everybody in India is a minority. A Telugu-speaking man is a minority In Uttar Pradesh; a Hindi-Speaking man is a minority in Karantaka, if you talk in terms of language. Where is Hindu religion? I never understood that I am a 'Hindu'. It is a way of life. Hindus have no prophet, no book. I do not know if anybody has studied the implications of Hindu society. I have found, after having toured half the world, that Indians are the most docile people, and it is only the Indians who can bear the pain of

brutality. In any part of the world, they would have revolted and there would have been bloodshed. But this country is peaceful. I do not see any Hindu-Muslim clashes. Mr. Home Minister, if you re-read the recent history of India in the past three decades, never India was so peaceful communally as it is today. But what is the restlessness? The restlessness is with regard to frustration that the people have had. When they voted Mrs. Gandhi to power, they expected something and when it did not take place, they have become restless. The greatest tragedy that has taken place in the 7th election was that the people were to decide who should be the Prime Minister. I see friends from that side saying and repeating hundred times that it is their supreme leader Mrs. Gandhi, and saying about the massive mandate. Nobody refuted it. It was, I should say, the fault of the Opposition, or the unpolitic approach of the Opposition to project some individual names for Prime Ministership during the elections. As I understood, the election was between the three candidates, Mrs. Gandhi, Mr. Jagjivan Ram and Mr. Charan Singh and wherever I went, I found that the people were thinking as to who should be the Prime Minister. What the people decided was not with majority. With minority vote they decided that Shrimati Indira Gandhi must be the Prime Minister. People decided as to who should be the Prime Minister but the people did not decide how they should be ruled. People only decided who should rule, and how they should be ruled, should be determined day-to-day through deliberations, through discussions, through debate, through persuasion and through understanding. Don't say, once they have voted you to power, that what-I ever you; do. they will bear with it. No. The same people who had voted for you, are now revolting against you. Don't give the credit to the Opposition. Unwittingly you are giving credit to the Opposition that they are bringing about the revolt. I do not think the Opposition has the capacity to bring about a revolt. I

[Shri V. B. Raju]

am a realist. I am not going to believe that the Opposition can bring about a revolt, j am yet to be convinced. I throw a challenge to any political party to bring about a revolution. The most committed party, the most devoted party to 'ism' the Communist Party, could not bring about a topsy-situation in the country. I do not want to take the time of the House on this. Anyhow, all your accusations, your interpretations, your understandings are not relevant to the situation.

Then, there is one thing you have said for the first time, that is, "antisocial and anti-national elements including secessionists". Secessionists? My good Heavens. Who wants to secede in this country, Mr. Home Minister? Who divided the country?

3 P.M.

It was only some communal elements in the north-western and north eastern part, at that time, because of British mechinations. If you accuse anybody in this country, particularly, in peninsular India and if you say that there is a tendency to secede, I think, you are committing a national crime. Nobody wants to get out of this country, I can assure you, with my little knowledge of the people of this country. Nobody wants to get out of the Indian Union. Unless some thing criminal happen, at Delhi, unless Delhi pushes out the people, nobody would get out of this country. There were days in the past when every Muslim used to be called anti-national. Those were the days I know; not called, suspected. But now, we have another slogan. Some political parties are being dubbed as secessionists. Some political parties are being accused of instigating secession. Do not give the dog a bad name to hang it. Don't do that. Then, you have introduced the words 'procaste

elements'. What do you mean by 'pro-caste elements'? Who coined this term? I do not know. Mr. Home Minister, you have to explain to us. What do you mean toy 'pro-caste' 'elements'? In political parlance, in political terminology, what does it mean? I do not understand. Please re-read your objectives. They are all imaginary. There is nothing new about it. The situation in the country does not warrant such a measure, such a drastic measure. I am sorry, the Janata Party missed the opportunity. Mr. Maran was trying to convert his whole speech into an anti-Janata Party speech. I do not think it will sound well for a Member of the Opposition Party to decry another Opposition Party emphatically. We should sympathise with the Janta Party. They had an opportunity to tackle article 22 of the Constitution. In fact, they missed the bus. In fact, what has happened to our Constitution? I was just going through the history of our Constitution... (*Time bell rings*) I will just take two or three minutes. (*Interruptions*) Only in the last stage, of our Constitution-making, this was introduced. It is a tragedy that preventive detention provisions are included in the Fundamental Rights. Article 22 is an article of the Fundamental Rights. It is such a tragedy that this provision has been included in the Fundamental rights. You must read article 21 slongwith article 22. Mr. Home Minister, please read article 21 and then read article 22. It is only to protest what is given in article 21, to elaborate it, article 22 has been introduced, to see that as soon a person is arrested, within 24 hours, he should be produced before a magistrate. That was the 'idea, to give protection to them. But unfortunately, the code for preventive detention was added in subsequent clauses. It is a tragedy of our Constitution. Mr. Home Minister, nowhere in a democratic polity in the world, such an article is found in the Constitutional law and nowhere in the world, is there any preventive detention measure in peace time. Even in this country also, when did we have

such Ordinances? Not in peace times; such emergency measures. In 1971, when there was the Bangladesh War, one such Ordinance was issued. This was in regard to preventive detention. Then, another Ordinance was issued by the Lok Dal Government, when there was<sup>no</sup> Parliament. This was in regard to prevention of black-marketing and so on. Why was it necessary, Mr. Home Minister, to issue this Ordinance? What is happening? You have a substantive majority. We have Parliamentary democracy. Unless you commit suicide, you would not be removed from power, within the duration or within the period that people have allowed you. I believe, in politics, there is only suicide; there is no murder. Even the Janata Party went out of power, they only committed suicide, not that they were thrown out of power. Tomorrow, if the Congress(I) falls, it will be only by committing suicide and not by being thrown out by the Opposition. Why are you afraid that you would be thrown out? Why do you create a ghost of it? Why do you create a scare in the country? Of all the freedoms, freedom of person is the most sanctified. Life and liberty are the most precious things, Mr. Home Minister, and we fought for centuries and could not have them. It is the credit of that great man, Mahatma Gandhi, that we could get it. And now, Mr. Vice-Chairman, this is depriving that right to freedom of person to subject, to a citizen of India. What crime the Indian citizen has committed today? *(Time bell rings)* I am just finishing.

I charge the Janata Party Government also. What had happened to the Forty-fourth Amendment Act? What had happened to section 3 of that Act amending article 22? Why was it not enforced? Mr. Home Minister, I agree—and in fact your party talks loudly from rooftops—that Parliament is supreme, Parliament is sovereign. Parliament, by a two-thirds majority, passed an amendment amending article 22. That is not enforced till this 1500 RS—S.

day. The (notification has not been issued till this day. It is the failure of the Janata Party, it is the failure of the Lok Dal and it is the failure of the Congress (I) Party. Where is the supremacy of Parliament? I do not know whether our Members of Parliament are aware of this. Section 3 of the Forty-fourth Amendment Act stipulates details about the constitution of the Advisory Board, which you incorporated in your Ordinance but on which you went back in your Bill. This is a serious matter which Parliament should take note of. Firstly, the amended section has not been enforced. That provides for concurrence of the Chief Justice of the High Court. That is the recommendation. The members of the Board will be either the working Judges, or sitting Judges or these who have been Judges. That is what you incorporated in your Ordinance. But when it came to the Bill, you said that the State Government will appoint the Board. *(Time Bell rings)* I am extremely sorry. I am just finishing. You have said that the State Government will appoint the Board. And who will be the members of the Board? Those who are capable of becoming Judges. Anybody could be there who has worked as an advocate for 10 years.

AN HON. MEMBER: No, seven years.

SHRI V. B. RAJU: Why don't you say that the Secretaries to the Government will be on the Board? As Mr. Maran has put it, even in the United Kingdom when there is preventive detention under the emergency, it is not the Police Commissioner or the District Magistrate but it is the Home Secretary who has to approve of the detention. Here on the Board you are going to put such people. This House expects an explanation from you, a clarification from you why you had put in the Ordinance that the Board would be constituted with the concurrence of the Chief Justice of the High Court and would consist of sitting Judges and those who were working as Judges and why you have now changed it to this that the State Government will appoint the Board.

&amp; others

[Shri V. B. Raju] and that anybody can be a member—though you have said that the Chairman will be a sitting Judge.

Secondly, what is the difference between punitive detention and preventive detention in the matter of the individual securing legal assistance? Why are you depriving this right of any citizen to have legal assistance? Why are you afraid of the lawyers also? How does it come in the way of your detaining a person if the lawyer could help the Board? The lawyer will not only help the detainee, but he could help the Board also.

Then another thing is when you are detaining them, where are you putting them? Earlier when they were detained in one case the detainee was put along with leper prisoners and convicts. The detainee is not a convicted person, please consider that he is a human being. Mr. Home Minister, I do not want to bring in personalities and personal questions here. Remember how much you suffered in the hands of your own State Government when you were a victim. Don't strengthen the police hands too much. This can be used against your own party members again. Don't think you will be there permanently. Democracy does not permit that. This may be used against you also. So, let us look ahead and see that we do not commit these mistakes.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Now, Mr. Sukul. Five minutes only.

SHRI P. N. SUKUL (Uttar Pradesh): Sir, seven minutes you said.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): If I say five minutes, you will take seven minutes. I

SHRI P. N. SUKUL: Mr. Vice-Chairman, Sir, I am really very thankful to you that you have allowed me this opportunity of ventilating my views on this important and, yet, I rather controversial Bill. It is important because it concerns the defence

of India, it is important because it concerns our relations with foreign countries, it is important because it relates to national security, it is important because it deals with public order, and also it is important because it concerns the maintenance of essential supplies, provisions and services.

I should say there is a misapprehension in the minds of our political friends sitting there, perhaps because they think that they will all be rounded up or they can be rounded up under this Bill. This misapprehension is certainly not ill-conceived. I for one have been, during the last two decades, detained for more than four years under all kinds of instruments that have been there for preventive detention—under the PD Act, under DIR, under the earlier MISA—and also I am the only man sitting on the Treasury Bench who has been under detention for 19-1/2 months during the Emergency also. He who suffers really knows what it is. Someone said that there is always a separation between the one who suffers and he who creates, the artist. And the greater the artist, the greater the separation. Despite the greatness of the artist, one who has already suffered alone knows it and that is why I say today that this Bill, as suggested by our Opposition critics—that it is a retrograde step—is not a retrograde step. You see, in the first MISA there was a provision for advisory body and there was provision of detention for one year and in the second MISA that was promulgated during the Emergency, this provision of one year was changed to two years and there was no provision for advisory body and also the provision for communication of grounds of detention to the detainee was also removed. In the last MISA passed during the Emergency, all these things were not there. Now, in the National Security Bill, all these things are there. So it cannot be called a retrograde step. The Advisory Board is there. Again there is provision for detention of only one year and grounds for detention are also to be conveyed to the detainee. His Fundamental Rights are

there. He can go to a court of law and get redressal of his grievances if he really wants that. Sir, I wonder how my Opposition friends can say so.

First of all, under the Preventive Detention Act I was arrested in Uttar Pradesh by the first SVD Government headed by Chaudhari Charan Singh. Today Mr. Charan Singh is the Leader of Opposition in the Lok Sabha. Has he the check to oppose this Bill as one who has already abused and misused it so many times? Against the Kalagarh people and against the women employees of the U.P. Government, against all he used it. And again, for Opposition parties' sake, there is misapprehension that it might be misused or abused.

The second time, for one year I was detained by the U.P. Government. Then Kamlapatiji had gone and Mr. Bahuguna was there. In connection with the PAC revolt in U.P. I was arrested and detained for one year. And the orders for my detention were then passed on file by none else than Mr. K. C. Pant, the then Union Minister of State for Home Affairs, who had gone to Lucknow. I had issued a statement that justice should be done even to the police employees and on the basis of that statement Mr. Pant ordered my arrest and under MISA I was detained. Mr. K. C. Pant today is in the Opposition. Then I was arrested in 1974 for six months, while Mr. Bahuguna had gone there, because I was the convenor of the Reception Committee for Mr. Jayaprakash Narayan when he came to Lucknow in August, 1974 and I had conducted his historic meeting. And within a few days, I was arrested by the Bahuguna Government. Was it not an abuse or a misuse? Mr. Bahuguna is today in the Opposition. So all those persons are there in the Opposition. In the Emergency again for 19-J- months Mr. Bahuguna got me arrested under MISA. So all those persons who got me arrested, whether under the PD Act or MISA, I find them all sitting in the Opposition; and they have the cheek to say...

(Interruptions) Mr. Hegde, my time, is very precious.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Mr. Hegde, you will have your chance.

SHRI P. N. SUKUL: You might not have been arrested under the Preventive Detention Act, but I have been for 4-1/2 years. I know the panga of detention.

AN HON. MEMBER: Therefore, you are supporting it.

SHRI P. N. SUKUL: I am supporting it only because you are opposing it. I am here only because you are there. If you had not been there, perhaps I might have been somewhere else. Those who got me detained are today championing the cause of human liberty, this and that. They were quoting scriptures, all those persons in the Opposition. When their Government was there at the Centre or in the State, they took retaliatory steps, they victimised all their political opponents, the trade union workers and all that; and today they have the cheek to say that this Bill should not be passed. What is wrong about it? It is not a retrograde step. There is a provision for an advisory body; there is a provision for communication of grounds of detention. And the detention is for one year only, not for two years, as compared to that MISA which provided for detention for two years. Is it a retrograde step or is it a progressive step? It is a step forward, not backward. That is what I am saying. So I say there is nothing wrong about it.

Under article 123 of the Constitution, an ordinance can be issued. That is why an ordinance was issued. Under article 22, preventive detention measures can be adopted, can be proclaimed, can be there. It is there in fact in all the countries today. I do not think there is any country in which there is nothing like preventive detention or preventive detention law. In the socialist countries, the so-called

(Shri P. P. Sukul  
socialist countries, the situation is worse. When thousands and lakhs of people can be killed in China, what I is there to say about depriving the human liberty? They can be eliminated. Even in the Soviet Union, for so many years they can be sent to the Siberian prison or a concentration camp or this place or that. And those Socialists, those Communists who have never been sincere to the people of this country or its traditions, are today saying that they will oppose this Bill. In the SVD Government, the Communist Party was one of the constituents there. They had two ministerial berths there. When I approached them, they said: "We are hetoless. Chaudhri Charan Singh is there. He does not listen to us." Pesronally I can say I have seen through the game of these political parties which are there in the Opposition. I have suffered at their hands and, therefore, I say in the context of the present situation it is right. As so many speakers from here have already said, our internal security is being threatened; our relations with foreign powers are being threatened our essential supplies are being threatened. In this context, this Bill is a welcome move. Such laws are there in fill countries, There is nothing wrong about it. I do not know what Mr. Raju was doing when the earlier MISA was passed. Only when you sit in the Opposition you think of principles and high-sounding words.

Sir, with these few words, I will conclude. You had allowed me only five minutes. I might have taken a few more minutes.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): You have said a lot in these few minutes.

SHRI P. N. SUKUL: With these words. I simply support this Bill, as a trade unionist, as a trade union worker. I am still the chairman of a federation of five million workers. Our Home Minister has already said that no trade union worker, no political worker will be unnecessarily

detained under this. I would request my Home Minister to incorporate in the law, if possible ..... (*Interruptions*)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Please do not disturb.

PROF. SOURENDRA BHATTACHARJEE (West Bengal): A point of information, Mr. Vice-Chairman.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): There is no point of information.

SHRI U. R. IKRISHNAN (Tamil Nadu): A clarification, he wants (*Interruptions*)

SHRI P. N. SUKUL: As I told you, at the hands of many of the Members of the Opposition Parties I have suffered under the preventive detention measures, and so today I support it wholeheartedly and also request my Home Minister to consider and get incorporated in the law, if possible, that no trade unionist or political workers shall be proceeded against.

SHRI K. K. MADHAVAN (Kerala): He has distorted, I want to draw his attention. He has distorted the Bill. (*Interruptions*)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): There are no points of clarification. I am sorry that the time at our disposal is ... (*Interruptions*) You are eating into other Members' time. (*Interruptions*)

PROF. SOURENDRA BHATTACHARJEE; He is the President of five million Central Government employees. Is he supporting the Bill on the basis of the mandate of the Federation? That is the question I was going to ask.

SHRI K. K. MADHAVAN: A point of order.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): From your seat

SHRI K. K. MADHAVAN: Yes. The hon. Member who just concluded his speech stated in the course of his speech that the Government has to disclose the grounds for detention to the authorities concerned. I am drawing his attention to this.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): What is the point of order? This is no point of order.

SHRI K. K. MADHAVAN: He has stated this. I am raising a point of order. Has he mistaken the fact?

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): That is no point of order.

SHRI K. K. MADHAVAN: Yes, it is.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): That is no point of order. *(Interruptions)* Mr. Hegde. *(Interruptions)* Please. This is no point of order. Mr. Hegde.

SHRI K. K. MADHAVAN: it is ... *(Interruptions)*

SHRI RAMAKRISHNA HEGDE: I rise to support the resolution tabled by hon. Shri Advani and to oppose the Bill tabled by the hon. Minister of Home Affairs. The orchestrated performance of the ruling party is true to its character. Therefore, nobody need be surprised. But I must say, Sir, that I was really shocked when I heard two speeches, one made by Mr. Ramakrishnan, the ADMK Member, and the other one by my friend Mr. Murasoli Maran. The leaders of their two parties were perhaps the first victims of the arbitrary action of Mrs. Indira Gandhi's Government. But time change. Perhaps they also change according to times in spite of their conscience. The latest example is that of the gentleman who just spoke. He said that he was perhaps the greatest victim of the preventive detention measure. If it is true, I do not know with what con-

science he is supporting this Bill. I am sure he had no complaint against the Janata Government because I am proud to say that the Janata Government, as long as it was in office, did not detain a single person under preventive detention. Yes, that idea was there, but that idea was not shared by the party. Mr. Advani candidly admitted and apologised for it. He said, "Some of us were very sorry that the idea even occurred." But many people referred to this matter as if the measure was passed into an Act during the Janata regime and hundreds and thousands of people were detained under that Act. Sir, not only was that measure not passed, but as soon as the matter was discussed in the meeting of the Janata Parliamentary Party, it was decided that it should not be continued. May I ask my friends sitting over there whether this measure was even discussed in their party meeting? No, they do not have the freedom. Not one person has objected to any of the provisions of the Bill—not only the Bill as a whole.....

श्री रामकृष्ण हेगडे (बिहार) :  
उसमें था भी क्या कि उसका आब्रजेशन  
करते । . *(Interruptions)*

SHRI RAMAKRISHNA HEGDE: Sir, I am not yielding. *(Interruptions)*

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Order, please.

SHRI RAMAKRISHNA HEGDE: I am not yielding. *(Interruptions)*

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Go ahead.

SHRI RAMAKRISHNA HEGDE: It is too much to expect any one of them to oppose the Bill. But none suggested even minor amendments. That shows how truly they, as Mr. Piloo Mody, said, belong to the category of bonded labour. May I ask the Home Minister, why do you require this power? *(Interruptions)*



& others

श्री नरेन्द्र मोहन मिश्र : ...  
(Interruptions) बान्डेड लेबर बोल रहे हैं...  
(Interruptions)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Mr. Hegde, if you will avoid some unhappy expressions, perhaps reactions will not be there to disturb the tenor of your speech.

SHRI RAMAKRISHNA HEGDE: What do you mean by "unhappy expressions"?  
(Interruptions)

THE MINISTER OF STATE IN THE MINISTRY OF RAILWAYS (SHRI C. K. JAFFAR SHARIEF): Let the people judge them. Why should we object?  
(Interruptions).

AN HON. MEMBER: Is he saying anything unparliamentary?

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): It is not unparliamentary. But Mr. Hegde was making quite an effective speech from his point of view and I said, "K you will avoid some of these expressions, perhaps reactions will not be there to disturb the tenor of your speech." Perhaps .....

SHRI RAMAKRISHNA HEGDE: You can pull me up if I use any unparliamentary language.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): No, no, you are not unparliamentary at all.

SHRI RAMAKRISHNA HEGDE: I was saying, Sir, that the Prime Minister is never tired of blaming the Opposition for everything. For every thing the Opposition is responsible. Is it to curb the Opposition or to discipline the Opposition that the Home Minister has brought this Bill, may I ask him? Sir, if the telephone system is totally paralysed today, is the Opposition responsible?

SHRI C. K. JAFFAR SHARIEF: is it guilty conscience? (Interruptions)

SHRI RAMAKRISHNA HEGDE: If the Cabinet in Rajasthan consists of three Ministers only and for the last seven months it could not be completed, is the Opposition responsible? What about the Central cabinet? Today we do not have the Defence Minister; we do not have the Industry Minister; we do not have Ministers for several other important portfolios. Is the Opposition responsible for this? Are they governing the country? Or what are they doing? (Interruptions) What are they doing?

SHRI GHOUSE MOHIUDDIN SHEIKH (Andhra Pradesh): What about the Janata Government? (Interruptions)

SHRI RAMAKRISHNA HEGDE: Yes, it will be known, my dear friend, it will be known. The same people who were misled by your slogan that you would provide a Government that works, the same people will kick you out of office. There is no doubt about it. (Interruptions) Very soon the time will come. (Interruptions)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Order, please.

SHRI RAMAKRISHNA HEGDE: If the economic problem is not solved, who is responsible? Is it because Mrs. Gandhi's Government does not have adequate power? If the unemployment problem is not solved, who is responsible? If inflation is rising, who is responsible? Is it the Opposition? Is it because of want of adequate power?  
(Interruptions)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Order, please.

SHRI RAMAKRISHNA HEGDE: You do not have the capacity to govern this country. You have no capacity. Your lack of capacity cannot be made up by such Draconian measures, I can assure you. It is only because of a sense of insecurity

in your leader. I know, in the ruling party there is only one man, and that is 'he'. And even that 'man' does not have a sense of security. She suffers from a perpetual sense of insecurity. It might be a disease; I do not know. It is because of a personal sense of insecurity that she wants to bring this measure. Sir, this is not going to help. I may assure, Mr. Zaij Singh, the hon. Home Minister that even if he brings the National Security Act or hundreds of such measures, the people will not be cowed down. People will not be afraid because they have shown only three years ago that even a dynastic dictatorship can be thrown out. Sir, I completely agree with what Mr. Advani said in his speech except on one point. He said Government does not exist today, I do not agree with him. Government exists; otherwise, such actions by Government as dismissal of Governors, transfer of Governors, dismissal of State Ministries, lathi-charge on innocent blind people, blinding of undertrials, scrapping of special courts, withdrawal of cases, all these undemocratic, uncivilised, immoral acts would not have been committed. If these have been committed, it is because Government exists, and it is this Government which has committed all these. Therefore, what I say is this is an evil Government, this is not a civilised Government, this is not a democratic Government. Sometimes truth is not palatable..

SHRI C. K. JAFFAR SHARIEF:... for the evil people.

SHRI RAMAKRISHNA HEGDE: When Mr. Advani referred to the last Emergency and the atrocities that were committed, many people phoo-phooed it. I can understand it because they are like robots; they do not have a heart. At 2 o'clock in the morning an ailing Jayaprakash Narayan was bundled out... (Interruption by Shri Sitaram Kesri). No, in the Janata Party Government we did not arrest anybody under the black Act...

(Interruption by Shri Sitaram Kesri)  
...

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Order, order, please.

श्री लाल कृष्ण आडवाणी (गुजरात) : मैं एक ही बात निवेदन करूंगा कि इस सदन की ओर उस सदन की, दोनों की कुछ मर्यादाएं रही हैं, जिसमें कम से कम संसदीय कार्य मंत्री कभी भी ऐसी बात नहीं करते हैं जो कि हंगामे को बढ़ाते हैं। इसीलिए मैं कम से कम सीताराम केसरी जी से उम्मीद करता हूं कि वे खड़े होकर, जैसे जैन साहब चिल्ला देते हैं, वैसा काम नहीं करेंगे।

श्री सीताराम केसरी : मैं सिर्फ इस वजह से कि आप लोग भी मुझे कभी कभी वैसा सम्मान नहीं देते हैं... (Interruptions) मुझे कहना पड़ता है। सदन की मर्यादा का मुझे ध्यान रहता है।

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Mr. Hegde, you continue. You do not yield.

SHRI RAMAKRISHNA HEGDE: I am not yielding. Mr. Vice-Chairman. But if I am provoked, I have to react...

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Don't react.

SHRI RAMAKRISHNA HEGDE: No, I am bound to react, and I might react very violently. (Interruptions)

So, Mr. Vice-Chairman, I do not require any certificate from my friend, sitting opposite, about how Janata Party Government functioned. I do not require, I do not need any certificate from him. If we, if the Janata Party Government wanted to use the same draconian measure—, it was still on the statute book—perhaps the first person that would

&amp; others

(Shri Ramakrishna Hegde)

have been arrested was Mrs. Indira Gandhi and then her son, under MISA. We need not have to enact another law. We could have given the same medicine to those people, but we did not do it because we did not believe in doing it. We thought it was anti-democratic. . .

SHRI LAL K. ADVANI: And for that we were accused of being impotent.

SHRI RAMAKRISHNA HEGDE: For that we were called impotent. Anyway, we don't mind.

श्री हरि सिंह नलवा (हरियाणा):  
आन ए पोइन्ट आफ आर्डर। माननीय सदस्य ने यह फरमाया कि अनडेमोक्रेटिक चीजें हो रही हैं।

उपसभाध्यक्ष (डा० रफीक जकरीया):  
आप कमेंटरी करेंगे तो वह पोइन्ट आफ आर्डर नहीं होगा।

श्री हरि सिंह नलवा: मैं यही कहता हूँ कि जब यह कमिशन श्रीमती इन्दिरा गांधी के खिलाफ बैठायें गये तो वह डेमोक्रेटिक थे इनके राज में मैं यह पूछना चाहता हूँ।  
(Interruptions)  
आप सुनने की हिम्मत रखिये। मैं तुम्हारे जख्मों पर हाथ रखता हूँ तो चिल्ला क्यों उठते हो। आप ने इस देश को बर्बाद किया है, आपने सारे गलत काम किये हैं।  
(Interruptions)  
आप बैठ जाइये।

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): There is no point of order. . . (Interruptions). There is no point of order.

श्री कलराज मिश्र (उत्तर प्रदेश):  
इन को बताइये कि पोइन्ट आफ आर्डर क्या है। (Interruptions)

SHRI HARI SINGH NALWA: I know my responsibility better than you all people.. (Interruptions).

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Please sit down. Order, order, please.

SHRI HARI SINGH NALWA: You have to listen to me. . . (Interruptions).

SHRI MANUBHAI PATEL (Gujarat):

श्री अब्दुल रहमान शेख (उत्तर प्रदेश):  
ट्रेजरी बेंच के लोगों को हम इसी तरह इन्टरप्ट करेंगे, बोलने नहीं देंगे।

श्री (मौलाना) अक़राउल हक (राजस्थान): आप की क्या मजाल है। हम आप को नहीं बोलने देंगे।  
(Interruptions)  
आप झूठी बात मत बोलिये, गलत इल्जाम मत लगाइये।

श्री अब्दुल रहमान शेख (उत्तर प्रदेश):  
हम भी नहीं बोलने देंगे, हमारे मुंह में भी जवान है।  
(Interruptions)

श्री कलराज मिश्र: धैर्य रखें, सुनें. . .  
(Interruptions)  
What was the point of order?

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): There was no point of order. Please do not create problem again. Mr. Hegde, your time is up.

SHRI RAMAKRISHNA HEGDE: I was interrupted.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): That is why I request you to have the tenor which will not create disturbance. You have to cooperate with me.

SHRI RAMAKRISHNA HEGDE: He referred to the Commission of Inquiry. Yes, we did appoint Commission of Inquiry. But it was in accordance with the law of the land

and in accordance with the approval of the Supreme Court. Even when the State Governments were dismissed, we referred the matter to the Supreme Court, We always behaved in a democratic manner.

I must go back to my point. None of them has seen. . . *(Interruption)*.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Please, order. Order, please.

THE VICE-CHAIRMAN: (UR. RAFIQ ZAKARIA): Order, please, Please sit own. . . *(Interruptions)*.

SHRI RAMAKRISHNA HEGDE: I am not creating any galata.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Please conclude your speech. Everything is quiet now.

SHRI RAMAKRISHNA HEGDE: Sir, the hon. Home Minister categorically gave an assurance that the measure will not be used against political opponents. I do not know him that well personally. As a Minister I cannot take his words for granted because of the track record of the Indira Gandhi Government. The same solemn assurance was given when MISA was also passed. Against whom was it used? None of them has seen how Snehalata Reddy died languishing in Jail. She was in the same jail where Advani, Atalji, Mr. Madhu Dandavate and Mr. Mishra and I were. Only one wall separated us. She was languishing there and in pain she died. Salaam Saha also died in Bangalore Central Jail. Mr. Lawrence Fernandes was there. He was beaten. When he was brought we happened to be there. We saw he was unconscious. What were the crimes of these people? Were they anti-national, anti-social people? What were their crimes? Did they deserve this treatment? Are you civilised people... *(Interruptions)*.

No. I have seen those atrocities with my own eyes. I have suffered and you know, my colleagues have suffered. *(Interruptions)*

SHRI MAHENDRA MOHAN MISHRA: Yes. *(Interruptions)*.

श्री रामकृष्ण हेगड़े : चित्तवाने से क्या फायदा ? Their sense of culture

their sense of civilization, is quite evident, Sir. It is evident when people are blinded and when the undertrials, not even criminals, are blinded and not even one of them has the courage and decency to utter a word of condemnation. *(Interruptions)*. In any other country, Sir.... *(Interruptions)*. In any other country, Shri Jagannath Mishra's Government would have been dismissed.

SHRIMATI PRATIBHA SINGH (Bihar): Why don't you mention the other things? *(Interruptions)*. Why don't you mention the other things that happened when you were in Lok Sabha and the Parliament continued after midnight.

SHRI RAMAKRISHNA HEGDE: But what did Mrs. Gandhi do? Because of the Narainpur incident, she dismissed the Government of Mr. Banarsi Das. Don't you remember that? *(interruptions)*.

SHRIMATI PRATIBHA SINGH: Why don't you mention what happened in Lok Sabha when you were there. *(Interruptions)*.

SHRI RAMAKRISHNA HEGDE: I do not know why some people are more loyal than the Queen. *(Interruptions)*.

SHRI C. K. JAFFAR SHARIEF: Sir Mr. Hegde and Mr. Advani were comfortable. *(Interruptions)*.

SHRI RAMAKRISHNA HEGDE: What?

SHRI C. K. JAFFAR SHARIEF: Mr. Hegde and Mr. Advani were comfortable and were treated in the same'

[Shri C. K. Jaffar Sharief]

way. Why don't you say that?  
(*Interruptions*)

SHRI RAMAKRISHNA HEGDE: Sir, how many times did Mr. Jaffar Sharief visit me there? Sir, Mr. Jaffar Sharief is a friend of mine. How many times did he visit me there? How many times did he visit the jail to see how comfortable we were?

SHRI C. K. JAFFAR SHARIEF: It is only the physical demonstration. You were comfortable and you were hale and hearty.

SHRI RAMAKRISHNA HEGDE: Sir, I was transferred overnight to Belgaum jail. • . (*Interruptions*). .. so that I could not see my family, so that my family could not visit me. That apart, what I am going to say is that the assurance that he gave cannot be trusted. Sir, I would appeal to them to search their hearts <md And their conscience if there is any -----

AN HON. MEMBER: They have none.

SHRI RAMAKRISHNA HEGDE: and they must know that Mr. Chandra Shekhar was not in the Opposition when he was arrested, but he was a member of the highest body of that party, the Working Committee. And, Sir, what was his crime? Many of you, at that time, did not have the tongue to speak and your mouths were sealed and your hands were tied and you, feet were tied. Similarly, your mouths would be sealed and your hands would be tied and your feet would be bound and then it would be too late. Therefore, I am making one appeal to them: Let this Bill be circulated to the public. Elicit the public reaction. You hold an All-India Lawyers' Conference and have a command performance. On what? On whether this system is suitable or whether you have to change over to the Presidential system. Is it the priority today? You do not have any such conference Or discussion on this Bill, you do not have any such con-

& others

ference or discussion on how the unemployment problem can be solved or how inflation can be fought. Did you have any serious discussions on these matters? But you had an All-India Lawyers' Conference and you saw the command performance of the lawyers (*Interruptions*). Sir, I appeal to the Home Minister: Let us not rush through this Bill; let this Bill be circulated among the public; let this be circulated for eliciting public opinion.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Thank you.

SHRI RAMAKRISHNA HEGDE: Sir my last warning is this, and I may repeat here what Jayaprakash Narayan said those days;

"Vinaasha kaale vipareeta buddhi."

So, Sir, let them not have that *vipareet buddhi*. That will only spell their death. (*Interruptions*). That will spell your party's death. Thank you, Sir.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Yes, Mr. Swamy Naik.

SHRI J. K. JAIN: Sir, on a point of order. Mr. Advani mentioned my name.

उन्होंने कहा कि यह  
जैन साहब चिल्लाते हैं। मैं यह क्ता  
चाहता हूं कि सारे देश की जनता चेतकार  
करती रही तो उन पर कोई असर नहीं  
हुआ। मैं उनका शुक्रिया अदा करता हूं कि  
मेरे चिल्लाने का कुछ असर उन पर हो  
रहा है।

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): M-. Jain, I think you have misunderstood Mr. Advani. What he said is that a Minister should not do this thing, but the members of the ruling party can do it.

SHRI J. K. JAIN: My point of order is that he mentioned my name.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): No. That is not the purport of what he said. I am just telling you because you should not misunderstand what he said. Mr. Swamy Naik.. (*Interruptions*).

SHRI J. K. JAIN: He mentioned my name. That is why.. (*Interruptions*)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): I was a very effective member on that side. (*Interruptions*).

SHRI MANUBHAI PATEL: If a member disobeys the Leader.. (*Interruptions*).

i. (The Vice-Chairman Shri Dinesh Goswami) in the Chair.

श्री जी० स्वामी नायक (आंध्र प्रदेश) : श्रीमन्, मैं आपको धन्यवाद देता हूँ कि आपने मुझे इस महत्वपूर्ण राष्ट्रीय सुरक्षा विधेयक पर मुझे अपने विचार प्रकट करने का मौका दिया ।

मान्यवर, मैं नेशनल सैक्यूरिटी बिल के बारे में अपनी सपोर्ट देने के लिए खड़ा हुआ हूँ और श्री आडवाणी जी के द्वारा जो रेजलूशन लाया गया है, उसको मैं अपोज करता हूँ । मान्यवर, आपको अच्छी तरह से मालूम है कि जनता के शासनकाल में सारे देश में जैसी परिस्थिति पैदा हुई, जिस तरह से बिगाड़ आया और हालत आज तक भी बिगड़ी हुई है, जहाँ जहाँ पर ट्रेन जाती हैं उनको रोकना, स्कूलों और कारखानों में हड़ताल कराना और आदिवासियों तथा हरिजनों पर जुल्म करने के इशारे भी जनता पार्टी के शासन काल में हुए हैं । मैं अपने अपोजिशन के भाई लोगों से यह कहता हूँ कि आपोजिशन की ओर से कुछ सजेशन आनी चाहिए लेकिन ये तो ऐसा बना लेते हैं कि जो भी बात हो, अच्छी हो या बुरी हो, उसको अपोज करना ही इनका फ़र्ज बनता है । मैं आंध्र प्रदेश के बारे में कहना चाहता

हूँ कि इमरजेंसी में आंध्र प्रदेश में इतना अच्छा प्रभाव पड़ा कि स्कूल और कालेज डिसिप्लिन हुए, इंडस्ट्रियल पीस रही और सरकारी मुलाजिम डिसिप्लिन में आये । कारोबार सही ढंग से हुआ । हरिजनों, गिरिजनों और आदिवासियों तथा माइ-नारिटीज के लिए जो कारोबार होने थे वह सही ढंग से हुए, सही समय पर हुए । मैं चाहूँगा कि सारे देश में जो अनार्की फैली हुई है, कहीं ऐजिटेशन हो रहे हैं चाहे आसाम हो या कहीं हो । आसाम से लेकर कन्या-कुमारी तक, महाराष्ट्र से लेकर काश्मीर तक सारे देश में अनार्की फैली हुई है । इन सारी परिस्थितियों को देखकर यह बिल जरूरी है । मैं होम मिनिस्टर साहब ज्ञानी जैल सिंह और हमारी लीडर जो देश की एकमात्र लीडर हैं, उनको धन्यवाद देता हूँ कि उन्होंने आज की हालत को सुधारने के लिए, हरिजनों और पिछड़े वर्ग के लोगों के लिए, आदिवासियों के लिए, जो उन पर अन्याय हो रहे हैं उनको सुधारने के लिए यह बिल यहां प्रस्तुत किया है । मैं उनका स्वागत करता हूँ और उनको धन्यवाद देता हूँ ।

मान्यवर, गांधी जी का जो स्वप्न था, गांधी जी का बताया हुआ जो रास्ता है हरिजनों और आदिवासियों और माइ-नारिटीज की मदद करना और इन लोगों को बराबर लाना, उस ओर हम बढ़ रहे हैं । लेकिन हम देखते हैं कि अपोजिशन के भाइयों ने मिलकर जो आदिवासियों के लिए, हरिजनों के लिए, सरकार ने जो सहूलियतें दे रखी हैं, जो उनके लिए रिजर्वेशन है, उनके खिलाफ सुप्रीम कोर्ट में दावा किया है । रिजर्वेशन के बारे में, प्रमोशन के बारे में हाई कोर्ट में दावा किया है । ये सारे ऐंटी-सोशल ऐलिमेंट्स नहीं तो और क्या हैं । इन सारी चीजों को देखते हुए इंदिरा जी की हुकूमत को बदनाम करने के लिए ये सारी हरकतें जो कर रहे हैं, इन सारी हरकतों को दबाने के लिए जरूरी है कि सख्त से सख्त कानून,

[श्री जी० स्वामी नायक]

सख्त से सख्त अधिनियम हो जो ऐसी होने वाली बुराइयों को रोक सके। जो अन्याय करने वाले लोग हैं, जो अत्याचार करना चाहते हैं, इन सारे लोगों को रोक सके। ट्रेन की चेन पुलिंग होती है, गाड़ी जहां चाहे वहां रोक दी जाती है, बाजार में जाकर देखते हैं कि कई चीजों के दाम बढ़े हुए हैं। गोदामों में माल भरा हुआ रहता है लेकिन व्यापारी लोग ब्लैक मार्किटिंग करते हैं। कई चीजों की स्मगलिंग भी होती है। इन सारी चीजों को रोकने के लिये जरूरी है कि यह अध्यादेश बिल का रूप ले। श्रीमन्, यह अधिनियम जो पास होने वाला है यह कोई आज नया नहीं है। त्रिपुरा में कम्युनिस्ट ('मार्क्सिस्ट') की हुकूमत है और कश्मीर में नेशनल कांफ्रेंस की हुकूमत है। वहां पर भी इस प्रकार के अध्यादेश हैं। मैं चाहूंगा कि अपोजिशन के हमारे जो भाई हैं, मैं उनसे आग्रह करूंगा कि आप लोग जो रेजोलूशन लाए हैं वह वापस ले लें और जो सरकार बिल लाई है, हमारे जैल सिंह जी द्वारा जो बिल आया है उसकी तारीफ करें। ऐसा कहते हुए मैं अपने विचार समाप्त करता हूं।

श्री हरी शंकर भाभड़ा (राजस्थान) :  
उपसभाध्यक्ष जी,...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I hope you will finish in ten minutes.

SHRI HARI SHANKAR BHABHRA:  
You know that I never exceed my time.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Kindly finish within ten minutes.

श्री हरी शंकर भाभड़ा : उपसभाध्यक्ष महोदय, चाटुकारिता पर मैंने काफी साहित्य पढ़ा था लेकिन उसके फार्मस कितने हैं, उसके तरीके कितने हैं यह देखने का अवसर इस

सदन में मुझे मिला। इससे काफी ज्ञान की वृद्धि हुई। वे लोग तो समझ में आते हैं जो लोग साफ-साफ नाम लेकर किसी की चापलूसी करें लेकिन ऐसे भी लोग हैं जो सिद्धांतों की आड़ में यह कहें चूंकि आप वहां हैं इसलिये मैं यहां हूं लेकिन इसके बावजूद भी मैं इस बिल का समर्थन करता हूं। ये अद्भुत नाम हैं जो हम को यहां मिले। मान्यवर, यह अधिनियम जनता के साथ विश्वासघात है। मैं सत्तारूढ़ दल को उन दिनों की याद दिलाया चाहता हूं जब 1977 के चुनाव के बाद सत्तारूढ़ दल के सभी नेताओं ने जनता के सामने सार्वजनिक रूप से इमरजेंसी के अत्याचारों के लिये खेद प्रकट किया था और 80 के चुनाव के पहले भी लगातार इस बात को कहते रहे कि यदि हमें फिर कभी मौका मिला तो मीसा या इमरजेंसी जैसा कोई काम नहीं करेंगे। इस बात को उन्होंने जनता के सामने बार-बार दोहराया।

श्रीमती सरोज खाटेई : अभी भी कहते आए हैं।  
(Interruptions)

श्री हरि शंकर भाभड़ा : आज चुनाव में जीतने के बाद, आज उनके पास मेजोरिटी है लेकिन साथ ही साथ सत्ता का मद भी है। मैं मानता हूं कि—“प्रभुता पाई काह मद नाही”। इस मद के कारण आज वे अपना बुरा भला भी नहीं सोच सकते। इसलिये मैं कहता हूं ये कदम न केवल जनता के साथ विश्वासघात है बल्कि आत्मघात भी है। ये कदम आत्मघाती हैं जो सत्ता की मद में, जो सत्ता की चकाचौंध में कुछ भी अनुभव नहीं कर पाते, लेकिन समय दूर नहीं है। हम तो चाहते हैं कि आप सत्ता की मद में गलत कदम उठाएँ और आपका समापन जल्दी हो। हमें कोई सहानुभूति नहीं है लेकिन विरोध में रहने के कारण चेतावनी दूंगा और समय रहते चेतावनी

दूंगा। यह हमारा अधिकार है, हमारा कर्तव्य है और उसका निर्वाह करते हुए मैं आपको बताना चाहता हूँ कि जिन कदमों पर आप जा रहे हैं, चाहे आप उसके लिये कोई भी कारण बताएं, चाहे आप उसकी कतनी भी प्रशंसा करें, लेकिन आपके संय के शब्दों में विरोधाभास है। एक तरफ तो आप यहां आंकड़े देते हैं कि इस देश में चैन है, अमन है, पिछले 12 महीनों में ला एंड आर्डर की सिचुएशन को हमने कंट्रोल किया है, कीमते गिरी हैं, इस प्रकार के आंकड़े दे रहे हैं। और दूसरी ओर जब यह बिल लाया गया तो इस बिल के अन्दर, जैसा कि अभी पूर्व-वक्ता महोदय कह रहे थे कि . . .

(Interruptions)

श्रीमती सरोज खापड़ें : आप इस

श्री हरी शंकर भट्टा : मेरे पूर्व वक्ता ने अभी उधर से कहा कि इस नहा बाल रह है . . . (Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Order, please. Will you kindly give me one minute? (Interruptions) Kindly listen to me. I find before me the list with a number of speakers. (Interruptions) Kindly listen to me. There are still a number of speakers. I want to draw the attention of the Parliamentary Affairs Minister also to this. And we know that there are a large number of amendments. We also know that this Bill is an important Bill and there will be hard-hitting speeches from both the sides. Therefore, if you go on interrupting, we shall have to sit late. Therefore, my request to you all kindly do not interrupt. Listen to the speeches. If there is one hardhitting speech from one side, let there be a hard-hitting reply from the other side. For the heaven's sake, let there be no interruption. Now, you please continue.

बिल से आदिवासियों, जन-जातियों आदि सब की समस्याएं हल हो जाएगी और देश में दूध और दही की नदियां बहने लगेंगी। अगर इस बिल से यह सब हो जाय तो हम इस बिल को स्वीकार कर लेते। मेरा मतलब यह है कि वे इस बात की तरफ इशारा कर रहे थे कि हमारे देश में वास्तविक समस्याएं ये नहीं हैं जिनको वे पोज कर रहे थे। आज देश में, जैसा कि श्री राजू ने कहा, ऐसी कोई समस्या नहीं है जिसके लिए इस प्रकार के कठोर, आतंक और भय पैदा करने वाला कदम उठाने की जरूरत हो। आज आवश्यकता इस बात की है कि जनता जिन परेशानियों से परेशान है, गरीब जिस मंहगाई से मर रहे हैं, देश में फैली हुई मुद्रा-स्फीति जिस प्रकार से लोगों को परेशान कर रही है और जिस ला एण्ड आर्डर की सिचुएशन का आप बार-बार नाम ले रहे हैं, उसमें आज जो हमारे देश में कानून प्रचलित हैं, अगर उन कानूनों का ईमानदारी के साथ प्रयोग किया जाये तो उसका इलाज हो सकता है। सवाल यह है कि सरकार की नीयत क्या है, सरकार की मंशा क्या है? जैसा कि अनेक पूर्व वक्ताओं ने बताया कि हमारे देश में प्रिवेंटिव डिटेंशन अधिनियम किसी न किसी रूप में लागू रहा है। लेकिन प्रिवेंटिव डिटेंशन एक्ट के रहने के बावजूद भी यह सरकार की नीयत और मंशा पर निर्भर करता है कि वह उसका प्रयोग किस प्रकार से करे। मेरा इस संबंध में यही निवेदन है कि प्रारम्भ में गृह मंत्री महोदय ने जो भाषण दिया है और इस बिल को लाने के लिए जो कारण बताये हैं उन कारणों को इस बिल में इनकोरपोरेट नहीं किया है। इस विधेयक को इतना विशद बनाया गया है कि उसमें किसी भी आदमी को गिरफ्तार किया जा सकता है। मैं एक उदाहरण देना चाहता हूँ। धारा 3 को



[ श्री हरिशंकर भाभड़ा ]

इतना विशद किया गया है और जिस ढंग से उसको विशद किया गया है उससे यह पता लगता है कि अगर किसी भी व्यक्ति के संबंध में यह समझा जाता है कि उससे भारत की सुरक्षा को खतरा है और अगर भारत के किसी विदेशी सरकार के साथ संबंध हैं या भारत के विदेशी संबंधों पर कोई प्रतिकूल प्रभाव पड़ता है तो उसके विरुद्ध, इस अधिनियम को लागू किया जा सकता है। मैं कहना चाहता हूँ कि हमारे देश के रूस के साथ अच्छे संबंध हैं। लेकिन रूस ने अफगानिस्तान में जो हस्तक्षेप किया है, यदि कोई राजनैतिक नेता उसका वरोध करता है या उसकी आलोचना करता है तो आपके सबोर्डिनेट डिस्ट्रिक्ट मजिस्ट्रेट या पुलिस कमिश्नर, यदि वे उस राजनेता से बदला लेना चाहते हैं तो उसको भारत की सुरक्षा के नाम पर ऐरेस्ट कर सकते हैं। इसी प्रकार से अमेरिका की सरकार के साथ आपके अच्छे संबंध हैं, लेकिन हिन्द महासागर में उसकी सेना की मौजूदगी से हमारी शांति के लिए अगर कोई खतरा पैदा होता है और हमारे देश का कोई राजनेता उसकी आलोचना करता है तो इस अधिनियम के अन्तर्गत उसको भी गिरफ्तार किया जा सकता है। इसलिए मेरा निवेदन है कि अगर हमारे गृह मंत्री जी वास्तव में ईमानदारी से बात करना चाहते हैं और अगर उनकी नियत साफ है तो वे इस बिल में कोई ऐसा प्रावधान कर दें जिससे इस अधिनियम को किसी भी राजनेता के खिलाफ प्रयोग में नहीं लाया जा सके। अभी तक इस प्रकार का कोई प्रावधान उन्होंने इसमें नहीं किया है। मैं चाहता हूँ कि उनको इस प्रकार का प्रावधान इस बिल में करना चाहिए। गृह मंत्री ने अपने भाषण में कहा कि

यह कानून असामाजिक तत्वों, कम्यूनिस्ट रायट्स करने वालों, ब्लैक मार्किटिंग करने वालों और तस्करी करने वालों के खिलाफ बनाया गया है। आप जानते हैं कि इन सब के लिए तो पहले से ही कानून हैं। गुण्डा एक्ट बना हुआ है, ब्लैक-मार्किटिंग के लिए एक्ट बना हुआ है, स्मगलिंग के लिए कोफेपोसा बना हुआ है और अन्य सब चीजों के लिए एक्ट बने हुए हैं। उनका प्रयोग न करके आप इस बिल को लाये हैं। इसमें आपने इतने विशद अधिकार दे दिये हैं कि उनसे यह साफ मालूम होता है कि आप इससे अपने विरोधियों को दबाना चाहते हैं। मैं आपसे पूछना चाहता हूँ कि आप उनको क्यों

4 P.M. दबाना चाहते हैं? जो आपने चुनाव

में जनता को आश्वासन दिये थे, उनको पूरा करने में आप पूरी तरह असफल रहे हैं, आप अपने काम में कामयाब नहीं हुए हैं। आपकी जो नाकामयाबी है वह आपकी आत्मा को कबोट रही है। इसलिये किसी न किसी को बलि का बकरा बनाने के लिये, अपनी आत्मा की शांति के लिये और जनता में आतंक और भय का वातावरण पैदा करने के लिये, यह जानते हुए भी आतंक और भय से दुराई पैदा होती है, आप जनता में आतंक पैदा करना चाहते हैं और इसलिये इस बिल को आप यहां पर लाकर पास करवाना चाहते हैं। मान्यवर, मेरा गृह मंत्री महोदय से निवेदन है इस बिल के सम्बन्ध में कि अच्छा होता अगर वे साफ साफ कह देते कि इसका प्रयोग हम अपने राजनैतिक प्रतिद्वन्द्वियों के खिलाफ करेंगे उसमें कोई हर्ज नहीं था। लेकिन बार बार यह आश्वासन देकर और ऐसे आश्वासन पहले भी दिये गये हैं, जिनके बारे में मेरे पूर्व-वक्ताओं ने काफी विस्तार से उदाहरण देकर बतलाया है, जिनकी कोई कोमत नहीं है क्योंकि इन आश्वासनों को पालन करने

का कोई आश्वासन नहीं है। यह जनता को भुलावे में डालने के लिये दिये जाते हैं। मैं उदाहरण के तौर पर बताना चाहता हूँ कि अभी यह अधिनियम पास भी नहीं हुआ लेकिन इस आर्डिनेन्स के अन्दर बिहार में गिरफ्तारियाँ हुई हैं। उत्तर प्रदेश में राजनैतिक कार्यकर्ताओं को गिरफ्तार किया गया है। उसमें डा० हंसराज चोपड़ा, श्री देशराज मेहरोत्रा, श्री प्रेम शंकर शर्मा और श्री नरेश नरुला हैं, इन सब को इस आर्डिनेन्स के अन्तर्गत गिरफ्तार किया गया है। आसाम के अन्दर इसका खुलकर प्रयोग किया जा रहा है। एक तरफ यह कहना कि इसका प्रयोग राजनैतिक प्रतिद्वन्दियों के खिलाफ नहीं किया जा रहा है और दूसरी तरफ साइमलटेन्सली उसका प्रयोग करते रहना यह इस बात को साबित करता है कि सरकार की मंशा इस बिल का प्रयोग केवल अपने जो राजनैतिक प्रतिद्वन्द्वी हैं उनके खिलाफ करना है और अगर यह उनका मकसद है तो मैं समझता हूँ कि इस देश में व्यवस्था कभी आने वाली नहीं है। उन्होंने 'मीसा' लगाकर देख लिया, लाखों आदमियों को जेलों में डालकर देख लिया और उसका परिणाम भी देख लिया परन्तु फिर भी आपने पुनः मीसा के दरवाजे खटखटाने शुरू कर दिये हैं, फिर से इमरजेन्सी की तरफ आपकी नजर दौड़ने लगी है। मैं कहना चाहता हूँ कि इसका परिणाम वही होगा जो 1977 में हुआ था, इसमें आपको कोई संदेह नहीं करना चाहिए। इसलिये मैं आपसे निवेदन करूँगा कि इस प्रकार के अधिनियम को लाकर के आप जो विश्वासघात कर रहे हैं, कृपया इसको न करें और इसको रोकें।

अन्त में मैं श्रीमन्, ज्ञानी जी को एक 'शेर' सुनाना चाहता हूँ। यह  
4 P.M.

शेर किसी शायर का नहीं है :

“वफादारों की वफाओं से कभी इंकार  
नहीं,

वेवफा की हजार कामों पर कोई  
ऐतबार नहीं।”

इन शब्दों के साथ मैं आडवाणी जी के प्रस्ताव का समर्थन करता हूँ और इस बिल का विरोध करता हूँ।

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Yes, Mr. Ibrahim.

SHRI B. IBRAHIM (Karnataka): Mr. Vice-Chairman, Sir, I rise to oppose the motion moved by Shri Advani...

SHRI HAREKRUSHNA MALLICK: Say 'support', not 'oppose'.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Please do not interrupt.

SHRI B. IBRAHIM: Sir, I rise to oppose the motion moved by Shri Advani and I support the Bill which is before us now. The law, Sir, is a fence which prohibits the activities of antisocial and criminal elements. In this connection, Sir, I would like to submit that my learned friend, Shri R'aju, submitted just now that there were.....

SHRI HAREKRUSHNA MALLICK:  
Not submitted.... (Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I requested the Members not to interrupt unless you want to sit up to 12 o'clock or 1 o'clock in the night.

SHRI SYED SIBTE RAZI (Uttar Pradesh): Sir he is trying to show his knowledge. He has some complex.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Knowledge can be shown by replying effectively to the points rather than by interruptions.

SHRI B. IBRAHIM: Sir, as I have submitted just now, law is just like a fence which protects us from the activities of anti-social elements in this country and all those who try to violate the law or who try to claim that fence, all of them will be definitely punished irrespective of their position here. I want to refer to Mr. Raju's speech, he said that there were no communal riots in the country anywhere. Sir, I hail from Karnataka and I may say that in the name of farmers agitation, some vested interests created communal disturbances in several places in Karnataka. Thanks to the timely action of our dynamic leader and the Chief Minister of Karnataka, Shri R. Gundu Rao, he met almost all the demands of the farmers of Karnataka and thus the trouble of the farmers in Karnataka came to an end. So, to say that there were no communal riots or communal disharmony anywhere in India is far from truth.

My other friends have said today and the other day that this Bill before us is taking the liberty of the citizens. I may put it that it is quite otherwise. It is taking the liberty of the criminals for the sake of the society as a whole.

Law and order is a State subject under the Constitution and it is primarily the responsibility of the State Government to maintain law and order in the State. Notwithstanding this Constitutional position, the Central Government do keep in touch with the States to have an overall assessment of the situation from time to time and render such assistance and advice as may be necessary and appropriate. Law and order is the first priority of the Government.

I need not refer to all the clauses of the Bill that is before us because many of my colleagues have already done so in detail. But I would like to refer to reasons for which this Ordinance was promulgated, and they were due to prevailing situation, communal disharmony, caste conflicts

social tension, extremists activities, atrocities on the Scheduled Castes and Scheduled Tribes, minorities and other weaker sections of society and increasing tendency on the part of various interests and parties to engineer agitations on different issues. Sir, in this Bill, there is no bar for the detenu to move the court for the protection of his fundamental right as this Ordinance has not been included in the 9th Schedule of the Constitution. There is no bar to challenge the provisions in the court of law on the ground that such a provision is in violation of the fundamental rights. Sir, the hon. Home Minister is here and I would like to say a few words about the activities, of the police. Sir, unfortunately, during the Janata regime—and also thanks to Shri Dharma Vira for his recommendation of police personnel—there arose a problem on the maintenance of law and order in several places. The police is meant to enforce law but in some places they took law into their own hands and are agitating for some illegal demands. It is because they were allowed to form an association. I have already requested the Home Minister and I take this opportunity to request him again to withdraw the permission granted to the police personnel to form their association. At this juncture, I may be permitted to say, I may be permitted to quote one example of my own place, that is, Mangalore, where, the Superintendent of Police had transferred one ordinary constable to a nearest police station, from one station to another. This was a most genuine action. But even then, for this simple action, the entire police personnel of Mangalore joined together and went in a procession to the Superintendent of Police's office and raised slogans... (Time-bell rings) Sir, I will take two or three minutes more.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You can take two minutes more.

SHRI B. IBRAHIM: Then, they went in a procession raising slogans against the Superintendent of Police. They had the boldness to do it because they

had the association with them. As I have already submitted earlier the law protectors should not be allowed to take the law into their own hands.

In conclusion, I may be permitted to say that the people of India have overwhelmingly opted for restoration of political authority under a strong and charismatic leader, who they feel certain, will bring in sustained order and progress as well as arrest the galloping inflation. Our beloved Prime Minister, Shrimati Indira Gandhi, has already declared that her Government would embark on the urgent tasks of restoring law and order, checking price rise and improving the economic situation. Surely, she is entitled to our wholehearted support and co-operation so that she could effectively lead the nation on the path of prosperity, strength and arduous progress. Democracy is not merely a form of Government. It is a way of life, an act of faith in the dignity and the freedom of the individual; the awakening of the people from listless fatalism, to self-awareness and even to self-assertion is a ground for hope. Our people are no longer willing to accept passively the gross inequalities of wealth and opportunity. An equitable social economy can be achieved only by the deliberate direction and control of production and distribution of wealth. We must adopt the maximum that a free development of each individual is the condition for the free development of all. We must ensure and improve the welfare of the poorest classes without endangering the spiritual heritage which gives dignity to the life of man. With these few words, I support this Bill.

SHRI SUSHIL CHAND MOHUNTA: Mr. Vice-Chairman, Sir, may I, before I say something about the Bill, address a small couplet to the hon. Home Minister and it is like this:

अहिले साहिल, अहिले तूफान को  
कदूरत से न देखो  
कभी ऐसा भी होता है, कि तारे डूब जाते  
हैं।”

1500 R.S.—6.

Sir, throughout the centuries, which we know of history, the rulers when they have come to power and subjugated certain countries or nations and when their tottering regime was faced with a problem or could not contain itself, they had always resorted to such like measures by which would unleash reign of terror. This Government is a Government which is here not because of any positive vote. This Government came here on a minority vote, on a negative vote, which was due to the infighting in the Janata Party. They did not seek a mandate from the people to arm themselves with power to put the whole nation behind bars, to put the whole nation in terror. Rather they should have learnt a lesson from their previous actions of 1975, from what they did during the emergency. But as is normal with despots, they do not learn from their mistakes. The only mistake, they feel, is that the terror unleashed by them was of a smaller quantum rather than in the right dose and, therefore, probably they are coming again with a renewed MISA in the form of the National Security Ordinance and the National Security Bill which contain provisions even more Draconian in nature than the MISA provisions, to which I shall be just adverting.

They say that the National Security Bill is important for this country. The point of all the arguments which have been advanced with eloquence by the Members of the ruling benches is that the Janata Party failed, that the Janata Party did this wrong or that wrong. We want to know, actually what the reasons are why they think that they cannot control the law and order situation in the country, the economic situation in the country and other developmental activities in the country without having recourse to this Bill. What is most important is that we have laws to deal with any situation. This is an extraordinary law. This law is not known to any civilised nation during peace time. Such a law has never been there in any country during peace-time because you do not put

[Shri Sushil Chand Mohunta]

your own people to terror. I can understand a conqueror putting the people he has conquered to terror. But you don't have to put your own people to terror. You must find out their aspirations. It is possible that at a particular time because of certain circumstances, you are put in power. But by being put into power, it does not give you a licence on the strength of that power to start using that power against the very people who put you in power. People voted this Government to power seemingly on their assurances to the people that this Government would work, and the previous Janata Party Government went down under the weight of its quarrels. They said: "If we come to power, we will work and provide a stable Government and a Government which works." And instead what did the people get? They got a Government which did not work at all, a Government caught in the tentacles of its own dissensions. They have not yet been able to fill in all the important portfolios in their own Cabinets—neither in the States nor at the Centre. To cover up these drawbacks, they tell the people that the only reason why they have not been able to work is that the Opposition is standing in the way. My humble submission is that it is the duty of the Opposition to stand as sentinel, to put forward the other view. No picture can be complete only with one face of the coin. People must know, the Parliament must know and every one must know that there are two faces of the coin and what they are. No picture can be complete without knowing the two faces of the coin and if the Opposition focuses the attention of the people on the other aspect of the governmental actions, on what the Government professes and tell the people that these are the pitfalls in the basically wrong policies being pursued by the Government, what is wrong in it? Why should they feel that they are being hampered in their progress because of the Opposition's stand?

Today Sir, we see that there is a surge among the people. They want a better law and order situation. They want better prices for their goods which they produce. They are feeling economically suffocated. The whole situation in the country is as if it were at a standstill. In such an atmosphere to come up with such a measure is only a device to thwart the Opposition, to keep them behind prison bars, to silence their voices and by silencing their voices to show to the people that there is no dissent in the country. I hang my head in shame when faced with this proposition that in the comity of nations we will be known that after 33 years of independence we are still ruling under the garb of such Draconian measures.

Now, certain provisions of the Bill are vague. Even in the Statement of Objects and Reasons it is vague. Clause 3 (2) says:—

"The Central Government or the State Government may, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of the State or from acting in any manner prejudicial to the maintenance of public order from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, make an order directing that such person be detained."

This "prejudicial to the security of the State" or "prejudicial to the maintenance of public order" is a very vague term. In normal peace times we have a police force, we have a regular system of administration, we have a whole network of CID people, CBI and intelligence people. If these people are not sufficient, we do not know what the situation is? Nobody has come forward and said that such and such extraordinary situation has arisen and we cannot deal with it under the ordinary law and the ordinary law is insufficient to meet such a situation. Those things should have

been placed before Parliament. We and the nation are kept in the dark. What has Anally prompted the Government to come out with this Draconian measure? Why is the advice being barred to a detenu, why is the consultation of a lawyer being prohibited and why have they gone back on the firm commitment given by them during the elections, that Emergency won't be imposed? This is a backdoor emergency, I would say. This is nothing else. There is no urgency to keep a person without trial and for one year. Then, probably, one obstacle in the way of keeping a person for one year without trial was that the Chief Justice of a High Court with two other sitting Judges or retired Judges of the High Court should be on the Advisory Board. That they have very amicably amended, and the Bill says "two other persons who are qualified to be appointed as Judges of a High Court" ' This clearly shows the intention that they have *no* confidence in the magistracy, in the judiciary. When we adopted our Constitution, we had kept the judiciary as a balance between both the sides. It was a balance between people and people, it was a balance between the individual and the State. And now you do not trust the judiciary. Such like measures, such like detention orders without trial are only on face of suspicion. And by whom? On the report of which class of people? Those class of people who have been responsible for the Bihar blind-ings, those class of people who have arrested the peaceful marchers of Maharashtra, those class of people who are hand in glove with the underworld and responsible for scores and hundreds of deaths in Kalanwali. and elsewhere. On the strength of their report, on plain suspicion, without hearing, a particular person is to be kept in custody. This is the most barbaric, most Draconian law I have ever come across. At the end, Sir, I would close with a couplet, and that

is especially to the Home Minister: —

“गुनहगारों में शामिल हूँ  
गुनाह से नहीं वाकिफ ।  
सजा तो जानता हूँ  
खुदा जाने खता क्या है ।”

It means: I have been trooped among the, guilty though I do not know what fault I have committed. I know 'he punishment though I am absolutely unaware of what I. have have done.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Sharma. You will have to finish within ten minutes.

SHRI AJIT KUMAR SHARMA (Assam): I shall definitely try to di so.

Mr. Vice-Chairman, Sir, when I listened to the speeches of the Members from the ruling party, only one refrain I found, that they have not j • been able to find out any causes for justifying this particular Bill known as the National Security Bill. But what has been clear is that because the Janata Government repealed MISA, to revenge on the Janata Government the present Government h>s brought back MTSA in another form by terming it as a National Security Bill. Possibly, if the Janata Party had not respealed that Act, this Government would not have possibly brought forward this Bill. So how a particular stand can betray the highest interest of the nation. And, Sir, it is also a proof—if any proof is needed—that by bringing this Bill ii Parliament the present Government has only brought its end nearer; ind I particularly request the Members of the ruling party to reflect over this. The reading of the Bill, the text of the Bill, reminds me of those days of 1975 and 1976 when I was in prison tor 21 months. I was then reading the debates of Parliament when MISA was amended twice and when the Government was not • satisfied till they could amend it to the position that no individual could claim lha

[Shri Ajit Kumar Sharma]

right to his life. Only then was it satisfied and of course, that brought the laU of the Government, in spite of all the Draconian powers that they utilised. It also reminds me, from what I read in the newspapers inside the jails and the debates in Parliament as they were published, that all the ruling party Members, the then ruling party Members, dittoed the Bill; nobody had a word even to criticise it. But many of them now have realised that they did the greatest blunder of their life not only for themselves but also for the whole nation. The same thing is now repeated by the hon. Members who *are* now sitting on the Treasury Benches. When I listened to hon Shri Jain's speech, with his ill-tempered and violent language, I thought if represented the spirit of the ruling party.

SHRI LAL K. ADVANI: I do not think so.

AN HON. MEMBER: That was an evil speech.

SHRI AJIT KUMAR SHARMA: I do not know, but the dominating spirit of the party which has led them to introduce this Bill is reflected by the temper exhibited by hon. Mr. Jain.

AN HON. MEMBER: Very right.

SHRI AJIT KUMAR SHARMA: I do not want to go into the details of this Bill. Hon. Members have dealt with them. But let me, for the benefit of those who have very eloquently supported this Bill, just remind them of a passage from the philosopher Plato, written 4000 years back. He has analysed how a tyrant, how a despot comes to rule over a country, how he silences the people and ultimately how he gets perished. Describing the beginning of despotism in State. Plato says. I quote:

"In the early days has he not a smile and a welcome for every man

he meets; he denies that he is a tyrant and is full of promises to the individual and to the public; he grants release from debts, distributes lands to the public and to his party, and pretends to be gracious and good-natured to all?"

"But soon he disposes of his enemies without the city, coming to a compromise with some and killing others, and when he is no longer troubled by them, then, I fancy, he begins to stir up one war after another in order to keep the public in need of a general?"

"And if there are, as I fancy there may be, some whom he suspects of harbouring free thoughts and of being prepared not to submit to his rule, does he not hope to find an excuse for surrendering them to the enemy, and so destroying them?"

He has also mentioned—and this is very important—

"And is it not inevitable that of those who have helped to establish him in power, and who are in position of influence, some, that is to say, the bravest *of* them, will speak freely both against him and against each other, and express their dissatisfaction with the course of events?"

"And the tyrant, if he hopes to rule must weed out all such persons, until he has left no one of any account, whether friend or foe?"

"He must have a sharp eye also for the man who is courageous or high-minded or wise or wealthy; and it is his great happiness to have to be the enemy of all such whether he likes it or not, and plot against them until he purges the city of their presence."

This is a purification measure. The purport of the whole passage is that a despot always feels insecure of his position, and all the time he wants to protect himself from all his friends

and foes. May, be, from the ruling party so many hon. Members may be supporting the Bill today but they will very soon realise that it is to their own peril and to the peril of the whole nation.

Now, Sir, I will deal with only one point, and I will finish. Many of the Members have said that the agitations in Assam and other places have compelled the Government to bring forward this Bill. In this respect, only one point, I want to say, and warn the Government also that if they have brought this Bill to throttle the agitation in Assam. They will not achieve anything. Let me tell them that the Assam movement is for the protection of the country and the protection of the sovereignty of the whole nation. You know the Government has been playing with fire in regard to the agitation in Assam by adopting methods of violence. The very fact that the movement has continued for fifteen months which is a record in the history of India shows that this movement is in the interest of the nation, in the interest of the people, and it has to be looked at from that point of view. But if you want to malign it for ulterior purposes and try to suppress the people, to suppress the genuine demands of the people, the Government will act as an agent of secessionism and not others.

All the causes for the bringing forward of this Bill, as mentioned in the aim and object of this Bill, are hypocritical arguments. The only real intention of the Government is to grab more powers. But let me say, Sir, as my hon. friend, Mr. Ramakrishnan pointed out by referring to a Tamil saying. The tears of the people are more powerful than the bullets of the Government. No amount of Draconian laws will be able to suppress the people and the hon. Home Minister knows that for 15 months all the Draconian laws, all the curfew orders were ineffective before the people of Assam. They rejected them peacefully

and organised themselves peacefully. No Security Bills of this kind will ever help them in killing the spirit of the people. The people will resist. I request the Government to be honest and frank and tell the people, "We have failed to bring any good economic measures. We are incapable of fulfilling our election promises. So, we want to deceive you and deceive ourselves by talking about communalism, by talking about insecurity and by bringing this particular National Security Bill." This Bill is not a National Security Bill; it is a National Insecurity Bill. Now, I would request the Home Minister to withdraw this Bill. And if he is not prepared to withdraw it at this stage, please refer it to the people. You take the opinion of the people as to whether they want this Bill for their security, for the nation's security, or not. The nation does not belong only to the members of the Cabinet or only to the members of the ruling party. The nation belongs to all. Let all give their opinion. And if they say they need it, then let them come forward with this Bill. So, this is my request. I hope the Home Minister will consider it. With these words I oppose this bill and support Hon'ble Advani's resolution. Thank you.

श्री महेन्द्र मोहन मिश्र : उपाध्यक्ष जी, हमारे माननीय आडवाणी जी ने जो प्रस्ताव सदन के समक्ष रखा है, मैं उसका विरोध करता हूँ और हमारे गृह मंत्री जी ने जो विधेयक सुरक्षा विधेयक सदन में पेश किया है मैं उसका बहुत जोरों के साथ समर्थन करता हूँ।

श्रीमन्, काफी वक्ताओं ने इस पर रोशनी डाली है। दो तीन बातें मैं इस सदन के सामने रखना चाहता हूँ। किस बात की परेशानी है और क्यों यह विधेयक सदन में लाया गया है। विरोधी दल के लोगों ने भी काफी जोरों से आवाज उठाई है कि यह विरोधियों के खिलाफ लागू करने के लिए रखा गया है।



[श्री महेन्द्र मोहन मिश्र]

लेकिन मैं साफ, कह देना चाहता हूँ कि प्रधान मंत्री और गृह मंत्री ने साफ शब्दों में कहा कि विरोधियों के खिलाफ, विरोधी पार्टियों के खिलाफ इसको नहीं लगाया जाएगा। लेकिन मैं यह भी कह देना चाहता हूँ कि विरोधी पक्ष के नेता या पार्टी के लोग, अगर सीमा के अन्दर रहेंगे, और सीमाओं के खिलाफ जायेंगे तो...

(Interruptions) धन्यवाद नहीं अगर आपको कोई भी हरकत देश के खिलाफ होगी तो निश्चित तौर पर कानून सबों के लिए लागू होगा। अगर देश की सुरक्षा में विरोधी दल के लोग जैसा कि आपने 1975 में किया, किस परिस्थिति में इमरजेंसी लाई गई, वह हालत मैं सदन को बता देना चाहता हूँ कि आपने फौजों को मना किया और कहा कि हुकम मत मानो। आपने स्कूल, कालेजों को बन्द किया। आपने ला एण्ड आर्डर की व्यवस्था खराब की। चुने हुए लोगों को संसद में और विधान सभाओं में जाने से रोका। विधान सभा की कार्यवाहियों को रोका। यह जनतन्त्रीय पद्धति है, जिसमें की दुहाई आप भी देते हैं और जब वह खतरे में पड़ी तो हमारे प्रधान मंत्री को इमरजेंसी लानी पड़ी। मैं आप से पूछना चाहता हूँ कि तीन साल के अन्दर देश की सामाजिक, राजनीतिक और आर्थिक दृष्टिकोण से क्या हालत बना रखी है। हमारे देश में जो खाद्यान्न भण्डार था; हमारी विदेशी मुद्रा का जो भण्डार था वह आप लोगों को जो कुछ मिला वह खर्च कर दिया। कानून और व्यवस्था की हालत देखिये, जो कौमी दगे जमशेदपुर, कानपुर और अलीगढ़ में हुए वह सब आपके कारनामों की वजह से हुए; आज क्या हालत है आप मानते हैं। हमारे माननीय सदस्य न कहा कि आपके पास काफी ऐसे कानून हैं जिनसे आप न पर कंट्रोल कर सकते हैं।

लेकिन मैं ईमानदारी से पूछना चाहता हूँ आज भी जो हमारे कानून हैं आई० पी० सी० हो या सी० आर० पी० सी० या दूसरे कानून ने उन के चलते आप किसी समाजविरोधी तत्वों को, तस्करों को पकड़ कर क्या रख सके हैं। मेरा कहना है कि यह बिल्कुल असंभव है। आप अगर चाहते हैं कि देश में आर्थिक स्थिति सुदृढ़ हो, राजनीतिक स्थिति सुदृढ़ हो तो आपको निश्चित देश के संचालन के लिए यह कानून लाना पड़ेगा और हम लायें हैं। 1980 के चुनाव जिस मुद्दे पर हमारी पार्टी लड़ी और आपकी पार्टी लड़ी, जनता की अदालत में हम भी गये और आप भी गये उसमें जनता ने यह फैसला दिया कि देश में अगर आर्थिक स्थिति को सुदृढ़ करना है; सामाजिक व्यवस्था लानी है तो श्रीमती गांधी की पार्टी को जिताना है। जनता को यह मालूम हो गया कि जनता पार्टी देश की दुश्मन है, समाज विरोधी है और देश को तोड़ना चाहती है। आज हमें दिखाई दे रहा है कि आर्थिक स्थिति ज्यादा ठीक नहीं है, सामाजिक अव्यवस्था है, समाजविरोधी तत्व बहुत से आ गये हैं इनको ठीक करने के लिये हमें यह कानून लाना पड़ा है। अगर हम यह कानून नहीं लाते, हमारे गृह मंत्री यह कानून नहीं लाते तो वह दोषी हैं। यह बात साफ है कि प्रधान मंत्री का हमारा इरादा बिल्कुल बुरा नहीं है... (Interruptions)

आप लोगों ने तीन साल कमीशनो का तांता लगा दिया। झूठे मुकदमें काफी लाये। एक भी कमीशन ने किसी भी मुकदमें को सही नहीं पाया। जितने भी कांग्रेस के कार्यकर्ता थे, भूतपूर्व मुख्यमंत्री थे उनके खिलाफ गलत गलत केस दायर किये गये। दुनिया की तबारीख में कोई दूसरी मिसाल ऐसी नहीं मिलती। इससे धन-राइये नहीं। यह कानून अमन-चैन पसंद लोग, कानून पसंद लोग जो हैं उनके लिए कुछ नहीं करेगा। कानून को छोड़ेंगे

कुव्यवस्था करने या कुव्यवस्था की साजिश करने वाले लोग है जो जनतंत्र को देश में मिटाना चाहते हैं यह निश्चित रहे कि चाहे कोई भी हो, इधर का कोई नेता हो या उधर का कोई नेता हो, चाहे अडवाणी जी हों या कोई और हो सबों को इसका फल भुगतना पड़ेगा।

देश बड़ा है पाटों छोटी है। (Interruptions).

इन शब्दों के साथ में कहना चाहता हूँ ...

(Interruptions)

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Please do not interrupt, Mr. Manubhai Patel. That is why I said at the beginning .....

SHRI MANUBHAI PATEL: That was his real intention; that was the real thing...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): If that was the intention, now, will your interruption change his intention?

SHRI MANUBHAI PATEL: It is coming out from the horse's mouth.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Reply from horses mouth will be the Home Minister's reply. If any honourable Member gives an assurance, you are not prepare to take notice of it. Let there be no interruptions, please. I said it at the very beginning -----

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SHRI SADASHIV BAGAITKAR: Wrong statements are being repeated. He mentioned again again and 3gain the same thing that JP asked the army to revolt. It was wrong...

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): But that point was already debated. Please sit down. That statement was made from that side and replies were given. Now these interruptions will not change the situation. We are running short of time. Let me make it clear that interruptions will mean that some of

the Members belonging to smaller parties will not get their chance to speak. The ruling party has almost exhausted its list. Before me the names of Members from mostly smaller parties are there. I feel they should also express their opinion. Interruptions will only take away their time. Therefore, my request will be kindly do not interrupt...

SHRI MANUBHAI PATEL: Why should they be denied their chance? Let the ruling party suffer for it? They were interrupting when we spoke.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): You are not understanding my point. The ruling party has got enough time but it has almost exhausted its list. They have not exhausted their time yet. Please go on.

श्री महेन्द्र मोहन मिश्र : उपसभाध्यक्ष जी, मैं कह रहा था कि हमारी मंशा में कोई पाप नहीं है। मैं यह कहना चाहता हूँ कि अगर मैं भी देश की एकता के खिलाफ और देश की सुरक्षा के खिलाफ काम करूँगा या देश में जनतंत्र के खिलाफ काम करूँगा तो मुझे भी इस विधान के अन्तर्गत गिरफ्तार किया जा सकता है। विरोधी दल वाले इस बिल की वजह से क्यों परेशान होते हैं? असल में आप पर चोर की दाढ़ी में तिनका वाली बात लागू होती है। अगर आप चाहते हैं कि इस देश में समाजवाद आए तो आपको डरने की जरूरत नहीं है। मैं भी चाहता हूँ कि इस देश में समाजवाद आना चाहिए। अगर आप देश के हित में काम करेंगे तो आपके खिलाफ कोई कार्यवाही नहीं करेगा।

श्रीमन्, अन्त में मैं एक दो बातें और कहना चाहता हूँ। मैं विरोधी दल वालों से पूछना चाहता हूँ कि आप लोग इस बिल के कारण इतने परेशान क्यों हैं? मैं समझता हूँ कि इसके पीछे एक बहुत बड़ी भूमिका है। सन् 1969 में कांग्रेस का विघटन हुआ। श्रीमती इंदिरा जी चाहती थी कि इस देश में समाजवाद आए और गरीबी को हटाया

[श्री महेन्द्र मोहन मिश्र]

जाये। इसी उद्देश्य से उन्होंने वेंकों का राष्ट्रीयकरण किया और राजा-महाराजों के प्रिवी पर्स समाप्त किये। उन्होंने समाजवाद की दिशा में अनेक कदम उठाये। उनको हमारी पार्टी से निकालने की साजिश की गई। उनका समाजवाद का कार्यक्रम इस देश से गरीबी हटाने का कार्यक्रम था। हमारे देश के पूँजीपतियों ने पैसों के बल पर उनका विरोध किया। सन् 1977 में इन लोगों ने यह नारा दिया कि इंदिरा हटाओ, देश को बचाओ। लेकिन इन तमाम बातों के बावजूद हमारे देश के अग्राम ने श्रीमती इंदिरा गांधी को सन् 1980 में सत्ता सौंपी है। विरोधी दलों का यह कर्त्तव्य बनता है कि वे उनको अपना पूरा सहयोग दे। जिस प्रकार से विरोधी दलों को इस देश के अग्राम ने सन् 1980 में सत्ता से बाहर निकाल दिया उसी प्रकार से अगर इन्होंने ठीक प्रकार से व्यवहार नहीं किया तो सन् 1985 में इनको यहां से भी बाहर निकाल दिया जाएगा। आज हमारे देश की जो स्थिति है और आसाम में जो कुछ हो रहा है उसको देख कर हमारे देश का जनताधारण यह समझता है कि देश में जो वर्तमान कानून है उसके माध्यम से हमारे गृह मंत्री जो देश की समस्याओं को हल नहीं कर सकते हैं। इसलिए जो लोग इस देश में जनतंत्र को बनाये रखना चाहते हैं, जो समाजवादी जनतंत्र में काम करना चाहते हैं, जो इस देश में जनतंत्र की रक्षा करना चाहते हैं, इस देश में अमन-चैन और खुशहाली चाहते हैं, इस देश की परम्पराओं और इस देश की संस्कृति को आगे बढ़ाना चाहते हैं उनका यह कर्त्तव्य है कि वे इस विधेयक को मिलजुल कर पास करें। इन शब्दों के साथ गृह मंत्री जी ने जो विधेयक पेश किया है उसका मैं बड़े जोरों से समर्थन करता हूँ।

» SHRIMATI RAJINDER KAUR (PUNJAB): Mr. Vice-Chairman, Sir, this bill is named as National

Security Bill as if the nation is faced with a danger and needs to be saved. I fail to understand whether the danger is internal or an external one. Examples of internal danger from Assam and Punjab have been given.

I go to and come from Punjab every day but I have not seen any danger to law and order situation there. The students agitation did crop. But the Government of Punjab is responsible therefore. They had raised the bus fares and there was a strike for about 3 hours. Following 2 hours and 40 minutes, no untoward incident took place. Thereafter, a phone call was received from the Chief Minister that strong action will be taken against the S.P. for whose jurisdiction buses are stopped. A few students were beaten up and that sparked off the trouble. The students were fired at and one person was killed with a police bullet and twenty-eight students were arrested in that connection and that aggravated the situation.

It is said about Assam that the Assamese want to secede from the country. The Leaders of the Assam students Union met the Leaders of the Opposition and Members of Parliament. Not one of them did say that they wanted to secede from the country or they wanted to have an independent, sovereign State.

Time and again it has been discussed here that Pakistan is posing a grave danger to us because it is manufacturing nuclear bomb. It might have done so. But we can say that we have also got the capacity to manufacture it. When Mr. Morarji Desai used to declare that we would not do so then myself as well as many members from the Treasury Benches used to resent it. I have visited Pakistan twice during this year. I found no ill feeling against India there either in the administration or in official circles or among the people. About Moradabad incidents they remark that quarrels do take place even among Shiya and Sunni Muslims but

\* English translation of the original speech delivered in Punjabi

there was no ill-will at all against India. I do not know where from the danger from Pakistan has appeared overnight.

They say that this law is against those who disturb law and order. That charge can be levelled against anybody. It, however, makes no difference to me because emergency had been imposed against Sikhs first by the Moghuls, then by the Britishers and then by the Congressmen. In, 1948, Master Tara Singh, President Akali Dal, was arrested under the Bengal Regulation Act because the Constitution had not been framed till then. He was charged with fomenting revolt in the country. After 8 months he was released. For 20 years agitations by the Akalis continued but nobody can say that even a single bug had been set on fire during these agitations. Mr. Darbara Singh who is now Chief Minister of Punjab had once given a statement that Master Tara Singh was hobnobbing with Pakistan **and** that he should be deported to Pakistan. It is difficult to assess what situation such a person who is Chief Minister of Punjab, will create in Punjab now when he could level such a charge in those days. The situation is that laws are framed with an eye on harassing the opposition.

Once I was sitting in the office of Akali's party official Newspaper when some policemen came there. When, our party people asked them the purpose of their visit, they told them that they wanted to look into some files. When asked what for, they replied that they have received orders from the Government that the Editor had to be prosecuted and that is \* why they wanted them to show the files. They had taken the decision to prosecute first and wanted to screen the files thereafter. I did not walk out on the issue of Mr. Chavan because when Mr. Chavan was Home Minister we were treated in the same way. I do not say that

the Government did a good thing, but our members were put in Jail for four months and even their whereabouts were not known, during Mr Chavan's time.

They say that it will be used against smugglers and black-marketeers, and not politicians. But! the fact is that today at least 10 lakh rupees are required to win a seat in the Lok Sabha. Those ten lakh rupees are paid not by Income-tax payer or a person who earns his bread through hard work, but by black-marketeters and smugglers alone. If they pay them it is a secret money and how can they touch those who pay them money for contesting elections. They will prosecute only those black-marketeters and smugglers who have more connections with the opposition. One person in Amritsar has been arrested who was engaged in the smuggling of silver and opium somebody told that it was very bad. I told him that there was nothing bad about it. Only thing is he could not indulge in smuggling and at the same time antagonise the Government. I told him that if he stopped quarrelling with the S. P. or Government officials no harm could be done to him.

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This law is being passed for the opposition. Instead of doing this and that, they should straightaway proclaim a state of emergency and put all of us behind the bars, when there is no cause, there will be no effect. We cannot be stopped from criticising them otherwise.

But please remember that situations go on changing. The treasury benches are always pointing an accusing finger on the opposition what did they do during their regime but they cannot talk on the same terms to me. When Smt, Indira Gandhi was arrested for the first time, she was not prosecuted. She was released otherwise. At that time, I was a member of NDMC, appointed by the Janata Government. After taking my oath, the first thing, I did was to visit

(Shrimati Rajinder Kaur)

Smt. Indira Gandhi's residence but j she had left for Gujarat by that time. When Smt. Gandhi was expelled from the Lok Sabha, Gianiji might remember, I was the only member who had opposed the action. An hon'ble ! Members was telling that the Indians do not behave unless treated with a strong hand. I said I could appreciate if the strong hand was mine. Now the power is in their hand. They can suppress anyone they like. But this system of rule by ordinances is wrong. A Government is one that governs the least. The Government j which does not interfere with the freedom of the people is the best. If the freedom of the people is taken away there will be a stom in the I country which will engulf most of us. But for the welfare of the country and the nation, I condemn this bill in the strongest terms.

Thank you, Sir,

SHRI AMARPROSAD CHAKARBORTY; Mr. Vice-Chairman. Sir, this Bill is the product of frustration and fear, because Jthe ruling party .sees now all around the same danger from the "people which it faced at the • time of passing the Maintenance of Internal Security Act. And the entire people of this country removed that party and removed\* that ruling clique. Thereafter, when it has again come into power the same thing is being brought again in a different vein. If you see the Maintenance of Internal Security Act of 1971, which was passed at that time, and the name and title of this Bill National Security Bill you will be surprised to find that even the comas and semicolon;; in the two are similar and identical. (Interruptions) This is nothing but taking undue advantage of the ignorance of the people, hoodwinking the Party members and others. Sir, you remember those days emergency, when they declared emergency for the internal security. You will be surprised to see the provisions contained in the Internal

Security Act and this Bill. Provisions of clause 14 (2), provisions relating to the Advisory Board provision regarding the report of the Advisory Board, provision regarding the formation of the Advisory Boards etc. are same similar and ' identical in both cases. 5 P.M.

There is nothing new init. Regarding the powers of detention, the previous Act said:

"The Central Government or the State Government may, if satisfied with respect to any person including a foreigner that with a view to preventing him from acting in a manner prejudicial to the Defence of India...."

Now, in the present Bill, section (3), sub-section (2) states:

"Th<sub>e</sub> Central Government or the State Government may, if satisfiea with respect to any person that with a view to preventing him from acting in any manner prejudicial to the security of **the** State-----"

So, it i<sub>s</sub> the same thing. It transpires that the previous Government re<sup>^</sup> pealed it because of .the wrath and anger of the people. They are now bringing this Act - in toto under a different name. It is out and out a bluff, a fraud and a misnomer. It is agitating the whole nation. In other words, it is old wine in new bottle. It is nothing new.

SHRI RAMAKRISHNA HEGDE: It is old *tharra* in a new bottle. It is not wine.

SHRI AMARPROSAD CHAKARBORTY; Some hon. Members pointed out about the continuous detention. You will be surprised that this provision is also the same as the old Act. I am only giving some examples to show that both the Bills are the same in order to remove an idea from the mind of some of the Members who mistook it as a new Bill. The section regarding the Constitution of

Advisory Boaras in the previous Act reads as follows:

"The Central Government or the State Government shall, wherever necessary, constitute one or more Advisory Boards for the purpose of this Act. (2) Every such Board shall consist of three persons who are or have been or are qualified to be appointed as Judges of the High Court and such persons shall be appointed by the Central Government or the State Government."

So, very cleverly and very cunningly, they" are keeping two Members outside the arena of judiciary. There are sections in the Bill to the effect that if there is majority on a particular report, that report will be accepted. • So, these two people who are qualified to be appointed as a Judge may be appointed. Anybody having a practice of 10 years is qualified for appointment as High Court Judge. He may have been a lawyer without a brief. But if the Government wants, he will become a member of the Advisory Board. This is an indirect way of taking away the democratic rights of the people. This present Bill is still more draconian. Even after 12 months, the detention of a person can be extended. I was a victim of prevention detention Act. We have seen the preventive measures passed by the British. We know how draconian these measures are. These measures will be used against the persons who are fighting against these authoritarian rule and measures. Sir, the time is coming and I make a note of warning. It applies not only to the Members of the Opposition as it had been applied to Mr. Chandra Shekhar and Mr. Krishna Kant at the time of emergency, but will be applicable to others also because, Sir, the plant of Rajiv Gandhi has been planted in the Kolar Gold Mines. So, the Members of that side also must know what would happen and they must not be satisfied. Let them put their hands on their chests and let them feel what a dangerous provision is being brought, taking

away the democratic rights. It is a draconian measure affecting the entire basic structure of the society. So, Sir, I strongly oppose this Bill from my Party, and I support the Motion of Disapproval moved in the House by Mr. Advani. Sir, I do not have time, otherwise I would have been able to satisfy you, Sir, and the House by going through the various clauses that there is no difference between the previous Act and the present Bill. So, Sir, the country is heading towards such a Path here the democratic rights will be trampled by these people, by this ruling clique. Out of a fear complex, they are taking the democratic rights of the people, and the country is heading towards a serious situation. And we in the Opposition shall fight tooth and nail against this draconian measure in future, and today by strongly opposing the Bill and

I supporting the Motion of Disapproval. Thank you, Sir.

SHRI B. V. ABDULLA KOYA (Kerala): Mr. Vice-Chairman. Sir, on behalf of my Party, the Muslim League, I would strongly oppose the proposed National Security Bill, 1980.

Sir, it is not at all our policy to oppose all the measures that were being brought up by the Government. We have been, as you know, Sir, supporting almost all the measures of the Government helping to curb the lawlessness in the country and to check effectively the anti-social and anti-national elements. But the law should not curtail the freedom of the people and create a police raj. There is a saying in Malayalam; "Eliye pedichu-illom chudaruthu"; that means, don't bum the house fearing the attack of the rats.

Sir, we have been hearing from all quarters that the judiciary would be separated from the executive. If that is so, why are the Executive Magistrates given the powers of judiciary? If the existing law is not sufficient to deal with the law and order situation and the unsocial elements and black-j marketeers, let the Government amend

[Shri B. V. Abdulla Koya]

the law suitably so as to remove such loopholes. But please do not arm the executive with unbridled power of detention and do not allow them to sit in judgment on their own actions.

Sir, let me cite one illustration to prove how the executive misbehaved on such an occasion even with the existing limited powers they have. During the disturbances at Moradabad, and Aliyarh, the State President of our Organisation has been put behind the bars. In spite of the phone call asking him to be released by no less a person than our Home Minister, Shri Zail Singh, he has not been released. In spite of the Home Minister's intervention he has not been released. That shows the power of the executive ignoring the desires of the Home Minister, who is now assure us that this would not be done.

SHRI SYED SHAHEDULLAH: So many of them are in jail in Moradabad.

SHRI B. V. ABDULLA KOYA: This President of ours is a popular doctor doing relief work among riot victims and organising peace campaigns and criticising the action of the notorious PAC to the higher authorities. Naturally, such a man would not be spared by the police. We, the minorities have had to undergo miseries during riots as victims and the community is deprived of the services of their chosen leaders during such miserable occasions. I take this opportunity to challenge the U.P. Government to try in a court of law these imprisoned leaders of ours or to set them free forthwith. We have lost completely our confidence in the PAC. When such is the experience, how can we support measures giving more powers to the executive.

Sir, whenever the Government wants to take action against their political opponents they conveniently get hold of some members of the minority community also in order to show that they are very neutral. This

kind of equation cannot convince us of the proposed assurance from the Government that the proposed Bill will not harm political activities. Mr Y. B. Chavan's experience the other day is another example in this matter. The Bill, according to me, is against the spirit of our Constitution by diluting judiciary with the executive. This Bill, unfortunately, is nothing but a devaluation as claimed by my hon. colleague in the Lok Sabha. Thank you.

SHRIMATI MONIKA DAS: Mr, Vice-Chairman, Sir, I do not know whether I am the last speaker on this Bill today.

Sir, the law and order situation in the country today is much better than what it was before. The crime rate has actually fallen in Delhi and other metropolitan cities in India. Sir, there were disturbances in many parts of India. These disturbances were certainly causing problems and anxiety to us. This situation was putting a great strain on the law and order machinery. These disturbances and problems could not be called ordinary law and order problems. The persons who were creating these problems were not ordinary criminals. Sir, if we go into the causes of these disturbances one by one, then we will find that there are the communal and disruptive forces which want to create chaos and confusion in the minds of the people and also want to disturb the communal harmony in the country. They are bent upon bringing disreputation to the secular Government of the country. Behind them, it is suspected that some nations are active who do not want India to be prosperous and strong and they are supporting these persons. These anti-national forces are not ordinary criminals who can be prosecuted under ordinary criminal laws of India. If These anti-national forces are very powerful having unlimited resources with the help of foreign Governments and many a time, with imported arms and ammunitions. They are also

trained in sebotaging and in the guerilla warfare and all help is given to the by the foreign Governments.

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Sir, we hear of so many disturbances at one place or the other. I may say that all these are politically motivated knowingly or unknowingly, either by ommission or commission and the Opposition parties are there to create these disturbances which in turn are causing a great law and order problem in the country. Only lip service to this law and order problem is not going to solve it. They have to see the problem in its proper perspective and come forward with an honest assessment of the situation.

T"Only the Government cannot be able to solve the problem. It can only deploy armed personnel ,or prosecute the culprits and take other legal measures to counteract. The Government cannot change the hearts of the people. Government can only suppress temporarily the uncivilised animallike actions by force. What we need today is a change of hearts and that has to come from the people itself. The people should know that these are uncivilised acts and all of us have to join together to uproot these forces to establish a civilised society which adheres to the norms of the

\*\* society. I am not blaming the Opposition or other people. My other colleagues have already said so many things. I am sure the Bill will be passed and I fully support this Bill. It is not our work alone; it is everybody's concern and all of us have got a certain duty to see that this problem is resolved. I know people fn the Opposition have been blaming the Government for something wrong either here or there.

I would like to say a little more but would only request the Government, the hon. Minister to have this I Bill passed so that the Act is properly implemented. Thank you.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): I think we toave exhausted the time of all the

parties and groups. Can I ask Mr. Advani... ?

SHRI G. C. BHATTACHARYA (Uttar Pradesh): No, our time is there. This is a National" Security Bill.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Let me try to help you. There are two names before me. i

PROF. SOURENDRA BHATTA-CHARJEE: I do not know how my name is dropped.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Tohra's name is there but Mr. Tohra, one of your party member has spoken. However, I find it difficults to call you. There are three names, Mr. Tohra, i Mr. Bhattacharya, and Prof. Souren-dra Bhattacharjee.

SHRIMATI RAJINDER KAUR: Give five minutes to everybody.

SHRI. HARKISHAN SINGH SUR-JEET: Perhaps, Mr. Tohra will be speakeing for the first time.

SHRI V. GOP ALAS AMY: I think Mr. Tohra is going to make his maiden speech.

THE VICE-CHAIRMAN -(SHRI DINESH GOSWAMI): So I take it that each one of you will finish the speech in five minutes. I am giving five minutes to each of you. Yes. Mr-  
i Tohra.

**सरदार गुरचरण सिंह टोहड़ा (पंजाब) :**

माननीय वाइस चेयरमैन साहब, मैं श्री एल० के० आडवाणी की तरफ से पेश किया गया जो रिजोल्यूशन है उस का समर्थन करने के लिए और जो होम मिनिस्टर साहब की तरफ से पेश किया गया नेशनल सिक्योरिटी एक्ट है उस की जोरदार मुखालिफत करने के लिए खड़ा हुआ हूँ। मेरी पार्टी ने बीते समय में भी



[सरदार गुरचरण सिंह टोहड़ा]

इमरजेंसी का जो विरोध किया था वह भी एक लाभिसाल बात है। आज भी मैं समझता हूँ कि इस बिल को लाने की कोई जरूरत नहीं है। यह बिल क्यों लाया गया है? सरकार हर महाज के ऊपर फेल हुए हैं, इस देश की कोई समस्या हल करने में कामयाब नहीं हुई और इस लिए अपनी नाकामयाबी को छिपाने के लिए वह यह काला बिल लायी है। आज हमारे देश में महंगाई की समस्या है, विद्यार्थियों की समस्या है, बेरोजगारी की समस्या है, अकलियतों की समस्या है, इंग्लैंड की समस्या है, लेबर की समस्या है, हर जगह एक बेचैनी का वातावरण है। तमाम जिनगी बेचैन है और उस बेचैनी में और इजाफा किया जा रहा है इस काले बिल के जरिये और हुकमशनों की पार्टी यह भूल गयी, वह बातें भूल गयीं कि जो उन्होंने कही थी 1977 से लेकर 1978 तक। उन लोगों ने लोगों से जगह-जगह जा कर वायदे किये थे, दुख प्रकट किया था, पाश्चात्ताप किया था इमरजेंसी और काले कानूनों के लिये और वायदा किया था उस एलेक्शन में कि हम अगर पावर में आ गये तो काला कानून या भीसा या इमरजेंसी या और बातें जो हम ने की हैं बीते समय में उन को नहीं दुहरायेंगे। लेकिन यह बहुत जल्दी भूल गये हैं और बहुत जल्दी भुलाकर उसे, यह सारा बवेला हो रहा है और यह कहा जा रहा है कि मुल्क के हालात बहुत खराब हैं। मुल्क में दो साल जनता पार्टी ने राज किया और दो साल में उस ने बहुत कुछ बिगाड़ दिया। 31 साल राज करने वाले अपने सिर कोई जिम्मेदारी लेने के लिये तैयार नहीं हैं, लेकिन दो साल राज करने वाले मुजरिम हैं, बहुत ज्यादा गुनाहगार हैं। उन्होंने बहुत बुरे काम किये। यह लोग भले काम करते रहे। 31 साल तक वे भले काम करते रहे। काले कानूनों का सहारा कोई सरकार तब लेती है जब सरकार अपने प्रोग्राम में कहती कुछ है और करती कुछ और है, जब उस की कथनी और करनी में अंतर आ

जाता है, फर्क आ जाता है। कही गयी गरीबों और मजदूरों की बात। पहले भी 1975 में इसी वजह से इमरजेंसी लायी गयी थी। उस समय भी गरीबी हटाओ की बात कही गयी थी, लेकिन गरीबी हटाने के बजाय प्रोग्राम बना गरीब को मिटा दो और उस के लिये इमरजेंसी लगा दी गयी। लोगों की आवाज खामोश कर दी गयी। अब क्या होगा? इस कानून के पास होने के बाद क्या होगा? होगा यह कि लोगों की आजादी छीन ली जायगी। कलम की आजादी, प्रेस की आजादी खत्म कर दी जायगी और लोगों को पुरस्मन तरीके से मजदूरों को, मुलाजिमानों को, किसानों को जो अधिकार हैं, बात मनवाने के लिये उन को हक मिले हुए हैं वह खत्म हो जायेंगे। इस को पास होने के बाद दुहाई दी जा रही है, यकीन दिहानी की जा रही है कि इस को गलत तरीके से इस्तेमाल नहीं किया जायेगा। लेकिन नजदीक की ही बात है, 1975 में जो कानून पास हुआ था उस समय उस के लिये कहा गया था कि उसे गलत तरीके से इस्तेमाल नहीं किया जायेगा और यह भी कहा गया था, यह भी यकीन दिहानी दी गयी थी कि राजनीतिक विरोधियों के खिलाफ इस को इस्तेमाल नहीं किया जायेगा, बल्कि आर्थिक अपराधियों के खिलाफ इस्तेमाल किया जायेगा। आज भी वही बिल है और वही बातें हैं, लेकिन उस समय क्या हुआ। मेरी पार्टी ने इमरजेंसी का विरोध करने के लिये 9 जुलाई, 1975 को पुरस्मन सत्याग्रह शुरू किया था। वह 22 जनवरी, 1977 तक चलता रहा। सत्याग्रह में पहले दिन में, सरदार बादल और दूसरे लोग मौजूद थे। हम ने दफा 144 तोड़ी, लेकिन सरकार ने हमारे ऊपर दफा 88 का इस्तेमाल नही किया, 107 और 51 का इस्तेमाल किया और उस ऐक्ट का इस्तेमाल किया जो गुंडों के लिये, बद-

माशों के लिये इस्तेमाल किया जाता है । उस के बाद आगे सुनिये कि हम जेल में थे । जब यह बात कह रहा हूँ तो मुझे हंसी आ जाती है जब हमारे होम मिनिस्टर कहते हैं कि ग्राउन्ड्स होते हैं तभी किसी के ऊपर भीसा लगेगा लेकिन मैं जेल में था । एक साल जेल में बन्द रहा 107 और 51 में । एक साल के बाद मुझे भीसा का नोटिस सर्व हुआ । उस में क्या लिखा था । मेरा पुलिस स्टेशन बहारसों है । उस में लिखा था कि आप ने बहारसों थाने में बहुत गरम लेक्चर दिया है और लोगों को उकसाया है कि राज उलट दो और इसलिये क्यों न आप को नजरबन्द किया जाये । यह सच्चाई है ? यह सदाकत है कि उस का इस्तेमाल सही किया जायेगा । अभी क्या गारंटी है कि उस का इस्तेमाल सही तौर पर किया जायेगा ? इसलिए बहुत दुख की बात है कि आज यह बिल लाया जा रहा है । आज देश के लिए बहुत काला दिन है, जिस दिन यह काला कानून पास होने जा रहा है सरकार के पास बहुत से कानून हैं, बहुत-सी कानून की किताबें हैं, ताजीराते हिन्द है, सी० आर० पी० सी० है और वह उनका सहारा ले सकती है अगर कोई गलत काम करे । हम इस बात की सहमति नहीं दे सकते कि कोई गलत बात करने वाले को किसी तरह की रियायत की जाए लेकिन यह पूरे का पूरा देश जेल-खाना बनाया जा रहा है, पूरे देश को काले कानून के तहत लाया जा रहा है अपने राजनीतिक विरोधियों को दबाने के लिए इस कानून का सहारा लिया जा रहा है और मुझे खेद है कि जानी जी जो हमारी रियासती जनता से ताल्लुक रखते हैं, हम रियासतों में थे और जो लोग अंग्रेजी राज में थे वह भी अंग्रेजों के खिलाफ लड़ते थे, वह भी

गुलाम थे लेकिन हम शाही गुलामी में तो हमने रजवाड़ाशाही के खिलाफ संघर्ष किया, इन्होंने भी किया और रजवाड़ाशाही के काले कानूनों को तोड़ने वाली, उनके खिलाफ संघर्ष करने वाली उस कोम से ताल्लुक रखने वाले जो हैं, जिन्होंने सदियों से जुल्म और अन्यायों के खिलाफ लड़ाई लड़ी है, अपना खून दिया है, बलिदान दिया है, उनकी तरफ से यह बिल पेश किया जा रहा है, मुझे इस बात का खेद है । इसलिए मैं क्या कर सकता हूँ । वह मजबूर हूँ, लेकिन उस मजबूरी में उनसे मैं अपील करता हूँ कि कृपया इस बिल को वापस लीजिए और इस देश को जेलखाना मत बनाइये और इस देश में जो आजादी 1977 में लोगों ने बहाल की थी, लोगों ने 1977 में जो किया उससे सबक सीखिये । क्या कसूर था आपका ? सिर्फ इतना ही कि आपने काले कानूनों का सहारा लिया था, आपने अपने राजनीतिक विरोधियों को दबाने के लिए कानून को गलत बरता था, अब आप फिर उसी तरह तुर पड़े हैं, चल पड़े हैं । इसलिए मैं चाहता हूँ और इसका विरोध भी करता हूँ पूरे जोर से, लेकिन मैं अपील भी करता हूँ कि इसको वापस लीजिए और पूरे देश को जेलखाना मत बनाइये । आपका धन्यवाद ।

SHRI G. C. BHATTACHARYA: Mr Vice Chairman, Sir, I support the Motion of Mr. Advani and I oppose the Bill.

Why does such a Bill come, particularly at this juncture? One must look at two aspects. Firstly, when capitalism and the capitalist society are in danger today, the crisis has to be shifted to the people because the monopoly houses, the monopoly capital and the multi-nationals are not going to sacrifice even one paisa of their profits. They will ensure their super

[Shri G. C. Bhattacharya] profits. So the crisis has to be shouldered by the people. And when this crisis will be shifted, naturally there will be agitation and there will be opposition. Of course, I will not support any secessionist movement; I will not support anybody who is having any element which is anti-national. But what about the genuine mass movements? If there are genuine mass movements and they are equated with the other situation, then tonnes of people. Only three or four days, NGOs in Andhra Pradesh were held under NSO. Were they anti-national? You can term any act as anti-national. When the working class and other poor masses will rise, you will suppress them saying that these are anti-national activities.

Secondly, when the Opposition parties stand by the poor people who are being crushed, when they groan under high prices, unemployment and other economic burdens, you will say that the Opposition is not cooperating. Will they cooperate with the Government to suppress the people? What do you mean by saying that the Opposition parties are not cooperating? Are Opposition parties anti-national? I heard my friend, Mr. Mishra, saying that you all, including those people, will be detained. What have they done? If the left front or other Opposition parties have stood by the peasantry, the tenants or the working class, they are not bringing in this Bill to detain them. This is one aspect.

The other aspect is that such Bills were brought only to protect class interests. In that case, they cannot have democratic methods. They ask for the redressal of their grievances. When you are to redress something, then the interests of those persons for whose interests you are in the ruling party suffer. Therefore, you are to give a go-by to the democratic process and the democratic society. Then you take

•to authoritarian methods and authoritarian rule. When you take to authoritarian rule, then the question of individuals comes, family comes, dynasty comes. We have seen it. We would not have been so much exercised, but along side the NSO, now there is the question of the Presidential system. Although the Law Minister has said that it is not in their thinking and that they are not near it, I am told that an eminent lawyer has been provided and he and a Joint Secretary in the Law Ministry are working at least eight hours a day on the Presidential system of the Philippines type. In some Asian and African countries this Philippines type of system has been experimented with and you know that democracy has been extinguished there. Therefore, there is going to be authoritarian rule, there is going to be dynastic rule.

Then, Sir, along with shifting the burden of the crisis, the question that arises is that of faith. The faith is known. The worst dictators in history who ruled their countries always said so in the process. Hitler also came and said he wanted to do some good to the people. But in the process they crushed the people, they destroyed their society. I know, Sir, this country has survived thousands of years of civilization. No amount of NSOs, no amount of Emergency, no amount of dictatorship and no amount of dynastic rule can wipe out this civilized society living in this country and no amount of suppression will be able to destroy democracy. You may be able to do something for some time but you will see that you will fail and fail miserably. The situation of 1975 could have been repeated. At that time, in order to escape the Allahabad judgement, you imposed Emergency, but the situation remained the same. You try to have dynastic rule, authoritarian rule, dictatorial rule and suppression of opposition. But, I am sure, the 65 crores of common people who are mostly poor will rise in revolt, there will be a

mass movement, there will be mass resistance and you will be thrown in the gutter of history. I want you: Don't resort to these Draconian methods, don't try to destroy the civilized way of life in this country which stood for thousands of years.

With these words, Sir, I thank you for giving me this opportunity to warn the Government.

FROF. SOURENDRA BHATTACHARJEE: Mr. Vice-Chairman, Sir, today's newspaper contains a statement by the Head of State of a neighbouring country President Jayawardene. As you are aware, Mrs. Gandhi's express sympathy for the Leader of Opposition there who has been disfranchised, Mrs. Srimavo Bandaranaike, created almost a minor diplomatic flutter. When she thinks about what Mr. Jayawardene has created in Sri Lanka, Mrs. Gandhi is going to demonstrate the same thing in the State of ours. Mr. Jayawardene says, "Any attempt to rock the boat of the Government would imperil the lives of millions of Sri Lankans and lead to an erosion of the democratic process. Democracy might have to be protected by methods which a democratic government would not normally take." So, lives of millions of Sri Lankans are to be at stake in order to protect the power of the Presidential system of Government that has been introduced in the neighbouring country of ours. And precisely that is what the arguments put forward by the Home Minister in support of this National Security Bill amount to.

Our Prime Minister did not think it fit to enter, even for once, during the 17 hour debate in the Lok Sabha nor has she made any appearance in this House to assure the entire Opposition against the misuse of this Draconian law. Our colleague Mr. Mohapatra is reported to have said it is in today's press, that she is entirely different from what she was during her earlier time. We do not know what actually it means, but the process with the Criminal Procedure Code (Amendment) Bill, this National Security Bill and other steps, what happened in

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Maharashtra, clearly goes to show the direction in which the entire machinery of the State is moving. As Mr. Jayawardene has done, so does this Government equate the nation with the party Government. The insecurity of the Government is depicted as the insecurity of the country. They must learn that the interests of the party and the national interests are not the same thing. That is the basic mistake that they are committing. By arming itself with all sorts of powers and ensuring the exercise of powers by an irresponsible Executive completely in an illegal manner, the latest example of which was found in Maharashtra, as I would warn, this Government won't be able to secure its existence, its continued power, or its dynastic power.

The Bill which is very poorly worded, diabolically worded, contains provisions which are apparently deceptive. Even if he says to the contrary, there are many things in the wording of this Bill which are hidden, underneath the Draconian shade of this Bill. Unless they withdraw it and bow to the public opinion, they are in for worse days. The people of the country have taken on to themselves to protest against the misrule of this Government and they would not be able to sustain it even with dozens of National Security Bills.

With these words, I strongly oppose the Bill and support the Statutory Resolution which has been moved in this House and I expect that without a stiff opposition in this House the Government won't have passage of this extremely undemocratic, draconian, Fascist Bill.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Now, going through the list of persons, I find that, we have exhausted the list. Therefore, I request Shri Advani to reply.

श्री लाल कृष्ण आडवाणी : उप-सभाध्यक्ष जी, सदन के अनेक सदस्यों ने जिन्होंने मेरे प्रस्ताव का समर्थन किया है, मैं उनके प्रति आभार प्रकट करता हूँ। सरकारी पक्ष के जिन लोगों ने इस बिल

[श्री नालू कृष्ण आडवाणी]

में भाग लिया है उनसे मुझे यह शिकायत है कि उन्होंने इस तरफ से उठाये गये मुद्दों का जवाब नहीं दिया। अनेक मुद्दे उठाये गये थे जो बहुत महत्वपूर्ण थे। मैं सोचता था कि यहाँ में कुछ तर्क-वितर्क होगा, कुछ हमकी समझाने की कोशिश होगी कि क्यों वह विधेयक यहाँ लाया गया है और क्यों इस प्रकार का अध्यादेश जारी करना जरूरी था। आखिर, मैं यह नहीं मानता हूँ कि सरकारी पक्ष में जितने भी लोग हैं वे देश हित के बारे में नहीं सोचते हैं। मैं यह नहीं मानता हूँ। लेकिन देश हित में सोचने के बाद कुछ प्रवृत्तियाँ सना में आने से उत्पन्न होती हैं... (Interruptions) मैं तो उसी बात का जिक्र कर रहा हूँ। जान-बूझ कर उन प्रवृत्तियों को रोकने दिया गया है। एक तरफ तो हमारे देश में संसद् है, बाहर पत्रकार हैं और जनता है, इन सब की अपनी जिम्मेदारियाँ हैं। सरकारी दल पर भी बहुत बड़ी जिम्मेदारी है। जब पहले पहल मैंने उस दिन इस प्रस्ताव को रखा तो उसी दिन आपके कहने से पहले मैंने इस बात का जिक्र किया था। मैं समझता हूँ कि प्रायः सरकारी पक्ष की तरफ से जितने उत्तर दिये गये हैं, इस प्रस्ताव के पक्ष में या विपक्ष में, वे समाधानकारक नहीं हैं। उनमें एक ही मुद्दा उठाया है, एक ही बात कही गई है कि आखिर जनता पार्टी ने प्रिवेन्शन डिटेन्शन बिल लाने की कोशिश की थी। यहाँ तक कि मेरे साथी जो तमिल नाडु में आये हैं, डी० एस० के० के उन्होंने भी तर्क देते हुए कहा कि यह बिल गलत है। उन्होंने 'ड्रिगल' शब्द का प्रयोग किया। अनेक प्रकार से अनेक बातें यहाँ कही गई हैं। इतनी बातें इस विधेयक के बारे में कही गईं लेकिन तर्क वही दिया कि आखिर जनता पार्टी की तरफ से भी

इस प्रकार का विधेयक लाने की कोशिश हुई थी, कमिनिज प्रॉमीजर अमेन्डमेंट के रूप में। मैंने पहले ही निवेदन किया है कि मुझे इस बात का अफसोस है कि मेरी सरकार ने यह विचार तक किया। लेकिन साथ-साथ मैं इस बात को बहुत महत्वपूर्ण मानता हूँ और मैं इस पर गर्व करता हूँ कि मेरी पार्टी ने सरकार को यह नहीं करने दिया। मुझे इस बात का अभिमान है और मैं यह मानता हूँ कि अगर एक संस्था पत्रकार या पार्टी बहुत कुल मिला कर जैसा उनके नेता ने कहा वैसा करने के लिये अगर मजबूर होंगे तो लोकतंत्र नहीं चलेगा। लोकतंत्र तभी चलेगा।

[Mr. Deputy Chairman in the Chair]

जब ये जितनी सारी संस्थायें हैं, वे जितने सारे इन्स्टीट्यूट्स हैं, वे हेमोफेसी के प्रति अपनी निष्ठा के अनुरूप ठीक प्रकार से अपना आचरण करें। आखिर जो मुद्दे उठाये गये थे उनके बारे में मैं सुनना चाहता था कि जो हमारे पास अनेक कानून हैं वे कानून पर्याप्त क्यों नहीं हैं। मुझे याद है कि पिछली जूनलाई में नई सरकार जब बनी थी, जिसके प्रधान मंत्री चौधरी चरण सिंह थे, उस समय ब्लैक-मार्केटिंग को रोकने के नाम पर एक अध्यादेश जारी किया गया था। मैंने उसका विरोध किया था और सरकार की पार्टी के अनेक लोगों ने उसका बहुत कठोर विरोध किया था, घोर विरोध किया था। साल्वे साहब भी उसमें थे और यहाँ पर वहस के दौरान उस वक्तव्य को पढ़ कर सुनाया गया है, दिनेश गोस्वामी ने, श्रीमती मार्पेट आल्वा ने सुनाया। मैं उम्मीद करता था कि उसका जवाब दिया जायेगा कि उस समय उन्होंने विरोध क्यों किया और फरवरी में प्रांते ही उन्होंने उस अध्यादेश को कानून के रूप में क्यों परिवर्तित किया। आगे

पहले पहल जो काम किया वह यह किया कि फरवरी के महीने में उस आर्डिनंस को सरकार ने एक कानूनी रूप दे दिया। असैनियल कमोडिटी सब लोगों को मिलनी चाहिए, सब को सर्विसेज प्राप्त होनी चाहिए, ब्लैक मार्केटिंग रोक जाना चाहिए, दो महीने के अन्दर इन पर विधि आयोग ने, जहाँ कमीशन ने बहुत बड़ी रिपोर्ट लिखी है परन्तु उन्होंने यह सुझाव नहीं दिया प्रिवेन्टिव डिटेन्शन बिल लाया जाये। उन्होंने यह सुझाव दिया था कि असैनियल कमोडिटीज ऐक्ट में परिवर्तन किया जाये, इसमें उनका अमेंडमेंट का सुझाव था कि कैसे जानी उस उद्देश्य की पूर्ति के लिये यह भी कानून लाया गया है। मैं इस बारे में तर्क सुनना चाहता था कि क्यों पिछले कानून इसके लिये अपर्याप्त थे। मैं यह भी जानना चाहता था कि फरवरी और डिसेम्बर के बीच में उस कानून का प्रयोग कितनी मात्रा में किया गया

"In the prevailing situation of communal disharmony, social tensions, extremist activities, industrial unrest and increasing tendency on the part of various interested parties to engineer agitation on different issues, it was considered necessary the law and order situation in the country is tackled in a most determined and effective way. The anti-social and anti-national element including secessionists, communal and pro-caste elements and also other elements who adversely influence and affect the services essential to the community pose a grave challenge to the lawful authority and sometimes even hold in society to ransom."

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है और उसने कितनी सफलता मिली है। ब्लैक-मार्केटिंग रोकने में और हर एक आदमी को जितनी उसको चीजें मिलनी चाहिए, वह उन्हें उपलब्ध करवाने में यह कितना सहायक सिद्ध हुआ है। मेरा निवेदन यह है कि आज जितने कानून हिन्दुस्तान में हैं, प्रिवेन्टिव डिटेन्शन ला को छोड़ कर और प्रिवेन्शन आफ ब्लैक-मार्केटिंग, इस कानून को भी छोड़ कर, अगर ईमानदारी से उनका पालन करवाया जाये, इम्प्लीमेंट करवाया जाये तो वह कानून और व्यवस्था की स्थिति बनाये रखने के लिये पर्याप्त है, देश में ब्लैक-मार्केटिंग को रोकने के लिये पर्याप्त है। यह जो सारे अधिकार अधिकाधिक लिये जा रहे हैं वह केवल एक प्रवृत्ति का परिचायक है, प्रोब्लीमिटी एंड टेन्सेसी का परिचायक है, इससे कोई सार जिसको कहते हैं वह नहीं निकलता है। क्योंकि आज तो मुझे नहीं पकड़ा जा सकता, न ही पीलू मोदी जी को पकड़ा जा सकता है और किसी कलिंग पार्टी के सदस्य को नहीं पकड़ा जा सकता है। लेकिन जब मौका आएगा तो इस प्रकार के कानून का प्रयोग उसी समय होगा। 1971 में एक बहाना था कम से कम जब मौसा लाया गया था। मुकुल साहब कह रहे थे, बहुत बकालत कर रहे थे कि यह मौसा से बिलकुल भिन्न है। कह रहे थे मैं उन में से हूँ जिन्होंने प्रिवेन्टिव डिटेन्शन ला को सब से अधिक भोगा है। उन्होंने इतने सारे नाम गिन-वाये हैं तो उनका कोई हिसाब नहीं रख सका। श्री मुकुल साहब ने कहा कि मुझे केवल इमरजेंसी के समय 19 महीने के लिए ही गिरफ्तार नहीं किया गया इसको तो छोड़िये मुझे उसने पहले बांधरी चरण सिंह जी ने जब एस० बी० डी० की सरकार थी जिसके वे मन्त्र मंत्री थे तो मुझे गिरफ्तार किया गया था प्रिवेन्टिव डिटेन्शन कानून के तहत। उसके बाद जब बहुगुणा जी थे, कमलापति

[ श्री लाल कृष्ण आडवाणी ]

विपरीत जो मुख्य मंत्री थे तब भी विरामित किया गया था। उसके बाद 19 महीने वे इमरजेंसी में भीसा में रहे। मैं समझता हूँ कि जो मुख्य साहव ने कहा और इस बिल... (Interruptions)

श्री पी० एन० मुकुन्द : मैंने कहा कि इमरजेंसी में भीसा था जिसमें कि ग्रांडेड्म आफ डिटेन्शन का पता नहीं था। As compared to that, it is a progressive measure. It is not a retrograde measure.

श्री लाल कृष्ण आडवाणी : मैं उसका जिक्र करूँगा अभी। मैं ट्विस्ट नहीं कर रहा हूँ। मैंने तो आपने जो बात कही उसको दोहराया है। मैं कह रहा हूँ कि यह केवल प्रवृत्ति का परिचायक है। सरकार में जो भी आया वह चाहे बहुगुणा जो आने हैं, चौधरी चरण सिंह जो आने हैं या श्रीमती इंदिरा गांधी जो वो वहाँ पर अगर अधिकार एक बार हाथ में है तो उसका प्रयोग उन्होंने किया। मैंने कल भी कहा था मुझे इस बात का अफसोस है कि मेरी पार्टी ने इस प्रकार का प्रिवेंटिव डिटेन्शन लाने का विचार तक किया, लेकिन मुझे इस बात का भी संतोष है, हर्ष है, गर्व है कि छई साल तक हम सरकार में रहे हमने भीसा जो उस समय बना हुआ था उसका प्रयोग नहीं किया, प्रिवेंटिव डिटेन्शन का कभी प्रयोग नहीं किया, हमने कभी दुरुपयोग नहीं किया।

श्री (मोक्षदा) अमरकांत हक : जेन्सि और नारायणपुर का तो उपयोग किया... (Interruptions)

श्री पी० एन० मुकुन्द : मध्य प्रदेश में मिनी भीसा लाया गया।... (Interruptions)

श्री प्रहलद मंहोत्रा (उत्तर प्रदेश) : मध्य प्रदेश में मिनी भीसा उन्होंने लाया। (Interruptions)

श्री लाल कृष्ण आडवाणी : उसभा-पति जी, मुझे याद है कि जब यह अध्यादेश जारी हुआ था उसके जारी होने के कुछ ही दिन बाद, हो सकता है दो दिन के बाद मकवाणा साहव यहाँ अब नहीं हैं, होते तो अच्छा होता मकवाणा साहव ने टेलेविजन पर एक इंटरव्यू दिया जिसमें उन्होंने यह बताने की कोशिश की कि किस प्रकार से यह अध्यादेश भीसा से भिन्न है। भीसा का तो दुरुपयोग हो सकता था क्योंकि वहाँ पर इस प्रकार के प्रावधान थे लेकिन जो इसमें किए गए हैं वे उस प्रकार के नहीं हैं उन्होंने बताया। उन्होंने इसमें जो क्लॉज 9, प्रावधान 9 है उसका बड़े विस्तार से उल्लेख किया। इसमें प्रावधान यह किया गया है कि जो एडवाइजरी बोर्ड बनेगा—

"Constitution of every such Board shall be in accordance with the recommendations of the Chief Justice of the appropriate High Court."

एक बात उन्होंने और हमारे लक्ष्य में

"Every such Board shall consist of a Chairman and not less than 3 two other members, and the Chairman shall be a serving Judge of the appropriate High Court and the other members shall be serving or retired Judges of any High Court."

उन्होंने कहा कि वह जो हमने इसमें प्रतिबन्ध लगाए हैं यह जो प्रावधान किया है, यह जो प्रयत्न किया है वह गारंटी है। एडवाइजरी बोर्ड एक प्रकार की क्वामी जूडिशियल बाडी है जो क्वामी जूडिशियल निर्णय करेगा कि यह डिटेन्शन सही था या नहीं। इसका बड़े विस्तार में उन्होंने बखान किया। स्वाभाविक रूप से जब हमने यह बिल देखा जो जानी जेल सिंह जी ने लोक सभा में प्रस्तुत किया तो हमने इसको कम्पेयर करके देखा। जो प्रोविजन पार्ट-1 में थे वे तो

बराबर हैं लेकिन दूसरा प्रोविजन जिसके आधार पर उन्होंने इसका समर्थन किया जो भकवाणा साहब कहते थे कि चीफ जस्टिस को हमने कांस्टीट्यूट करने का ये दो परिवर्तन ऐसे बेसिक हैं, ऐसे मौलिक हैं कि जो प्रिवेटिव डिटेन्शन की कल्पना से सहमत भी हों, उनको भी कहना पड़ेगा जैसे मेरे मित्र श्री दिनेश गोस्वामी ने कल कहा था : There can be no more glaring proof of the Government's mala fide intention than this kind of a substitution of the original provision by this new Clause in the Act.

मैं उम्मीद करना था कि यहां बहुत सारे विद्वान बैठे हैं बहस के दौरान में जवाब देंगे कि क्यों इस प्रकार का परिवर्तन जरूरी था। मैं सच क्यों मानता हूं इसको और आज भी अगर जानी जो कह दें मैं इसको बदलने के लिए तैयार हूं तो मैं समझता हूं कि जानी जी को याद किया जायेगा। नहीं तो जानी जैल सिंह जी जो जैल सिंह करके कहलाते हैं आने वाली पोस्टरिटी, मैं नहीं चाहता हूं कि उनको कहे कि ये जैल सिंह नहीं जैल सिंह थे जो जेल की व्यवस्था लाये। यह मैं नहीं चाहता हूं और इसलिए उनसे अपील करना चाहता हूं।

एक माननीय सदस्य : अंग्रेजी स्पेलिंग में तो वही होगा।

श्री लाल कृष्ण आडवाणी : अंग्रेजी में जेड और जे का फर्क है... कि आप संसद् सदस्यों की बात सुनते हैं। बहस जो होती है उसमें रिस्पांसिव

"Every such Board shall consist of three persons who are or have been, or qualified to be appointed as, Judges of a High Court, and such persons shall be appointed by the appropriate Government."

होते हैं और अगर कोई अच्छी बात कही जाती है तो उसको सुनते हैं। मैं उम्मीद नहीं कर सकता हूं। कुछ सदस्यों ने आपको कहा हमारे मुरजीत साहब ने कहा कि आप बिदड़ा कर लीजिए। मैं उम्मीद नहीं करता कि आप बिदड़ा करेंगे। संभव नहीं है। उसके लिए अपनी कम्प्लेक्सिटी है। कर देंगे तो उसके लिए बहुत बड़ा साहस चाहिए। वह एक संभव बात नहीं है लेकिन छोटी छोटी बातों जिनके कारण कि दुनिया भर में जो आशंकाएं पैदा हुई हैं, जो मिस-गिविंग्स पैदा हुई हैं, जो सस्पिशन पैदा हुए हैं जिन सस्पिशन के लिए हम लोगों के लिए तो आने वाले भविष्य के प्रूफ जरूरी नहीं है, जो बीता हुआ भूतपूर्व है, वह जो पास्ट बीत गया है वह प्रूफ काफी है। हमने देख लिया आंखों से, हम संसद् का काम करने गये, हमको पकड़ लिया। नार्मल कोर्स में हमारी गिरफ्तारी अटल बिहारी वाजपेयी, मधु डण्डवते, श्यामनन्दन मिश्र और मेरी

It would have been deemed contempt of Parliament because we were on Parliament duty when we were arrested in Bangalore.

बंगलौर में गिरफ्तार किया। हमने आंखों से देखा है। पत्रकार गिरफ्तार किये। कुलदीप नायर को गिरफ्तार किया, वहां पर मुंदेर राजन को बम्बई में गिरफ्तार किया, के० आर० मलकानी को गिरफ्तार किया, भीमसेन सच्चर को गिरफ्तार किया और यह सब मीसा के विधेयक में जब कहीं स्टेटमेंट आफ आब्जेक्शन्स एण्ड रीजन्स में वे चीजें नहीं लिखी गयीं जो इसमें लिखी गयी हैं? इसमें इरादा छुपाने की ज्यादा कोशिश नहीं की गयी। हमारे बहुत से मित्रों ने स्टेटमेंट आफ आब्जेक्शन्स एण्ड रीजन्स कई बार पढ़ कर सुनाया है और आज यहां पर संसद् में कुछ मित्रों ने कहा ठीक है आडवाणी जी को



[ श्री लाल कृष्ण आडवाणी ]

गिरफ्तार किया जायेगा । इसको गिरफ्तार किया जायेगा । कोई गिरफ्तार कर लो । मैं मानता हूँ कि 71 के बाद 75 आया तो 75 के बाद 77 भी आया । अगर अगर 75 जल्दी लायेंगे तो 77 और भी जल्दी आयेगा ।

सभापति जी, मैं समझता हूँ कि कई सारी बातें कही गयी हैं इस तरह से मैं उम्मीद करता हूँ कि जानी जो इनका जवाब देंगे अपने उत्तर में और खासकर यह कहूँगा कि इस विधेयक के अंतर्गत केवल साल भर तक नजरबन्दी हो सकती है, एक प्राविधान है जिसमें कहा है कि साल भर तक नजरबन्दी हो सकती है और उसके अगले प्राविधान सेक्शन 13 में कहा है कि एक साल तक डिटेन्शन हो सकता है लेकिन सेक्शन 14 में कहा है कि कोई पाबन्दी नहीं है सरकार पर, चाहे तो छूटने को बाद फिर से दुबारा गिरफ्तार कर लें, कोई पाबन्दी नहीं है, जिसका मतलब है कि यह प्राविधान अनन्त काल तक की डिटेन्शन का प्राविधान है । निमिटलैस डिटेन्शन की यह व्यवस्था है । हम बंगलौर में थे, मुझे याद है शायद तीन सप्ताह बीते होंगे, 26 जून के बाद तीन सप्ताह बाद मुझ 6 बजे आकर सुपरिस्टेंडेंट ने जगया कि आपकी रिहाई का आर्डर आ गया है दैट बाज इन जुलाई 1975 । जुलाई महीने में आकर जगया हमने कहा कि क्या हो गया अबानक और हम सामान बांध कर बाहर निकले तो फाटक पर पुलिस के ट्रक और जोपें खड़ी थीं, हमसे कहा फिर से चलिए । पहली बार बंगलौर के पुलिस कमिश्नर ने गिरफ्तार किया था अबकी बार होम मिनिस्टर के आर्डर से गिरफ्तार किया है । सीधा रोहतक जेल भेज दिया । मैं समझता हूँ कि यह प्राविधान है और हमारा अनुभव भी है तो ये दोनों मिल कर

हमारे मन में घुस कर आजकाएँ पैदा करते हैं कि इस विधेयक का इरादा, इसकी नीयत स्पष्ट राजनीतिक है तथा और कोई इरादा नहीं है । आगे के लिए व्यवस्था की जा रही है कि पोलिटिकल एडवर्सरीज को, पोलिटिकल आपोनेन्ट्स को कैसे गिरफ्तार किया जाए, कैसे पकड़ा जाए और उसके लिए आपने बहसारा विधेयक लाया है । स्टेटमेंट आफ आवजैव्टस एंड रीजन्स में यह भी कहा गया है कि अगर कोई आंदोलन करेगा, कोई राजनैतिक आंदोलन करेगा, तो उसको भी गिरफ्तार किया जा सकता है ।

मैं समझता हूँ कि मुझे जितनी बात कहनी थी, वह मैंने कह दी । मैं उम्मीद करता, आशा करता हूँ कि जवाब देते हुए जिन बातों को मैंने कहा है, कम से कम कुछ अमेंडमेंट्स हमारे ऐसे हैं कि जिनके बारे में आप पुनर्विचार करके उनको स्वीकार कर सकते हैं, तो शायद हमारी शंकाएँ कुछ कम होंगी, अन्यथा तो मेरी शंकाएँ उषों की उषों बनी रहेंगी ।

आखिर मैं मुझे याद है कि 1936 में . . . (Interruptions). उस दिन मुझे याद है कि एक और विषय को लेकर के यहाँ पर वोट बलब पर एक सभा हो रही थी । देश के जो इस समय सब से बड़े नेता जिनका कि स्वतंत्रता आंदोलन से अत्यन्त संबंध रहा और गांधी जी के उस युग के एकमात्र कड़ी रह गये हैं—आचार्य कृपलानी, वे भागलपुर की घटनाओं का वर्णन कर रहे थे । उनकी आवाँ में आंसू आ गये और द्रविड वाणी से उन्होंने कहा कि इस बिल के बारे में एक बात कह दीजिए, आज चाहे हमको जेल में डाल दीजिए, लेकिन जेल में डाल करके हमारी आँखें मत फाँड़िये । यह एक निवेदन आप सरकार से जरूर कर दीजिए ।

मुझे तो याद है कि 1936 में जब कांग्रेस का अधिवेशन लखनऊ में हुआ था और उस अधिवेशन में उस समय के अध्यक्ष पं० जवाहरलाल नेहरू थे। उन्होंने अपने 'अध्यक्षीय भाषण में इस विषय का विशेष उल्लेख किया और पं० नेहरू ने कहा, मैं कोट करता हूँ उनको—

■ On one thing I must say a few words, for, to me it is one of the most vital things of value; and that 'is the issue of civil liberties. A Government that has to rely on Criminal Amendment and similar laws that suppress the press and literature, that ban hundreds ' of organisations, that keep people in prison without trial and do so many things that are happening in India today, is a Government that has ceased to have even a shadow of justification for its existence."

श्रीमान्, मैं समझता हूँ कि यह वाक्य, यह उनका उद्धरण आज भी हम सब के लिए, न केवल सरकारी पक्ष के लिए, लेकिन हम सब के लिए स्मरणीय है कि हमारे सामने यह रहे कि हिंदुस्तान में जब हमारे संविधान निर्माताओं ने संविधान बनाया तो उन्होंने संकल्प किया कि हम देश के अंदर आर्थिक और सामाजिक न्याय लायेंगे, हम देश के अंदर से गरीबी मिटा देंगे। लेकिन उन्होंने साथ-साथ यह भी संकल्प किया कि हम आर्थिक और सामाजिक न्याय लाने के लिए राजनीतिक लोकतंत्र को बनाए रखेंगे। हम एक व्यक्ति की स्वतंत्रता को अधुण और पावन मानेंगे। यह भी उन्होंने संकल्प किया। बार-बार जब इस प्रकार के विधेयक लाए जाते हैं तो हमको लगता है कि हम संविधान निर्माताओं के इस विश्वास पर विश्वास नहीं करते हैं और हमको लगता है कि देश का विकास करने के लिए व्यक्ति की स्वतंत्रता का कोई महत्व नहीं, देश का विकास करने के लिए राजनीतिक लोक तंत्र का कोई

महत्व नहीं और इस प्रकार के विधेयक लाने से कुछ लोगों का कहना है कि भाई देश में आज राष्ट्र की सुरक्षा सकट में है। मैं मानता हूँ कि राष्ट्र की सुरक्षा सकट में नहीं है। सकट जो है, वह इससे कहीं बहुत कुछ गम्भीर है। आज सकट इस बात पर है कि जनता की आस्था इस पद्धति पर से, इस सिस्टम में से वह कमजोर हो रही है और इस प्रकार के जब विधेयक आते हैं तो लोगों को लगता है कि श्रीमती इंदिरा गांधी जिनको इतना भारी समर्थन प्राप्त है लोक सभा में और विधान सभाओं के अंदर, वे भी अगर सरकार अच्छी तरह से नहीं चला सकतीं, वे भी अगर लोगों को खाना, रोजी रोटी का आश्वासन नहीं दे सकतीं बिना इस प्रकार के कानून से, तो उसका मतलब है कि शायद लोकतंत्र में कहीं कमजोरी है।

इन दिनों में जब राष्ट्रपति शासन और संसदीय लोकतंत्र की चर्चा होती है, मेरा स्पष्ट निवेदन है कि जो संसदीय लोकतंत्र के बारे में प्रश्न चिह्न खड़े करते हैं, शंकाएं प्रकट करते हैं वे वास्तव में संसदीय लोकतंत्र के बारे में शंकाएं प्रकट नहीं करते हैं वे तो लोकतंत्र के बारे में प्रकट करते हैं और इसी लिए मेरा यह निश्चित मत है कि इस प्रकार का विधेयक लोकतंत्र के ऊपर और बड़ा कुठाराघात होगा। अगर जानी जो वापिस ले लें तो सब से अच्छा। यदि वापिस न लें तो जो संशोधन मैंने सुझाए हैं, उनको स्वीकार कर लें।

6 P.M.

MR. DEPUTY CHAIRMAN: Yes, the- honourable Minister.

SHRI ERA SEZHIYAN (Tami Nadu): Sir, I want to raise a point of order."

MB. DEPUTY CHAIRMAN: What is the point of order now?

SHRI ERA SEZHIYAN: Sir, I want to raise a point of order. Sir, this House is not competent to pass this Bill because the constitutional requirements have not been fulfilled. Sir, this Bill has been ...

MR. DEPUTY CHAIRMAN: Where is the point of order now?

SHRI ERA SEZHIYAN: Sir, this Bill has been introduced in the Lok Sabha and it has been passed. This is a financial Bill under the definition mentioned in article 117(3) of the Constitution of India, Article 117(3) says:

"A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to that House the consideration of the Bill."

This fact has been accepted as this Bill has been passed in the other House after having obtained the recommendation of the President under Article 117(3). According to the letter of Mr. Zail Singh, the Minister of Home Affairs, to the Secretary of the Lok Sabha, dated 11-11-80, that the President having been informed of the subject-matter of the National Security Bill, 1980, recommends under clause (3) of article 117 of the Constitution of India, the consideration of the Bill in the Lok Sabha. Therefore, Sir, this recommendation of the President has come to the Lok Sabha and the Lok Sabha discussed the Bill and passed it. After all, this is not a document as it was the Bill originally. This is actually a document as it has been laid on the Table of the House by the Secretary-General and it does not contain anything else. My point is this: Article 117(3) clearly says that if the Bill involves expenditure from the Consolidated Fund of India, it shall not be passed by either House of Parliament unless the President recommends to that House the consideration

of the Bill. Sir, 117(1) says that a Bill making provision for any of the matters specified in sub-clauses (a) to (f) of clause of article 110 shall not be introduced in the Rajya Sabha. Article 117(1) says that it can be introduced only in the Lok Sabha and it cannot be introduced in the Rajya Sabha. My point is that the introduction can be at only one stage, can be only in one House, but the consideration has to be done by both the Houses because, even the Order Paper of today says simply: "Bill for consideration and passing". Therefore, this has to be considered by the House. For the consideration of the Bill by the other House, of course, the President has given his recommendation. It has just been said, as I said earlier, "The President...under clause (3) of article 117 of the Constitution of India recommends consideration of the Bill in the Lok Sabha.". Therefore, Sir, I would like to know whether the Minister has obtained the President's recommendation for the consideration of the Bill by this House.

SHRI BHUPESH GUPTA: Sir, on a point of order.

SHRI ERA SEZHIYAN: Mr. Bhupesh Gupta, just wait. I will just finish. Sir, this recommendation for both the Houses should be there. In 1957....

MR. DEPUTY CHAIRMAN: Mr. Sezhiyan, your point is clear. I got your point.

SHRI ERA SEZHIYAN: Sir, I am raising a substantial point and I want an explanation from the Minister.

MR. DEPUTY CHAIRMAN: It does not require much argument to prove your point. I have understood your point of order, and this side also has understood your point of order.

SHRI ERA SEZHIYAN: But my point of order is this ...

MR. DEPUTY CHAIRMAN: I agree with you.

EHR1 ERA SEZHIYAN: I will finish this now, Sir.

MR. DEPUTY CHAIRMAN: It will only take the time or the House. Please sit take your seat.

SHRI ERA SEZHIYAN: I will finish my point of order. Sir.

MR. DEPUTY CHAIRMAN: I have followed it.

SHRI MANUBHAI PATEL: Sir, he has raised a point of order. Let us also understand it.

MR. DEPUTY CHAIRMAN: You cannot go on arguing *(Interruptions)*. Please do not disturb. I may inform you of one thing. I got your argument. Mr. Sezhiyan, and I may read out the letter to the Secretary-General, Rajya Sabha, dated... December, 1980, received from the Ministry of Home Affairs.

SHRI HAREKRUSHNA MALLICK: What is the date? What is the date of that letter, Sir?

MR. DEPUTY CHAIRMAN: It says:

"The President having been informed of the subject-matter of the National Security Bill, 1980, recommends under clause 3 of article 117 of the Constitution of India the consideration of the Bill in the Rajya Sabha."

So, the letter is there.

SHRI ERA SEZHIYAN: The Minister is seeking the President's recommendation for consideration by the House...

SHRI BHUPESH GUPTA: Sir, I am on a point of order.

SHRI ERA SEZHIYAN: Bhupeshji. just wait. I am finishing. My point of order is this.

MR. DEPUTY CHAIRMAN: Your point is correct. There is the recommendation from the President.

SHRI ERA SEZHMAN: One minute. *(Interruptions)*

MR. DEPUTY CHAIRMAN: Please hear me also. The Basis on which you are building your whole argument... *(Interruptions)* I have brought to you notice. This is the information.

SHRI PILOO MODY (Gujarat) You have answered one point. He is on another point.

MR. DEPUTY CHAIRMAN: All right *(Interruptions)*

THE LEADER OF THE HOUSE (SHRI PRANAB MUKHERJEE): If we introduce a Bill in this House, then the recommendation of the President has also to be incorporated. It is the standing practice. Originally when a Bill is introduced, letter number and everything is incorporated in the memorandum to the Bill. But when we are discussing a Bill as passed by the other House, we never reproduce it. If any Member wants to know about this, the Secretariat informs him. It is the standing practice we are following.

SHRI ERA SEZHIYAN: My objection is about the procedure. *(Interruptions)* Mr. Shakti says "...before the stage of consideration begins" *(Interruptions)* The recommendation should have been made available in the House. Or the document should have been placed on the Table of the House. *(Interruptions)*

SHRI MANUBHAI PATEL: Why this running commentary? *(Interruptions)*

SHRI ERA SEZHIYAN: This should have been produced before the commencement of consideration. How am I to know, how an individual Member is to know whether the recommendation has come? Let others be aware. *(Interruptions)* My point of order relates to this recommendation. It is addressed not to one but ... *(Interruptions)*

MR. DEPUTY CHAIRMAN: I am afraid, you are being too technical. A letter is always addressed to the Chairman or the Secretary-General. It is never addressed to the House. • Any communication that we receive is addressed to the Chairman or to the Secretary-General. It is not addressed to a Member.  
(Interruptions)

SHRI ERA SEZHIYAN: The House must be made aware that the recommendation has come. The House has not been made aware till the point is raised. My point is that the House ought to have been informed before the consideration of the Bill is taken up. In future, they should do this. In the present instance, there has been a lapse on the part of the Government not to have informed the House about the recommendation having come from the President. It is not good.

MR. DEPUTY CHAIRMAN: It is not that they have now got it. It was already there.  
(Interruptions)

SHRI BHUPESH GUPTA: My point of order is this.

MR. DEPUTY CHAIRMAN. Let me first make the position clear. The recommendation of the President is there. It was there well before the consideration started. There is, therefore, no point of order.

SHRI MANUBHAI PATEL: The House should be informed.

MR. DEPUTY CHAIRMAN: The Constitution does not say like that. The information was with the Secretariat as it has been the practice. (Interruptions) Thirdly, the letter received from the Minister concerned is sufficient proof of the fact that the recommendation is there. You cannot go beyond that. That is the constitutional provision also. Rule 221 of our Rules says:

"Communications from the President to the Council shall be made to the Chairman by written message signed by the President or, if the President is absent from the place

or meeting of the Council his message shall be conveyed to the Chairman through a Minister."

That is sufficient.

SHRI MANUBHAI PATEL: Unless the President has recommended to the House the consideration of the Bill.

SHRI B. N. BANERJEE (Nominated) There is a rule that the recommendation of the President has to be communicated to the Secretary-General by a letter addressed by the Minister. This has been done. The rule says that the recommendation has to be communicated by a letter to the Secretary-General which he has done.

SHRI ERA SEZHIYAN: There is a Constitution provision which says that the recommendation should go to the House. The House is not aware.

SHRI LAL K. ADVANI: May I suggest one thing? So far as the convention is concerned, it has been followed. Therefore, the discussion that is going on is in order. But in view of the fact that has been pointed out that there is a specific constitutional provision, I would suggest that there should be a second look at this convention so that it is communicated to the House that we have received a communication from the President as required under the Constitution. You kindly consider it.

(Interruptions)

MR. DEPUTY CHAIRMAN: I will see that such information as received from the President either through him directly or through the Minister is notified in our bulletin. (Interruptions). If you want this recommendation be notified in the bulletin.  
(Interruptions)

SHRI NARASINGHA PRASAD\* NANDA: I am on a different point of order. The other point of order is over since you have said that if there is a recommendation from the President,

it will be published in the parliamentary bulletin. I am on a fundamental issue. I raise this point of order on a very fundamental question of the working of parliamentary system. Sir, the question is whether the executive is entitled to commit fraud on the people. ...

MR. DEPUTY CHAIRMAN: Unless you mention the point of order, how I can I understand what is your point of order? First you mention the point of order; then give arguments.

SHRI NARASINGHA PRASAD NANDA: My point of order is this. If such a situation arises...

SHRI RAMANAND YADAV: Please ask him to quote the rule. Under what rule is he speaking?

MR. DEPUTY CHAIRMAN: He is on a point of order.

SHRI NARASINGHA PRASAD NANDA: My point of order is this. Can the Parliament direct the executive... (Interruptions) Can the Parliament or any House of Parliament direct the executive to implement any constitutional amendment passed by Parliament in pursuance of Article 368 of the Constitution? That is the point of order. Sir, you will kindly notice... (Interruptions)

MR. DEPUTY CHAIRMAN: Order, please.

SHRI NARASINGHA PRASAD NANDA: Sir, you will kindly notice that by virtue of the Constitution (Forty-fourth Amendment) Act of 1978, we inserted one section 3 and article 22 was amended and certain provisions were made. I am not reading out them and you know them. Sir. And clause (2) of section 1 of that Amended Act reads as follows;

"It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act."

The Central Government was to bring about the notification...

SHRI PRANAB MUKHERJEE: Sir, is it a substantive point of order?

MR. DEPUTY CHAIRMAN: I am not able to follow.

SHRI PRANAB MUKHERJEE: He is wasting the time of the House. (Interruptions)

SHRI MANUBHAI PATEL: What is this that the Leader of the House says that he is wasting the time of the House when a relevant point of order is being made? (Interruptions)

SHRI NARASINGHA PRASAD NANDA: Sir, I seek your protection. Sir, two-thirds majority is required under article 368 of the Constitution when a particular amendment of the Constitution itself is made. Sir, my point of order is whether the Parliament or either of the Houses of Parliament can direct the executive to issue the necessary notification to give to the decision of the Parliament. Otherwise, it will amount to fraud on the people, it will amount to fraud on the Parliament.

MR. DEPUTY CHAIRMAN: Mr. Nanda, I don't think this point of order arises at this stage. I am not able to follow what you meant by the amendment of the Constitution. That can be taken care of when that point arises.

SHRI BHUPESH GUPTA: Sir, I have a different point of order. Sir, first of all, you must hear me. My first point of order is that I must have your car.

MR. DEPUTY CHAIRMAN: I am hearing you. This is no point of order.

SHRI BHUPESH GUPTA: Now, come to the second point of order. Sir we are in a very curious situation. You must be aware being the Deputy Chairman of this House that there is a case pending in the Supreme Court in which several Members of this House are involved. Mr. Ramamurti, Mr. Bhattacharya along with some others challenged the constitutional validity of the National Security Ordinance.

[Shri Bhupesh Gupta]

Sir, through this Bill, this Ordinance is being transformed now into an Act of Parliament which we shall be voting. Now, Sir, this application by them has not been rejected out of hand by the Supreme Court. On the contrary, it has been accepted.

SHRI G. C. BHATTACHARYA: The Supreme Court has allowed our application. We have been impleaded.

SHRI P. RAMAMURTI (Tamil Nadu): That is what he said.

SHRI BHUPESH GUPTA: I am saying that the Supreme Court has accepted the application for consideration, for judicial judgment. I take it that the Supreme Court is acting constitutionally. Therefore, the matter, to say the least, is sub judice at the very highest level on the very ; highest point because what has been challenged by the hon. Members of J this House and others is whether article 123 of the Constitution could be invoked to make an Ordinance of that type. The one that we have here takes away the Fundamental Rights of the citizen because it is argued before the Supreme Court that the Fundamental Rights are far more important. And then they say that the scheme of our Constitution does not provide for law-making power to the Executive, especially in matters such as this. The executive action which we are going to endorse, or are called upon to endorse, they will endorse it, we will not do it, has been challenged on the ground of constitutional validity, not merely abuse of power. Therefore, my submission to you, I know they will laugh at it, is that the matter may be kept pending till the Supreme Court decides the matter. You have a rule that something which is sub judice should not be disbursed. This matter is very much sub judice. In the Supreme Court the matter is being argued and your Members are involved.

MR. DEPUTY CHAIRMAN: It is clear, please sit down.

SHRI BHUPESH GUPTA: You will be pre-judging the position of our Members or you are exercising here

a parallel authority against the Supreme Court, which is the competent authority to interpret the Constitution. [*Time <sup>beU</sup> rings*]. Our job is not to interpret the Constitution. We can amend it. The job of the Supreme Court is to interpret the Constitution. (*Time bell rings*). Sir, you are nodding your head. I do not know which way you mean it. Sir, if the nodding of the head is favourable, I need not say anything. I would, therefore, request you to defer the decision till the Supreme Court has disposed of this very vital constitutional application, and see what the position is.

MR. DEPUTY CHAIRMAN: Thank you very much.

SHRI P. RAMAMURTI: Sir, I want to say only that I am a party to that petition. I want to give that information only so that the House may not say, you are not in possession of that information. Therefore, the point that he has raised is a very high valid point.

MR. DEPUTY CHAIRMAN: I think Parliament is not interfering in what the Supreme Court does. The Supreme Court will decide the case. I do not think that Parliament is exercising any parallel power to the Supreme Court.

SHRI G. C. BHATTACHARYA: Sir, this is contempt of the Supreme Court. (*Interruptions*).

SHRI NAGESHWAR PRASAD SHAHI (Uttar Pradesh): Sir, every day you take the plea of *sub judice*.

MR. DEPUTY CHAIRMAN: No, it is not *sub judice*.

SHRI NAGESHWAR PRASAD SHAHI: We are all party to it. Myself is a party to it. (*Interruptions*).

MR. DEPUTY CHAIRMAN: No, it is not *sub judice*.

MR. NAGESHWAR PRASAD SHAHI: It is the Chair which takes the plea of *sub judice*.

SHRI G. C. BHATTACHARYA: Tomorrow we will produce a copy of the affidavit which will show that it is *sub judice*.

MR. DEPUTY CHAIRMAN: Yes, Mr. Home Minister.

(ज्ञानी जल सिंह) : सत्कार योग्य डिप्टी चैयरमैन साहब, इस नेशनल सेक्योरिटी बिल के ऊपर बड़े लंबे असें तक चर्चा हुई और लोक सभा में तकरीबन 17 घंटे और इस महान सदन में भी निश्चित पांच घंटे से बहुत ज्यादा समय तक इस पर चर्चा हुई। मुझे इस बात की खुशी है कि आनरेबल मेम्बर नाहेवान ने दिल खोल कर अपने विचार दिये और हर एक बात को निखेडा करके सामने रखा। आनरेबल आडवाणी साहब का यह कहना कि जित मुद्दों पर हमने गंका की थी उनका उत्तर ट्रेजरी बैंचों से उनको नहीं मिला यह निराधार है। मेरा खयाल है कि हर बात को काफी खुलासे से कहा गया है, इस तरफ से भी और उस तरफ से भी। लेकिन कोई बात रह गई हो तो वह भी कह सकता हूँ। मैंने कोशिश की है कि हर चीज का जवाब मैं इस सदन में दे दूँ। मगर मुझे पार्लियामेंटरी मिनिस्टर ने बताया है कि आडवाणी साहब ने भी बात हुई थी कि वह भी ब्रीफ रखेंगे और आप भी थोड़ा सा ब्रीफ रखें ताकि सदन का ज्यादा समय खर्च न हो। हम देखते हैं कि इस सदन में इस बिल पर बोलने वालों की एक बहुत लंबी लिस्ट है। श्री लाडली मोहन निगम, श्री विपिनपाल दास, श्री रामकृष्ण कामरेड श्री मुरजीत, जैन साहब, श्री भूपेश गुप्ता जी, श्री राजू जी, श्री महन्ता, श्री जर्ना जी, श्रीमती राजेन्द्र कौर, श्री टोहड़ा, श्रीमती मोनिका दास, श्री चक्रवर्ती, मुस्लिम लीग के लीडर और कुछ दूसरे दोस्त हैं जिन्होंने अपने विचार यहां पर रखे हैं। सबसे ज्यादा इस पर जोर दिया गया कि यह बिल लोकतंत्र के खिलाफ है, इस बिल से वर्किंग क्लास का गला घोंटा जाएगा, यह पोलिटिकल विरोधियों को खत्म करने के लिए बनाया गया है, यह आनाम के एंजीटेशन को खत्म करने के लिए

बनाया गया है, यह बिल जख्खियती आजादी को छीन लेगा, यह डिमनिटी आफ मैन को नहीं रहने देगा, यह बिल इस देश में जलियावाला बाग जाएगा और इसलिए इस बिल को लाने वाले डायर के समान हैं। इन तमाम बातों को देख कर मैं समझता हूँ कि मेरी बातों से भी विरोधी दल के मेम्बर कंविन्स नहीं होंगे और वे भी हम को कंविन्स नहीं कर सकते हैं। आखिर फैसला तो जैसा हुआ करता है पार्लियामेंट में, वैसा ही होगा। लेकिन मैं इतना बिला खोफ व तरदीद के कह सकता हूँ कि जो ताकतें डेमोक्रेसी की छूट में फायदा उठा कर अपने जोर और ताकत से कमजोर वर्ग के लोगों को अपनी मर्जी से चलाना चाहते हैं, उनके रास्ते में यह बिल स्कावर्टे डालेगा और डेमोक्रेसी के पूरे हक हर गरीब को होंगे। यह बिल वर्किंग क्लास के फायदे के लिए है ताकि उनकी आमदनी बढ़े और जो वोकल सेक्शन है जो उनको काम करने नहीं देता है, लोगों को पढ़ने नहीं देता है, दफ्तरों में नहीं जाने देता है, झगड़े पैदा करता है और जो अनडेमोक्रेटिक स्टेप्स उठाता है उनको रोकने के लिए यह बिल बनाया गया है। वर्किंग क्लास की भलाई में यह बिल सहायक होगा। पार्लिटिकल विरोधियों को अपने दिमाग में इस बात का खतरा नहीं रखना चाहिए कि यह बिल उनके खिलाफ इस्तेमाल होगा क्योंकि विरोधियों के साथ हमारी यह नीति नहीं है कि उनको हम इस ढंग से कमजोर करें। मगर वे यह समझते हैं कि पहले हमको पकड़ा गया था। वे समझते हैं कि यह मीना है। उनके भाषणों से ऐसी भावना प्रकट होती है। वे समझते हैं कि हम तो पकड़े गये। यह बात बिलकुल गलत है। मैं, उपसभापति जी, आपके जरिए से यह बात कहना चाहता हूँ कि हम यह गलती कभी नहीं करेंगे कि हम ख्वामख्वाह इनको जेलों में बैठाकर इनकी खिदमत करें।

श्री पतित पावन प्रधान (उड़ीसा) : क्लाज 5 तो इसीलिए है। उसमें अनुशासन की बात है।



[श्री पतित पावन प्रधान]

जाने जैस सिंह : इस बिल पर आगे कलाज-बाई-कलाज विचार किया जाएगा। हम लोग यहां पर बैठे हैं। यह तो विचारधारा की लड़ाई है, कोई तलवार की लड़ाई नहीं है। मगर बार-बार मैं यह यकीन दिलाना चाहता हूँ कि किसी चीज को कहना व्यर्थ होता है अगर कोई उस पर गुनवार न करे, क्योंकि गुनवार करने की बात तो बाद में अमल से ही होगी। जब समय आएगा तो लोगों को पता चलेगा कि इस बिल में गरीब लोग आजाद होंगे, स्वतंत्र होंगे। उस वक्त यह पता चलेगा कि इससे हमारा क्या फायदा है और हमने इसको क्यों बनाया है। उपमहा-पति जी, मैं मदन में यह बताना चाहता हूँ कि यह बिल जो लोग लूट-मार करके अपना जीवन व्यतीत करने में लगे रहते हैं, उनके खिलाफ है। जो लोग फिरकापरस्ती पैदा करके झगड़े फैलाते हैं, लड़ाई और दंगे करवाते हैं, यह बिल उनके खिलाफ है। यह बिल जाति का भेद-भाव पैदा करके लोगों को लड़ाने वाले इंसानों के खिलाफ है, यह बिल उन लोगों के खिलाफ है जो गरीब, हरिजन, आदिवासी इत्यादि लोगों को अपनी 'मर्जी' से चलाने के लिये अपने जूते के नीचे रखना चाहते हैं, उनको आजादी दिलाने के लिये है और उनको दबाने वालों के खिलाफ है। यह बिल देश से अलहिदा होने वाली ताकतों जो हिन्दुस्तान की कई हिस्सों में अपना सर उठा रही हैं और एवर्नमेंट की यह जिम्मेदारी है कि जिन बातों की उसको रिपोर्ट आती है उन पर वह गौर करे, ऐसी अलगाव पसन्द ताकतों को दबाने के लिये यह बिल है। इसका काम होगा स्मगलर्स, बलैक-मार्केटियर, होर्डरो, चोरी करने वालों, लूटने वालों, भ्रतफहमी पैदा करने वालों, रेप करने वालों, हरिजनों पर जुल्म करने वालों, डिफेंस फोर्स में डिस्टेंस पैदा करने वालों, पैरा-मिलिटरी फोर्स में अपना प्रचार करके उनको सरकार के हथक

से, आजा से चलने से रोकने के लिये यत्न करने वालों, पुलिस के अन्दर डिसिप्लिन तोड़कर हड़ताल करने वालों, सरकारी और प्राइवेट प्रापर्टी को आग लगाने वालों के खिलाफ है। घेराव करने वालों के खिलाफ है, रेलवे लाइन उखाड़ने वालों, हवाई जहाज बन्द करने वाले, दफ्तारों को बन्द कराने वाले और कारखाना का तबाह करने वाले लोगों के खिलाफ यह बिल है। . . .

(Interruptions)

श्री राजेश्वर सिंह (उत्तर प्रदेश) : हाइजैकर आपका ही साथी है, विधायक है। . . . (Interruptions)

जाने जैस सिंह : मैंने उस रोज कहा था कि अपोजीशन के नेता जो बोलेंगे हम उनकी बात सुनेंगे। हमने आपको सब से सुना। अब मैं चाहता हूँ कि वह कौन सी बात है जो आपने हमको नहीं कही। मैं समझता हूँ कि इस अवसर पर कौन सी गाली नहीं दी, मुझे डायर कहा गया। जरा गौर कीजिये कि डायर ने जो रोलेट ऐक्ट बनाया था वह हिन्दुस्तान की जनता को गुलाम बनाने के लिये था और उसने गोली चलाई थी और हिन्दुस्तानियों के सीने चीर दिये गये थे और यह जो बिल मैं लाया हूँ कि यह हिन्दुस्तान की आजादी की रक्षा करने के लिये लाया है, हिन्दू-मुस्लिम, सिख-इसाई तमाम जनता की भलाई के लिये लाया हूँ। मगर क्या किया जाय कि आडवाणी साहब इस बात की तारीफ करने लगे कि हम इसको नहीं लाये। यह तो मर्दों का काम था कि लाते। आपके यहां तकरीर भी हो गई, प्राइम-मिनिस्टर, ला-मिनिस्टर और होम-मिनिस्टर के बीच में तकरीर हो गई कि लाया जाय पर फिर भी आप भाग गये। उसको कहते हैं कि यह उनकी बड़ी तारीफ है, उन्होंने बड़ा अच्छा किया है। यह काम आपने इसलिये नहीं किया, आप इसको लाना चाहते थे पर आप इसको इसलिए नहीं लाये क्योंकि आडवाणी साहब और उनकी सरकार का खतरा था और हम इसलिये लाते हैं क्योंकि हमारी सरकार को कोई

खतरा नहीं है। पंडित जवाहर लाल नेहरू ने 1951 में कहा था कि ऐसे बिल लाने में लोगों को क्लिप्सिज्म करने का मौका मिल सकता है, इससे सरकार की पापुलेरेटी को धक्का लग सकता है, लेकिन हमारी एक जिम्मेदारी है और उस जिम्मेदारी को निभाने के लिये सरकार को हिम्मत से, दिलेरी से, ऐसा बिल लाना चाहिए। मैं एक मिसाल देता हूँ। आडवाणी साहब, अगर उस वक्त यह बिल वापस न लेते तो जो फिरकावाराना दंगे 1976 और 1977 में देश में 159 और 188 हुए थे तो वे 1979 में बढ़कर 304 न हो गये होते। यह इसीलिये हुए कि आप इस बिल को नहीं ला सके और आप ठीक तरह से गुंडों को नहीं दबा सके, बदमाशों को सीधा नहीं कर सके। आपकी सरकार में जात-पात को बढ़ावा देने वाले, फिरकापरस्ती को बढ़ाने वाले, लूटकर और मारकर खाने वाले जो तत्व थे उनकी हौसला अफजाई हुई। यह आपकी कमजोरी थी। अफगान इस बात का है:—

“नजर आते हैं हर इकरार में इन्कार के पहलू  
मुहब्बत इस जमाने में सियासत होती जाती है।”

हर चीज को सियासती नुस्तेनजर से देखते हैं। लेकिन आर्थिक चीजों पर और ढंग से सोचना चाहिए, समाजिक चीजों पर और ढंग से सोचना चाहिए। हमारे हिन्दुस्तान का जो आईन है जिसके प्रति हमने कसम खाई है और वह इसके लिए हमको ताकीद करता है। हमारा प्रिन्सिपल जो है वह हमको यह कहता है।—

“WE THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all JUSTICE, Social, economic and

यह हमारे कॉन्स्टीट्यूशन का सिद्धान्त है।

इकोनॉमिक सोशल जस्टिस देने के लिए अगर सरकार हिम्मत से हाथ नहीं पकड़ती, मजबूती से उन लोगों को नहीं समझाती, जो लोग गरीबों को तंग करते हैं, मारते हैं, फिरकावादी पैदा करके इस देश के अन्दर नफरत पैदा करते हैं, लोगों को काम नहीं करने देते हैं, उन लोगों के हाथ पकड़ कर सीधा नहीं करती तब तक यह जस्टिस हम नहीं दिला सकते। एकोनॉमिक और सोशल जस्टिस लाने के लिए हम यह बिल लाए हैं और यह जो आपने कहा है हिन्दुस्तान की जनता ने कहा है उसको पूरा करने के लिए लाए हैं. . .  
(Interruptions) लिबर्टी की क्या मतलब है:

“LIBERTY of thought, expression, belief, faith -and worship;”

यह जो लिबर्टी है इसको किसी किस्म का नुक्सान नहीं पहुंचेगा। आगे यह है कि :—

“EQUALITY of status and of opportunity; and to promote among them all—”.

बड़े और जोरावर लोग गरीबों को नहीं रहने देते, वे उनको पीछे रखते हैं, दबा कर रखते हैं, हम वह अपुरचुनिटी हिन्दुस्तान के लोगों को दिलायेंगे, गरीब अवाम को दिखायेंगे। हम उन लोगों की आवाज सुनते हैं जिनकी “जवान नहीं है। मैं अपोजीशन के नेताओं से कहूंगा आप तो वोक्ल लोगों की आवाज सुनते हैं, बात सुनते हैं, आप उनकी आवाज भी सुनिये जिनकी आवाज खेतों, फार्मों में, कारखाने चलाने वाले मजदूरों में, जिनकी आवाज चीकीदारों में, सफाई मजदूरों में, जिनकी आवाज समाज को अनाज पैदा करने वालों में है, जो समाज के लिए लाने वाले हैं।

[श्रीमान जे. सिंह]

बकिंग क्लास है आप उनकी आवाज को सुनिये । मैंने उनकी आवाज को सुना है जिनकी जवान नहीं है । लेकिन आपको तो काम नहीं है । आज वह आवाज आप सुनिये । अगर सुनते तो आज आप इस बिल के हक में सब में ज्यादा होते । सरकारयोग, आइवाणी साहब और कुछ मੈम्बरों ने कहा कि यह मेलाफाईड इंशन है क्योंकि जो बिल है, जो पहले प्राइनेस था उसमें जो एडवाइजरी बोर्ड की बंजर है वह बंजर नहीं रहने दें, उसको बदल दिया गया । हमने उपमहापति जी, कोई कार्यवाही ऐसी नहीं की जो इस हिन्दुस्तान के संविधान के अनुसार न हो । जब यह हिन्दुस्तान का संविधान बना था यह आर्टिकल 22 इसलिए रखा गया था कि किसी वक्त हिन्दुस्तानियों को जबरन पड़े सकती है और उस वक्त डा० अम्बेडकर ने कहा था इंडोविजुअल डिगनिटी, इंडोविजुअल स्वतंत्रता यह चीजें बहुत जरूरी है लेकिन एक स्टेट के लिए एक मुल्क के लिए कुछ मुद्दों भर इन्सानों की आजादी के लिए अपनी स्टेट को, अपने मुल्क को खतरे में नहीं डाला जा सकता, इसलिए यह रखा गया । मेरे एक दोस्त ने यह भी कहा कि यह आर्टिकल चाहिये नहीं था और यह बुनियादी हकूकों में रुकावट डालता है । और उसकी बात में बाद में कहूंगा । आप मेहरबानी करके गौर कीजिए, आर्टिकल 22 और इसके क्लॉज 4 पर :

"No law providing for preventive ion shall authorise the detention of a person for a longer period than three months unless—"

~7j ^TT % far fTT^r 'tr' <r1%rr

~7.\ ?\T, % far ?7T^r 'tr' qf\$^

'an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported

before the expiration, of the period of three months that there is in its opinion sufficient cause for such detention."

यह एडवाइजरी बोर्ड संविधान के मुताबिक रखा गया है । अब आइवाणी साहब कहते हैं जो 44 अमेंडमेंट आयी थी उसके मुताबिक रखना चाहिए । आपके हाऊस की यादगार के लिए मैं कहना चाहता हूँ कि उसी बिल में जिसमें 44 अमेंडमेंट हुई पार्लियामेंट ने गवर्नमेंट को अधिकार दिया कि वह जब तक लागू नहीं होगी इन्फोर्स नहीं होगी जब तक सरकार उसको नोटिफिकेशन के द्वारा इन्फोर्स नहीं करती है । इस तरह एक नहीं बहुत से अमेंडमेंट पड़े हुए हैं । 56 की अमेंडमेंट अभी तक इन्फोर्स नहीं हुई । उसके बाद 42 अमेंडमेंट हुआ है उसमें में 5-6 ऐसे क्लॉजेज हैं जो अब तक कांस्टीट्यूशन का हिस्सा नहीं बने । इसलिए मैं इनको गिन नहीं सकता हूँ । कांस्टीट्यूशन के और पार्लियामेंट की राय के खिलाफ नहीं जा सकता था इसलिए इसमें सुधार किया कि जो कांस्टीट्यूशन में बनाया गया है उसी तरह का यह बोर्ड बनाया जायगा और फिर उसमें जो चेंबरमैन होगा वह हर हालत में रिटायर्ड जज हाई कोर्ट होगा और इसमें बंदिश नहीं है कि बकिंग जज हाई कोर्ट भी इसका चेंबरमैन नहीं हो सकता है । तो यह बहुत करना में समझता हूँ कि निरर्थक है और इस बात को अपने सामने नहीं रखना चाहिये ।

\* जहाँ तक जलियावाला बाग की बात है वह हमारे दोस्त मुरजीत जी ने बड़े जोर से कहीं मैं उनकी ऑपेरेटी की बहुत तारीफ करता हूँ और जो कुछ उन्होंने कहा था उन्होंने कह भी दिया, मैं उनकी बात मानता नहीं, मेरी बात को वे मानेंगे नहीं । लेकिन एक बात जरूर कहूंगा कि किसी को क्रिटि-साईज करते हुए उस बात का ब्याल

रखना चाहिए कि किसी को उस बात से तुलना की जाये जो बात जचती हो, फवती हो परन्तु वह हमारे इस एक्ट के इस कारनामों के इस सरकार के मुताबिक जलियावाला की बात जचती नहीं है। जलियावाला बाग में तो हिन्दुस्तान की आजादी के लिए... (Interruptions)

SHRI HARKISHAN SINGH SUR-JEET: Sir, he "Ms not followed me. What I said was, coming from the land of Jallianwalla Bagh, are you going to deny it? (Interruptions).

MR. DEPUTY CHAIRMAN: He his followed it. (Interruptions).

SHRI HARKISHAN SINGH SUR-JEET: I did not say anything else.

श्री उपसभापति : आपकी पूरी बात समझ रहे हैं।

ज्ञानो जैल सिंह : अच्छा हुआ कि कामरेड जी ने अपनी बात के ठीक मायने और ठीक तर्जुमा कर दिया। चूंकि एक विद्वान आदमी हैं और मेने विद्वानों की तकरीरें सुनी हैं वे जिस पक्ष में करना चाहें कर सकते हैं। हमारे गोस्वामी जी ने भी शानदार तकरीर की। ये अच्छे वकील हैं और वकील तो वकालत जिसकी करना चाहेंगे ठीक से करते हैं तथा गुनाहगार को भी बरी करवाने हैं। सबसे बड़ा वकील वही होता है जो गुनाहगारों को छोड़वा दे। इसलिए मैं एक बात बड़े आदर से कहना चाहता हूं कि बातों की बात छोड़िए।

कैल वृक्ष के पान, पात में पात, तैसों ही विद्वान की बात, बात में बात। जैसे कैले का वृक्ष उसमें कुछ नहीं होता, पत्ते उतारते जाएं, उतारते जाएं, खरम हो जाएगा ऐसे ही विद्वानों की जो बातें हैं, बातें ही बातें हैं, बातें ही बातें हैं।

1500 RS—8.

एक माननीय सदस्य : ज्ञानो जी ऐसे मन कहिए, वरना सब विद्वान नाराज हो जाएंगे।

ज्ञानो जैल सिंह : मैं तो वकीलों की तारीफ करता हूं और बगैर वकीलों के हमारा कोई काम नहीं चलता, न हमारा कोई बिल बनता, न हमारे बिल का कोई तरमीम होता है, न हमारा अदालतों में कोई काम होता है और जनता राज में तो वकीलों की बहुत इज्जत हो गई क्योंकि मुझे भी कई वकील करने पड़े... (Interruptions)

श्री उपसभापति : आप लोग बार-बार क्यों खड़े होते हैं।

ज्ञानो जैल सिंह : मैं यह भी कहना चाहता हूं कि डिक्टेटराना कहना और यह कहना कि इसमें कोई गुंजाइश नहीं रही, जिनने फंडामेंटल राइट्स है उसके मुताबिक उसी इंटेन्सू का रक्कावट नहीं। वह हाई कोर्ट में भी जा सकता है वह अपनी फरियाद ऊपर की अदालतों में कर सकता है उसमें कोई रक्कावट नहीं है। लेकिन यह आप बात मानेंगे कि जो सभ्य मुल्क हैं जिनको हम सिविलाइज्ड कहते हैं, उनमें इस बात की सबसे मानता होती है कि बीमारी होने से पहले रोकी जाए, जुर्म होने से पहले रोके जाए और यह सिर्फ उनको नजरबन्द करना है, मारना नहीं, पीटना नहीं, काम नहीं, कोई लेना और बिलकुल खाली बैठे अपना अच्छी रोटी पानी खाये—लेकिन हमने शक पर उसको पकड़ना है यह बेहतर है।

आप लोग कहते हैं कि आपके पास ऐसे कानून है कि आप जुर्म की सजा दे सकते हैं। यह ठीक है कि हम जुर्म की सजा दे सकते हैं, लेकिन जुर्म होने के बाद। हम चाहते हैं कि जुर्म होने ही

[जानो जैल सिंह]

न पाएँ और हमारी सोसायटी में एक स्टेण्डर्ड हो। पुलिस के हाथों वे लोग बेदोष मारे जाते हैं, पीटे जाते हैं। हम पुलिस को अस्त्रियार यह देते हैं कि लो भाई कानून आपको दे देते हैं, लेकिन ज़ुर्म नहीं होना चाहिए ... (Interruptions)

एक माननीय सदस्य : आंखें चाहे फोड़ देना ... (Interruptions)

जानो जैल सिंह : इमील ए प्रिवैन्टिव मजर्स हमेशा थोर से अच्छे होते हैं। शायद मोहन जी ने एक थोर पढ़ कर सुनाया था। मैं उनसे थोर का तो थोर से जवाब नहीं दूंगा। लेकिन मैंने उनकी तकरीर नोट की है और मैं सिर्फ यही बात उनसे कहूंगा कि —

“ए हुसन मेरे वादों पर इतबार कर, मैं भी इन्सान हूँ कोई खाली मिनिस्टर तो नहीं।”

तो उनकी यह रुवाहिश थी, इसलिए मैंने यह कह दिया ... (Interruptions)

श्री जगदीश प्रसाद माथुर (उत्तर प्रदेश) : बड़ा गुनाह किया जो तेरे वादे पर इतबार किया ... (Interruptions)

जानो जैल सिंह : लेकिन दोस्तों कुछ हमारे साथी उस तरफ बैठे हुए हैं— पुरबी मुखोपाध्याय और श्रीमती आल्वा और हमारे भोला पासवान जी हैं, हमारे कई दोस्त बैठे हैं। मैं यह सोच रहा था कि भूपेश गुप्त जी जैसे हमारे दोस्त जिन्होंने हमारा हर वक़्त साथ दिया और हमने उनका साथ दिया क्योंकि वे समाजवादी हैं, वे प्रोग्रेसिव हैं वे

फिरकेदारी के खिलाफ हैं वे मुल्क की बेहतरी चाहते हैं, एकता चाहते हैं, इन्होंने हमारा साथ दिया और हमने इनका साथ। हम दोस्तों के साथ लगते अच्छे नहीं लगते मैं उनको बातों का जवाब देना तो चाहता था, लेकिन हमारे डिप्टी चैयरमैन साहब की मरजी नहीं है और मैं भी समझता हूँ कि यह अच्छी बात है कि गुप्त जी का कोई जवाब न दूँ।

यहां कांग्रेस की जो जनरल सेक्रेटरी श्री श्रीमती पुरबी मुखोपाध्याय हमारे ऊपर डिस्पनिन का डंडा चलाती रही और हम इनकी बात मानते रहे ... (Interruptions) अब इनकी राय से जितने कानून बने हैं इमरजन्सी के बाद पार्लियामेंट में हमारे साथ रही हैं। हम तो पुरानी बात को भूल नहीं सकते वे शायद भूल जाएं। एक और मिसेज आल्वा जी ने भी बड़ी हिम्मत से साथ दिया था, दिलेरी से साथ दिया था और अब भी शायद कुछ कहा नहीं जा सकता कि ज्यादा देर हमारे खिलाफ रहेंगी।

मगर एक बात कहता हूँ:—

“यह हुसन वाले मेरे कातिल है ...

एक माननीय सदस्य : किन से मतलब है आपका ?

जानो जैल सिंह : मैं उन को कह रहा हूँ जो भाई थोर कहते थे।

“ये हुसन वाले मेरे कातिल है मेरा यह दावा है। मगर उन को सजा मिले, मुझे मंजूर नहीं।”

तो मैं इन शब्दों के साथ ज्यादा विस्तार न करते हुए सदन से प्रार्थना करूंगा कि आइवाणी साहब का जो रिजोल्यूशन है उसको नामंजूर किया जाए और यह बिल जो है इसको परवान किया जाए।

MR. DEPUTY CHAIRMAN: I am first putting the Resolution of Shri Advani to vote.

The question is:

"That this House disapproves the National Security Ordinance, 1980 (No. 11 of 1980) promulgated by the President on the 22nd September, 1980."

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes—69, Noes—21.

AYES 69

Advani, Shri Lal K.  
Ashwani Kumar, Shri  
Bagaitkar, Shri Sadashiv  
Bamerjee, Shri Jaharlal  
Bhabhra, Shri Hari Shankar  
Bhagat, Shri Ganapat Hiralal  
Bhandari, Shri Sunder Singh  
Bhattacharjee, Prof. Sourendra  
Bhattacharya, Shri G. C.  
Bhattacharya, Shrimati Ila  
Bhola Prasad, Shri  
Bose, Shrimati Pratima  
Chakraborty, Shri Amarprosad  
Dhabe, Shri Shridhar Wasudeo  
Ghose, Shri Sankar  
Goswami, Shri Biswa  
Goswami, Shri Dinesh  
Gupta, Shri Bhupesh  
Gupta, Shri Ram Lakhan Prasad  
Hansda, Shri Phanindra Nath  
Hegde, Shri Ramakrishna  
Imam, Shrimati Aziza  
Jaswant Singh, Shri  
Jha, Shri Shiva Chandra  
Kakati, Shri Robin  
Kalyanasundaram, Shri M.

Khandelwal, Shri Yyarelal  
Kumaran, Shri S.  
Lakhan Singh, Shri  
Lepcha, Shri Sangdopal  
Madhavan, Shri K. K.  
Majhi, Shri Dhaneswar  
Malik, Shri Satya Pal  
Mallick, Shri Harekrishna  
Master, Shri K. Chathunni  
Mathur, Shri Jagdish Prasad  
Mishra, Shri Kalraj  
Mody, Shri Piloo  
Mohinder Kaur, Shrimati  
Mohunta, Shri Sushil Chand  
Morarka, Shri R. R.  
Mukherjee, Shrimati Kanak  
Mukhopadhyay, Shrimati Purabi  
Nanda, Shri Narasingha Prasad  
Nigam, Shri Ladli Mohan  
Oza, Shri Ghanshyambhai  
Pant, Shri Krishna Chandra  
Patel, Shri Manubhai  
Pradhan, Shri Patitpaban  
Rajan, Shri Pattiam  
Rajinder Kaur, Shrimati  
Raju, Shri V. B.  
Ramamurti, Shri P.  
Rameshwar Singh, Shri  
Reddy, Shri B. Satyanarayan  
Roy, Shri Kalyan  
Sahaya, Shri Dayanand  
Sarup Singh, Dr.  
Seindia, Shrimati Vijaya Raje  
Sezhiyan, Shri Era  
Shahedullah, Shri Syed  
Shahi, Shri Nageshwar Prasad  
Sharma, Shri Ajit Kumar  
Shastri, Shri Bhola Paswan  
Sheikh, Shri Abdul Rehman  
Surendra Mohan, Shri  
Surjeet, Shri Harkishan  
Tohra, Sardar Gurcharan Singh  
Yadav, Shri Hukmdeo Narayan

[Mr. Deputy Chairman]

NOES 121

Ali, Shri Syed Rahmat  
Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram  
Arif, Shri Mohammed Usman  
Balram Dass, Shri  
Banerjee, Shri B. N.  
Barma, Shri Prasenjit  
Bhagwan Din, Shri  
Bhamidipati, Shri Krishna Mohan  
Bhandare, Shri Murlidhar Chandra-  
kant  
Bharadwaj, Shri Ramchandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Maragatham  
Chattopadhyaya, Prof. D. P.  
Chowdhari, Shri A.S.  
Das, Shri Bipinpal  
Das, Shrimati Monika  
Deshmukh, Shri Bapuraoji Marotraoji  
Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
Dharamvir, Shri  
D'Souza, Dr. Joseph Leon  
Ganesan, Shri L.  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida  
Handique, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Hanspal, Shri Harvendar Singh  
Heptulla, Dr. (Shrimati) Najma  
Ibrahim, Shri B.  
Jadhav, Shri Pandurang Dharmaji  
Jain, Shri Dharamchand  
Jain, Shri J. K.  
Jain, Shri Jagdish  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben Manishan-  
kar  
Kalaniya, Shri Ibrahim

Kamble, Prof. N. M.  
Kesri, Shri Sitaram  
Khan, Shri F. M.  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali  
Khaparde, Shrimati Saroj  
Krishna, Shri M. R.  
Krishnan, Shri U. R.  
Kureel, Shri Piare Lal Urf  
Piare Lal Talib Unnavi  
Lokesh Chandra, Dr.  
Maddanna, Shri M.  
Madni, Shri Asad  
Makwana, Shri Yogendra  
Malhotra, Shrimati Usha  
Malik, Shri Syed Abdul  
Manhar, Shri Bhagatram  
Maran, Shri Murasoli  
Maurya, Shri Buddha Priya  
Meena, Shri Dhuleshwar  
Mehrotra, Shri Prakash  
Mehta, Shri Om  
Mhaisekar, Shri G. R.  
Mishra, Shri Mahendra Mohan  
Mistri, Shrimati Roda  
Mohanarangam, Shri R.  
Mohanty, Shri Surendra  
Mohapatra, Shri Shyam Sundar  
Mondal, Shri Ahmad Hossain  
Moopanar, Shri G. K.  
Mukherjee, Shri Pranab  
Mulla, Shri Suresh Narain  
Munusamy, Shri V. P.  
Muthu, Dr. (Shrimati) Sathiavani  
Naidu, Shri N. P. Chengalraya  
Naik, Shri G. Swamy  
Nalwa, Shri Hari Singh  
Narendra Singh, Shri  
Panda, Shri Akshay  
Pande, Shri Bishambhar Nath  
Pandey, Shri Narsingh Narain  
Pandey, Shri Sudhakar  
Pandey, Shrimati Manorama  
Paswan, Shri Ram Bhagwat

Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohanmad  
 Rai, Shri Kalpnath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Sinh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venka, Shri V.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: I shall  
 now put the amendment of Prof.  
 Sourendra Bhattacharjee to vote.

The question is:

"That the Bill to provide for  
 preventive detention in certain  
 cases and for matters connected  
 therewith, as passed by the Lok  
 Sabha, be referred to a Select Com-  
 mittee of the Rajya Sabha consist-  
 ing of the following Members—

1. Shri Arvind Ganesh Kulkarni;
2. Shri Lal K. Advani;
3. Shri Nageshwar Prasad Shahi;
4. Shri Bhupesh Gupta;
5. Shri P. Ramamurti;
6. Shri Kalyan Roy;
7. Shri Amarprosad Chakroborty;
8. Shri B. D. Khobragade;
9. Shri Sunder Singh Bhandari;
10. Shri Dinesh Goswami;
11. Shri Shiva Chandra Jha;
12. Shri Ajit Kumar Sharma;
13. Shrimati Rajinder Kaur
14. Shrimati Purabi Mukhopadhyay;

and

15. Prof. Sourendra Bhattacharjee  
 with instructions to report by the  
 first day of the next Session of the  
 Rajya Sabha."

*The motion was negatived.*

7 P.M.

MR. DEPUTY CHAIRMAN: I  
 shall now put to vote the motion  
 moved by Shri Zail Singh.

The question is—

"That the Bill to provide for  
 preventive detention in certain  
 cases and for matters connected  
 therewith, as passed by the Lok  
 Sabha, be taken into considera-  
 tion."

*The House divided*

Ayes	.. 120
Noes	69

AYES 120

Ali, Shri Syed Rahmat  
 Amarjit Kaur, Shrimati



[Mr. Deputy Chairman]

Amla, Shri Tirath Ram  
 Arif, Shri Mohammed Usman  
 Balram Das, Shri  
 Banerjee, Shri B. N.  
 Barman, Shri Prasenjit  
 Bhagwan Dig. Shri  
 Bhamidipati, Shri Krishna Mohan  
 Bhandare, Shri Murlidhar Chandra-  
 kant  
 Bharadwaj, Shri Ramchandra  
 Bhatt, Shri Nand Kishore  
 Bhim Raj, Shri  
 Chandrasekhar, Shrimati Maragat-  
 ham  
 Chattopadhyaya, Prof. D. P.  
 Chowdhari, Shri A. S.  
 Das, Shri Bipinpal  
 Das, Shrimati Monika  
 Deshmukh, Shri Bapuraoji  
 Marotraoji  
 Inesh Chandra, Shri Swami  
 Inesh Singh, Shri  
 Harmavir, Shri  
 D'Souza, Dr. Joseph Leon  
 Ganesan, Shri L.  
 Gopalsamy, Shri V  
 Gupta, Shri Gurudev  
 Habibullah, Shrimati Hamida  
 Handique, Shri Bijoy Krishna  
 Haq, Shri (Molana) Asrarul  
 Hanspal, Shri Harvendar Singh  
 Heerachand, Shri D.  
 Heptulla Dr. (Shrimati) Najma  
 Ibrahim, Shri B.  
 Jadhav, Shri Pandurang Dhar-  
 maji  
 Jain, Shri Dharamchand  
 Jain, Shri J. K.  
 Jain, Shri Jagdish  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manish-  
 ankar  
 Kalaniya, Shri Ibrahim

Kamble, Prof. N. M.  
 Kesri, Shri Sitaram  
 Khan, Shri F. M.  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khaparde, Shrimati Saroj  
 Krishna, Shri M. R.  
 Krishnan, Shri U. R.  
 Kureel, Shri Piare Lal Urf  
 Piare Lal Talib Unnavi  
 Lokesh Chandra, Dr.  
 Maddanna, Shri M.  
 Madni, Shri Asad  
 Makwana, Shri Yogendra  
 Malhotra, Shrimati Usha  
 Malik, Shri Syed Abdul  
 Manhar, Shri Bhagatram  
 Maran, Shri Murasoli  
 Maurya, Shri Buddha Priya  
 Meena, Shri Dhuteshwar  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhaisekar, Shri G. R.  
 Mishra, Shri Mahendra Mohan  
 Mistry, Shrimati Roda  
 Mohanarangam, Shri R.  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Shyam Sunder  
 Mondal, Shri Ahmad Hossain  
 Moopanar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiyavani  
 Naidu, Shri N. P., Chengalraya  
 Naik, Shri G. Swamy  
 Nalwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Panda, Shri Akshay  
 Pande, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat

Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rai, Shri Kalp Nath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Rattan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tempok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venka, Shri V.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

## NOES—69

Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganpat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bhola Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh

Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhan Prasad  
 Hansda, Shri Phandindra Nath  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhan Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Majhi, Shri Dhaneshwar  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohinder Kaur, Shrimati  
 Mohanta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghansambhai  
 Pant, Shri Krishna Chandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Rajinder Kaur, Shrimati  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan  
 Roy, Shri Kalyan  
 Sahaya, Shri Dayanand  
 Sarup Singh, Dr.  
 Scindia, Shrimati Vijaya Raju  
 Sezhiyan, Shri Era  
 Shahedullah, Shri Syed

[Mr. Deputy Chairman] Shahi, Shri Nageshwar Prasad Sharma, Shri Ajit Kumar Sbastri, Shri Bhola Paswan Sheikh, Shri Abdul Rehman Surendra Mohan, Shri Surjeet, Shri Harkishan Singh Tohra, Sardar Gurcharaa Singh Yadav, Shri Hukmedo Narayan

*The motion was adopted.*

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

*Clause 2 (Definitions)*

MR. DEPUTY CHAIRMAN: There are two amendments, namely, Nos. 7 and 8.

SHRI ERA SEZHIYAN: Sir I move:

7. "That at page 1, line 9, the words 'or by an officer subordinate to a State Government' be deleted."

*(The amendment also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ram-lal Parikh, Dr. M. M. S. Siddhu, Shri Bishwa Goswami, Shri Shridhar Wasudeo Dhabe, Dr. Shanti G. Patel and Shri Dinesh Gostoamt.)*

SHRI JASWANT SINGH (Rajasthan): Sir, I move:

8. "That at page 2, after line 5, the following be inserted namely:—

'(f) "Security of State" means security of life and property and protection of national interests;

(g) "Public Order" means maintenance of peace, preservation of law and order and of the normal activities in society.

*Explanation:* For the purpose of this section clauses (f) and (g) do not include legitimate activities to Political Parties and their leaders."

The questions was proposed. » »

MR. DEPUTY CHAIRMAN: Everyone has spoken at great length on the subject. I will request you to be very brief.

SHRI ERA SEZHIYAN: I will not make a very long speech. We on this side are opposed to the Bill lock, stock and barrel. When the inevitability for moving my amendment has come, I want to suggest certain measures which will go to minimise the moustrosity of this Bill to the extent possible. In clause 2, I have suggested an amendment on page 9 to delete the words "or by an officer subordinate to a State Government". This term is very vague and any petty officer subordinate in the State Government can exercise powers under this Bill. For any frivolous ground this draconian power can be used by a Subordinate if it is entrusted to him. The idea is to entrust this power to a higher, responsible officer with the rank of a Sessions Judge or anybody like that. Otherwise, this power will be misused and abused.

SHRI JASWANT SINGH: The amendment that I have moved in this august House relates to certain insertions which I would request the hon. Home Minister to consider. The Bill is called the National Security Bill. I have through this amend-mend defined what the security of the State ought to mean. I submit for the hon. Minister's consideration and through him for the consideration of the House that it should mean security of life and property and protection of national interests. I am sure the hon. Minister will find nothing objectionable in this. It is in consonance with the spirit of the Bill and it is in consonance with whatever has been said from the Treasury Benches. The Bill is for the maintenance and preservation of public order, I have tried to define the term 'public order' also. I submit for the consideration of the hon. Home Min-

Ister and this august House that 'public order' should mean maintenance of peace, preservation of law and

oider end of the normal activities in society. All Members, whether from the Treasury Benches or from opposition benches, have spoke of public order meaning exactly this. The hon. Minister has in his speech said that the purpose of this Bill is to maintain public order. I have taken the liberty to define 'public order'. I am sure the hon. Minister will accept that there is nothing objectionable ia what I have said.

I have gone a step further...

\*

MR. DEPUTY CHAIRMAN: Your point is very clear.

SHRI JASWANT SINGH; Sir, I hav<sub>e</sub> not even read out my amendment.

MR. DEPUTY CHAIRMAN: You need not read it out.

SHRI JASWANT SINGH; I have to read out what my amendment says.

MR. DEPUTY CHAIRMAN; You need not read it out. Yes, the honourable Minister, please. (Interruptions).

SHRI JASWANT SINGH: Sir, I have to read out my amendment AInterruptions),

MR. DEPUTY CHAIRMAN; You need not please.

SHRI JASWANT SINGH; For the purpose of this clause...

SHRI RAMAKRISHNA HEDGE; Sir he is only quoting what his amendment says. What is wrong in that? (Interruptions)

MR. DEPUTY CHAIRMAN; I cannot allow that. (Interruptions).

SHRI PILOO MODY; Mr. Deputy Chairman, Sir, I want tojjsk you one thing. Do you want this" Bill to be passed today? Then kindly let the Members <sup>h</sup><sub>a</sub><sup>ve</sup> <sup>thei</sup><sub>r</sub> say- Otherwise, you cannot have this Bill passed. So, let him have his say.

MR. DEPUTY CHAIRMAN; I would like to know why Mr. Modi is adopting a threatening attitude. I am allowing him. But I am only requesting him not to read the whole of it. That is all. He can make his point. That is all. (Interruptions).

SHRI HARI SHANKAR BHABHRA; How can you know that he has conveyed his point unless he reads it out?

SHR! PILOO MODY: Even the executioner will allow the man who is sentenced to death to have his last say. So. kindly allow him.

MR. DEPUTY CHAIRMAN; You are always there to say something sarcastic. You wear dark glasses and you see everything wrongly.

SHRI JASWANT SINGH: Thank you very much. Sir, for permitting me.

There is an Explanation to my amendment. (Interruptions.)

MR. DEPUTY CHAIRMAN; Order, please.

SHRI JASWANT SINGH; These two amendments and the Explanation. I submit to the House for its consideration. The Explanation reads: "Fo<sub>r</sub> the purpose of this section, clauses (f) and (g) do not include legitimate activities of politia<sub>n</sub> parties and their leaders." Sir, the honourable Minister, Gianiji and all the Members on the treasury benches, throughout the debate in this House and aLso in the other House have said that it is not intended to take any action or it does not contemplate to take any action against political parties, the activities of political parties or their leaders. The amendment that r am submitting is in consonance with the wishe<sub>s</sub> expressed specifically by the honourable Minister. I would, therefore, request the House to consider this amendment.

MR. DEPUTY CHAIRMAN: Yes, Mr. Minister.

ज्ञानो ज्ञान सिंह : मैंने दोनों अमेन्डमेंट्स पर विचार किया है और इस नतीजे पर पहुँचा हूँ कि इनकी जरूरत नहीं है और ये अमेन्डमेंट्स में परवान नहीं कर सकता ।

MR. DEPUTY CHAIRMAN: Mr. Sezhiyan, do you withdraw your amendment?

SHRI EJA SEZHIYAN: No, Sir.

MR. DEPUTY CHAIRMAN: Now, I put amendment No. 7 to vote. The question is:

7. "That at page 1, line 9, the words 'or by an officer subordinate to a State Government' be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

8. "That at page 2, after line 5, the following be inserted, namely—

"(f) "Security of State" means security of life and property and protection of national interests;

(g) "Public Order" means maintenance of peace, preservation of law and order and of the normal activities in society.

*Explanation:* For the purpose of this section, clauses (f) and (g) do not include legitimate activities of political parties and their leaders."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 2 stand part of the Bill."

*The House divided*

Ayes	115
Noes	70

AYES 115

Ali, Shri Syed Rahmat  
Amarijit Kaur, Shrimati  
Amla, Shri Tirath Ram

Arif, Shri Mohammed Usman  
Bairam Das, Shri  
Banerjee, Shri B. N.  
Barman, Shri Prasenjit  
Bhagwan Din, Shri  
Bhamidipati, Shri Krishna Mohan  
Bhandare, Shri Murlidhar Chandra-  
kant  
Bharadwaj, Shri Ramachandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Margatham  
Chattopadhyaya, Prof. D. P.  
Chowdhari, Shri A. S.  
Das, Shri Bipinpal  
Das, Shrimati Monika  
Deshmukh, Shri Bapuraoji  
Marotraoji  
Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
D'Souza, Dr. Joseph Leon  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida  
Handique, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Hanspal, Shri Harvendar Singh  
Heptulla Dr. (Shrimati) Najma  
Ibrahim, Shri B.  
Jadhav, Shri Pandurang Dharmaji  
Jain, Shri Dharam Chand  
Jain, Shri J. K.  
Jain, Shri Jagdish  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben  
Manishankar  
Kajaniya, Shri Ibrahim  
Kamble, Prof. N. M.  
Kesri, Shri Sitaram  
Khan, Shri F. M.  
Khan, Shri Khurshed Alam  
Khan, Shri Masqood Ali  
Khaparde, Shrimati Saroj

Krishna, Shri M. R.  
 Krishnan, Shri U. R.  
 Kureel, Shri Piare Lal, Urf  
 Piare Lal Talib Unnavi  
 Lckesh Chandra, Dr.  
 Maodanna, Shri M.  
 Madni, Shri Asad  
 Makwana, Shri Yogendra  
 Malhotra, Shrimati Usha  
 Malik, Shri Syed Abdul  
 Manhar, Shri Bhagatram  
 Maran, Shri Murasoli  
 Maurya, Shri Buddha Priya  
 Meena, Shri Dhuleshwar  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhaisekar, Shri G. R.  
 Mishra, Shri Mahendra Mohan  
 Mistry, Shrimati Rada  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Shyam Sundar  
 Mendal, Shri Ahmad Hossain  
 Moopanar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munnsamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri G. Swamy  
 Narendra Singh, Shri  
 Panda, Shri Akshay  
 Pande, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rai, Shri Kalpnath  
 Rajasekharan, Shri P.  
 Rajendra Singh Ishwar Singh, Shri

Ramachandran, Shri M. S.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan, Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

## NOES—70

Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bholu Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad

[Mr. Deputy Chairman.]

Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhan Prasad  
 Hansda, Shri Phanindra Nath  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhan Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Majhi, Shri Dhaneswar  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohinder Kaur, Shrimati  
 Mohanta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghanshyambhai  
 Pant, Shri Krishna Chandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Rajinder Kaur, Shrimati  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan

Roy, Shri Kalyan  
 Sahaya, Shri Dayanand  
 Sarup Singh, Dr.  
 Seindia, Shrimati Vijaya Raje  
 Sezhiyan, Shri Era  
 Shahabuddin, Shri Syed  
 Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Ajit Kumar  
 Shastri, Shri Bhola Paswan  
 Sinha, Shri Indradeep  
 Surendra Mohan, Shri  
 Surjeet, Shri Harkishan Singh  
 Tohra, Sardar Gurcharan Singh  
 Yadav, Shri Hukumdeo Narayan  
 SHRI JASWANT SINGH: Sir, I  
 have not even read out my amend-  
 Chakraborty, Shri Amarprosad  
 Bhattacharya, Shri G. C.  
 Bose, Shrimati Pratima  
 Dhabe, Shri Shridhar Wasudeo  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhan Prasad  
 The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 (Powers to make orders  
 detaining certain persons)

MR. DEPUTY CHAIRMAN: There  
 are 44 amendments. I will request the  
 movers to move all their amendments  
 together.

PROF. SOURENDRA BHATTA-  
 CHARJEE: Sir, I beg to move:

9. "That at page 2-3, clause 3 be  
 deleted."

SHRI BHUPESH GUPTA: Sir, I beg  
 to move:

10. "That at page 2, line 9, after  
 the words 'foreign powers' the words  
 'but excluding such powers as are  
 involved in the military or similar  
 other pacts which India disapproves'  
 be inserted."

12. "That at page 2, lines 16 to 19,  
 the words 'or from acting in any

manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do' be deleted."

35. "That at page 3, after line 5. the following further proviso be inserted, namely: —

•Provided further that when the grounds are untenable the authority responsible for making the allegations shall be suspended pending further action;

Provided also that all such grounds shall be subject to test by the person detained'."

SHRI ERA SEZHIYAN: Sir, I beg to move:

11. "That at page 2. line 9, the words 'or the security of India' be deleted."

16. "That at page 2, after line 20, the following be inserted, namely: —

•Provided that no Member of Parliament or a member of the State Legislature shall be so detained under this Act when the Parliament or the State Legislature are in session'."

17. "That at page 2, line 26, after the figure '1980' the following be inserted, namely: —

"and also does not include an act for which action can be taken under ordinary law of the land'."

20. "That at page 2, lines 30-31. for the words '-District Magistrate or Commissioner of Police' the words 'Sessions Judge' be substituted."

22. "That at page 2, line 33, for the words 'District Magistrate or Commissioner of Police' the words 'Sessions Judge' be substituted."

*(The amendment Nos. 11, 16, 17, 20 and- 22 also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ramlal Parikh, Dr M. M. S. Siddhu, Shri Biswa Goswami: and Dr Shanti G. Patel.)*

23. "That at page 2. for lines 36 to 40, the following be substituted, namely:—

'Provided that the period specified in an order made by the State Government under this sub-section shall not in any case exceed one month."

*(The amendment also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ram Lai Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami, Dr. Shanti G. Patel and Shri Dinesh Goswami)*

26. "That at page 2, in lines 37 and 40, for the words 'three months' the words 'three weeks' respectively be substituted." »

28. "That at pages 2 and 3. lines 41 to 47 and 1 to 10, respectively, be deleted."

31. "That at page 2, line 45, for the word 'twelve' the word 'five' be substituted."

40. "That at page 3, after line 10, the following be inserted, namely:—

'(6) The grounds of detention shall be furnished to the person detained at the time of service of the detention order, otherwise the order of detention would be illegal and the person so detained shall be released forthwith'."

*(The amendment Nos. 26, 28, 31 and 40 also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel)*

SHRI SHRIDHAR WASUDEO UHA-BE (Maharashtra): Sir, I beg to move:

13. "That at page 2, line 19. after the word 'community' the following be inserted, namely: —

'not including the agitation of any kind including strike carried on by Government Employees or



[Shri Shridhar Wasudeo Dhabe.]

other industrial workers for securing the economic demands or other rights'."

19. "That at page 2, lines 30-31, the words 'within the local limits of the jurisdiction of a District Magistrate or Commissioner of Police' be deleted."

21. "That at page 2, line 33, the words 'such District Magistrate or Commissioner of Police may also, if satisfied as provided in sub-section (2),' be deleted."

SHRI DINESH GOSWAMI: Sir, I beg to move:

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

'Provided that legitimate trade union activities including the call for strike shall not come within the purview of this Act."

SHRI LAL K. ADVANI: Sir, I beg to move:

15. "That at page 2, after line 20, the following be inserted, namely: —

'Provided that no Member of Parliament or member of State Legislature shall be so detained under this Act when the Parliament or State Legislature are to meet within a week till they are in session'."

18. "That at pages 2-3, lines 29 to 47, and 1 to 5, respectively, be deleted."

36. "That at page 3, line (.. the words 'or approved by the State Government' be deleted."

39. "That at page 3, after line in. the following be inserted, namely.—

'(6) On receipt of such report the Central Government shall, as soon as may be, proceed to consider whether the Order may be revoked under section 14'."

1 (The amendment Nos. 15, 18, 36 one! 39 also stood in the name of Shri Jaa-dish Prasad Mathur).

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

24. "That at page 2, line 37 for the words 'three months', the words 'two months' be substituted."

30. "That at page 2, line 45 for the word 'twelve' the word 'seven' be substituted."

32. "That at page 2, line 37 for the word 'five' the word 'two' be substituted."

33. "That at page 3, line 2, for the word 'ten', the word 'seven' be substituted."

34. "That at page 3, line 4, for the words "fifteen days" the words "ten days" be substituted."

37. "That at page 3, line 7, for the word 'seven' the word 'three' be substituted."

SHRI SHRIDHAR WASUDEO DHABE: Sir, I beg to move:

25. "That at page 2, lines 37 to 40, for the words 'three months', wherever they occur, the words 'one month' be substituted."

(The amendment also stood in the names of Shri Jaswant Singh, Shri Bhupesh Gupta and Shri Shiva Chandra Jha)

SHRI ERA SEZHIYAN: Sir, I beg to move:

27. "That at page 2, after line 40, the following be inserted, namely: —

'Provided further that the period of three months of detention shall not be extended on the same grounds and unless previous approval of the Advisory Board to extend the detention period is taken'."

(The amendment also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ramlal

*Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami. Dr. Shanti G. Patel, Shri Lai K. Advani and Shri Jagdish Prasad Mathur).*

SHRI JASWANT SINGH: Sir, I beg to move:

29. "That at page 2, line 43, *after* the word 'subordinate' the words 'and the Advisory Board for the area' be *inserted*."

38. "That at page 3, line 8, *after* the words 'the Central Government', the words 'and the Advisory Board for the area' be *inserted*."

SHRI M. KALYANASUNDARAM: Sir, I beg to move:

121. "That at page 2, lines 16 to 19, the words 'or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community' be *deleted*."

122. "That at page 2, lines 30, 31 and 33 *for* the words 'District Magistrate or a Commissioner of Police', wherever they occur, the words 'Sessions Judge' be *substituted*."

124. "That, at page 2, lines 37 and 40, *for* the words 'three months', wherever they occur, the words 'one week' be *substituted*."

125. "That at page 2, *after* line 40, the following be inserted, namely: —

'Provided further that the period of three months of detention shall not be extended on the same grounds and unless previous approval of the Advisory Board to extend detention is obtained.'

126. "That at page 2, line 45, *for* the words 'twelve days' the words 'two days' be *substituted*."

127. "That at page 2, *after* line 47, the following be inserted, namely: —

'Provided that no person shall be detained on any ground for which he or she, as the case may be, has ever been or is being or can be prosecuted in any court of law'."

129. "That at page 3, line 4, *for* the words 'fifteen days', the words 'two days' be substituted."

130. "That at page 3, line 7, *for* the words 'seven days' the words 'two days' be *substituted*."

131. "That at page 3, after line 10, the following be inserted, namely: —

'(6) The grounds of detention shall be furnished to the person detained at the time of service of the detention order, otherwise the order of detention shall be illegal and the person so detained shall be released immediately'."

*(The amendment Nos. 121, 122, 124, 125, 126, 127, 129, 130 and 131 also stood in the names of Shri S. Kuma-ran, Shri Kalyan Roy, Shri Indradeep Sinha and Shri Bhola Prasad).*

SHRI P. RAMAMURTI: Sir, I move:

23. "That at page 2, for lines 36 to 40, the following be substituted, namely: —

'Provided that the period specified in an order made by the State Government under this sub-section shall not in any case exceed one month'."

128. "That at pages 2 and 3, lines 41. to 46 and 1 to 10 respectively, be *deleted*."

*(The amendment Nos. 123 and 124 also stood in the names of Shri Har-kishan singh Surjeet and Shri Pattiam Rajan).*

SHRI -M. KALYANASUNDARAM (Tamil Nadu): Sir, I move:

166. "That at page 3, line 2, *for* the words 'five' and 'ten' the words 'three' and 'seven' respectively be *substituted*."

[Shri M. Kalyanasundaram.]

*(The amendment also stood in the names of Shri S. Kumaran and Shri Kalyan Roy).*

*The questions were proposed.*

MR. DEPUTY CHAIRMAN: Prof. Sourendra Bhattacharjee.

PROF. SOURENDRA BHATTACHARJEE: My amendment is rather simple. There are 18 clauses in the Bill. I am seeking deletion of only one clause. I am not saying anything regarding 17 clauses. My humble submission to the hon. Minister is that he may just agree to drop one clause as a whole, i.e. clause (3) as a gesture of goodwill to the opposition, to their sentiments and to the feelings expressed by them. I expect the Minister to respond heroically to my amendment.

MR. DEPUTY CHAIRMAN: Mr. Bhattacharjee, your amendment is negative amendment. It is not in order.

SHRI BHUPESH GUPTA: Sir, my amendment is that at pages 2 and 3, clause (3) be deleted. Sir, it is obvious that we want deletion of this particular clause because this is a very vital clause and the mischievous clause, a clause which will be used to attack the various democratic movements and the opposition parties in particular.

My second amendment covers the foreign powers. I want that after the words "foreign powers", the words "but excluding such powers as are involved in the military or similar other acts which India disapproves" be inserted. Sir, there is a tendency to put all the powers in the same category, friendly and unfriendly powers. Certainly, Sir, if national security is involved, we should be entitled to criticise the hostile powers, expose them and mobilise the people against them. Why should there be not a discrimination between the hostile powers with such other powers as are friendly? Therefore, Sir, this amendment is to give protection to those who expose the hostile powers which threaten our peace and security.

In amendment No. 12, I have very briefly said that at page 2, lines 16 to 19, the words "or from acting in any manner prejudicial to the maintenance of public order or from acting in any

manner prejudicial to the maintenance of supplies and services essential to the community it is necessary so to do, be deleted. This line should be deleted. Why? Do I understand that if there is a strike in a textile mill, national security is threatened? Do I understand if some people strike work at some establishment which sells essential goods, national security is threatened? National security is not that. National security is something more

sublime, more fundamental and much bigger. Suppose, some employees either in a private sector undertaking or in a public sector undertaking have industrial disputes and these sectors produce what they call essential commodities, would that also be a threat to the security of the country? Sir, they are absolutely vulgarising the whole thing. This clause was there in

the previous Act and we saw how sweepers were detained without trial for going on strike for their demand against the municipal authorities. We have seen in many cases, the Government and other employees as well as the workers in factories and their trade union leaders had been put under detention because they were participating in some industrial disputes. Now this is the power they want. And Mr. Zail Singh has already told for what he wants the power. And this is clearly stated here. Therefore, I want the deletion of this thing. If you have national security only in mind, surely on strike here, a picketing there, an industrial dispute somewhere do not affect the national security. Our national security is something more basic, not so fragile, and more tenable and substantial than the security of the present Government, I can understand if they have said that this is done in order to give comfort to the Government, or to protect the security. Sir, what they are doing here is to create a situation in which the police and the Ministry will be armed with powers of arbitrary detention to threaten the

legitimate trade union activities. Well, they may say, those farmers who are on a struggle in support of their demand for their produce can be arrested under the National Security Act on the ground that it is dealing with essential supplies and so on. Therefore, I say, this only exposes the mentality of the Government. They have not the national security in mind. This is a bogus claim. This is a bluff. This is a fraud. This is something under the cover of which they want to assail the civil liberties and the democratic rights of the people. Therefore, Sir, this amendment is there.

MR. DEPUTY CHAIRMAN: That will do.

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SHRI BHUPESH GUPTA: I need not dilate on the others. If I have...

MR. DEPUTY CHAIRMAN: You have already spoken.

SHRI BHUPESH GUPTA: Yes, one more is left. Sir, you seem to be very keen on getting it passed.

MR. DEPUTY CHAIRMAN: Not that. I am keen that the business is over as early as possible.

SHRI BHUPESH GUPTA: There is amendment No. 35 on the question of

# ground. I have provided for . . . I do not know, # Sir, whether he is listening at all. But it does not matter. I have said here, "provided further that when the grounds are untenable the authority responsible for making the allegations shall be suspended pending further action;" Suppose I am detained without any ground. Well, three days or four days after, it is found that the grounds are untenable. Then why the officer who has misused his authority should not be punished? That is why I have provided for this here. As you know, Sir, we have all the grounds. We have seen how the grounds are prepared. And fantastic grounds are prepared. I can tell you, Sir, in the beginning, under the PD Act, when Mr. Ganesh Ghosh, a CPI(M) leader, and at that time a CPI leader, a hero of the Chittagong Armoury raid, was de-

tained, on the grounds of detention, after independence, they added was that he raided the Chittagong armoury. And they were not ashamed, I remember that Mr. Chamanlal and others got up here and they were surprised. All kinds of things are said in the grounds. Nowadays they do not make such a mistake. But we have seen during the emergency what they did. No ground was needed, a blank paper, the detention order, signed by the detaining authority, and you are detained on that basis. Therefore, Sir, I say that there should be a provision for punishment of those people. And the last one is— "Provided also that all such grounds shall be subject to test by the person detained." Sir, what is the ground? Mr. Zail Singh may tell anything against me or his Police Commissioner may say. Must not I have a right to test them? Can I not put him under cross-examination? If he produces certain documents, can I not have the right to probe that the documents are forged? Can I not find out other fallacies and other absurdities in the grounds or the evidence that is given? Everything should be given. Everything should be known. Sir, to punish, . . . to detain, a person without giving him a chance to prove his innocence and on the basis of the grounds, which will not be subject to scrutiny and check under the Evidence Act, or other provisions of the law, is arbitrary, dictatorial and is a matter which defeats not a democratic system but a tyrannical system. Therefore, this amendment also I press and I am sure others will speak on other amendments.

But I would ask my friend to accept the detenu to test them and give him grounds are solid, you should produce them before the detenu and call upon the detenu to test them and give him all the opportunities to verify; otherwise we shall be the victims of CID reports. According to him Shri Jaya-prakash Narayan was dead before he died. This is our CID. The CID does not know Moradabad riots were being prepared. The CID did not know what was happening in Aligarh. They had no information.

[Shri Bhupesh Gupta.]

But the CID knows everything about us in the left and the democratic movement, concoctions, fabrications, lies, falsehood, perjury etc. etc. These are pressed into the so-called grounds. Therefore, Sir, I demand that this amendment should receive the consideration and Mr. Zail Singh should accept it. I do not know whether he will accept. He will not accept, I know that. But for courtesy's sake, I say, after all, on the point about the conduct of my friend, Mr. Zail Singh, he may perhaps show a sign of reason. (*Time bell rings*). Therefore, I say this ground should be covered. We want grounds to be told. We should not be delivered to the CID, the intelligence branch man, those who want to take political vendetta against us, who can make concoctions and put us in detention and get away with it.

SHRI ERA SE2HIYAN: Mr. Deputy Chairman, Sir, I have given ten amendments on clause 3 but I will concentrate only on four of them and on the other six I will not speak but will press for vote.

Relating to clause 3, sub-clause (2), by which the Central Government or the State Government may, if satisfied detain a person, I have proposed the proviso, namely, that Provided that no Member of Parliament or a Member of State Legislature shall be so detained under this Act when the Parliament or the State Legislature are in session. Sir, by using these measures, unfettered and unbridled powers, the fate of a Government or the functioning of a legislature can be vitiated beyond recognition. During the last emergency we are fully aware, how many Members here were arrested in the Rajya Sabha and the Lok Sabha. So also in the State of Tripura when there was a No Confidence Motion moved against the Government, which was tottering due to internal dissension. Members in the opposition were arrested; the ruling party was able to maintain its balance, of powers there only by arresting the opposition; the use of the preventive measures. To avoid that situation, I am suggesting that the pro-

viso as proposed by me should be added, namely, that no Member of Parliament or a Member of a State Legislature should be so detained under the Act when Parliament or the State Legislature is in session. Even if they are put in jail, they should be permitted to attend Parliament or the concerned State Assembly to participate in their deliberations.

In my amendment, I am proposing a very basic change. There they are giving under the Explanation given to clause 3, sub-clause (2), the purpose of the sub-section. This is not to include certain other statutes and also does not exclude an act for which action can be taken under the ordinary law of the land, if there are provisions, specific provisions, in our statute already, the CrP.C. and other law's, and if the action can be taken under the existing statutes, those acts which attract those things should not be brought under this one, because in their enthusiasm or lethargy or complacency, or whatever you call it, the police will use this one more and more in those cases even where the ordinary law of the land can take care of it, because if you allow the ordinary laws of the land to operate, then they will go before the court and prove this thing. Here that botheration is not there. That is why, more and more of recourse will be taken to use of these draconian measures and these preventive measures even in those cases where ordinary law of the land can take care of it. Therefore, I have suggested this amendment.

Sub-clause (3) says:

"If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the State Government is satisfied that it is necessary to do so..." etc.

Here I do not want the words 'District Magistrate or a Commissioner of Police' because in many cases, the Executive Magistrate and the Commissioner of Police are on the executive side; Though some judicial powers are given

to the Executive Magistrate in many States, he is more in the nature executive. Therefore, executive should not be armed with very discretionary powers for which the affected person cannot move the court so easily and he will be detained without trial. So this should not be entrusted to a District Magistrate or a Commissioner of Police. Therefore, I am substituting these words and I am suggesting that the Sessions Judge be empowered.

The last one is No. 40. I am not speaking on the other amendments in this clause though I press them for the vote. I have said:

"That at page 3, after line 10, the following be inserted, namely:

'The grounds of detention shall be furnished to the person detained at the time of service of the detention order, otherwise the order of detention would be illegal and the person so detained shall be released forthwith'."

The simple thing is that you are putting a person under detention under this Act. Why don't you give him the reasons and grounds of detention? Our past experience is that persons by a midnight visit are taken away and the person does not know why he is being arrested; the person who is arresting him also may not know. The jailor who is putting him inside the jail does not know why the person is being put inside the jail. So, the Government should come forward and provide for the reasons so that the person knows why he is being arrested. While they take so much care to arrest a person, why not give him the grounds of arrest? That is why I insisting on this amendment No. 40 in terms of fair and natural justice that the grounds of detention are given.

SHRI SHRIDHAR WASUDEO DHABE: Sir, I have moved four amendments, Nos. 13, 19, 21 and 25. No. 13 is very basic. The object of the Bill says: Industrial unrest and

engineering agitation for different issues. That is the objective but nothing has been said against the employers who declare lock-out or who stop the business. There is no provision under this Act to detain such employers or take action against them. My amendment says:

"That at page 2, line 19, the following be inserted:

'not including the agitation of any kind including strike carried on by Government employees or other industrial workers for securing the economic demands or other rights'."

Today, under the existing law, under the Industrial Disputes Act, and other legislations, strike has been accepted as a fundamental right and they can go on strike by giving notice. It has been our experience that only in the collective bargaining and not by adjudication, or going to courts, industrial peace is maintained. Therefore, if you take away the rights of workers and other employees to agitate for their legitimate demands, I think it will not be conducive to maintenance of industrial peace. Unless there is emotional co-operation of the workers, no Government is going to succeed. Therefore, if the workers feel that their legitimate demands are not being met or their problems are not being solved at any particular time, there is no other alternative for them but to go on strike.

Sir, the other three amendments are relating to the powers given to the district magistrates and the police commissioners. It is a derogation. State Governments may have powers. But if you delegate the powers to the district magistrates and the police commissioners, they are bound to be misused and abused, as we have seen in Bihar and other places. These powers should not be given to the lower level officials. My last amendment is that instead of the period of detention being three months, it should be one month at a time. These are the amendments

[Shri Sridhar Wasudeo Dhabe.] which I have moved. I would request the hon. Home Minister to seriously consider them. If you curtail the rights of the working class and the employees for agitation, if that is done, it will be a bad day for India.

SHRI DINESH GOSWAMI (Aseam): Sir, my amendment is very simple and it is almost in line with Mr. Dhabe's amendment. But the language of my amendment is more simple. It has been the assurance of the Government that this Act is not meant to be used against the working class and against legitimate trade union activities. If that is so, this should form part of the statute book. After all, a Minister's assurance means nothing. Hence, what I have said is that legitimate trade union activities including the call for strike shall not come within the purview of this Act, and if the hon. Home Minister is acting *bona fide*, then, he should accept my amendment.

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"Provided that no Member of Parliament or Member of State Legislature shall be so detained under this Act when the Parliament or State Legislature are to meet within a week and till they are in session"

यह दूध का जला मट्ट को फूंक फूंक-कर पिएगा वाली बात है। पिछली बार बीसियों, पन्चीसों संसद् सदस्य और सैकड़ों एम० एल० एज० जेल में बन्द कर दिए गए और उन लोगों को यह अनुमति भी नहीं दी गई कि पार्लियामेंट के या असेम्बली के सेशन को अटेंड कर सकें। संभवतः अगर कोई भी व्यक्ति या कोई संस्था या किसी भी प्रकार के लेजिस्लेचर का कोई व्यक्ति हो या कोई

संसद् सदस्य या एम० एल० एज० हो, उसके संसदीय कार्य में अगर कोई चीज बाधा डालती है तो वह संविधान की दृष्टि से पाप है या अपराध है। सरकार ही उस पाप को करने जा रही है जैसा कि पिछली बार हुआ था कि जितने एम० पीज० हैं, एम० एल० एज० हैं उनको बन्द किया गया, कानून पास किए गए, हम लोगों को मालूम है कि "बाहर" करने के लिए कुछ अमेंडमेंट लाने की कोशिश की गई। तो मेरा आग्रह है कि यह विधान होना चाहिए कि यदि संसद् या किसी लेजिस्लेचर का सत्र बुलाया जा चुका है और एक हफ्ता बुलाने का समय रह गया है तो उसको पकड़ा नहीं जाना चाहिए, उसको मुक्त करना चाहिए जिस समय तक सेशन चालू रहता हो।

श्री शिव चन्द्र झा : उपसभापति जी, जैसा कि सब सदस्यों ने कहा कि यह बिल डेकोनियन है, इतना ही नहीं "शैतानिक" विधेयक है जैसा कि गांधी जी अंग्रेजी राज के लिए कहा करते थे। अब इन संशोधनों से हम इतना ही करते हैं जैसे सांप का जहर हटा दिया जाता है तो सपेरा बे-जहरीले सांप को लेकर घूमता है वैसे ही यह विधेयक सपेरा जैसा घूमेगा लेकिन उसमें वह जहर नहीं रह जाएगा। वैसे ही मेरा संशोधन है। मेरा जो संशोधन (24वां) है उसमें प्रावधान है डिस्ट्रिक्ट मजिस्ट्रेट, कमिश्नर एण्ड पुलिस। बाकी उन सब झमेलों में मैं नहीं जाता जो और कुछ हैं—ग्राबीर में यही सरकार है, कानून है। पहला डिटेन्शन है—नाट टु एक्सीड थ्री मन्थ्स, 3 महीने से ज्यादा नहीं। आपके अनुसार—नाट एक्सीडिंग थ्री मन्थ्स एट एनी टाइम—यानी तीन-तीन महीने करके बढ़ाया जाएगा। उपसभापति जी, आपको पता नहीं होगा, आप मीसा में नहीं रहे, आप आराम से थे। देहाती भाषा में

कहावत है लेकिन शायद पार्लियामेंटरी न हो इसलिए मैं नहीं कहना चाहता । लेकिन इमरजेंसी से पहले जो मीसा था उसमें सब मिला कर—बोर्ड बनना, बोर्ड के सामने जाना, बोर्ड का फैसला होना उसमें 75 दिन में डेटेन्यू रिहा हो जाता था । हम लोग रिहा हो गए थे । इमरजेंसी में तो हम 18 महीने जेल में रहे थे । अब यहां पर है कि रिट नहीं कर सकते । यह इमरजेंसी में नहीं थी । इसमें चालबाजी की गयी है । बोर्ड बनेगा, बोर्ड के सामने जायेंगे, आप को लिखित दिया जायेगा कि आप के ऊपर क्या चार्ज हैं लेकिन मिनिमम 12 महीने तक रहना पड़ेगा । नेशनल सीक्योरिटी बिल इसी का दूसरा रूप है । मिनिमम एक साल रहना पड़ेगा, बोर्ड बनेगा 11वें महीने में, 11वें महीने में बोर्ड के सामने जायेगा और 12वें महीने में छटेगा । मतलब यह कि इस में गिरफ्तार होने के बाद 12 महीने तक रहना पड़ेगा । पहले 75 दिन हुआ करता था । मैं दो बार ढाई-ढाई महीने इमरजेंसी से पहले जेल जा चुका हूँ । 75 दिन में सब निकल जाते थे । मेरा संशोधन है कि 3 महीने की जगह दो महीने कर दिया जाये, फिर बढ़ता है तो 'नाट मोर देन वन मन्थ' यह मेरा 25वां संशोधन है ।

मेरा 30वां संशोधन सेक्शन 4 में है :

is said in this clause: "... have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless, in the meantime, it has been approved by the State Government."

इसमें प्रावधान है कि स्टेट गवर्नमेंट से एप्रूवल—चाहे डिस्ट्रिक्ट मजिस्ट्रेट का आर्डर हो या पुलिस कमिश्नर का—12 दिन के अन्दर नहीं आता तो वह वायड

हो जायेगा । जहां 12 दिन की बात है मेरा कहना है कि 7 दिन कर दिया जाये, अगर 7 दिन के अन्दर एप्रूवल नहीं आता तो वह वायड हो जायेगा ।

उसके बाद 32, 33 और 34 संशोधन हैं । आउन्ड जो बताना होगा 5 दिन के अन्दर, जिसको आफिसर कम्यूनिकेट करेगा वह है :

"after five days but not later than ten days".

मेरा संशोधन है कि 5 दिन की जगह दो दिन में कम्यूनिकेट कर दे । जहां 10 दिन है वहां 7 दिन हो जाना चाहिए । इसी में है फिर 15 दिन, वह किसी भी हालत में 10 दिन से ज्यादा नहीं होना चाहिए ।

क्लाज 5 में है :

"When any order is made or approved by the State Government under this section, the State Government shall, within seven days, report the fact to the Central Government. ..."

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7 दिन है, मेरा संशोधन है कि तीन दिन के अन्दर स्टेट गवर्नमेंट सेंट्रल गवर्नमेंट को खबर करे ।

जैसा मैंने पहले कहा, यह विषय के जहर को कम करने का प्रयास है । जहर कम हो जायेगा तो ये सपेरे जैसे घूमेंगे । जो आप चाहेंगे कर ही लेंगे लेकिन इतना कर देंगे तो थोड़ी गुंजाइश होगी काम निकलने की ।

श्री जसवंत सिंह : मान्यवर, खंड 3 के उपखंड 4 और उपखंड 5 में मेरे दो संशोधन हैं । मैं आप के माध्यम से माननीय मंत्री महोदय से निवेदन करूंगा कि उनको समझें और उन पर ध्यान दें । दोनों संशोधन जो मैं सदन के बटल



[ श्री जयवंत सिंह ]

पर रखना चाहता हूँ वे एडवाइजरी बोर्ड को ले कर हैं। खंड 3 के उपखंड 4 में बयान है—मैं पूरा नहीं पढ़ रहा हूँ—

"shall forthwith report the fact to the State Government".

मेरा सुझाव है कि स्टेट गवर्नमेंट के बाद बर्ड जोड़ दिया जाये—

"and the Advisory Board for the area".

इसी प्रकार उपखंड 5 में जहाँ सेंट्रल गवर्नमेंट का उल्लेख आता है उसके बाद मेरा निवेदन है "and the Advisory Board for the area" वह जोड़ने का सुझाव मैं रख रहा हूँ कारण यह है कि जहाँ आप ने एडवाइजरी बोर्ड को इस सारे बिल के सन्दर्भ में एक प्राथमिकता दी है, इस बिल के तहत आप ने कहा है कि जो कुछ भी किया जायेगा वह एडवाइजरी बोर्ड को हम जरूर बतायेंगे और जो एडवाइजरी बोर्ड कहेगा उस से हम बाध्य होंगे। तो मेरा जो अमेंडमेंट है उस के तहत है और मान्यवर, मंत्री महोदय जो कहते आये हैं वह उस के अनुरूप है और इस लिये इस को वह ढंग से देखें और इस के लिये अपनी सम्मति दें।

MR. DEPUTY CHAIRMAN: Shri Kalyanasundaram, would you like to say anything

SHRI M. KALYANASUNDARAM: Mr. Deputy Chairman, Sir, I have moved 10 amendments to clause No. S. In one of the amendments I have said that the following words be deleted from sub-clause (2), that is, "or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community\*". That these words should be deleted from sub-clause (2) is contained in one of my amend-

merits. This is the most venomous tooth of the Bill. It is directed against the working class, the agitating farmers, the NGOs, the teachers, the bank employees and other working class people of the country. If this is allowed to remain as it is, tomorrow if the municipal workers or Corporation workers like scavengers go on strike and if any of us go and organise and help it, it can be construed as engineering the strike. It is an essential service. The Corporation may refuse to implement the minimum wages but if a struggle is started against it, it will come under this clause. Similarly the electricity workers, the railway workers, postal employees. The Central Government employees have decided to boycott the joint consultative machinery. They are demanding a wage revision. They may be preparing to go on a struggle. Similarly the port and dock workers. Recently they offered a settlement. They have the recorded minutes but now the Government goes back and they have served a notice of strike. The university teachers, because the -UGC's recommendations are not implemented and the private employers are not paying properly, are going on strike. The economic situation is becoming worse day by day. Even this year, today, what is the position? The cost of living index has gone up according to their own figures. Let the hon. Minister wlv, waxed so eloquently in favour of the working class answer these points. In 1977 the cost of living index was only 327. Today it is 390. Similarly, unemployment has reached the peak. These are the reasons for the deteriorating economic situation. Without tackling the economic problems, how is the Government going to maintain law and order in this country? It is clear that they want to preserve the same system, the same exploitation. This Bill is intended to protect the looters and not to save the people and democracy, to suppress the agitations of workers, peasants and other toiling people.

Whatever rights we have won through hard struggles are sought to be taken away by this. That is why • this clause (must be removed. I have spoken about devolution of powers on District Magistrates, etc. So I want to press my amendments.

SHRI P. RAMAMURTI: Sir, the Home Minister was waxing eloquent and said that this Bill is directed against the blackmarketeers, against the swindlers, and all sorts of such •people. He said, "What am I to do?" But here the clause itself says:

"For the purposes of this subsection, 'acting in any manner prejudicial to the maintenance of supplies and services essential to the community' does not include 'acting . ' in any manner prejudicial to the maintenance of supplies of commodities essential to the community' ... as defined in the Explanation to sub-section (1) of section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980, and accordingly no order of detention shall be made under this Act on any ground on which an order of .. detention may be made under that . Act."

Therefore, this Act itself makes it clear that for non-maintenance of the essential supplies and other things by the blackmarketeers. they will not be liable to punishment under this Act. Then, who are the people against whom it will be used? You have yourself given your case, that this is 'directed against the working class. In a textile mill, if the workers go on strike because of the recalcitrance of .. the employer, what will happen? You have made it clear. For example, I may tell you of my own experience. In 1948, when the detention order was passed against me—I have the charge-sheet—the grounds of detention given to me was that I went and incited the tenants in a particular village Kamim

where I had asked them not to accept the bigger measure used by the landlord and insist upon the Government to seal the measure. Even that was considered to be a wrong thing and I was detained. I can give incidents after incidents. In 1948—52 a Tanjore worker who was agitating for wages was detained under the Preventive Detention Act. This is our experience. This is the experience throughout this period. Therefore, words do not mean anything, your actions mean a lot. In this country, preventive detention has been in existence ever since Independence. There is a very short period of about two years, one and a half years, when you did not have it and during the Janata Government period it did not exist. Otherwise, it has existed throughout and it has been misused. It has been directed not only against us but against the working class people, the agricultural labour movement. This is what you have done all along. You cannot wipe out the facts of history. Therefore, it is a very vicious thing. This whole thing has got to be opposed tooth and nail.

MR. DEPUTY CHAIRMAN: I, will put amendments one or more than one which stand in the name of the same person (s) together.

Now amendment No. 9 by Prof. Sourendra Bhattacharjee is negatived. Therefore, it is ruled out.

MR. DEPUTY-CHAIRMAN; The question is:

10. "That at page 2. line 9, after the words 'foreign powers', the words 'but excluding such powers as are involved in the military or similar other pacts which India disapproves' be inserted."

12. "That at page 2,, lines 16 to 19, the words 'or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and <sup>ser</sup>vices essential to the community it is necessary so to do' be deleted.\*\*

[Mr. Deputy Chairman.]

35. "That at page 3, after line 5, the following further proviso be inserted, namely:—

'Provided further that when the grounds are untenable the authority responsible for making the allegations shall be suspended pending further action;

Provided also that all such grounds shall be subject to test by the person detained'."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

11. "That at page 2, line 9, the words 'or the security of India' be *deleted*."

16. "That at page 2, after line 20, the following be inserted, namely:—

'Provided that no member of Parliament or member of State Legislature shall be so detained under this Act when the Parliament or State Legislature are in Session'."

17. "That at page 2, line 26, after the figure "1980" the following be inserted, namely:—

'and also does not include an act for which action can be taken under ordinary law of the land'."

20. "That at page 2, lines 30-31. *for* the words 'District Magistrate or a Commissioner of Police', the words 'Sessions Judge' be substituted."

22. "That at page 2, line 33, *for* the words 'District Magistrate or Commissioner of Police', the words 'Sessions Judge' be substituted."

23. "That at page 2, for lines 3© to 40, the following be substituted, namely:—

Provided that the period specified in the order made by the

State Government under this subsection shall not in any case exceed one month'."

\*

26. "That at page 2, in lines 3? and 40, *for*, the words 'three months', the words 'three weeks' respectively be *substituted*."

27. "That at page 2. *after* line 40. the following be inserted, namely:- \*

'Provided further that the period of three months of detention shall not be extended on the same grounds and unless previous \*J approval of the Advisory Board to extend the detention period is taken'."

28. "That at pages 2 and 3, lines 41 to 47 and 1 to 10, respectively, be *deleted*."

31. "That at page 2, line 45, *for* the word 'twelve' the word *five* be *substituted*."

40. "That at page 3, after line 19 the following be inserted, namely:—

'(6) The grounds of detention shall be furnished to the person detained at the time of service of the detention order, otherwise the order of detention would be illegal and the person so detained shall be released forthwith'."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

13. "That at page 2, line 1\*. *after* the word 'community' the following; be inserted, namely:—

•

'not including the agitation or any kind including strike carried on by Government Employees or other industrial workers for securing the economic demands at other rights'."

19. "That at page 2, linos 30-31, the words 'within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police' be deleted."

21. "That at page 2, line 33, the words 'such District Magistrate or Commissioner of Police, may also, if satisfied as provided in subsection (2)' be deleted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

14. "That at page 2, after line 20, the following be inserted, namely:—

'Provided that legitimate trade union activities including the call for strike shall not come within the purview of this Act'."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

15. "That at page 2, after line 20, the following be inserted, namely: —

'Provided that no member of Parliament or member of State Legislature shall be so detained under this Act when the Parliament or State Legislature are to meet within a week and till they are in session'."

18. "That at pages 2-3, lines 29 to 47 and 1 to 5 respectively, be deleted."

36. "That at page 3, line 6, the words 'or approved by the State Government' be deleted."

39. "That at page 3, after line 10, the following be inserted, namely: —

'(6) On receipt of such report the Central Government shall, as soon as may be, proceed to consider whether the Order may be revoked under section 14'." *The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

24. "That at page 2, line 37, for the words 'three months' the words 'two months' be substituted."

30. "That at page 2, line 45, for the word 'twelve' the word 'seven' be substituted."

32. "That at page 3, line 2, for the word 'five' the word 'two' be substituted."

33. "That at page 3 line 2, for the word 'ten', the word 'seven' be substituted."

34. "That at page 3, line 4, for the words 'fifteen days' the words 'ten days' be substituted."

37. "That at page 3, line 7, for the word 'seven' the word 'three' be substituted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

25. "That at page 2, lines 37 to 48, for the words 'three months', wherever they occur, the words 'one month' be substituted."

*The motion was negatived.*

8 P.M.

MR. DEPUTY CHAIRMAN: The question is:

29. "That at page 2, line 43, after the word 'subordinate' the words 'and the Advisory Board for the area' be inserted."

38. "That at page 3, line \*, after the words 'the Central Government', the words 'and the Advisory Board for the area' be inserted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

[Mr. Deputy Chairman.]

121. "That at page 2, lines 16 to 19, the words 'or from acting in any manner prejudicial to the maintenance of public order or from acting in any manner prejudicial to the maintenance of supplies and services essential to the community' be deleted."

122. "That at page 2, lines 30, 31 and 33, for the words 'District Magistrate or a Commissioner of Police\* wherever they occur, the words 'Sessions Judge' be substituted."

124. "That at page 2, lines 37 and 40, for the words 'three months' wherever they occur, the words 'one week' be substituted."

125. "That at page 2, after line 40, the following be inserted, namely:—

'Provided further that the period of three months of detention shall not be extended on the same grounds and unless previous approval of the Advisory Board to extend detention is obtained'."

126. "That at page 2, line 45, for the words 'twelve days' the words 'two days' be substituted."

127. "That at page 2, after line 47, the following be inserted, namely:—

'Provided that no person shall be detained on any ground for which he or she, as the case may be, has ever been or is being or can be prosecuted in any court of law\*."

129. "That at page 3, line 4, for the words 'fifteen days' the words 'two days' be substituted."

130. "That at page 3, line 7, for the words 'seven days' the words 'two days' be substituted."

131. "That at page 3, after line 10, the following be inserted, namely:—

'(6) The grounds of detention' shall be furnished to the person detained at the time of service of I

the detention order, otherwise the order of detention shall be illegal and the person so detained shall be released immediately'."

166. "That at page 3, line 2, for the words 'five' and 'ten' the words 'three' and 'seven' respectively be substituted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

123. "That at page 2 for lines 36 to 40, the following be substituted, namely:—

'Provided that the period specified in an order made by the State Government under this subsection shall not in any case exceed one month'."

128. "That at pages 2 and 3, lines 41 to 46 and 1 to 10 respectively, be deleted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: I put clause 3 to vote.

The question is:

"That clause 3 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes—121; Noes—70.

AYES—121

Ali, Shri Syed Rahmat Amarjit Kaur, Shrimati Amla, Shri Tirath Ram Arif, Shri Mohammed Usman Balram Das, Shri. Banerjee, Shri B. N.

Barman, Shri Prasenjit  
 Basavaraju, Shri M.  
 Bhagwan Din, Shri  
 Bhamidipati, Shri Krishna Mohan  
 Bhandare, Shri Murlidhar Chandra-  
 kant  
 Bharadwaj, Shri Ramchandra  
 Bhatt, Shri Nand Kishore  
 Bhim Raj, Shri  
 Chanana, Shri Charanjit  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.  
 Chowdhari, Shri A. S.  
 Das, Shri Bipinpal  
 Das, Shrimati Monika  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dinesh Chandra, Shri Swami  
 Dinesh Singh, Shri  
 Dharmavir, Shri  
 D'Souza, Dr. Joseph Leon  
 Ganesan, Shri L.  
 Gopalsamy, Shri V.  
 Gupta, Shri Gurudev  
 Habibullah, Shrimati Hamida  
 Handique, Shri Bijoy Krishna  
 Haq, Shri (Molana) Asrarul  
 Hanspal, Shri Harvendar Singh  
 Heerachand, Shri D.  
 Heptulla, Dr. (Shrimati) Najma  
 Ibrahim, Shri B.  
 Jadhav, Shri Pandurang Dharmaji  
 Jain, Shri Dharamchand  
 Jain, Shri J. K.  
 Jani, Shri Jagdish  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Mani-  
 shankar  
 Kamble, Prof. N. M.  
 Kalaniya, Shri Ibrahim  
 Kesri, Shri Sitaram  
 Khan, Shri F. M.  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khaparde, Shrimati Saroj

Krishna, Shri M. R.  
 Krishnan, Shri U. R.  
 Kureel, Shri Piare Lal Urf Piare Lal  
 Talib Unnavi  
 Loksh Chandra, Dr.  
 Madni, Shri Asad  
 Makwana, Shri Yogendra  
 Malhotra, Shrimati Usha  
 Malik, Shri Syed Abdul  
 Manhar, Shri Bhagatram  
 Maran, Shri Murasoli  
 Maurya, Shri Buddha Priya  
 Meena, Shri Dhuleshwar  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhaisekar, Shri G. R.  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Mahendra Mohan  
 Mistry, Shrimati Roda  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Shyam Sunder  
 Mondal, Shri Ahmad Hossain  
 Moopanar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik Shri G. Swamy  
 Nalwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Panda, Shri Akshay  
 Pande, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Charan  
 Parjapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rai, Shri Kalpnath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri

[Mr. Deputy Chairman.]

Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Rattan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Moimoonas  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

NOES—70

Advani, Shri Lal K.  
 Ashmani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bhola Prasad, Shri  
 Bose, Shrimati Pratima

Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhan Prasad  
 Hansda, Shri Phanindra Nath  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhan Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Majhi, Shri Dhaneswar  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohinder Kaur, Shrimati  
 Mohunta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghanshyambhai  
 Pant, Shri Krishna Chandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Rajinder Kaur, Shrimati  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan  
 Roy, Shri Kalyan

Sahaya, Shri Dayanand  
 Sarup Singh, Dr.  
 Scindia, Shrimati Vijaya Raje  
 Sezhiyan, Shri Era  
 Shahabuddin, Shri Syed  
 Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Ajit Kumar  
 Shastri, Shri Bhola Paswan  
 Sinha, Shri Indradeep  
 Surendra Mohan, Shri  
 Surjeet, Shri Harkishan Singh  
 Tohra, Sardar Gurcharan Singh  
 Yadav, Shri Hukmdeo Narayan

☞ *The motion was adopted.*

*Clause 3 was added to the Bill.*

MR. DEPUTY CHAIRMAN: Now we take up clause 4. There are two amendments. No. 41—Shri Bhupesh Gupta. He is not present. No. 42—Shri Era Sezhiyan.

*Clause 4 (Execution of detention orders)*

SHRj ERA SEZHIYAN: Sir, I move:

42. "That at page 3, line 13, after the figure "1973" the following be inserted, namely:—

"but in no case the person on whom the detention order is executed shall be hand-cuffed or roped."

*(The amendment also stood in the names of Shri Ghanshyam Bhai Oza, Shri Manubhai Patel, Prof. Ramflil Parikh, Dr. M. M. S. Siddhu, Shri Bis-wa Goswami and Dr. Shanti. G. Patel).*

Sir, clause 4 says:

"A detention order may be executed at any place in India in the

manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1973."

At the end I want to arid:

'out in no case the person on whom the detention order is executed shall be hand-cuffed or roped."

Sir, if you are taking action under the Criminal Procedure Code, handcuffing roping and all these things come in. Here you are trying to put a person under preventive detention. It is *not* a punitive action. Therefore, the i treatment which is given under the I Cr. P. C. should not be applied here. That is why I have said that persons who are detained under this measure should not be roped or hancuffed. Lasit time under the MISA many persons were handcuffed and paraded through the streets. Even though it was preventive detention, they were mistreated and bodily harmed. At that stage it was only handcuffing and roping. Now it may be puncturing of the eyes. That is why I have said that no physical harm should be done.

*The question was proposed.*

MR. DEPUTY-CHAIRMAN: Hon. Minister, have you anything to say? No? All right.

SHRi ERA SEZHIYAN: What is I the reply?

MR. DEPUTY-CHAIRMAN: He is not saying anything—no reply.

The question is:

"That at page 3, line 13, after the figure "1973" the following be inserted, namely:—

\*but in no case the person on whom the detention order is executed shall be hand-cuffed or roped."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN; Now I put clause 4. The question is:



[Mr. Deputy Chairman.]

"That clause 4 stand part of the Bill."

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—  
119. Noes—71.

AYES—119

Ali, Shri Syed Rahmat  
Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram  
Arif, Shri Mohammed Usman  
Balram Das, Shri  
Banerjee, Shri B. N.  
Barman, Shri Prasenjit  
Bhagwan Din, Shri  
Bhamidipati, Shri Krishna Mohan  
Bhandare, Shri Murlidhar Chandra-  
kant  
Bhardwaj, Shri Ramchandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Maragatham  
Chattopadhyaya, Prof. D. P.  
Chowdhari, Shri A. S.  
Das, Shri Bipinpal  
Das, Shrimati Monika  
Deshmukh, Shri Bapuraoji Marotraoji  
Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
Dharmavir, Shri  
D'Souza, Dr. Joseph Leon  
Ganesan, Shri L.  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida  
Hendiue, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Hanspal, Shri Harvendar Singh  
Heerachand, Shri D.  
Heptulla Dr. (Shrimati) Najma  
Ibrahim, Shri B.  
Jadhav, Shri Pandurang Dharmaji  
Jain, Shri Dharamchand  
Jain, Shri J. K.

Jani Shri Jagdish

Joshi, Shri Krishna Nand

Joshi, Shrimati Kumudben Mani-  
shankar

Kalaniya, Shri Ibrahim

Kamble, Prof. N. M.

Kesri, Shri Sitaram

Khan, Shri F. M.

Khan, Shri Khurshed Alam

Khan, Shri Maqsood Ali

Krishna, Shri M. R.

Krishnan, Shri U. R.

Kureel, Shri Piare Lal Urf Piare Lal

Talib Unnavi

Lokesh Chandra, Dr.

Maddanna, Shri M.

Madni, Shri Asad

Makwana, Shri Yogendra

Malhotra, Shrimati Usha

Malik, Shri Syed Abdul

Manhar, Shri Bhagatram

Maran, Shri Murasoli

Maurya, Shri Buddha Priya

Meena, Shri Dhuleshwar

Mehrotra, Shri Prakash

Mehta, Shri Om

Mhaisekar, Shri G. R.

Mirdha, Shri Ram Niwas

Mishra, Shri Mahendra Mohan

Mistry, Shrimati Roda

Mohanty, Shri Surendra

Mohapatra, Shri Shyam Sundar

Mondal, Shri Ahmad Hossain

Moopnar, Shri G. K.

Mukherjee, Shri Pranab

Mulla, Shri Suresh Narain

Muthu, Dr. (Shrimati) Sathiyani

Naidu, Shri N. P. Chengalraya

Naik, Shri G. Swamy

Nalwa, Shri Hari Singh

Narendra Singh, Shri

Panda, Shri Akshay

Pande, Shri Bishambhar Nath

Pandey, Shri Narsingh Narain

Pandey, Shri Sudhakar

Pandey, Shrimati Manorama

Paswan, Shri Ram Bhagat

Pattanayak, Shri Bhabani Charan

Frajapati, Shri Pravin Kumar

Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rai, Shri Kalpnath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singa, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq  
 NOES—71  
 Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.

Bhattacharya, Shrimati Ila  
 Bhloa Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhna Prasad  
 Hansda, Shri Phanindra Nath  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhna Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Majhi, Shri Dhaneswar  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohinder Kaur, Shrimati  
 Mohunta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghanshyambhai  
 Pant, Shri Krishna Chandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Rajinder Kaur, Shrimati  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan

[Mr. Deputy Chairman.]  
 Roy, Shri Kalyan  
 Sahaya, Shri Dayanand  
 Sarup Singh, Dr.  
 Scindia, Shrimati Vijaya Raje  
 Sezhiyan, Shri Era  
 Sahabuddin, Shri Syed  
 Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Ajit Kumar  
 Shastri, Shri Bhola Paswan  
 Sinha, Shri Indradeep  
 Surendra Mohan, Shri  
 Surjeet, Shri Harkishan Singh  
 Tohra, Sardar Gurcharan Singh  
 Yadav, Shri Hukmdeo Narayan

*The motion was adopted.*

*Clause 4 was added to the Bill.*

*Clause 5: (Power to regulate place  
 and conditions of detention)*

«

SHRI V. B. RAJU; Sir, I move:—

43. "That at page 3, after line 22,  
 the following be inserted, namely:—

'Provided that the\* conditions of  
 detention shall not be less favourable  
 than those applicable to "A" class  
 prisoners at the commencement of this  
 Act.'

44. "That at page 3, line 23 after  
 the word 'provided' the word 'fur-  
 ther\*' be inserted."

SHRI LAL K. ADVANI: Sir, I  
 move:—

45. "That at page 3, after line 25  
 the following be inserted, namely:—

'Explanation.—Nothing in this section  
 shall authorise the imposition of any  
 condition or imposing any discipline  
 which is not strictly necessary for the  
 purpose for which the order of detention  
 is made.'

*(The amendment also stood in the  
 names of Shri Jagdish Prasad*

*Mathur, Shri Lakhan Singh, Shri Kalraj  
 Mishra, Shri Era Sezhiyan, Shri  
 Ghanshyambhai Oza, Shri Manubhai  
 Patel, Prof. Ramlal Parikh Dr. M. M. S  
 Siddhu, Shri Biswa Goswami and Dr.  
 Shanti G. Patel)*

SHRI MANUBHAI PATEL- Sir I  
 move:—

46. "That at page 3, after line 25  
 the following be inserted, namely:—

'Provided further that the detaining  
 officer shall send Intimation within 48  
 hours after detention, "to the family of  
 the detenu, the correct information as to  
 where the detenu is detained.' "

47. "That at page 3, after line 25,  
 the following be inserted, namely:—

'Provided further that the person to be  
 removed from one place to another place  
 shall not be so removed unless the order  
 is previously approved by the Advisory  
 Board and a copy of the order is  
 furnished to the person.'

*(The amendments Nos. 46 and 47 also stood  
 in the names of Shri Era Sezhiyan, Shri  
 Ghanshyambhai Oza, Prof. Ramlal Parikh  
 Dr. M. M. Shri Siddhu, Shri Biswa Goswami  
 and Dr. Shanti G. Patel)*

SHRI JASWANT SINGH: Sir, I  
 move:

48. "That at page 3, after line 25,  
 the following be inserted, namely:—

'Provided further that an order of  
 detention for a period not

exceeding two weeks shall not be executed except with the specific approval of the Advisory Board for the area."

SHRI M. KALYANASUNDARAM:  
Sir, I move:

132. "That at page 3, line<sub>s</sub> 16 to 18, for the words 'and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline,' the words 'which shall be nearer to his home, accessible to his family members and which shall be a healthy place for his existence be substituted."

*(The amendment also stood in the name of Shri S. Kumaran. Shri Kal-yan Ray, Shri Indradeep Singh and Shri Bhola Prasad).*

SHRI SHIVA CHANDRA JHA: Sir, I move:

133. "That at page 3, line 19, after the words 'specify' the word<sub>s</sub> 'with the consent of the detenue' be inserted."

SHRI M. KALYANASUNDARAM: Sir, I move:

134. "That at page 3, line 20, for the words 'to be' the words 'not to be' be substituted."

135. "That at page 3, lines 21-22, for the words "whether within the same-State or in another State, by  
1500 RS—10.

order of the appropriate Government' the words 'without the written consent of the man detained in the jail' be substituted."

*(The amendments Nos. 134 and 135 also stood in the names of Shri S. Kumaran, Shri Kalyan Roy, Shri Indradeep Sinha ana Bhola Prasad).*

SHRI SHIVA CHANDRA JHA: Sir, I move:

136. "That at page 3, for lines 21 to 25, the following be substituted, namely: —

'detention only within the same State by the order of the appropriate Government;

Provided that the family of the detenue is paid three hundred rupees per month for its maintenance.' "

SHRI M. KALYANASUNDARAM: Sir, I move:

137. "That at page 3, line 25, after the word 'State' the words 'and the detenue concerned' be inserted."

*(The amendment also stood in the names of Shri S. Kumaran, Shri Kalyan Roy, Shri Indradeep Sinha and Shri Bhola Prasad.)*

*The questions were proposed.*

SHRI V. B. RAJU: Sir, we have faith in human nature and we have faith in democracy. Our persuasion,

[Qhri V. B. Bajju] our discussion, our debate, our appeal, to the Minister and to the ruling party, will have some impact...

SHRI N. K. P. SALVE (Maharashtra): Not when we are hungry.

SHRI V. B. RAJU: Though not now, at least when they become Opposition. Here I am picking up the threads where Shri Sezhiyan had left. The honourable Minister said that this preventive detention of a person is not for the crime or for the wrong the person has done, that will come under punitive detention. But only to prevent him from doing something wrong. As long as he does not do anything wrong, he is innocent. Prevention is only on a suspicion. When I was applying my mind whom the Minister, the Government of India and the State Governments or the Police Commissioner or the Collector, is going to recommend for being detained or for being picked up for detention, I was searching for an answer. There are other enactments: for prevention of blackmarketing and smuggling; an Act is there; it takes care of blackmarketeers. Mr. Minister, I do not think it is repealed. That Act is not being repealed. Thanks to Mr. Charan Singh, he came into the interim Government and he got issued an Ordinance which was muffled into an Act by this Government. We protested against that Bill, but it is there as an Act. Then there is the COFEPOSA which takes care of smugglers. I was wondering who then are left to be detained under this Act...

SHRI PILOO MODY: We, all of us here on this side.

SHRI V. B. RAJU: I am appealing to the Leader of the House and to the Home Minister to tell us who will now be left? I think we are opening a second chapter in the recent history of India. In the first chapter many of our friends and elders have gone

to jail. We have not completed our quota. Let us have the stamp on us and there will be no hesitation to be detained.

Last time complaints had been made that many who were detained were kept in cells of lepers and worst criminals. Since people will be detained for having committed no crime, let them be treated as respectable human beings because you are only preventing them from doing something. You are not actually punishing them for having done something. You are only preventing them from committing something wrong. So, keep them dignified and treat them as respectable human beings. With this end in view I wanted to insert a proviso assuming that people to be detained will be respectable persons like Mr. Maran and others...

AN HON. MEMBER: A few from that side also.

SHRI V. B. RAJU: I do not wish them that. Therefore, the proviso which I want to insert is this:

"Provided that the conditions of detention shall not be less favourable than those applicable to 'A' Class prisoners at the commencement of this Act."

The other amendment is consequential. I am appealing to the conscience of the hon. Home Minister not to deviate from the humane angle.

SHRI LAL K. ADVANI: I propose to add a new Clause which makes it obligatory under the Act to look after the families of detenus. I have known hundreds of families in whose cases the detenu was the only, sole earning member. Those families were ruined when their earning members were under detention without committing any offence. I am giving notice of such an amendment.

श्री मनुभाई पटेल : मैं गृह मंत्री जी से प्रार्थना करूंगा क्योंकि ज्ञानी जी भी ब्रिटिश सल्तनत के जमाने में स्वतंत्रता सैनानी बन कर जेल में गए थे उस जमाने में उनको सजा हुई थी, डिटेन्शन में उनको रखा गया था तब भी उनके साथ जो व्यवहार होता था वह जो इस कानून के जरिये करने के लिए सुझाया गया है उससे कई दर्जे अच्छा व्यवहार था। यहां पर आप जिसकी गिरफ्तारी करेंगे वह तो डिटेन्यू होगा, कनविक्ट नहीं होगा, उस पर मुकदमा या ट्रायल भी नहीं है, उसके लिए आप कितना भी भरोसा इस हाउस को दिलायें, आप कितना भी भरोसा दिलाएं कि यह राजनीतिक कार्यकर्त्ताओं के खिलाफ इस्तेमाल नहीं किया जाएगा लेकिन उस शंका का आप निवारण नहीं कर पाए। क्योंकि तजुर्बा कुछ अलग था। कल ही चव्हाण साहब को गिरफ्तार किया गया और जो कानून आज बन रहा है इससे भी कितना ही भरोसा आप दिलायें कोई भी नहीं मान सकता कि निर्दोष लोगों को आप जेल में नहीं बन्द करेंगे इन निर्दोष लोगों में राजनीतिक कार्यकर्त्ताओं को भी आप बन्द नहीं करेंगे। वह भरोसा किसी को नहीं होता है। तो जब आप इतना भरोसा देते हैं कि सब के साथ अच्छा व्यवहार होगा तो कम से कम आपका व्यवहार मानवतापूर्ण हो, यह तो बिल्कुल वारन्टिक जंगलियातपूर्ण व्यवहार है कि आप किसी की गिरफ्तारी करते हों और उनके परिवार को भी मालूम न हो कि कौन-सी जेल में रखे जाएंगे और उनको कहां ले गए हैं। जेल के स्थान का मालूम नहीं है। जब आप, और मैं 1930, 1940 और 1942 में बन्द कर दिए जाते थे तो कम से कम (Interruptions) आप, जब मैं कहता हूं कांग्रेस के जितने कार्य-

कर्ता उस जमाने में थे, जंगे आजादी में थे, उन सब की बात आ जाती है क्योंकि आप उनका प्रतिनिधित्व करते हैं।

श्री रामकृष्ण हेगडे : अब वो भी नहीं है, उनका कल्चर भी नहीं है (Interruptions)

श्री मनुभाई पटेल : उस जमाने में जिसकी गिरफ्तारी होती थी जिसको इतनी जालिम सरकार मानते हैं, ब्रिटिश सल्तनत कम से कम यह मालूम करा देती थी कि कहां इसको गिरफ्तार कर के रखा गया है। मुझे मालूम है कि सन् 42 में बाम्बे से स्पेशल ट्रेन करके पंडित जवाहर लाल नेहरू, मौलाना आजाद, सरदार पटेल वगैरह को लेकर अहमदनगर फोर्ट गये थे तो रात को ही मालूम हो गया कि कहां ले जा रहे हैं और दूसरे दिन अखबारों में आ गया कि उनको वहां गिरफ्तार करके बन्द कर दिया गया है। गांधी जी को आगा खान पैलेस में ले गये और मालूम हो गया कि उनको वहां रखा है। लेकिन यहां तो इतनी जंगली कार्यवाही हो रही है मालूम भी नहीं पड़ेगा कि कहां ले जा रहे हैं। मैं यह तो नहीं कह रहा हूं कि आप सारी दुनिया को कहो लेकिन कम से कम उनके परिवार को कहना चाहिए। यह मेरा संशोधन है।

दूसरा मेरा संशोधन 47 में है कि गिरफ्तार करने के बाद आप बदली करके एक जगह से पकड़कर दूसरी जगह में ले जाते हो तो उसके बारे में किसी को मालूम नहीं होता है। यहां सिर्फ आपने कहा है कि उस प्रदेश की सरकार प्रांतीय सरकार की कन्सेंट से यह किया जायेगा। लेकिन मेरा संशोधन है कि वहां के जो एडवाइजरी बोर्ड हैं और एडवाइजरी बोर्ड के साथ पहले से एप्रूवल लेकर उनसे बात करनी चाहिए। नहीं तो अभी जैसे आडवाणी जी ने बयान

[श्री मनुभाई पटेल]

दिया था कि बंगलौर में गिरफ्तार किये गये और यहां पर रोहतक में लाकर रख दिया, पीलू मोदी को गिरफ्तार किया और रोहतक में ले आये ।

श्री उपसभापति : आपके प्वाइंट साफ हो गये, स्पष्ट हो गये ।

श्री मनुभाई पटेल : मुझे तो यह लगता है कि गृह मंत्री जी जिस बात का दावा कर रहे हैं कि इसमें निर्दोष लोगों को कोई हानि नहीं पहुंचेगी, मैं उसका ही समर्थन कर रहा हूं और यदि ईमानदारी की बात हो, सही बात सत्यता के साथ उन्होंने कही हो तो ये मेरे संशोधन ऐसे हैं कि जिसको स्वीकार करने में उनको कोई कठिनाई नहीं होनी चाहिए । यदि स्वीकार नहीं करते तो मंश. साफ है कि जितने भी यहां वायदे किये, वे वायदे गलत हैं और लोगों की जो शंकाएँ हैं इस सदन में और सदन के बाहर वे शंकाएं सही ठहरेंगी । इतना ही नहीं बल्कि मानवतापूर्ण व्यवहार नहीं होगा, जंगली व्यवहार होगा और कोई एक सभ्य, एक संस्कारी सरकार का जो दावा ये करते हैं... (Interruptions)

श्री उपसभापति : ठीक है हो गया ।

श्री मनुभाई पटेल : मैं सरकार की बात कर रहा हूं । यह तो कैसे गया... (Interruptions) कोई गिरफ्तारी गृह मंत्री जी नहीं करेंगे, न तो केसरी जी करेंगे । आपने जो अधिकार दिये हैं वे तो दिये हैं एक्जीक्यूटिव को और एक्जीक्यूटिव ऐसी होगी कि वे स्थानीय बैर वृत्ति से काम करेंगे । उसके बारे में गृह मंत्री जी जब स्टेटमेंट करने आवेंगे महीने

के बाद तब मालूम पड़ेगा कि कितनी गिरफ्तारियां हुई हैं । इसलिए कम से कम व्यवहार भी मानवतापूर्ण हो इसलिए मैं चाहता हूं कि आप दोनों संशोधनों को स्वीकार कर लें जिससे यह सरकार का जो दावा है वह सही ठहरे और निर्दोष लोगों को परेशानी न हो ।

श्री जसवंत सिंह : मान्यवर, मेरा संशोधन खंड पांच से संबंधित है । मैं ज्यादा समय नहीं लूंगा । मैं गृह मंत्री महोदय से निवेदन करूंगा कि उप खंड तीन धारा चार के अनुरूप जो पैरा संशोधन है, वह उप खंड तीन धारा चार और मेरा जो संशोधन है अगर वह खंड पांच में जोड़ दिया जाता है तो इसमें कोई आपत्ति नहीं होनी चाहिए । मैं पढ़ूँ, सदन का समय लूँ, यह मैं नहीं चाहता हूँ । इसलिए मैं मंत्री महोदय से यही निवेदन करूंगा ।

Mh. DEPUTY CHAIRMAN: Yes, Mr. Kalyanasundaram.

SHRI M. KALYANASUNDARAM: Sir, clause 5 seeks to vest the power in the hands of the jail superintendent, X jail warders, jailors and deputy jailors to harass the prisoners after putting them in jail. If this Bill is accepted, even the innocent persons will be put in jail and even inside the jail their life will not be safe. What does it mean? It says among other things: "...conditions as to maintenance, discipline and punishment for breaches of discipline, . . ." You know what Jail discipline, means. There is a separate Jail Manual and everyone of us has been in jail at one time or the other. I have personal experience and I have been in jail as a convicted person under the British rule, as a detenue under the

British rule, as a detainee under the Congress rule and also under the non-Congress rule. So, I know and we know what jail discipline means. If the contractor and the deputy jailor who is in charge of stores swindle and sends sub-standard items of food and by general and special order, specify. . . " if the prisoners resist, then it is treated as a breach of discipline and immediately the alarm signal will be given

find the warders and' the convicted warders will come there to attack the prisoners. So, there will be segregation. Should there not be a directive that they would be treated honourably as political prisoners? You are going to put people without a conviction, without proper grounds, as was explained by previous speakers. My amendment relates to prisoners inside jail. If this clause is passed as it is, the powers will be vested in the jail staff. I have seen even in 1976, how people were treated during the emergency. At the same time, those who were arrested for economic offences, for looting the entire society, how they were treated. They converted the whole jail into a palace, and the jail authorities, including the highest officials, were at the feet of those

black-marketeers and smugglers who were arrested and jailed, whereas political prisoners were beaten. This is how political prisoners were treated and how smugglers were treated during the emergency in 1976. That is our experience. (*Time bell rings.*) I have given this amendment. I am sure, he will not accept my amendment. But we must tell the people. That is why I press my amendment.

**श्री शिव चन्द्र झा :** उपसभापति जी, यह पांचवीं बलाज में मेरे दो संशोधन हैं—नम्बर 133 और 136 । उसमें

डेटेन्यूज जो रखे जाएंगे, किन परिस्थितियों में, सर्कमस्टान्सेज में—

क्या मंत्री जी जब पकड़ ही लेंगे, जो चाहेंगे वह करेंगे उस कैदी के साथ, क्या इनका कोई स्टैंडर्ड है कि कैसा मुलूक किया जाए डेटेन्यू के साथ, क्या उनकी आंख तक भी निकाल लेंगे ? . . . (*Interruptions*)

**श्री उपसभापति :** आंख क्यों निकालेंगे ।

**श्री शिव चन्द्र झा :** क्या कोई मापदण्ड इनके पास है कि जब हम किसी कैदी को पकड़ कर डेटेन्यू के मातहत, तो उसके साथ कैसा मुलूक किया जाए ? जैसा कि यहां पर कहा गया है, मोटेतौर पर कि इसका इस्तेमाल राजनैतिक कार्यकर्त्ताओं के खिलाफ होगा क्योंकि यहां पर बता दिया गया है कि असेन्जल कमोडिटीज के अंदर या जो स्मगलर्स हैं, उनके ऊपर यह लागू नहीं है, उनको पकड़ने के लिए अलग हिसाब है । इसलिए जो राजनैतिक कार्यकर्त्ता पकड़े जाएंगे तो कैसे इनके साथ मुलूक किया जाए, इस में मेरा संशोधन है कि जहां पर (स्पेसिफाई) है वहां पर जोड़ दें (विद दी कनसैट आफ दी डेटेन्यू) यह शब्द डेटेन्यू होगा, राजनैतिक कार्यकर्त्ता होगा, कानशस होगा, वह सब बातों से भिन्न होगा, किन परिस्थितियों में वह रखा जाए, उसकी कनसैट से जेल में . . . (*Interruptions*)

आप जानते हैं कि राजनैतिक कैदियों को सुविधाएं मिलीं, जतीन दास की महादत से यह बातें हुई । लाहौर जेल में जतीन दास ने अपनी जान दी और तब



[श्री शिवचन्द्र झा]

कहीं राजनैतिक कार्यकर्ताओं को सुविधाएं मिलीं। आप यदि चाहते हैं कि मानव के रूप में राजनैतिक कार्यकर्ता हो, तो आख आप निकाल नहीं सकते।

दूसरा मेरा संशोधन यह है कि जहां एक राज्य से दूसरे राज्य में ले जाने की बात है, उसके बी पोर्शन में और उस राज्य से उसकी इजाजत के साथ ले जाएं, मेरा कहना है कि अपने ही राज्य में रहे . . . (Interruptions)

श्री उपसभापति : ठीक है।

SHRI SHIVA CHANDRA JHA:  
"With the consent of the detainee"  
This is my amendment.

दूसरी बात जो कि आडवाणी जी ने उठाई कि उसके परिवार की देखभाल करने की व्यवस्था होनी चाहिए। बहुत से परिवार आज बिगड़ गये हैं।

"Provided that the family of the detainee is paid three hundred rupees per month for its maintenance."

जो कैदी है उसके परिवार को तीन सौ रुपया महीना दिया जाए। आप देखते हैं कि मीसा में प्रोवोजन तो था, लेकिन आप देते नहीं थे। तो यह आप की बेइत्साफी थी और ज्यादाती थी। लेकिन कायदे में यह बात आती है।

इसलिए मेरी बात आती है कि उसके परिवार को तीन सौ रुपया महीना दें। . . . (Interruptions)  
इसलिए संशोधन 133 और 136 को मंत्री महोदय मान लीजिए, मान लीजिए। कोई मुश्किल नहीं है।

ज्ञानी जैल सिंह: मैं आनरेबल मेम्बर साहबान जिन्होंने संशोधन पेश किए हैं उनके विचार की, उनकी मेहनत की, कद्र करता हूँ। मैंने पूरे गौर से उनको

देखा और पूरे गौर से उन को सुना है मगर अफसोस कि मैं उन की तरफीय को मान नहीं सकता। लेकिन एक बात कहना जरूरी है कि आनरेबल सदस्य ने कहा था कि मैंने सभा में आश्वासन दिया है कि पोलिटिकल पर्सन को नहीं पकड़ूंगा। यह आश्वासन मैंने कभी नहीं दिया।

"हमूँ मर्द बायद सुखनवर

न शिकमे ज़िगर दर्द न हामे ज़िगर।"

मैंने वह बातें कही हैं जो मेरे दिल में हैं, मुंह में नहीं है। मैंने यह नहीं कहा। मैंने कहा, हमारा इरादा पोलिटिकल पार्टियों को, पोलिटिकल विरोधिता को कमजोर करने के लिए बिल्कुल नहीं है। हम किसी पर नाजायज तौर पर यह बात नहीं करेंगे। हम तो जो बैङ्गलिमेंट हैं, जो समाज का दुश्मन है, जो बदमाश है, गुंडा है, उस को पकड़ेंगे। अगर कोई गुंडा हुक्मरान पार्टी का मेम्बर है, उस को भी नहीं छोड़ेंगे। उसको भी पकड़ेंगे। तो हम गुनहगारों को पकड़ेंगे। मेरा निवेदन है . . . (Interruptions)

उपसभापति जी, मेम्बर साहबान से मैं अदब से कहता हूँ: आप यह समझ कर क्यों कहते हैं जैसे आप को ही जाना होता है? आप उन लोगों की वकालत न करें जिन को जेल में भेजना है। वे आप लोगों में से नहीं हैं, वे समाज के दुश्मन हैं . . . (Interruptions) आप नहीं, आप को हम आदर और सत्कार से देखते हैं।

श्री सुन्दर सिंह मंडारी: पहले अपनी पार्टी को देखिए।

MR. DEPUTY CHAIRMAN; The question is;

43. "That at page 3, after line 22, the following be inserted, namely:—

'Provided that the conditions of detention shall not be less favourable than those applicable to "A" class prisoners at the commencement of this Act'."

44. "That at page 3, line 23 after the word 'provided' the word 'further' be inserted."

The motions were *negatived*.

MR. DEPUTY CHAIRMAN; The question is>:

45. "That at page 3, after line 25 the following be inserted, namely:—

•Explanation.—Nothing in this section shall authorise the imposition of any condition or imposing any discipline which is not strictly necessary for the purpose for which the order of detention is made'."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN; The question is:

46. "That at page 3, after line 25 the following be inserted, namely: —

'Provided further that the detaining officer shall send intimation within 48 hours after detention, to the family of the detainee, the correct information as to where the detainee is detained'."

47. "That at page 3, after line 25, the following be inserted, namely: —

'Provided further that the person to be removed from one place to another place shall not be so removed unless the order is previously approved by the Advisory Board and a copy of the order is furnished to the person'."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN; The question is-

48. "That at page 3, after line 25, the following be inserted, namely: —

'Provided further that an order of detention for a period not exceeding two weeks shall not be executed except with the specific approval of the Advisory Board for the area'."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN; The question is:

132. "That at page 3, lines 16 to 18, for the words 'and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline,' the words 'which shall be nearer to his home, accessible to his family member and which shall be a healthy place for his existence,' be substituted."

134. "That at page 3, line 20, for the words 'to be' the words 'not to be' be substituted."

135. "That at page 3, lines 21-22, for the words 'whether within the same State or in another State, by order of the appropriate Government the words 'without the written consent of the man detained in the jail' be substituted."

137. "That at page 3, line 25. after the word 'State' the words 'and the detainee concerned' be inserted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN; The question is:

133. "That at page 3, line 19. after the words 'specify' the words 'with the consent of the detainee' be inserted."

136. "That at page 3, for lines 21 to 25, the following be substituted, namely: —

[Mr. Deputy Chairman.]

'detention only within the same State by the order of the appropriate Government;

Provided that the family of the detainee is paid three hundred rupees per month for its maintenance'."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 5 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes—120; Noes—71

Ali, Shri Syed Rahmat  
Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram  
Arif, Shri Mohammed Usman  
Balram Das, Shri  
Banerjee, Shri B. N.  
Barman, Shri Prasenjit  
Bhagwan Din, Shri  
Bhamidipati, Shri Krishna Mohan  
Bhandare, Shri Murlidhar Chandrakant  
Bharadwaj, Shri Ramchandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Maragatham  
Chattopadhyaya, Prof. D. P.  
Chowdhari, Shri A. S.  
Das, Shri Bipinpal  
Das, Shrimati Monika  
Deshmukh, Shri Bapuraoji Marotraoji  
Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
Dharmavir, Shri  
D'Souza, Dr. Joseph Leon  
Ganesan, Shri L.  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev

Habibullah, Shrimati Hamida  
Handique, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Hanspal, Shri Harvendar Singh  
Heerachand, Shri D.  
Heptulla, Dr. (Shrimati) Najma  
Ibrahim, Shri B.  
Jadhav, Shri Pandurang Dharmaji  
Jain, Shri Dharamchand  
Jain, Shri J. K.  
Jani, Shri Jagadish  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben Manishankar  
Kalaniya, Shri Ibrahim  
Kamble, Prof. N. M.  
Kesri, Shri Sitaram  
Khan, Shri F. M.  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali  
Khaparde, Shrimati Saroj  
Krishna, Shri M. R.  
Krishnan, Shri U. R.  
Kureel, Shri Piare Lall Urf Piare Lall Talib Unnavi  
Lokesh Chandra, Dr.  
Maddanna, Shri M.  
Madni, Shri Asad  
Makwana, Shri Yogendra  
Malhotra, Shrimati Usha  
Malik, Shri Syed Abdul  
Manhar, Shri Bhagatram  
Maran, Shri Murasoli  
Maurya, Shri Buddha Priya  
Meena, Shri Dhuleshwar  
Mehrotra, Shri Prakash  
Mehta, Shri Om  
Mhaisekar, Shri G. R.  
Mishra, Shri Mahendra Mohan  
Mistry, Shrimati Roda  
Mohanty, Shri Surendra  
Mohapatra, Shri Shyam Sundar  
Mondal, Shri Ahmad Hossain  
Moopanan, Shri G. K.

Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri G. Swamy  
 Nahwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Panda, Shri Akshay  
 Pande, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rai, Shri Kalpnath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.

Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

## NOES—71

Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bhola Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhnan Prasad  
 Hansda, Shri Phanindra Nath  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhnan Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Majhi, Shri Dhaneswar

[Mr. Deputy Chairman]

Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Misbra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohinder Kaur, Shrimati  
 Mohunta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghanshyambhai  
 Pant, Shri Krishna Chandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattilam  
 Rajinder Kaur, Shrimati  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan  
 Roy, Shri Kalyan  
 Sahaya, Shri Dayanand  
 Sarup Singh, Dr.  
 Scindia, Shrimati Vijaya Raje  
 Sezhiyan, Shri Era  
 Shahabuddin, Shri Syed  
 Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Ajit Kumar  
 Shastri, Shri Bholu Paswan  
 Sinha, Shri Indradeep  
 Surendra Mohan, Shri  
 Surjeet, Shri Harkishan Singh  
 Tohra, Sardar Gurcharan Singh  
 Yadav, Shri Hukmdeo Narayan

*The motion was adopted.*

*Clause 5 was added to the Bill.*

MR. DEPUTY CHAIRMAN: Now amendment of New Clause 5A by Shri Mathur.

SHRI JAGDISH PRASAD

I MATHUR: Sir, I beg to move:

I

49. "That at page 3, after line 25, the following new clause be inserted; namely:—

'5A. Every person in respect of whom detention order has been executed shall be, entitled to receive a family allowance at a\* adequate rate to be determined by the Advisory Board'."

*(The amendment also stood in the name of Shri Lai K. Advani)*

श्रीमन्, प्रिवेटिव डिटेन्शन का अर्थ यह नहीं है कि किसी को सजा दी जाये, आप किसी अपराध होने से रोकते हैं। लेकिन जब आप परिवार के एक सदस्य को बन्द कर देते हैं तो उस परिवार की आमदनी बन्द हो जाती है। वह तो सजा पाता ही है लेकिन उस के परिवार के लोगों को भी सजा मिलती है जो नहीं मिलनी चाहिए। इसलिए मैंने मांग की है—

Every person in respect of whom detention order has been executed shall be entitled to receive a family allowance at an adequate rate to be determined by the Advisory Board.

किसी का सौ रुपये में काम चल सकता है, किसी का हजार रुपये में काम चल सकता है। एडवाजरी बोर्ड को यह अधिकार दिया जाये कि हजार की आवश्यकता हो तो हजार, दस की आवश्यकता हो तो दस उस के परिवार को दिया जाये, अन्यथा आप अनजाने ही ऐसे लोगों को सजा देंगे जिन को सजा आप देना नहीं चाहते।

*The question was proposed.*

ज्ञानो जैस सिंह : उपसभापति जी, यह बात जो इन्होंने कही यह सोची भी जा सकती है, लेकिन इस विल में नहीं लायी जा सकती क्योंकि इस बात का डर

है कि डिस्क्रिमिनेशन हो सकता है।  
कई तो बेचलर हैं, उन का परिवार ही  
नहीं है।

श्री जगदीश प्रसाद माथुर : मेरे जैसे  
को मत दीजिए।

ज्ञानी जैल सिंह : यह बात सोची जा  
सकती है, लेकिन मैं मंजूर नहीं कर सकता।

MR. DEPUTY CHAIRMAN: The  
question is:

49. "That at page 3, after line 25,  
the following new clause be inserted;  
namely: —

'5A. Every person in respect of  
whom detention order has been  
executed shall be entitled to receive a  
family allowance at an adequate rate  
to be determined by the Advisory  
Board'."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: We will  
now take up Clause 6".

SHRIMATI PURABI MUKHOPA-  
DHYAY (West Bengal): Before  
amendments on clause 6 are moved, I  
want to point out to you that if the  
Government want to have our co-  
operation they should not just go on  
doing this thing for long. It is already  
8.40 p.m. and we would like to have the  
voting tomorrow.

SOME HON. MEMBER: NO, no.

SHRIMATI PURABI MUKHOPA-  
DHYAY: AU right, all right. Then we all  
will speak and it till tomorrow 9 o'clock.

MR. DEPUTY CHAIRMAN: Yes,  
please move the amendments on clause  
6.

Clause 6—(Detection orders not to  
be invalid or in operative on certain  
grounds.)

SHRI BHUPESH GUPTA: Sir, I  
move:

50. "That at page 3, clause 6 be  
deleted."

SHRI ERA SEZHIYAN: Sir, I  
move:

51. "That at page 3, line 28, the  
words "or officer making the order"  
be deleted."

Sir, I also move:

52. "That at page 3, lines 29 and  
30 be deleted."

*(The amendment Nos. 50 and 51 also  
stood in the names of Shri Ghan-  
shyambhai Oza, Shri Mamibhai Patel,  
Prof. Ramlal Parikh Dr. M.M.S. Siddhu.  
Shri Biswa Goswami and Dr. Shanti G.  
Patel.)*

SHRI JASWANT SINGH: Sir, I  
move:

53. "That at page 3, after line 30,  
the following be inserted, namely:

'Provided that a detention order  
under this section shall not be made  
except with the approval of the  
Advisory Board for the area'."

SHRI M. KALYANASUNDARAM: I  
Sir, I move:

133 "That at page 3, line 36, for the  
words 'invalid or inoperative merely  
by reason' the words 'valid and  
operative' be substituted."

Sir, I also move:

139. "That at page 3, lines 27 and 29, for  
the word 'that' wherever it occurs, the  
word 'if' be substituted."

*(The amendment Nos. 138 and 139  
! also stood in the names of Shri S.  
Kumaran, Shri Kalyan Roy, Shri  
Indradeep Sinha and Shri Bhola  
i Prasad.)*

I The questions were proposed.

SHRI BHUPESH GUPTA: Sir, I want the deletion of clause 6 because this clause provides for a person being detained who is outside the jurisdiction of a State Government or an officer thereunder (*Interruption?*). Why are they disturbing?

MR. DEPUTY CHAIRMAN: please go on-

SHRI BHUPESH GUPTA: For example, Sir, it is open to Mr. Antu-lay, the Chief Minister of Maharashtra, to have me detained, although I happen to be outside his jurisdiction. Similarly, Sir, it is something which raises very fundamental questions. Now, with regard to the offence, it does not say where the so-called offence or alleged offence may have been committed. One State Government can order detention against a person living in another State. And this is an encroachment which is violative of the principles of the Constitution. Similarly, he can be detained outside the State. Now, if you have this kind of a thing, there will be retaliatory action. Suppose a Congress Government arrests somebody and detains him, although he may not be within that State, another non-Congress Government can retaliate by arresting a person who does not live in that State. Well, therefore, a situation may arise of that type. It is absolutely wrong. You are running amuck here and our friends think that all the States will be under them because they have planned to topple all the non-Congress Governments and, therefore, they think that the problem will not arise, but such problems may arise. In principle it is wrong. Besides, it has been seen that we had suffered under the British also. We had been arrested in Calcutta but sent outside. It is difficult for the families to have an interview and so on. *Vice-versa* it may be that I cannot be easily arrested. But Mr. Zail Singh has some cronies, suppose one of his cronies arrests me and puts me

in Alipore "jail. Such things are happening, I do not wish to say very much on it, except that it should be deleted. This kind of arrest should not be permitted. Therefore, I say that our Chief Ministers or the Government of the State have, what I may call, extra-territorial jurisdiction outside the bounds of their State by making arrests and keeping people in detention. So, I ask for the deletion of this thing. On the other thing I do not want to speak.

MR. DEPUTY CHAIRMAN: That will do.

SHRI BHUPESH GUPTA: That is also another deletion, I say this thing because the law that they are passing is based on past record in the Bengal Criminal Law (Amendment) Act which took some precaution but they have also provided for putting people outside, outside the State of undivided Bengal at that time. Here they are copying; wonderful democrats are they. They get tributes from somewhere and feel very happy and they propose to do this kind of thing. Mr. Zail Singh, you will answer it, I know and, Sir, he will answer and try to humour us that way but we are accustomed to it and I protest against this kind of provision.

SHRI NAGESHWAR PRASAD SHAHI (Uttar Pradesh): Sir, all the telephones in the lobby are out of order. We cannot inform our wives that we are detained here.

जब से स्टीफन साहब आ गये तब से ऐसा चल रहा है ।

MR. DEPUTY CHAIRMAN: Go to some Minister's room; you may go to my room.

SHRI PILOO MODY: These essential services have been disrupted... (*Interruptions*).

SHRI BISWA GOSWAMI: Sir, clause\* 6 says:

"No detention order shall be invalid or inoperative merely by reason—

(a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or officer making the order, or

(b) that the place of detention of such person is outside the said limits."

Sir, you will see that this clause 6 is a Draconian measure and, in fact, the whole Bill is Draconian and if we analyse the different clauses we find that in every clause such Draconian measures have been included. By this clause, Sir, any petty officer will be empowered to detain a person outside his jurisdiction. This is something extraordinary that a petty officer will be empowered to detain a person outside his jurisdiction. Not only that, a person may be detained in any part of the country. This is atrocious and Draconian and, therefore, I have moved my amendment which says :

That at page 3, line 28, the words "or officer making the order" be deleted.

Sir, during the last emergency, there was a directive issued by the Central Government and the State Governments were asked to transfer the detenus, security prisoners, outside their States and these prisoners were transferred and even their family members did not know where they had been detained. And, Sir, this clause 6 is going to give powers to a petty officer to detain a person outside his jurisdiction and also to send him anywhere it like, in the country. So I move the amendment and I hope the hon. Minister will accept it.

श्री जसवंत सिंह : जनाब सदर साहब,  
जो तरमीम मैं पेश कर रहा हूँ, वह  
क्लॉज 6 के लिए है। मैं सदन का वक्त  
नहीं लेना चाहता हूँ, लेकिन मंत्री

महोदय से गुज़ारिश करूंगा कि इसके  
ऊपर तबज़ह दें।

SHRI M. KALYANASUNDARAM: Sir, clause 6 reveals the mind of the Government. Perhaps, they have already planned for the construction of a central detention camp so that all political prisoners from all States can be brought and kept at one place, cut off from their mass base, cut-off from their relatives. It seems, prisoners from Tamil Nadu would be sent to Nagpur or Deoli and the family members would not know what is happening to their people. Even if they are detenus, are they not entitled to keep in touch with their family members? This will take away the right of the detenus to keep in touch with their family members and close relatives. That is why, this is a very obnoxious provision. It was all right for the Britishers, the foreign imperialists, to do that. But why should there be, in Independent India, such an idea at all? Even this idea is wrong. But I know, however much we may plead, Mr. Zail Singh will only nod his head and similarly he will say that he will take care of all these sentiments. That is all. (Interruptions)

ज्ञानी जैल सिंह : मैं ये प्रमेडमेंट्स  
परवान नहीं कर सकता।

MR. DEPUTY CHAIRMAN: Now, the question is:

50. "That at page 3, clause 6 be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

51. "That at page 3, line 28, the words 'or officer making the order' be deleted."

52. "That at page 3, lines 29 and 30 be deleted."

*The motion were negatived.*



MR. DEPUTY CHAIRMAN: The question is:

53. "That at page 3, after line 30, the following be inserted, namely:-

Provided that a detention order under this section shall not be made except with the approval of the Advisory Board for the area."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

138. "That at page 3, line 26, for the words 'invalid or inoperative merely by reason' the words 'valid, and operative' be substituted."

139. "That at page 3, lines 27 and 29, for the word that wherever it occurs, the word 'if' be substituted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 6 stand part of the Bill."

*The House divided.* MR. DEPUTY

CHAIRMAN: Ayes—119; Noes—70.

Ayes—119

Ali, Shri Syed Rahmat Amarjit Kaur,  
Shrimati Amla, Shri Tirath Ram Arif,  
Shri Mohammed Usman Balram Das,  
Shri Banerjee, Shri B. N. Barman, Shri  
Prasenjit Bhagwan Din, Shri  
Bhamidipati, Shri Krishna "Mohan  
Bhandare, Shri Murlidhar Chandra-kant  
Bharadwaj, Shri Ramchandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Maraga-tham  
Chattopadhyaya, Prof. D. P.  
Chowdbari, Shri A. S.  
Das, Shri Bipinpal  
Das, Shrimati Monika

Deshmukh, Shri Bapuraoji Marotrao-  
ji

Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
Dharmavir, Shri  
D'Souza, Dr. Joseph Leon  
Ganesan, Shri L.  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida  
Handique, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Hanspal, Shri Harvendar Singh  
Heerachand, Shri D.  
Heptulla, Dr. (Shrimati) Najma  
Ibrahim, Shri B.  
Jadhav, Shri Pandurang Dharmaji  
Jain, Shri Dharamchand  
Jain, Shri J. K.  
Jani, Shri Jagadish  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben Manishan-  
kar  
Kalaniya, Shri Ibrahim  
Kamble, Prof. N. M.  
Kesri, Shri Sitaram  
Khan, Shri F. M.  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali  
Khaparde, Shrimati Saroj  
Krishna, Shri M. R.  
Krishnan, Shri U. R.  
Kureel, Shri Piare Lal Urf Piare Lal  
Talib Unnavi  
Lokesh Chandra, Dr.  
Maddanna, Shri M.  
Madni, Shri Asad  
Makwana, Shri Yogendra  
Malhotra, Shrimati Usha  
Malik, Shri Syed Abdul  
Manhar, Shri Bhagatram  
Maran, Shri Murali  
Maurya, Shri Buddha Priya  
Meena, Shri Dhuleshwar  
Mehrotra, Shri Prakash  
Mehta Shri Om  
Mhaisekar, Shri G. R.  
Mishra, Shri Mahendra Mohan  
Mistry, Shrimati Roda  
Mohanty, Shri Surendra  
Mohapatra, Shri Shyam Sundar  
Mondal, Shri Ahmad Hossain  
Moopanar, Shri G. K.  
Mukherjee, Shri Pranab  
Mulla, Shri Suresh Narain  
Munusamy, Shri V. P.

Mutnu, Dr. (Shrimati) Sathavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri G. Swamy  
 Naiwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Panda, Shri Akshay  
 Pandey, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammed  
 Raj, Shri Kalpnath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Solve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tempok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq'

NOES—70

Advani, Shri Lal K.

Asnwan, Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bhola Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhani Prasad  
 Hansda, Shri Phanindra Nath  
 Hegde, Shri Ramakrishna  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhani Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Majhi, Shri Dhaneswar  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohinder Kaur, Shrimati  
 Mohunta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak

[Mr. Deputy Chairman]  
Mukhopadhyay, Shrimati Purabi  
Nanda, Shri Narasingha Prasad Nigam,  
Shri Ladli Mohan C2a\_ Shri  
Ghanshyambhai Pant, Shri Krishna  
Chandra Patel, Shri Manubhai Pradtoan,  
Shri Patitpaban Rajan, Shri Pattiam  
Eajinder Kaur, Shrimati Eaju, Shri V. B.  
Bamamurti, Shri P. Bameshwar Singh,  
Shri Roy, Shri Kalyan Sahaya, Shri  
Dayanand Sarup Singh, Dr. Scindia,  
Shrimati Vijaya Eaje Sezhiyan, Shri  
Era Shahabuddin, Shri Syed Shahedullah,  
Shri Syed Shahi, Shri Nageshwar Prasad  
Sharma, Shri Ajit Kumar Shastri, Shri  
Bhola Paswan Sinha, Shri Indradeep  
Surendra Mohan, Shri Surjeet, Shri  
Harkishan Singh Tchra, Sardar  
Gurcharan Singh Yadav. Shri Hukmdeo  
Narayan

*The motion was adopted.*

*Clause 6 was added to the Bill.*

Clatie 7—(Powers in relation to absconding  
persons)

MR. DEPUTY CHAIRMAN: Now we  
shall take up clause 7. There are eight  
amendments.

SHRI BHUPESH GUPTA: Sir, I beg to  
move:

54. "That at page 3, lines 42 to 46  
be deleted."

53. -'That at page 4,—

(i) in line 5, *after* the words  
punishable with' the words "a  
warning' be inserted; and

(ii) lines 6 and 7, the words 'im-  
prisonment for a term which may extend to  
one year, or with fine, or with both' be  
*deleted.*"

SHRI ERA SEZHIYAN: Sir, I beg to  
move:

55. "That at page 3, *after* line 46,  
the following be *inserted*, namely: —

'Provided that the order under thi, sub-  
section shall not be passed unless the  
Magistrate is satisfied that the person  
had reasonable means to know the order  
or three months have passed from the  
date of order'."

58. "That at page 4, lines 8 and 9 be  
*deleted.*"

(T/te amendments Nos. 55 and 53 also  
stood in the names of Shri Ghanshyam Bhai  
Oza., Shri Manubhai Patel, Prof. Ramlal  
Parikh, Dr. M. M. S. Siddhu, Shri Biswa  
Gogwami and Dr. Shanti G. Patel.)

SHRI SHIVA CHANDRA JHA: Sir, I beg  
to move:

57. "That at nage 4, line 6, *for* the words  
'one year' the words 'three months' be  
substituted.

151. "That at page 4. lines 6 and 7, the  
words 'or with fine or with both' be  
*deleted.*"

SHRI M. XALYANASUNDARAM: Sir, I  
beg to move:

141. "That at page 4, lines 6 and  
the words 'one year' the words  
'seven days' be substituted.

142. "That at page 4, line 6, *after*  
the wards 'fine' the wordj 'which  
shall not exceed ten rupees" *me*  
*inserted.*"

(The amendments Nos. 140 and 142 also  
stood in the names of Shri S-Kumaran Shri  
Kalyan Roy, Shri Indradeep Sinha and Shri  
Bhola Prasad.)

*The questions were proposed.*

SHRI BHUPESH GUPTA: Sir, through  
this amendment, I want some deletion. The  
purpose of the deletion, is to see that along  
with the detention order, other orders are not  
passed for the attachment of properties and so  
on, to harass the whole family. It: is bad  
enough to detain a peison, but in the name of  
arresting him, on the ground that he has been  
absconding or has not surrendered, you can  
attach his property. That means you are  
penalising the whole family. That is

-why I have suggested this deletion. i.will be  
bri ef and I will not say much.

The other amendment is about these "who do not comply with the order. I think, any sensible person would like not to comply with these orders. This is how I take it. Any sensible person would not normally like to comply with a detention order which is an outrageous order. Here a provision is made that if you do not comply with the order it is punishable with imprisonment for a term which may extend to one year or fine or both. I have been very moderate and I have said, no fine, no imprisonment, if you like you can give him a warning. That is what I have said here.

Now this is a very strange state. You make a detention order against me. I do not comply with it. It is not known whether such a detention order would be sustained by the Advisory Board or not. But even assuming that grounds are not valid, because I have not complied with this order, you bring me before a court of law and punish me and send me to jail for one year. This is absurd. Is there any jurisprudence in it? Nothing. Here the matter S.P.M. relates not to a valid detention order which has been confirmed by the Advisory Board. Any order. A person is sought under a police order and his property can be seized on the one hand to punish his family and he can be brought and sent to jail. This is how they are trying to show that the measure is intended to curb criminals. Criminals will not be affected by it because most of the criminals are connected with people who are high up. Who does not know that criminals are patronised by some of the Minister? I can start naming them one after another, but I would not do it.

Only workers, students, teachers and other people will suffer. On flimsy grounds charges will be made against them, their property will be seized and they will be punished for 1500 RS—1.

having not complied with. Sir, we have suffered such things. I thought that this Government should learn something. They are so fond of imitating Sir Charles Teggart of undivided Bengal. You will find these things in the provisions of the Bengal Criminal Law (Amendment) Act of 1930 and similar other Acts passed by the British. Under the DIR Rules many Congressmen suffered, many of their families suffered and then the protests were launched throughout the country. But here again they are bringing it.

Sir, here is a very calculated, vicious offensive against those who they think will have to be taught a lesson. Sometimes we are told that that side accused this side—some of them—of political vendetta. This provision is an act of political vendetta and every single clause is vicious, pernicious and permeated with the spirit of vendetta as I have mentioned in this case. Therefore, I want a deletion. I know I cannot make any sense to them. Even if all of us argue together, they will not listen to us because they think today power is in their hands. I do not know, Sir, whether I shall live to see them again, in the opposite benches here. May be, I shall do that, not from the House but from outside. You are playing with fire. You are doing something which may be used against you. Remember, India has not been given in permanent lease to the Congress (I) party and its present leaders. There are other forces also. Now if you start competitive arrests and competitive vendetta, what becomes of the rule of law or the democratic system or even decency in public life? But Mr. Zail Singh is not in a mood to understand what is comprehensible to his grandson.'

SHRI ERA SEZHIYAN: Sir, this is an atrocious part of this atrocious Bill. Here you say that the Central Government or the State Government or any officer mentioned in clause 3, any petty officer, if he has reason to believe that a person against whom

[Shri Era Sezhiyan] such order is issued is evading arrest, he simply goes and takes away his property and other things. What happens is, by the previous clause 6 you have empowered any officer of the Government to issue an order beyond his territorial jurisdiction. Against a person in Madras a Delhi Commissioner of Police can issue an order and that man may not know it but still action will be taken. That is why I have given a proviso. "Provided that the order under this sub-section shall not be passed unless the Magistrate is satisfied that the person had reasonable means to know the order or three months have passed from the date of order." Here no time is mentioned. They can issue an order today and within three days they can go and say the man is absconding and take over all his property. Therefore, it is a draconian piece. It is one more black spot that has been pointed out. This is open to much mischief by those who want to use this thing for purposes other than those which are mentioned here. On the next page it is stated: "Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under sub-section (3) shall be cognizable." This is only a preventive Act, not a punitive one. You are making it cognizable. If a person is not available, you are making it cognizable and bringing forth all the rigour at the Criminal Procedure Code. This is one more pernicious piece of legislation and I solemnly and very firmly oppose this clause, including the other clauses.

श्री शिव चन्द्र झा : उपसभापति जी, सातवीं क्लॉज के सेक्शन-3 में जहाँ यह सारी बात है कि जिसके खिलाफ डिटेंशन का आर्डर जारी कर दिया गया है और वह एवस्काउंड कर रहा है तथा इस के लिए कोई रीजनेबल ग्राउंड नहीं दे रहा है कि क्यों एवस्काउंड किया उसको पहुंचने में क्या दिक्कत थी। यह सारी बातें हैं तो ऐसी हालत में जब वह पकड़ा

गया तो उसको सजा एक साल की होगी या विद फाइन और बोथ होगा। यह बात है फाइन के साथ एक साल की सजा होगी। तो मेरा संशोधन यह है कि जो बन ईयर का सवाल है उसकी तीन महीने होना चाहिए। विद फाइन और बोथ जो है इसको डिलीट कर देना चाहिए। आप जानते हैं इस विधेयक का उद्देश्य यह है कि हर हालत में एक साल रखेंगे। नोटिस तामिल कर दिया, डिटेंशन आर्डर तामिल कर दिया और जब पकड़ा गया, 11 वें महीने में छूट गया। यदि वह एवस्काउंड करता है और जब कभी पकड़ा जाता है तो फिर वह वहां से 12 महीने होंगे। जरा यह आप साफ करें। जब से वह पकड़ा गया उससे 12 महीने होंगे या कब से होंगे? यह साफ नहीं है। हर हालत में किसी तरह से वह बच नहीं सकता, उस को तो एक साल रहना पड़ेगा। तो मेरा संशोधन का उद्देश्य यह है कि मेक्सिमम जैसे कि पहले इमरजेंसी से पहले या ढाई महीने रखना चाहिए या तीन महीने ही रखना चाहिए। इमरजेंसी से पहले तीन महीने या इसलिए अब एक साल न हो अधिक से अधिक तीन महीने हो। विद फाइन और बोथ की जो बात है उसको आप डिलीट कर दें। फाइन क्या करेंगे उसको तो सारी जिन्दगी एक साल जेल में रख कर चौपट आप कर रहे हैं, सारी प्रोसेस उसकी नष्ट कर रहे हैं। इसलिए उसको डिलीट कर दिया जाए तथा एक साल की जगह आप तीन महीने कर दें। मंत्री महोदय इसमें कोई मुश्किल नहीं है। इसने कोई पृथ्वी उलटने वाली नहीं है। मंत्री जी आप बरकरार रहेंगे। मान भी लेंगे तो आप को कोई डिफरेंस करने नहीं जा रहा है। इसलिए मान लीजिए।

SHRI M. KALYANASUNDARAM: Sir, this clause and its provisions also go in conformity with the whole Bill and the whole scheme is directed against the political parties, the political workers, who are pledged to an ideology different from that of the ruling party. They may speak about socialism, but they will protect the monopoly houses and the multinationals who are looting the entire country, its resources and people and labour. Here what is going on in this country is a second liberation movement. Bear it in mind. All these Acts, with all the repressive powers or the repressive machinery, will not go against those who indulge in mass exploitation, against loot or plunder by the monopoly houses and the multinationals and their supporters. Don't take this lightly. Again this section reminds me of what is wanted. Here he has shown some small mercy in the sense he is not preventing people from getting food or drinking water. That was there in the old Act. Those provisions were there in that Act. At least he has shown some small mercy, for that, I think him. Let him his way.

ज्ञानी जल सिंह : उपसभापति जी, मैंने बड़े गौर से इनको देखा और तकरीरें भी सुनीं। भूपेश गुप्ता जी ने अपनी तकरीर में कहा कि इन्होंने सबक नहीं सीखा। तो मैं उन से प्रार्थना करूंगा कि भूपेश गुप्ता जी हमने तो सबक सीख लिया अगर आप ने नहीं सीखा और आप को सबक सीखना चाहिए। आप ने कहा कि विद्यार्थियों को, टीचरों को, मजदूरों को जो तंग करेंगे, मारेंगे उनको छोड़ दिया जायगा। बात बिल्कुल उलट है। जो तंग करते हैं, मारते हैं डराते हैं धमकाते हैं, नाजायज फायदा उठाते हैं, बड़े-बड़े आफिसरों से मिल कर मिनिस्ट्रों से मिलकर नाजायज फायदा उठाते हैं उनको पकड़ेंगे वे किसी और कानून में नहीं आ सकते हैं इसलिए उनको पकड़कर इस देश का कल्याण करेंगे और दयादृष्टि की बात

कभी जालिमों से नहीं करनी चाहिए।

“आज का काम ना कल पुरसहिए  
बरी ऊपर दया ना करिये”।

वे देश के दुश्मन हैं तो लोगों को बदधमनी में फंसाते हैं, फिरकेदारी का प्रचार करते हैं मैं उन लोगों को जानता हूँ जो अमुक कमेटी के मेम्बर बनते हैं और घर में उनको रखते हैं जो कल को जाकर किसी को अत्त कर देते हैं। ऐसे लोगों को पकड़ने के लिए ऐसा कानून बनाना निहायत जरूरी था। इसलिए मैं प्रार्थना करूंगा कि वे अपनी तरफों वापस ले लें और इससे सबक नहीं सीखना है तो किसी और से सबक सीख लें, हमने तो सबक सीख लिया है।

MR. DEPUTY CHAIRMAN: The question is:

54. "That at page 3, lines 42 and 46 be *deleted*."

5G. 'That at page 4,—

(i) in line 5, after the words 'punishable with' the words 'a warning' be *inserted*; and

(ii) lines 6 and 7, the words 'imprisonment for a term which may extend to one year, or with fine, or with both' be *deleted*."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

55. "That at page 3, after line 46, the following be *inserted*, namely:—

•Provided that the order under this sub-section shall not be passed unless the M<sup>a</sup>gistrate is satisfied that the person had reasonable means to know the order or three months have passed from the date of order."

58. "That at page 4, lines 8 and 9 be deleted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN; The  
question is: \*

57. "That at page 4, line 6, for the words 'one year' the words 'three months' be substituted."

141. "That at page 4, lines 6 and 7, the words "or with fine or with both" be deleted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN-. The  
question is:

140. "That at page 4, line 6, *for*' the words 'one year' the words 'seven days' be *substituted*."

142. "That at page 4, line 6, *after* the word 'fine' the words 'which shall not exceed ten rupees' be inserted."

*The motions were negatived.*

MR. DHPUTY CHAIRMAN: Now I  
»ut clause 7 to vote.

The question is:

"That clause 7 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes—  
116; Noes—65.

AYES—116

Ali, Shri Syed Rahmat Amarjit Kaur,  
Shrimati Amla, Shri Tirath Ram  
Arif, Shri Mohammed Usman  
Balram Das. Shri Banerjee, Shri B.  
N. Barman, Shri Prasenjit Bhagwan  
Dhv Shri

Bhamidipati, Shri Krishna Mohan  
Bhandare. Shri Murlidhar Chandra-  
kant  
Bharadwaj, Shri Ramchandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Maraga-  
tham  
Chattopadhyaya, Prof. D. P.  
Chowdhari, Shri A. S.  
Das, Shri Bipinpal  
Das. Shrimati Monika  
Deshmukh, Shri Bapuraoji Maro-  
troji  
Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
Dharmavir, Shri  
D'Souza, Dr. Joseph Leon  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida  
Handique, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Hanspal, Shri Harvendar Singh  
Heptulla, Dr. (Shrimati) Najma  
Ibrahim, Shri B.  
Jadhav, Shri Pandurang Dharmaji  
Jain, Shri Dharamchand  
Jain, Shri J. K.  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben Mani-  
shankar  
Kalaniya, Shri Ibrahim  
Kamble. Prof. N. M.  
Kesri, Shri Sitaram  
Khan, Shri F. M.  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali  
Khaparde, Shrimati Saroj  
Krishna, Shri M. R.  
Krishnan, Shri U. R.  
Kureel, Shri Piare Lall Urf Piare  
Lall Talib Unnavi  
Lokesh Chandra, Dr.

Maddanna, Shri M.	Razack, Shrimati Noorjehan
Madni, Shri Asad	Razi, Shri Syed Sibte
Makwana, Shri Yogendra	Reddy, Shri Mulka Govinda
Malhotra, Shrimati Usha	Roshan Lal, Shri
Malik, Shri Syed Abdul	Sahu, Shri Santosh Kumar
Manhar, Shri Bhagatram	Salve, Shri N. K. P.
Maran, Shri Murasoli	Saring, Shri Leonard Solomon
Maurya, Shri Buddha Priya	Sharma, Shri A. P.
Meena, Shri Dhuleshwar	Sheikh, Shri Ghouse Mohiuddin
Mehrotra, Shri Prakash	Singh, Shri Bhishma Narain
Mehta, Shri Om	Singh, Shri J. K. P. N.
Mhaisekar, Shri G. R.	Singh, Shri Ng. Tompok
Mishra, Shri Mahendra Mohan	Singh, Shrimati Pratibha
Mistry, Shrimati Roda	Singh, Dr. Rudra Pratap
Mohanty, Shri Surendra	Sisodia, Shri Sawaisingh
Mohapatra, Shri Shyam Sundar	Sujan Singh, Shri
Mondal, Shri Ahmad Hossain	Sukul, Shri P. N.
Moopanar, Shri G. K.	Sultan, Shrimati Maimoona
Mukherjee, Shri Pranab	Sultan Singh, Shri
Mulla, Shri Suresh Narain	Tama, Shri Ratan
Munusamy, Shri V. P.	Vaishampayan, Shri S. K.
Muthu, Dr. (Shrimati) Sathiyani	Venkatarao, Shri Chadalavada
Naidu, Shri N. P. Chengalraya	Verma, Shri Shrikant
Naik, Shri G. Swamy	Yadav, Shri Ramanand
Nalwa, Shri Hari Singh	Zakaria, Dr. Rafiq
Narendra Singh, Shri	NOES—65
Pande, Shri Bishambhar Nath	Advani, Shri Lal K.
Pandey, Shri Narsingh Narain	Ashwani Kumar, Shri
Pandey, Shri Sudhakar	Bagaitkar, Shri Sadashiv
Pandey, Shrimati Manorama	Banerjee, Shri Jaharlal
Paswan, Shri Ram Bhagat	Bhabhra, Shri Hari Shankar
Pattanayak, Shri Bhabani Charan	Bhagat, Shri Ganapat Hirala
Prajapati, Shri Pravin Kumar	Bhandari, Shri Sunder Singh
Prasad, Shri K. L. N.	Bhattacharjee, Prof. Sourendra
Rahamathulla Shri Mohammad	Bhattacharya, Shri G. C.
Rai, Shri Kalpnath	Bhattacharya, Shrimati Ila
Rajasekharam, Shri P.	Bhola Prasad, Shri
Rajendra Singh Ishwar Singh, Shri	Bose, Shrimati Pratima
Ramachandran, Shri M. S.	Chakraborty, Shri Amarprosad
Ramakrishnan, Shri R.	Dhabe, Shri Shridhar Wasudeo
Ram Sewak Chaudhary	Goswami, Shri Biswa
Rao, Shri V. C. Kesava	Goswami, Shri Dinesh
Ratan Kumari, Shrimati	Gupta, Shri Bhupesh



Gupta, Shri Ram Lakhani Prasad  
 Hansda, Shri Phanindra Nath  
 Haridas, Shri C.  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhani Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mohanta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Nagasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghanshyambhai  
 Pant, Shri Krishna Chandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan  
 Roy, Shri Kalyan  
 Sahaya, Shri Dayanand  
 Sarup Singh, Dr.  
 Sezhiyan, Shri Era  
 Shahabuddin, Shri Syed  
 Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Ajit Kumar  
 Shastri, Shri Bhola Paswan

Sinha, Shri Indradeep Surendra  
 Mohan, Shri Surjeet. Shri Harkishan  
 Singh Tohra, Sardar Gurcharan Singh  
 Yadav, Shri Hukmdeo Narayan

*The motion was adopted.*

*Clause 7 was added to the Bill*

MR. DEPUTY CHAIRMAN: 'Now we take up clause 8. *g!here* are. 15\* amendments.

Clause 8: (*Grounds of order of detention to be disclosed to persons affected by the order*)

SHRI LAL K. ADVANI: Sir, I move;

59. "That at page 4. *for* clause 8, the following be *substituted*, namely: —

'8. When a person is detained in pursuance of a detention order the authority making the order shall forthwith communicate to him in writing the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government.'"

(*The amendment also stood in the names of Shri Jagdish Prasad Mathur and Shri Kalraj Mishra.*)

SHRI DINESH GOSWAMI: Sir. I move:

60. "That at page 4, *for* clause 8, the following be *substituted*, namely:

'8. When a person is detained in pursuance of a detention order the authority making order shall forthwith communicate to him in writing the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate government which will include

consultation with advocates of his choice for making the representation.' "

SHRI ERA. SEZHIYAN: Sir, I move;

61. "That at page 4, for clause 8, the following be substituted name-ly:-

'8. The. authority shall disclose to the person detained all grounds and fact for his detention and . shall afford him all opportunities including consultation with advocates of his choice for making a representation against, the order of detention.'" •

*(The amendment also stood in the names of SHU . Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ramlal. Parikh, Dr. M. M. S- Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel.)*

Sir, I am not moving my amendment No. 62.

SHRI JASWANT SINGH: Sjr, I move:

63. "That at page 4, line 11, after the word 'authority' the w6rds 'subject to the approval of the Advisory Board for the area' be inserted."

SHRI ERA SEZHIYAN: Sir, I move:

64. "That at page 4 line 12, for the words 'five days' the words two days' be substituted."

*(The amendment also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, J?rof. Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami, Dr. Shanti G. Patel and Shri Shiv Chandra Jha.)*

. 6-5. "That at page 4, lines 12-13 the words 'and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days' be deleted/'

*(The amendment also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami, Dr. Shanti G. Patel and Shri Dinesh Goswami).*

67. "That at page 4, lines 17 and 18, be deleted."

*(The amendment also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami, Dr. Shanti G. Patel, Shri Lai K. Advani and Shri Jagdish Prasad Mathur).*

SHRI SHIVA CHANDRA JHA : Sir, I move:

66. "That at page 4, line 13, for the words ten days' the words 'five days' be substituted."

SHRI BHUPESH GUPTA; Sir, I move:

68. "That at page 4, for lines 17 and 18, the following be substituted namely: —

'(2) The authority shall disclose facts which require to be disclosed in the interest of the person detained, or he otherwise demands such disclosure."

SHRI M. KALYANASUNDARAM: Sir, I move:

143. "That at page 4, line 12, for the words 'five days' the words 'two days' be substituted."

[Shri M. Kalyanasundaram]

(The amendment also stood in the names of Shri S. Kumaran, Shri Kalyan Roy, Shri Indradeep Sinha, Shri Bhola Prasad, Shri P. Ramamurti Shri Harkishan Singh Surjeet and Shri Pattiam Rajan.)

145. "That at page 4, line 13, for the words 'ten days' the words three days' be substituted."

(The amendment also stood in the names of Shri S. Kumaran, Shri Kalyan Roy, Shri Indradeep Sinha and Shri Bhola Prasad.)

146. "That at page 4, lines 17 and 18 be deleted."

(The amendment also stood in the names of Shri S. Kumaran, Shri Kalyan Roy, Shri Indradeep Sinha, Shri Bhola Prasad, Shri P. Ramamurti, Shri Harkishan Singh, Shri Swrjeet and Shri Pattiam Rajan.)

167. "That at page 4, lines 12 and 13, for the words 'five' and 'ten' wherever they occur, the words three" and 'seven' respectively be substituted."

(The amendment also stood in the names of Shri S. Kumaran and Shri Kalyan Roy.)

SHRI, P. RAMAMURTI: Sir, I move:

144. "That at page 4, lines 12 and 13, the words 'and in exceptional circumstances and for reasons to be recorded in writing not later than ten days' be deleted."

(The amendment also stood in the names of Shri Harkishan Singh Surjeet and Shri Pattiam Rajan.)

The questions were proposed.

I

श्री कलराज मिश्र : धारा 84 में जो यह लिखा है कि जब कोई व्यक्ति किसी निरोध-आदेश के अनुसरण में निरुद्ध है तब आदेश करने वाला प्राधिकारी यथावधि शीघ्र किंतु निरुद्ध की तारीख से मामूली तौर पर पांच

दिन के भीतर तथा असाधारण परिस्थितियों में और ऐसे कारणों से जो लेखपत्र किये जायें दस दिन के भीतर उसे वे आधार संसूचित करेगा जिन पर वह आदेश दिया गया है और समुचित सरकार से उस आदेश के विरुद्ध अभ्यावेदन करेंगे और उसे शीघ्रतम अवसर देगा।

इस संबंध में मैं कहना चाहता हूं कि इसमें जो अभी गृह मंत्री महोदय ने बताया कि इससे संविधान में उल्लिखित मौलिक अधिकारों की मूल भावना के विपरीत ...

(Interruptions)

श्री शिव चन्द्र झा : गृह मंत्री जी कहां है ? ... (Interruptions)

श्री कलराज मिश्र : ... यह विधेयक है, यह माननीय गृह मंत्री जी ने बताया। लेकिन इस कलराज को देखने के बाद ऐसा लगता है कि किसी को भी बिना कोई कारण बताए हुए किसी भी समय गिरफ्तार किया जा सकता है और फिर वे अपने हिसाब से राजनैतिक दुर्भावना से प्रेरित होकर या व्यक्तिगत द्वेष से प्रेरित होकर जैसा भी चाहेंगे उसके अनुसार उसके ऊपर आरोप लगा कर निरुद्ध के लिए सरकार को संसूचित करने की गुजारिश करेंगे।

मैं समझता हूं कि यह बिलकुल उचित नहीं है और इसलिए इसमें मैंने जो संशोधन दिया है, यह चाहूंगा कि इस धारा के अन्दर अंतःस्थापित किया जाए जब कोई व्यक्ति किसी निरोध-आदेश के अनुसरण में निरुद्ध है तब आदेश करने वाला प्राधिकारी लिखित रूप में उसे वे आधार तुरन्त सूचित करेगा जिन पर यह आदेश किया गया है, समुचित सरकार से उस आदेश के विरुद्ध अभ्यावेदन करने का उसे शीघ्रातिशीघ्र अवसर देगा। श्रीमन्, इसे मैं इसलिए रख रहा हूं, कि जो मौलिक अधिकारों के पीछे की मूल भावना है वह भी संरक्षित होती है और वह व्यक्ति

कम से कम तुरन्त यह जान सकेगा कि किस कारण से उस को गिरफ्तार किया जा रहा और जो अधिकारी गिरफ्तार करने वाला होगा वह भी किसी भी प्रकार की दुर्भावना को लेकर फिर उस व्यक्ति को निरुद्ध करने की स्थिति में नहीं होगा। लिखित तौर पर वह उस व्यक्ति को आदेश देगा और उसके बाद वह ले जाएगा और जिस को निरुद्ध करेगा वह व्यक्ति भी अपने वकील के माध्यम से सरकार के विरुद्ध अपना अभ्यावेदन भी दे सकता है। इसलिए मैं चाहूंगा कि मंत्री महोदय ने जो घोषणा स्वयं की है कि मौलिक अधिकारों की मूल भावना को हम बरकरार रखेंगे, तो मैं आग्रह करूंगा कि यह एक छोटा सा संशोधन है लेकिन इसने बहुत बड़ी भावना का, स्वतंत्रता की भावना का, संरक्षण होगा। इसलिए इसको स्वीकार करेंगे तो मैं समझता हूँ यह उचित होगा। मंत्री महोदय और बाकी लोगों से मैं आग्रह करूंगा कि इसके पक्ष में मत देंगे।

SHRI DINESH GOSWAMI: Sir, my amendment is self-explanatory and thereto re. I am not making a speech.

SHRI ERA SEZHIYAN: Sir, I have moved amendment Nos. 61, 63 and 67. The most important one is Gl y where I have suggested a substitute clause—

"8. The authority shall disclose to the person detained all grounds and facts for his detention and shall afford him all opportunities including consultation with advocates of his choice for making a representation against the order of detention."

Here we are omitting all these things. And the second thing which is the most atrocious is sub-clause (2) "Nothing in subsection (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose". You are giving this power to the authority. The authority will always say it is against the public interest. And no grounds of detention will ever be disclosed, so much so the person against whom the detention

order is issued, will not know anything; and will not be able to defend himself-Therefore, to make it a statutory provision is most obnoxious and it will go against the rule of law. That is why I say the grounds should be given to the person so detained and he must also be afforded an opportunity to consult his own advocate and also to defend himself. In India many persons do not know their own rights; even the laws are studied by everybody. Unless the person detained is given the grounds of his detention and is afforded an opportunity to consult his advocate and unless he is defended by an advocate of his own choice, no natural justice will be available to the person detained.

श्री जसवंत सिंह : जनाब डिप्टी चेयरमन, मेरी इस तरमीम का ताल्लुक दफा 8 से है। इस तरमीम के बारे में पहले भी जिक्र हो चुका है। मैं आगे जाकर वक्त लूंगा और इस तरमीम पर ऐवाम का वक्त ज़ाया नहीं करना चाहता और तकरीर नहीं करना चाहता। यह बात आप ध्यान रखेंगे...

श्री उपसभापति : बहुत धन्यवाद।

श्री जसवंत सिंह : ...परन्तु मैं जरूर गुजारिश करूंगा कि जो आगे की तरमीमें हैं उन पर मेरी जो गुजारिश होगी, उस पर ध्यान देंगे।

श्री उपसभापति : आ साहब, आप भी पाने अमेन्डमेंट पर कुछ कहेंगे ?

श्री शिव चन्द्र झा : उपसभापति जी, मेरा संशोधन 63 और 66 है। इस वक्तव्य में कहा गया है कि जब डिटेन्शन आर्डर हो जाता है तो मोटे तौर पर 5 दिन के अन्दर उस को फाउन्डम मिल जाने चाहिये कि क्यों वह गिरफ्तार किया जा रहा है और वह किसी हालत में 10 दिन से ज्यादा न हो। मेरा कहना है कि जहां 5 दिन आर्डिनरीली है वहां 2 ही दिन के अन्दर उसे सूचित करना

[श्री शिव चंद्र झा] :  
 चाहिये और किसी भी हालत में जहाँ  
 10 दिन से ज्यादा नहीं है वहाँ  
 5 दिन से ज्यादा नहीं लगना चाहिये,  
 5 दिन के अन्दर डिटेन्स को ग्राउन्ड्स  
 में जाना चाहिये। यह संशोधन कोई  
 ज्यादा नहीं है, इस लिये आप इस को  
 कबल कर लें।

SHRI BHUPESH GUPTA: Subclause (2) of clause 8 provides that the authority need not disclose facts, if the authority thinks it is in the public interest not to disclose them. It is a strange thing. You arrest me and will not disclose the grounds or it is left to your sweet will. I know my friend will make a heroic speech about goondas and other things. It is not a question of goondas. Goondas you will not arrest, we know that. They become volunteers of some Parties. That also we know. You will arrest people like us and\* other people belonging to the opposition Parties and you will not disclose the grounds because the authority thinks that it is not in the public interest. Here, no judicial judgement is there. The very person who will be acting politically against me will be the person who would be settling the issue as to whether the facts should be disclosed or not. We know very well that they have no facts when they arrest. We have known cases when the officer, after arresting, did not know why the person was arrested. We have got the Gupta Commission [The Vice-Chairman (Dr. Rafiq Zaka-ria) in the Chair.]

report, by the Supreme Court Judge. He has shown how arrests have taken place. You may have a different view of these Commissions. But these are the disclosures that have come to light during the emergency, when people were arrested without any reason whatsoever, it is for political vendetta or even on personal grounds and the facts would not be disclosed to them. This has happened under MISA and under Presidential orders. The same thing is pro-

vided here, some friends say that we are almost being driven to emergency. I say here is the proclamation of unofficial emergency. If the Government had two-thirds majority in the House by now, we would have been living in a state of internal emergency. I have no doubt about it. They are now bringing back all the emergency provisions. This is why I say through my amendments 'that compulsorily the facts should be disclosed. Why not? We are a civilised society. Any ruffian of a Policeman who blinds, under-trial prisoners or who commits, rape on women in the lock-up will arrest me and put me in detention. He will not be under obligation to disclose the facts to me as to why I have been arrested. What am I? Sir, \*his gees against the very concept of the Covenant we have signed in so far as human rights are concerned. Human rights are being treated so lightly and so cynically by this Government and we know that we will all be victims of it. Therefore, Sir, I am not talking about all these things and about the other criminals and dacoits. There is the IPC and there is the Cr. PC and there are

But you do not know how to enforce them. How can you? You have a Chief Minister—I will not name him—who is going about paying tributes to a known gangster in Bihar. Who does not know it? Who does not know as to how many mafia leaders are being patronised by some leading members of the ruling party? Not all of you, but some of you, and everybody knows it. Some Ministers are known for their strength not because they have the moral or political strength, but because they have the backing of the underworld, backing of the mafia, backing of the police, linked up with the underworld. Such is the case. But we are told that they will not divulge the grounds. Get up Mr. Zqil Smgh, to give one of your funny answers.

ज्ञानी जैल सिंह : श्रीमान् . . .

उपसभाध्यक्ष (डा० रफीक जवरीदा) :

नहीं होम मिनिस्टर साहब, पहले वह  
 बोलेगे, डा० के बारे में आपबोलेंगे।

ज्ञानी जैत सिंह : सभी नहीं बोल  
लिये हैं क्या ?

SHRI N.K.P. SALVE: Sir, I am on a point of order. Sir, I am on a point of order under rule 244. Lest anyone should feel offended, I should like to state that we have been sitting here for quite sometime. Now, Sir, under rule 244, I would like to submit that after every clause is taken up for consideration, I intend moving that no speaker be allowed to speak on the amendment. I am going to do this under rule 244. *(Interruptions)*.

AN HON. MEMBER: You should have been a Minister.

SHRI N. K. P. SALVE: I am quoting the rules. There is one exception. Under this rule, I am entitled to move this. *(Interruptions)*.

SHRI P. RAMAMURTI: What is the rule? Tell me that.

SHRI N. K. P. SALVE: The rule is this":

"At any time after a motion has been made, any member may move, That the question be now put', and, unless it appears to the Chairman that the motion is an abuse of these rules or an infringement of the right of reasonable debate, the Chairman shall then put the motion: 'That the question be now put'."

Then, Sir, it shall be the pleasure of the House to decide. *(Interruptions)*.

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

SHRI N. K. P. SALVE: Sir, I will, I speak on this.

SHRI SUNDER' SINGH BHANDARI: Sir, the rule goes in favour of those who\* want to speak.

SHRI N. K. P. SALVE: Sir, I will move... *(Interruptions)*

SHRI HARKISHAN SINGH SUR-JEET: This itself shows what you are up to. *(Interruptions)*. This is not an ordinary law, but this is a most important legislation and you are preventing a discussion. *(Interruptions)*.

SHRI N. K. P. SALVE: Sir, I am one for a reasonable and adequate debate.

SHRI HARKISHAN SINGH SUR-JEET: Is this not a reasonable debate?

SHRI N. K. P. SALVE: You sit down and listen to me.-*(Interruptions)*

SHRI HARKISHAN SINGH SUR-JEET: Why should I sit down? You sit down. *(Interruptions)*.

SHRI N. K. P. SALVE: Sir, I am one for an adequate debate. But every time, on every amendment, there are two or three members who are speaking and who are monopolising. *(Interruptions)*.

SHRI MANUBHAI PATEL: We have taken the trouble of moving the amendments and it is our right. Mr. Salve, it is our right.

SHRI N. K. P. SALVE: You sit down. *(Interruptions)*

SHRI MANUBHAI PATEL: You sit down. *(Interruptions)*

SHRI N. K. P. SALVE: Sir, I am within my rights. *(Interruptions)*

SHRI P. RAMAMURTI: Sir, I want to speak on this.

SHRI N. K. P. SALVE: Sir, under rule 244-----

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*(Interruptions)*

SHRI N. K. P. SALVE: Sir, under rule 244. I am going to move my motion. Unless the motion is an abuse of these rules or an infringement of the right of reasonable debate, I am entitled to move for closure of the debate. *(Interruptions)*.

SOME HON. MEMBER: No, r>.o.

SHRi BHUPESH GUPTA: Sir, I will speak on this.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): He has only drawn my attention to the rule, and he has spoken on that rule. Only after he puts the motion, that question will arise.

SHRIMATI PURABI MUKHOPA-DHYAY (West Bengal): Mr. Vice-Chairman, Sir, are you allowing us to speak or not?

SHRI P. RAMAMURTI: Sir, I want to point out one thing. When we are moving amendments, a reasonable debate must take place. When a reasonable debate must take place on the amendment, you cannot say that . you will ask for a closure of that reasonable debate. Either you say that you are not prepared to listen to the amendment at all, that you are not prepared to be convinced of what we are going to say, however reasonable it may be, and you are only impervious to any argument or allow the debate. Either they take the decision or they must allow us to speak for the amendment moved, so that they can change their amendment if it is correct. I do not agree with the view.. lions). Ther -1 reasonable debate on the amendment. After all, you are giving us three or utes for it. (Interruptions)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): Let us hear the Leader of the House. After that, if it is necessary. . . (Interruptions)

SHRIMATI PURABI MUKHOPA- \* DHYAY: It cannot be like that. (Interruptions)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): I have called upon the Leader of the House to speak.

SHRIMATI PURABI MUKHOPA-DHYAY: But you have done an inius-tice.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): There is no injustice. After the Leader of the House has spoken, there will be no need to for...

SHRIMATI PURABI MUKHOPA-DHYAY: I know the Rules.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): j am presiding. That is my ruling. (Interruptions) I am sorry. But I have called the Leader of the House to speak. Will you please sit down? (Interruptions)

SHRIMATI PURABI MUKHOPA-DHYAY: I won't. You name me. (interruptions)

SHRI PRANAB KUMAR MUKHER-JEE: The hon. lady Member need not be agitated. What we have decided is that let the Members speak on their amendments, and we shall complete the business in that way. Members have moved amendments may speak on them. So far we have covered clause 7 in this way. For the rest of the clauses also, we shall proceed . in the manner in which we have proceeded up to clause 7.

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARTA): As I said, after the 1 of the House has spoken, I think there is any further discussion, necessary. I will now call upon.... (Interruptions)

SHRIMATI PURABI MUKHOPA-DHYAY: You have allowed Mr. Salve (Interruptions)

THE VICE-CHAIRMAN (DR. P ZAKARIA): Yes, (Interruptions)

SHRI ERA SEZHIYAN: "The Leader of the House has spoken. But what has made Mr. Salve to express.... (Interruptions ( You know that I have given so many amendments. We take two or three minutes.. (Interru, Here, is a voice raised by Mr. Salve saying that we are wasting "the tin\*? of. the House. It is for the Chair to decide. He cannot say all these things. He has cast aspersions on Members, (Interruptions)

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): You have made your point.

SHRI ERA SEZHIYAN: He should not have the guts to say that we are wasting the time of the House. *(Interruptions)*

SHRIMATI PURABI MUKHOPA-DHYAY: Mr. Salve, while he was speaking, used derogatory language not only against one Member but against many Members who got up and <sup>ne</sup> shouted. Will he apologize and withdraw his remarks? *(Interruptions)*

SHRI BHUPESH GUPTA: After what Mr. Pranab Mukherjee has said I do not think we need pursue this matter. Let us go on as we are going on. As for Mr. Salve, you cannot make him apologize twice a week. *(Interruptions)*

SHRI P. RAMAMURTI: I take it that the Leader of the House has already censured his own deputy leader. *(Interruptions)*

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): I will now call Mr. Kalyanasundaram. Everybody seems to be a little tired. Let us be as brief as possible. *(Interruptions)*

SHRI U. R. KRISHNAN: Up to what time are we supposed to sit? Up to 12 or 1 o'clock?

AN HON. MEMBER: Up to 9 o'clock tomorrow morning. *(Interruptions)* •

THE VICE-CHAIRMAN (DR. RAFIQ ZAKARIA): The position is that we shall have to sit till we pass this Bill. There is no question of mid-night or beyond that. I will request Mr. Bhan-dari and others not to get worked up about a little interruption. As the Leader of the House said, let us go on as we were going on. Please be brief.

SHRI M. KALYANASUNDARAM: Sir, the provision will lead to a lot of malpractices and corruption. The official will be entitled to pass an order

of detention first and then search for ground. He will pass the order without proper grounds. That is why my party leader, Shri Bhupesh Gupta, has spoken about it. We have seen last time when the emergency was there that the officers were getting money for leaving a person, for passing detention orders and even for revoking detention orders. Money was flowing. This will lead to that. So, this provision must be changed.

SHRI P. RAMAMURTI: Sir, after all when the detention order is passed, he is supposed to have exercised his mind before passing that order. When he exercises his mind, he must have the causes for which I am being detained. Without that, he cannot detain me. Therefore, if he has already got the reasons for my detention, what prevents the District Magistrate from giving me the causes for my detention and the grounds of my detention immediately? He is supposed to have exercised his mind. What it means is that a District Magistrate can sign a blank cheque and after 5 days he can search for grounds of detention. In some extraordinary cases, he can wait for 10 days. We do not know what are those extraordinary cases. The whole thing means that this is hypocrisy. The second point is that he need not disclose the grounds. I am asked to defend myself before this Advisory Council, but I do not know why I have been detained. I will not be communicated the reasons and still I am being asked to submit an explanation. The whole thing is a farce. You say that you will detain and no grounds need be given. You say that you are all powerful. Then why have this farcical thing? This particular thing is on the ground of public interest. If it is in public interest, he need not disclose the grounds. I am being deprived of my liberty. Therefore, it is a total farce. It is another MISA where you say that even the grounds cannot be given. That is what you are repeating in a different way. That is why I say, "Delete this clause and inform me immediately about the grounds of detention, if you have got them".



Barauni (C.A.)

ज्ञानी जैल सिंह : वाईस चेयरमैन साहेब, अनरेबुल मेम्बर साहेबान ने जनरल डिस्कशन में भी बहुत कुछ कहा था और अब भी बहुत कुछ कहा है। पूरे बिल को देखने के बाद इन बातों पर गौर किया लेकिन भूपेश गुप्त के अमेंडमेंट के अलावा बाकी के प्रति मैं सिर्फ इतना कहूंगा कि मैं उनको मंजूर नहीं कर सकता। उनको रिजेक्ट कर दिया जाये। भूपेश जी से थोड़ी सी विनती करूंगा क्योंकि वह बहुत जोर से कह रहे थे। मैंने पहले भी कहा था कि भारत के संविधान के मुताबिक हमने यह बिल सभा में रखा है। संविधान के मुताबिक ही इसमें हम आगे कायवाही करेंगे।

§ (6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which 'such authority considers to be against the public interest to disclose.'

यह जो कांस्टिट्यूशन का अधिकार है इसके उलट जाना ठीक नहीं होगा और इसी-लिये इसको रखा गया है। इस पर गौर था कि आगे वाउन्ड्स बताये जायेंगे। मगर मैं इसको मंजूर नहीं कर सकता।

MR. DEPUTY CHAIRMAN in the chair]

MR. DEPUTY CHAIRMAN: The question is:

59. "That at page 4, for clause 3, the following be substituted, namely:

'8. When a person is detained in pursuance of a detention order the authority making the order shall forthwith communicate to him in writing the grounds on which the order has been made and shall afford him the earliest opportunity, of making a representation against the order to the appropriate Government'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Tb\* question is;

60. "That at page 4, for clause 8. the following be substituted, namely:—

'8. When a person is detained in pursuance of a detention order the authority making order shall forthwith communicate to him in writing the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government Which will include consultation with advocates of his choice for making the representation'."

The motion, was negatived.

MR. DEPUTY CHAIRMAN: The question is;

61. "That at page 4, for clause 8, the following be substituted, namely:—

'8 The authority shall disclose to the person detained all grounds and fact for his detention and shall afford him all opportunities including consultation with advocates of his choice for making a representation against the order or detention'."

64. "That at page 4, line 12 for the words 'five days' the words 'two days' be substituted."

65. "That at page 4, lines 12—13 the words 'and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days' be deleted."

67. "That at page 4, lines 17 and 18 be deleted."

The motions were negatived.

MR. DEPUTY CHAIRMAN: The question is;

63. "That at page 4, line 11, after the word 'authority\* the • words 'subject to the approval of the Advisory Board for the area' be inserted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

66. "That at page 4, line 13, for the words 'ten days' the words 'five days' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is;

68. "That at page 4, for lines 17 and 18 the following be substituted, namely:—

'(2) The authority shall disclose facts which require to be disclosed in the interest of the person ' detained, or he otherwise demands such disclosure'."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is;

143. "That at page 4, line 12, for the words 'ten days' the words 'three days' be substituted."

145. "That at page 4, line 13, for the words 'ten days' the words 'three \* days' be substituted."

146. "That at page 4, lines 17 and 18 be deleted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN; The question is

144. "That at page 4, lines 12 and 13, the words 'and in exceptional circumstances and for reasons to . be recorded in writing not later than ten days' be deleted."

*The motion was. negatived.*

MR. DEPUTY CHAIRMAN: The i question is:

"That clause 8 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes—117; Noes—67.

AYES—117

Ali, Shri Syed Rahmat  
Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram  
Arif, Shri Mohammed Usman  
Balram Das, Shri  
Banerjee, Shri B. N.  
Barman, Shri Prasenjit  
Basavaraju, Shri M.  
Bhagwan Din, Shri  
Bhamidipati, Shri Krishna Mohan  
Bhandare, Shri Murlidhar Chandra-  
kant  
Bhanu Pratap Singh, Shri  
Bharadwaj, Shri Ramchandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Maragatham  
Chattopadhyaya, Prof. D. P.  
Chowdhari, Shri A. S.  
Das, Shri Bipippal  
Das, Shrimati Monika  
Deshmukh, Shri Bapuraoji Marotraoji  
Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
Dharmavir, Shri  
D'Souza, Dr. Joseph Leon  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida  
Handique, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Hanspal, Shri Harvendar Singh  
Heptulla, Dr. (Shrimati) Najma  
Ibrahim, Shri B. A.  
Jain, Shri Dharam Chand

Jain, Shri J. K.  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manishankar  
 Kalaniya, Shri Ibrahim  
 Kambale, Prof. N. M.  
 Keshi, Shri Sitaram  
 Khan, Shri F. M.  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khaparde, Shrimati Saroj  
 Krishna, Shri M. R.  
 Krishnan, Shri U. R.  
 Kureel, Shri Pire Lall Urf Pire Lall  
 Talib Umavi  
 Lalkeshi Chandra, Dr.  
 Madhavan, Shri K. K.  
 Madni, Shri Asad  
 Makwana, Shri Yegendra  
 Malhotra, Shrimati Usha  
 Malik, Shri Syed Abdul  
 Manhar, Shri Bhagatram  
 Maran, Shri Murasoli  
 Maurya, Shri Buddha Priva  
 Meena, Shri Dhuleshwar  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhasekar, Shri G. R.  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Mahendra Mohan  
 Misri, Shrimati Roda  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Shyam Sundar  
 Mondal, Shri Ahmad Hossain  
 Moopanar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Mumukshu, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathuvandi  
 Naidu, Shri N. P. Chengalraya  
 Nuik, Shri G. Swamy  
 Patwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Pande, Shri Bishambhar Nath

Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rai, Shri Kalpanath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq  
 NOES—67  
 Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal

Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bhola Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhan Prasad  
 Hansda, Shri Phanindra Nath  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhan Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mohinder Kaur, Shrimati  
 Mohunta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghanshyambhai  
 Pant, Shri Krishna Chandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan  
 Roy, Shri Kalyan  
 Sahaya, Shri Dayanand  
 Sarup Singh, Dr.  
 Scindia, Shrimati Vijaya Raje  
 Sezhiyan, Shri Era  
 Sahabuddin, Shri Syed

Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Ajit Kumar  
 Shastri, Shri Bhola Paswan  
 Sinha, Shri Indradeep  
 Surendra Mohan, Shri  
 Surjeet, Shri Harkishan Singh  
 Tohra, Sardar Gurcharan Singh  
 Yadav, Shri Hukmdeo Narayan

*The motion was adopted.*

*Clause 8 was added to the Bill.*

MR. DEPUTY CHAIRMAN: We shall now take up clause 9. There are eight amendments.

*Clause 9 (Constitution of Advisory Boards)*

SHRI JASWANT SINGH: Sir, I move:

69. "That at page 4, lines 19-20, the words 'whenever necessary' be deleted".

SHRI BHUPESH GUPTA: Sir, I move:

70. "That at page 4, for lines 19 to 21, the following be substituted, namely:—

"9. (1) The Central Government and each State Government shall constitute one or more Advisory Boards for the purposes of this Act from a panel approved by Parliament or the State Legislature concerned".

SHRI JASWANT SINGH: Sir, I move:

71. "That at page 4, line 21, after the word 'Act' the words 'for an area comprising not more than five districts' be inserted."

SHRI KALRAJ MISHRA: Sir, I move:

72. "That at page 4, for lines 22 to 24, the following be substituted, namely:—

"(2) Every such Board shall consist of three persons who are,

[Shri Kalraj Mishra]

or have been, Judges of a High Court'."

*(The amendment also stood in the names of ShH Lai K. Advani, Shri Jagdish Prasad Mathur, Shri Pyarelal Khandelwal, Shri Era Sezhiyan, Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel)*

SHRI ERA SEZHIYAN: Sir, I move:

73. "That at page 4, line 23, the words 'or are qualified to be appointed as' be deleted."

*(The amendment also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ramlal Parikh, Shri Dinesh Goswami, Dr. M. M. S. Siddhu, Shri Biswas Goswami, Dr. Shanti G. Patel, Shri Shridhar WasiLdeo Dhabe, Shri B. B. Raju and Shri Jaswant Singh.)*

SHRI DINESH GOSWAMI: Sir, I move:

74. That at page 4, line 26, the words 'or has been' be deleted."

*(The amendment also stood in the names of Shri Era Sezhiyan, Shri Ghanshyambhai Oza, ShH Manubhai Patel, Prof. Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel.)*

SHRI P. RAMAMURTI: Sir, I move:

147. "That at page 4, lines 22-23, the words 'or have been, or are qualified to be appointed as,' be deleted."

*(The amendment also stood in the names of Shri Harkishan Singh Sur-jeet and Shri Pattiam Rajan.)*

SHRI M. KALYANASUNDARAM: Sir, I move:

148. "That at page 4, line 26, the words 'or has been' be deleted."

*(The amendment also stood in the names of Shri S. Kumaran, Shri*

*Kalyan Roy, Shri Indradeep Sinha, Shri Bhola Prasad, Shri P. Ramamurti, Shri Harkishan Singh Surjeet and Shri Pattiam Rajan.)*

*The questions were proposed.*

MR. DEPUTY CHAIRMAN: Yes, Mr. Jaswant Singh.

SHRI JASWANT SINGH: Mr. Deputy Chairman, Sir, I am moving two amendments on clause 9. They relate firstly to the deletion of the words "whenever necessary" and secondly to the inclusion of a definition of a discretionary area. "Whenever necessary" to my mind, is redundant. There is here a provision whereby the Central and each of the State Governments shall constitute one or move Advisory Boards for the purpose of this Act. I am unable to comprehend as to what "whenever necessary" implies. Who has the discretion of deciding the necessity or otherwise? When you have specified here that there shall be an advisory board where does the question of necessity arise? The necessity is *ipso facto* established the movement you are implementing this Bill as an Act, when you bring into play the advisory board shall be constituted. Where is the need for adding the words "whenever necessary". It leads one to think, is it an executive discretion? Is it going to determine the need or necessity for it? Or is it some other consideration which the hon. Minister has in mind which is going to determine the necessity? It is an elementary deletion and I would request the hon. Minister to take into account when considering our request.

There is another addition I have submitted as amendment for this particular clause which is to specify the geographic area for which an Advisory Board shall be held as responsible. You are saying that the Centre or the State Government shall constitute an Advisory Board. Now, if the State is large, if a particular State, as per the purview of this Act, has a problem of law and order, where it is not possible for one Advisory Board

to adequately deal with it, surely you will constitute more than one. it is therefore, reasonable and logical to say that one Advisory Board shall be responsible for a geographical limit \*which you should define, which is the purpose of my second amendment to this particular clause which I submit for the hon. Minister's consideration.

SHRI BHUPESH GUPTA: My amendment is simple with regard to the appointment of the Advisory Board. I have no objection to the judges being appointed as members of the Advisory Board. I wish to bring into the picture Parliament in the case of Central detention order, and State Assemblies in the case of detention

\* orders within the jurisdiction of the States. That is why, I have suggested that the members of the Advisory Board should be appointed out of a panel approved by Parliament and the State Assemblies as the case may be. The reason is that we should have such people in whom we have confidence and those who go to the Advisory Board to deal with the very vital question of individual liberty, deprivation of liberty by this Bill, should be men beyond reproach and should command the confidence of both sides of the House. If you accept this amendment, it means that in the

of matter of appointment, there will be at least some consultation between Opposition and the Government parties in order to arrive at common conclusion so that the right type of people are appointed. Sir, in public life, there are many good people, eminent people, who may not be attached to any political party, who have common sense and know-how the land lies.

Hence, such people should be brought into the picture, and hence my amendment.

श्री कलराज मिश्र : उपसभापति महोदय, यह सलाहकार बोर्ड के गठन के संबंध में धारा 9 की उपधारा 2

में मैंने अपना संशोधन पेश किया है। इसमें जो यह लिखा है :

“ऐसा प्रत्येक बोर्ड ऐसे तीन व्यक्तियों से मिल कर गठित होगा जो किसी उच्च न्यायालय के न्यायाधीश हैं या रह चुके हैं या नियुक्त किये जाने के लिये योग्य हैं”

ऐसे व्यक्ति सरकार द्वारा नियुक्त किये जायेंगे। इसके स्थान पर यह तीनों लाइन हटा कर यह शब्द जोड़ा जाये—

“ऐसा प्रत्येक बोर्ड ऐसे तीन व्यक्तियों से मिल कर गठित होगा जो किसी उच्च न्यायालय के न्यायाधीश हैं, न्यायाधीश रह चुके हैं”

इसको रखने के पीछे क्या कारण है? मैं ऐसा महसूस करता हूँ कि अभी भाषण के दौरान गृह मंत्री महोदय ने भी कहा और मान्यवर श्री आडवाणी जी ने अपनी बात को रखते हुए कहा कि सलाहकार बोर्ड में रखे जायें तथा मुख्य न्यायाधीश की सहमति हो। गृह राज्य मंत्री ने पहले भी कहा कि चीफ जस्टिस से परामर्श कर के उनके आश्रय पर जजों के बोर्ड गठित किये जायेंगे। वे सारी चीजों को परामर्श कर के निश्चित करेंगे कि कब तक निरुद्ध करना है, कैसे रखेंगे। यह सारी बातें वे करेंगे जिसके बारे में यह होगा कि सरकार के प्रभाव में वे न रह कर स्वायत्त रूप से वह बोर्ड निर्णय ले सकने की क्षमता रखें। इसलिये मैं गृह मंत्री जी से निवेदन करूंगा कि जो स्वयं उनकी भावना है, उनकी भावना इसमें निहित है इसलिये इस संशोधन को स्वीकार कर लें। मैं समझता हूँ इससे किसी को कोई आपत्ति नहीं होगी। मेरा आग्रह है कि वे स्वीकार कर लें।

10 P.M.

श्री सुरेन्द्र मोहन : आदरणीय उपसभापति महोदय, हमारा संशोधन यह है

[ श्री सुरेन्द्र मोहन ]

कि यह जो फ्रेज जोड़ दिया गया है "क्वाली-फाईड टु बी" इसको निकाल देना चाहिए जब आर्डिनेन्स लागू किया गया था उसमें यह फ्रेज नहीं था और...

श्री उपसभापति : वह बात हो गयी है।

श्री सुरेन्द्र मोहन : मुझे इस बात का ताज्जुब है कि आखिर क्या वजह है, क्या कमी है कि पुराने क्लॉज में, जो आर्डिनेन्स में महसूस की गई जिसकी वजह से यह संशोधन किया गया है। इसका मतलब यह है कि हमको अपने जजों में जो हाई कोर्ट के जजेज है या जो रिटायर्ड जजेज है उनमें विश्वास नहीं है या तो हमको यह महसूस होता है कि जो यहां हाई कोर्ट के जजेज है या जो रिटायर्ड जजेज है ये हमको उतनी संख्या में नहीं मिलेंगे जितने कि हर जगह बोर्ड बनते हैं। इसलिये इस बात को जोड़ दिया गया है कि जो क्वालीफाईड हैं जो जजेज बनाये जा सकते हैं उनको भी लिया जाय। मैं आपसे दरखास्त करना चाहता हूं कि आखिर हमारा जुडीशियरी में इतना अविश्वास क्यों हुआ है, हमारी ही सरकार को अपनी ही जुडीशियरी में इतना अविश्वास हो गया है, आखिर उसका कारण क्या है। इसलिये मैं बहुत अदर से यह दरखास्त करना चाहता हूं कि अगर हमारा हमारी जुडीशियरी में विश्वास है, अगर हम यह मानते हैं कि पर्याप्त संख्या में हमको रिटायर्ड जजेज मिल सकते हैं, जजेज मिल सकते हैं तो यह क्वालीफाईड टु बी वाली बात को खत्म कर देना चाहिये। लेकिन अगर हम इस बात को लाते हैं तो इसका मतलब यह होगा कि हमको अपनी जुडीशियरी में या तो विश्वास नहीं है और या हम समझते हैं कि हमारे कहने के मुताबिक जैसा हम चाहते हैं

वैसा काम नहीं करेंगे, हमारी इच्छा के अनुसार उनका फैसला नहीं होगा।

दूसरा संशोधन उपसभापति महोदय, मेरा यह है कि बोर्ड का अध्यक्ष वही व्यक्ति हो जो अभी भी एक हाई कोर्ट का जज हो न कि ऐसा व्यक्ति हो जो कि हाई कोर्ट का रिटायर्ड जज हो। इसके लिये मैं यह तर्क पेश करना चाहता हूं कि जो हाई कोर्ट का जज है जो कि आज के कानून के मुताबिक अच्छी तरह से फैसले करता है और जो जानता है कि कानून में क्या चेंज हुआ है, क्या परिवर्तन हुआ है, क्या संशोधन हुआ है, उस पर ज्यादा यह जिम्मेदारी आती है कि ठीक से फैसला करे और इसलिये बेहतर यह होगा कि जो बोर्ड का चेयरमैन हो वह ऐसा हो कि जो कि हाईकोर्ट का सिटिंग जज हो। इन दोनों बातों को पेश करते वक्त मैं दुबारा यह आपको याद दिलाना चाहता हूं कि अगर हमको अपनी जुडीशियरी में विश्वास है तो यह क्वालीफाईड होने वाली बात खत्म करनी चाहिये। इस बात को सिर्फ यहीं तक रखना चाहिये कि जो रिटायर्ड जज हो या जो आज के जज हैं, उनको रखना चाहिये।

SHRI V. B. BAJU: Sir, this clause is really the heart of the whole Bill. In fact the approach of the Government, as revealed in the Ordinance, was in conformity with the Forty-fourth Amendment to the Constitution, through section 3 of that Amendment Act. My colleague, Shri Nanda, had raised this at that time as a point of order. In 1978, the Constitution Forty-fourth Amendment Act was passed. Section 3 amended article 22 from which this Bill derives its authority. This Bill derives all its authority and sanction from that article, article 22 which was amended. The Janata Party at that time had three ideas, or had a scheme of three ideas. One, to establish the

independent character of the Board, that the constitution of the Board must have the concurrence of the Chief Justice of the appropriate High Court, to make it appear independent. Secondly, the Chairman should be a sitting judge. Thirdly, the other two members should be sitting judges or who have been judges. This was the scheme which the Janata Party had prepared and made the amendment accordingly. I was very happy at least for that point when I saw it in the Ordinance; clause 9 was copied from that. But when the Bill came before us, it was made topsy-turvy. All the three stipulations have been

\* disturbed. Now, it is not the High Court which gives concurrence and appoints. It is the State Government. That is, the executive has taken control. Secondly, the presiding Chairman could now be even a retired Judge. Then the other two members could be those who are capable of becoming Judges. Therefore, you have completely reduced the stature of the Board and destroyed its independent character. In fact, it is a carbon copy of the executive. Even at this point of time, I would request the Home Minister to reconsider, or at least inform the House, in between the promulgation of the Ordinance in September and now, what is it that has happened to change your mind? Is it the pleasure of the executive? What is it? You were going to do the right thing. I would blame the Janata Party Government for not having issued the notification at that time for the enforcement of this amendment. I am not blaming you. And even the Lok Dal Government did not do it, as I mentioned. At least you could have rectified it. Mr. Home Minister, you could have issued the notification for the enforcement of this amendment which established the independent

<sup>31</sup> character of the Board. Don't you want justice to be done to the detainee? What is your idea? As my friend has just now put it, do you have no belief in the integrity of the judiciary? Are you giving the proper status to the judiciary in the country? We

would like to be enlightened as to why did you change your mind? Why did you destroy its seemingly independent character?

Sir, this is a very important matter. We cannot take these things lightly. Sir, you are a senior statesman of the country. An important Constitution amendment was made two years ago. The executive sits over it; it does not actually issue a notification. I will appeal to the House: Let us not hereafter have that clause in the Constitution Amendment Bills. As soon as the House approves it by a two-thirds majority, it must come into force. But here the executive sits over it as if it has a veto on the powers of the Parliament. I would like the Home Minister to tell this House what is the attitude and what is the view of the present Government about that amendment. You have gone against the amendment. How dare the Government go against that amendment? It is a contempt of the House; it is a disrespect to the House. I must here uphold the respect the sovereignty and supremacy of Parliament. You are also second to none. Are you keeping the respect, the supremacy and sovereignty that the House should command? With one stroke you have destroyed the supremacy of Parliament, you have destroyed the independent character of the judiciary.

SHRI DINESH GOSWAMI; Mr. Deputy Chairman, Sir, while supporting the views expressed by Mr. Raju on another amendment, I would like to submit that the amendment that I have moved seeks to make an improvement in the Bill. In sub-clause (3) of clause 9, it has been said that the retired Judge of a High Court can also be appointed as the Chairman. My view is that a Judge of a High Court, during his tenure of office, enjoys security of service for which he can remain free from executive influence. Because a High Court Judge enjoys constitutional protection, he can be free from executive influence.



[Shri Dinesh Goswami]

The highest court of the land—the Supreme Court—in one of the important cases held that it is better for the ends of justice that in important matters, it should be a sitting Judge of the High Court who should be entrusted with the job of adjudicating matters. Therefore, my submission would be that the Chairman of the Advisory Board should be a sitting Judge of the High Court so that justice is not only done but justice appears also to be done. Unless the Home Minister has a willingness to influence the Advisory Board, I do not see any reason why this amendment cannot be accepted.

SHRI P. RAMAMURTI: Sir, we know the difference between a Judge of the High Court and a person qualified to be a Judge. Any advocate with ten years' standing, a briefless lawyer who does not get any brief is a person qualified to be High Court Judge. This is the law as it stands. In the case of appointment of a High Court Judge, the Government has got to consult the Chief Justice of the High Court who knows the law-years, who knows how they have been arguing, their competence and their capacity and, on that basis a High Court Judge is appointed. But here, briefless lawyers who would be prepared to sell themselves to the Executive can be appointed on the ground that those people have put up signboards for ten years as lawyers and therefore they are qualified to be Judges. Therefore, the intention is very clear. To appoint those people who do not have anything to do with the High Courts, even the pretence of having something to do with some sort of advisory committee reduces the Advisory Board to a farce completely and it is to have people who will be yes-men to them. This is the idea behind it. That is why I say, do not take cover under the fact that the Constitution amendment has not been notified. I want to remind the Congress (I) Party that at that time the Congress (I) Party also supported the amendment and they wanted this

amendment to be passed. You were also party to that. Now if you want to go back on that because you are in power and you want to abuse that \* thing and you want to ride roughshod over the liberties of the people, you are free to do it. But I would like to know whether they have got any conscience left in them. If you are not sticking to that position which you had taken while supporting amendment of the Constitution, who can have any trust in you at all if you do not have even that much of conscience?

MR. DEPUTY CHAIRMAN: Mr. Kalyanasundaram.

SHRI M. KALYANASUNDARAM: No, Sir. Thank you.

ज्ञानी जैल सिंह : यह जो सवाल बोर्ड के कांस्टीट्यूशन का है, इस में जुडीशियरी पर हमको पूरा ऐतबार है और हम उस पर विश्वास रखते हैं। आर्डिनेंस के बाद बिल में जो यह चेन्ज हुआ वह इस-लिये कि वह जो 44वें अमेन्डमेंट का हिस्सा था वह कांस्टीट्यूशन का भाग नहीं बना, जब तक गवर्नमेंट नोटिफिकेशन नहीं करती वह उसका भाग नहीं बन सकता ...

एक माननीय सदस्य : यह तो हम जानते हैं।

ज्ञानी जैल सिंह : आप जानते हैं ; आप को यह भी जानना होगा कि यह कोई पहली बार नहीं, 1956 में जो अमेन्डमेंट हुआ वह अब तक कांस्टीट्यूशन का भाग नहीं बन सका क्योंकि नोटिफिकेशन नहीं हुआ। उस के बाद जब 1976 में कुछ अमेन्डमेंट्स हुए—सेक्शन 18 अमेन्डिंग आर्टिकल 100, सेक्शन 19 अमेन्डिंग आर्टिकल 102, सेक्शन 21 अमेन्डिंग आर्टिकल 106। इसी तरह से ये 6 सेक्शन्स हैं जो अब तक कांस्टीट्यूशन का हिस्सा नहीं बने। तो यह भी कांस्टीट्यूशन का हिस्सा नहीं था। अब जो आर्टिकल 22

के क्लाज 4 का मतलब है वह बोर्ड के कांस्टीट्यूशन सा ही है। इसी तरह साथ में यह भी कहना चाहता हूं प्रैक्टिकल बात यह है कि हमारे हाई कोर्ट में पेंडिंग कैसेज, बहुत पड़े हैं और बहुत से हाई कोर्ट्स ने यह भी मांग की है कि जजों की गिनती बढ़ाई जाये। जजों अबलेवल नहीं होते तो इसका जो चेयरमैन है वह रिटायर्ड जज होगा, लेकिन वकिंग जज भी हो सकता है, उस में कोई स्कावट नहीं है। मगर सिर्फ जो दो मेम्बर हैं वह भी रिटायर्ड जज रखने में सरकार को स्कावट नहीं और इसमें प्राविजन है कि जो बनने के लायक हैं, हाई कोर्ट का, वह वकील उस का मेम्बर बन सकता है। आप जानते हैं, हमारे आनरेबल मेम्बर ने कहा कि रिटायर्ड जज को ज्यादा मालूम होगा कि कौन से कानून बने हैं, कौन से कानून नये आये हैं, कौन से अमेंड हुए हैं। यह बात पहले ही मानी गयी है कि वकील भी हाई कोर्ट का जज बन सकता है। इस के लिये उस की आमदनी भी देखी जाती है, प्रैक्टिस भी देखी जाती है—कन्डीशन है कि कम से कम दस साल की उस की प्रैक्टिस होनी चाहिये और ऐसा वकील और जजों से कम नहीं होता, वह भी काबिल होता है। इसलिये यह मेला-फाड़ नहीं है। यह बिल्कुल भारत के संविधान के मुताबिक है। इसमें में निष्पक्षता होगी और जो रिटायर्ड जज होंगे, वे इस के चेयरमैन होंगे। इस लिये कोई चिन्ता नहीं करनी चाहिये। मैं आनरेबल मेम्बर साहेबान के इन संशोधनों को परवान नहीं कर सकता।

SHRI V. B. RAJU: One point. I would request the Minister to just respond to this demand: What does the ruling party hold its opinion on the Constitution Amendment, section 3 of the 44th Amendment? (Interruptions) It has relevance. Are you

actually changing your mind? Even the Janata Party did not have two-thirds majority here\_ but even then...

MR. DEPUTY CHAIRMAN: He has already replied to that. Whatever he wanted to say, he has said.

SHRI V. B. RAJU: There is relevance now.

MR. DEPUTY CHAIRMAN: He has read out that.

ज्ञानी जैल सिंह : इस में कोई रिलेवेंसी नहीं है। यह मुझ से पूछने की जरूरत नहीं है। जो सरकारें इस के काबिल होंगी वे बनायेंगी।

श्री पी० रासबूति : ज्ञानी जी, जब दस साल की प्रैक्टिस वाले वकील को भी नियुक्त करते हैं तो पहले चीफ जस्टिस से पूछते हैं, क्या वैसे ही पूछने के लिये तैयार हैं?

उपसभापति : ठीक है, जो पूछना था पूछ चुके।

MR. DEPUTY CHAIRMAN: The question is:

69 'That at page 4, lines 19—20, the words 'whenever necessary' be deleted.'

71. "That at page 4, line 21, after the word 'Act' the words 'for an area comprising not more than Ave districts' be inserted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

70. "That at page 4, for lines 19 to 21, the following be substituted, namely: —

'(1) The Central Government and each State Government shall constitute one or more Advisory Boards for the purposes of this Act from a panel approved by

[Mr. Deputy Chairman]

Parliament or the State Legislature concerned."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

72. "That at page 4, for lines 22 to 24, the following be substituted, namely:—

'(2) Every such Board shall consist of three persons who are, or have been, Judges of a High Court. "

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

73. "That at page 4, line 23, the words 'or are qualified to be appointed as' be deleted"

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

74. "That at page 4, line 26, the words 'or has been' be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

147. "That at page 4, lines 22-23, the words 'or have been, or are qualified to be appointed as' be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

148. "That at page 4, line 26, the words 'or has been' be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 9 stand part of the Bill."

*(The House divided)*

MR. DEPUTY CHAIRMAN:  
Ayes—114; Noes—66.

AYES—114

Ali, Shri Syed Rahmat  
Amarjit Kaur, Shrimati  
Amla, Shri Tirath Ram  
Arif, Shri Mohammed Usman  
Balram Das, Shri  
Barman, Shri Prasenjit  
Bhagwan Din, Shri  
Bhamidipati, Shri Krishna Mohan  
Bhandare, Shri Murlidhar Chandra-  
kant  
Bharadwaj, Shri Ramchandra  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Maraga-  
tham  
Chattopadhyaya, Prof. D. P.  
Chowdhri, Shri A. S.  
Das, Shri Bipinpal  
Das, Shrimati Monika  
Deshmukh, Shri Bapuraoji Marotraoji  
Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
Dharmavir, Shri  
D'Souza, Dr. Joseph Leon  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida  
Hanique, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Heptulla, Dr. (Shrimati) Najma  
Ibrahim, Shri E.  
Jadhav, Shri Pandurang Dharmaji  
Jain, Shri Dharamchand  
Jain, Shri J. K.  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben Mani-  
shanker  
Kalaniya, Shri Ibrahim  
Kamble, Prof. N. M.  
Kesri, Shri Sitaram  
Khan, Shri F. M.  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali

Khaparde, Shrimati Saroj  
 Krishna, Shri M. R.  
 Krishnan, Shri U. R.  
 Kureel, Shri Piare Lal Urf Piare  
 Lal Talib Unnavi  
 Lokesh Chandra, Dr.  
 Maddanna, Shri M.  
 Madni, Shri Asad  
 Makwana, Shri Yogendra  
 Malhotra, Shrimati Usha  
 Malik, Shri Syed Abdul  
 Manhar, Shri Bhagatram  
 Maran, Shri Murasoli  
 Maurya, Shri Buddha Priya  
  
 Meena, Shri Dhuleshwar  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhaisekar, Shri G. R.  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Mahendra Mohan  
 Mistry, Shrimati Roda  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Shyam Sunder  
 Mondal, Shri Ahmad Hossain  
 Moopaniar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathivani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri G. Swamy  
 Nalwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Pande, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rai, Shri Kalpnath  
 Rajasekharam, Shri P.

Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesave  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujana Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

NOES—66

Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganpat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bholi Prasad, Shri

Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhan Prasad  
 Hansda, Shri Phanindra Nath  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhan Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mohinder Kaur, Shrimati  
 Mohunta Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Oza, Shri Ghanshyambhai  
 Pant, Shri Krishnachandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan  
 Roy, Shri Kalyan  
 Sarup Singh, Dr.  
 Scindia, Shrimati Vijaya Raje

Sezhiyan, Shri Era  
 Shahabuddin, Shri Syed  
 Shabedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Ajit Kumar  
 Shastri, Shri Bholu Paswan  
 Sinha, Shri Indradeep  
 Surendra Mohan, Shri  
 Surjeet, Shri Harkishan Singh  
 Tohra, Sardar Gurcharan Singh  
 Yadav, Shri Hukmdeo Narayan

*The motion was adopted.*

*Clause 9 was added to the Bill.*

*Clause 10 (Reference to Advisory Boards)*

MR. DEPUTY CHAIRMAN: Now we shall take up clause 10. There are five amendments.

SHRI LAL K. ADVANI: Sir, I move:

75. "That at page 4, line 32 for the words 'within three weeks from the date of detention of a person under the order' the words 'as soon as may be, but in any case within one week from the date of detention of a person under the order' be substituted."

*(The amendment also stood in the names of Shri Jagdish Prasad Mathur, Shri Lakhan Singh, Shri Kalraj Misra, Shri Era Sezhiyan, Shri Ghanshyam. bhai Oza, Shri Manubhai Patel, Prof. Ram Lai Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel.)*

SHRI SHIVA CHANDRA JHA: Sir,

I move:

76. "That at page 4, line 32. for the words 'three weeks' the words 'two week' be substituted."

*(The amendment also stood in the name of Shri Jaswant Singh.)*

SHRI DINESH GOSWAMI: Sir, I move:

77. "That at page 4, line 32, for the words 'three weeks' the words 'one week' be substituted."

SHRI KALYAN ROY (West Bengal): Sir I move:

149. "That at page 4, line 32, for the words 'three weeks' the words 'ten days' be substituted."

(The amendment also stood in the names of Shri M. Kalyanasundaram, Shri S. Kumaran, Shri Indradeep Sinha and Shri Bhola Prasad.)

SHRI HARKISHAN SINGH SUR-JEET: Sir, I move;

150. "That at page 4, line 32. for the words 'three weeks' the words 'one week' be substituted."

(The amendment also stood in the names of Shri P. Ramdurai and Shri Pattam Rajan.)

The questions were proposed.

MR. DEPUTY CHAIRMAN: I think enough has been said about these points. If the hon. Member will agree, we can straightway go to the stage of voting. Otherwise we will take still more time. Nothing new will come out. (Interruptions) All right, go ahead.

श्री शिव चन्द्र झा : नहीं नहीं, बोलेंगे ।

MR. DEPUTY CHAIRMAN: But please do not repeat the arguments that have been advanced. I will stop if repetition is there.

SHRI P. RAMAMURTI: Those arguments will not be repeated.

MR. DEPUTY CHAIRMAN The same arguments are being repeated.

श्री लखन सिंह ((उत्तर प्रदेश) :  
उपसभापति महोदय, मेरे अमेंडमेंट में है कि पृष्ठ 5 पर पंक्ति 11 और 12 में "उस आदेश के अधीन किसी व्यक्ति के निरोध की तारीख तीन सप्ताह के भीतर" शब्दों के स्थान पर "यथाशक्य शीघ्र किन्तु किसी भी दशा में उस आदेश के अधीन किसी व्यक्ति के निरोध की तारीख से एक सप्ताह के भीतर" शब्द प्रतिस्थापित किये जायें ।

श्री उपसभापति : आप का अमेंडमेंट तो स्वतः स्पष्ट है। इस पर तो बोलने की आवश्यकता नहीं है।

श्री लखन सिंह : मान्यवर, यह बात समझ में नहीं आती है कि 21 दिन अधिकारियों को क्यों दिये जा रहे हैं। इतने समय में अधिकारीगण पहले किसी व्यक्ति का निरोध कर देंगे और बाद में उस के खिलाफ झूठ आरोप लगा कर अपनी बात को साबित करने के लिये इस प्रकार के कदम उठा सकेंगे। मान्यवर, कुछ समय पहले माननीय गृह मंत्री जी संविधान की प्रस्तावना पढ़ रहे थे। मैं समझता हूँ कि मेरा संशोधन संविधान की प्रस्तावना संविधान में उल्लिखित मौलिक अधिकारों के अनुरूप है क्योंकि 21 दिन का समय देना और व्यक्ति को निरुद्ध रखना, यह व्यक्तिगत स्वातंत्र्य और उसकी गरिमा के विरुद्ध है। तो मैं, मान्यवर, आपके माध्यम से मंत्री जी से निवेदन करना चाहूँगा कि मेरे इस संशोधन को वह स्वीकार करें।

श्री शिव चन्द्र झा : उपसभापति जी, मेरा संशोधन है कि जब कोई आदमी डिजेशन में लिया गया है तो सरकार को तीन हफ्ते का समय सब ग्राउंड्स ऐडवाइजरी बोर्ड के सामने पेश करने के लिये मिलता है। मेरा कहना है कि 3 सप्ताह को दो ही सप्ताह कर दें। अध्यक्ष महोदय, यह तो मानी हुई बात है कि यह बिल हमारी शहरी हकूकों के खिलाफ है, लेकिन फिर भी जितनी जल्दी हो सके उनके साथ न्याय किया जाये। तीन सप्ताह ज्यादा समय है, इसको दो सप्ताह के अन्दर अप्रोप्रियेटे अथारिटी स्पेशल ग्राउंड्स को लेकर ऐडवाइजरी बोर्ड जो बनेगा उसके सामने रखे। यही मेरा संशोधन है।

SHRI DINESH GOSWAMI: My amendment is almost similar to that of Mr. Lakhan Singh. Therefore, I do not want to speak.

SHRI KALYAN ROY: I do not say anything.

SHRI HARKISHAN SINGH SUR-JEET; Sir, I do not want to repeat what has already been said.

ज्ञानी जी यहां है नहीं, नहीं तो कहता कि कम से कम तीन हफ्ते के बजाय एक हफ्ता मान लें।

The clause is there. Everything remains. Why can't the Government send its charges within one week?

ज्ञानी जी इतना तो कम से कम मान लेते कि 3 की जगह 1 लिख दें।

MR. DEPUTY CHAIRMAN: Now, the question is:

75. "That at page 4, line 32, for the words 'within three weeks from the date of detention of a person under the order' the words 'as soon as may be, but in any case within one week from the date of detention of a person under the order' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

76. "That at page 4, line 32, for the words 'three weeks' the words 'two weeks' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

77. "That at page 4, line 32, for the words 'three weeks' the words 'one week' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

149. "That at page 4, line 32, for the words 'three weeks' the words 'ten days' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

150. "That at page 4, line 32, for the words 'three weeks' the words 'one week' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: Now, I put clause 10. The question is:

"That clause 10 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN. Ayes—112; Noes—66.

AYES—112

Ali, Shri Syed Rahmat Amarjit Kaur,  
Shrimati Amla, Shri Tirath Ram  
Arif, Shri Mohammed Usman  
Balram Das, Shri Barman, Shri  
Prasenjit Bhagwan Din, Shri  
Bhamidipati, Shri Krishna Mohan  
Bhandare, Shri Murlidhar Chandra-kant  
Bharadwaj, Shri Ramchandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar. Shrimati Moragatham  
Chattopadhyaya, Prof. D. P.  
Chowdhari, Shri A. S.  
Das, Shri Bipinpal

Das, Shrimati Monika  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dinesh Chandra, Shri Swami  
 Dinesh Singh, Shri  
 Dharamvir, Shri  
 D'Souza, Dr. Joseph Leon  
 Gopalsamy, Shri V.  
 Gupta, Shri Gurudev  
 Habibullah, Shrimati Hamida  
 Handique, Shri Bijoy Krishna  
 Haq, Shri (Molana) Asrarul  
 Hanspal, Shri Harvendār Singh  
 Heptulla Dr. (Shrimati) Najma  
 Ibrahim, Shri B.  
 Jain, Shri Dharamchand  
 Jain, Shri J. K.  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manishan-  
 kar  
 Kalaniya, Shri Ibrahim  
 Kamble Prof. N. M.  
 Kesri, Shri Sita Ram  
 Khan, Shri F. M.  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khaparde, Shrimati Saroj  
 Krishna, Shri M. R.  
 Krishna, Shri U. R.  
 Kureel, Shri Piare Lal Urf Piare  
 Lall Talib Unnavi  
 Lokesh Chandra, Dr.  
 Maddanna, Shri M.  
 Madni, Shri Asad  
 Makwana, Shri Yogendra  
 Malhotra, Shrimati Usha  
 Malik, Shri Syed Abdul  
 Manhar, Shri Bhagatram  
 Maran, Shri Murasoli  
 Maurya, Shri Buddha Priya  
 Meena, Shri Dhuleshwar  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhaisekar, Shri G. R.

Mirdha, Shri Ram Niwas  
 Mishra, Shri Mahendra Mohan  
 Mistry, Shrimati Roda  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Shyam Sundar  
 Mondal, Shri Ahmad Hossain  
 Moopana, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri G. Swamy  
 Nalwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Pande, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla Shri Mohammad  
 Rai, Shri Kalpnath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha



Singh, Dr. Rudra Pratap  
Sisodia, Shri Sawaisingh  
Sujan Singh, Shri  
Sukul, Shri P. N.  
Sultan, Shrimati Maimoona  
Sultan Singh, Shri  
Vaishampayan, Shri S. K.  
Venkatarao, Shri ChadaIavada  
Verma, Shri Shrikant  
Yadav, Shri Ramanand  
Zakaria, Dr. Rafiq

NOES—66

Advani, Shri Lal K.  
Ashwani Kumar, Shri  
Bagaitkar, Shri Sadashiv  
Banerjee, Shri Jaharlal  
Bhabhra, Shri Hari Shankar  
Bhagat, Shri Ganapat Hiralal  
Bhandari, Shri Sunder Singh  
Bhattacharjee, Prof. Sourendra  
Bhattacharya, Shri G. C.  
Bhattacharya, Shrimati Ila  
Bhola Prasad, Shri  
Bose, Shrimati Pratima  
Dhabe, Shri Shridhar Wasudeo  
Ghose, Shri Sankar  
Goswami, Shri Biswa  
Goswami, Shri Dinesh  
Gupta, Shri Bhupesh  
Gupta, Shri Ram Lakhan Prasad  
Hansda, Shri Phanindra Nath  
Imam, Shrimati Aziza  
Jaswant Singh, Shri  
Jha, Shri Shiva Chandra  
Joshi, Shri Jagannathrao  
Kakati, Shri Robin  
Kalyanasundaram, Shri M.  
Khandelwal, Shri Pyarelal  
Kumaran, Shri S.  
Lakhan Singh, Shri  
Lepcha, Shri Sangdopal  
Madhavan, Shri K. K.  
Malik, Shri Satya Pal

Mallick, Shri Harekrushna  
Master, Shri K. Chathunni  
Mathur, Shri Jagdish Prasad  
Mishra, Shri Kalraj  
Mohinder Kaur, Shrimati  
Mohunta, Shri Sushil Chand  
Morarka, Shri R. R.  
Mukherjee, Shrimati Kanak  
Mukhopadhyay, Shrimati Purabi  
Nanda, Shri Narasingha Prasad  
Nigam, Shri Ladli Mohan  
Oza, Shri Ghanshyambhai  
Pant, Shri Krishna Chandra  
Patel, Shri Manubhai  
Patel, Dr. Shanti G.  
Pradhan, Shri Patitpaban  
Rajan, Shri Pattiam  
Raju, Shri V. B.  
Ramamurti, Shri P.  
Rameshwar Singh, Shri  
Reddy, Shri B. Satyanarayan  
Roy, Shri Kalyan  
Sarup Singh, Dr.  
Scindia, Shrimati Vijaya Raje  
Sezhiyan, Shri Era  
Shahabuddin, Shri Syed  
Shahedullah Shri Syed  
Shahi, Shri Nageshwar Prasad  
Sharma, Shri Ajit Kumar  
Shastri, Shri Bhola Paswan  
Sinha, Shri Indradeep  
Surendra Mohan, Shri  
Surjeet, Shri Harkishan Singh  
Tohra, Sardar Gurcharan Singh  
Yadav, Shri Hukmdeo Narayan

*The Motion was adopted.*

*Clause 10 was added to the Bill.*

*Clause 11 (Procedure of Advisory Boards)*

MR. DEPUTY CHAIRMAN: Now, we shall take up clause 11.

SHRI SHIVA CHANDRA JHA: Sir, I move—

78. "That at page 5, line 2. for the words 'Seven weeks' the words 'five weeks' be substituted."

SHRI JASWANT SINGH: Sir, I move—

79. "That at page 5, line 2, for the words 'Seven weeks' the words 'four weeks' be substituted."

SHRI MANUBHAI PATEL: Sir, I move—

80. "That at page 5, line 2. for the words 'Seven weeks' the words 'two weeks' be substituted."

81. "That at page 5, line 2, for the words 'seven weeks' the words 'one week' be substituted."

86. "That at page 5, after line 14. the following be inserted, namely: —

'(5) Except in extraordinary circumstances the Government shall accept and give effect to the recommendations of the Advisory Board'."

*(The amendment Nos. 80, 81 and 86 also stood in the names of Shri Era Sezhiyan, Shri Ghanshyambhai Oza, Prof. Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel.)*

SHRI BHUPESH GUPTA: Sir, I move—

82. "That at page 5, after line 3, the following be inserted, namely: —

'(DA. The Advisory Board shall allow every opportunity to the person detained to disprove the alleged grounds'."

SHRI LAL K. ADVANI: Sir, I move—

S3. "That at page 5. lines 10 to M be deleted."

*(The amendment also stood in the names of Shri Jagdish Prasad Mathur, Shri Era Sezhiyan, Shri Ghanshyambhai Oza, Shri Mamihai Patel, Prof. Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel.)*

84. "That at page 5, line 10, for the word 'entitle' the word 'bar' be substituted."

*(The amendment also stood in the name of Shri Jagdish Prasad Mathur.)*

SHRI V. B. RAJU: Sir, I move—

85. "That at page 5, lines 10-11, for the words 'Nothing in this section shall entitle any person against whom a detention order has been made' the words 'Every person against whom a detention order has been made shall be entitled' be substituted."

*(The amendment also stood in the name of Shri Jaswant Singh.)*

SHRI M. KALYANASUNDARAM: Sir, I move—

151. "That at page 5, line 1, after the word 'person' the words 'and through an advocate of his choice if he wants' be inserted."

*(The amendment also stood in the names of Shri S. Kumaran, Shri Kal-yan Roy, Shri Indradeep Sinha and Shri Bholu Prasad.)*

152. "That at page 5, line 2, for the words 'seven weeks' the words 'two weeks' be substituted."

*(The amendment also stood in the names of Shri S. Kumaran, Shri Kal-yan Roy, Shri Indradeep Sinha, Shri Bholu Prasad, Shri P. Ramamurti, Shri Harkishan Singh Surjeet and Shri Pattiam Rajan.)*

154. "That at page 5, lines 10 to 14 be deleted."

*(The amendment also stood in the names of Shri S. Kumaran, Shri Kalyan Roy, Shri Indradeep Sinha and Shri Bholu Prasad.)*

SHRI HARKISHAN SINGH SUR-IEET: Sir, I move—

[Shri Harkishan Singh Surjeet]

153. "That at page 5, line 10, for the word 'entitle' the word 'disentitle' be substituted."

155. "That at page 5, lines 2 to 14, the words 'and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential' be deleted."

(The amendment also stood in the names of Shri P. Ramamurti and Shri Pattiam Rajan.)

*The questions were proposed.*

श्री शिव चन्द्र झा : उपसभापति जी, मेरा जो संशोधन क्लॉज 11 में है वह बहुत आसाम है बिल्कुल साफ है। -समें कहा जाता है कि एडवाइजरी बोर्ड जो मेटिरियल चाहेगा सब मंगा कर उस पर विचार करके अपने निर्णय अप्रोप्रिएट सरकार के पास 7 सप्ताह में दे देगा। मेरा है कि 7 सप्ताह के बजाय 5 सप्ताह कर दिया जाये। वैसे तो 5 सप्ताह भी बहुत ज्यादा है। मैं चाहता हूँ कि पाँच सप्ताह के अंदर एडवाइजरी बोर्ड अपना निर्णय अप्रो-प्रिएट सरकार के पास जिसने उसको डिटेन किया है, गिरफ्तार किया है, डिटेन्शन में रखा है, जेल की दीवारों ने रखा है उसको सतावा है उस सरकार के सामने रख दें। यह एक इंसान के साथ बहुत मिनियम न्याय है। 7 सप्ताह की बजाय आप पाँच सप्ताह मान लें यह मेरा संशोधन है।

SHRI JASWANT SINGH: Mr. Deputy Chairman, I have two substantial amendments to Clause 11. Wherever my amendments have been, they are of such a nature that by reading them they could be understood. I would not take the time of the House. I would submit for the honourable Home Minister's consideration through your courtesy, that in this Clause, Clause 11, there are two matters of

considerable importance which I would like the Minister to pay particular attention to. The first is an amendment that I am moving for reduction of the period specified here from seven weeks. This period relates to submission of the report to the appropriate Government. I have tabulated the time. If a person—man or woman—is arrested under this Bill, and if he goes through all the processes of this Bill at the end of which he is found to be innocent by the Advisory Board, even then he will have to spend 105 days in detention. Even under the best of circumstances, it takes 10 days for the grounds to be made available to him; 15 days for them to remain in force; 7 days for the report to be submitted to the Cen- ♦ tral Government, 21 days for the submission of the case to the Advisory Board and 49 days for the Advisory Board to make its own submission, and if things move very fast, after the submission of the Advisory Board's report, it will take at least 3 days for the appropriate Government to come to a decision. The total number of days for which the person can be kept in detention is 105. If at the end of 105 days, the person is found to be wrongfully detained and should, therefore be released, even then he will have been kept confined for 105 days. That is the ground on which I say that 7 weeks 4j should be reduced to 4 weeks. It reflects a sense of urgency, it reflects a sense of doing justice, and it reflects the desire to do justice.

My second amendment is of considerable significance and it is about not permitting lawyers to represent a person who is detained. This is an incredible piece of legislation. After all the man is aggrieved, but the bill says that he cannot be represented by a lawyer. What kind of justice are you talking about? The man may be illiterate; he may not have the capacity to plead for himself. He may be ill; he may not have any legal knowledge. Still you are trying to enact specifically that he shall not be entitled to be represented by a lawyer. I appeal to the hon. Minister's sense of justice to show some consideration for justice . . .

ME. DEPUTY CHAIRMAN: That will do.

SHRI JASWANT SINGH: I hope it \* does.

SHRI SYED SHAHABUDDIN (Bihar) : Mr. Deputy Chairman, I would not press my, particularly, my first amendment because it has been ably dealt with by my friend. Mr. Jaswant Singh. I also feel that since the case has already passed clause 11), my amendment has lost its force.

My second amendment is to sub-use (4) of clause (II) which relates to the denial of the right of representation by a legal practitioner. To my mind, this is a very, very essential aspect of the matter. It is an essential principle of jurisprudence that no innocent person should suffer. I hope at least here I have the Home Minister with me on this point. He has emphasized time and again during the debate that he is particularly conscious of this fact that in this process innocent persons should not suffer. Therefore, I remind him of this essential principle of jurisprudence. Here, we have a situation in which the individual is pitted against the whole might of the State. Everything is weighted against him and from the word 'so', everything in every stage is against him and the situation itself is totally against him. Here, the only thing in his favour is that you say that if he so wishes, he shall be heard by the Advisory Board. To my mind that is not adequate. He may not have sufficient capacity. He may not have sufficient competence. He may not have sufficient experience or legal knowledge to defend himself to pick holes in the case of the Government; he may not be able to expose the internal contradictions in the case against him. We know that many a time false cases are instituted on very personal grounds of Jealousy and enmity. We know how the administration functions in a very partial manner and, therefore, I hope that the Home Minister would be conscious that if he takes away this right of being represented by a legal practitioner, he is in 1500 RS—13.

fact subverting the entire process of justice. One more point I would like to make: I wish to remind the Home Minister that the lawyer in a judicial process is not a servant of the party-he represents, but he is an officer of the court and, therefore, the presence of a legal practitioner, on whom the responsibility to defend the detainee is placed, will be of assistance to the Board in arriving at a fair and just and reasonable conclusion. Therefore, it is not only in the interest of the detainee, in the interest of the man who is no more than a suspect, but also in the interest of the State which proclaims justice as its goal and which wishes to do justice, it is also in the interest of the Board which has been vested with this very high responsibility of finding out the truth that this should be allowed. Sir, I have not taken part in the debate. But I have been listening to this debate with great attention. Somebody said that this bill is like old wine in a new bottle. Sir, it is really old wine in a very very cold bottle . . .

SHRI P. RAMAMURTI: it is country liquor.

SHRI SYED SHAHABUDDIN: . . . with a very new label. Sir, since the Home Minister is very fond of couplets. I would like to remind him that perhaps from behind the scene someone commanded him—

“शराबे कुहन फिर पिला साकिया,

वही जाम गरदिन में ला साकिया”

and he has obliged. But I would like to caution the Home Minister, since he knows Persian, through a proverb in Persian-

“चाह कुनरा चाह दरपेश”

Mr. Minister. Please do not forget that one who digs the pit falls into it.

श्री जगदीश प्रसाद मावुर : श्रीमान्, शाहबुद्दीन जी और जसबन्त सिंह जी ने जो कुछ कहा है मैं उसका समर्थन करता हूँ। सरदार जी बहुत नाराज़ हुए थे, जब किसी ने उसके संदर्भ में रिलेट एक्ट का जिक्र किया था। यहाँ न वकील है न दलील है और न अपील है। यहाँ अपील है लेकिन वकील और

[ श्री जगदीश प्रसाद माथुर ]

दलीलें खत्म कर दी हैं और दो तिहाई हुकूमन तानाशाही तरीके की हो रही है। इसलिये वकील को खड़ा किया जाना चाहिए ताकि वह दलीलें जो हैं वह दे सकें। इसलिये मैं फिर से अपील करना चाहता हूँ कि मेरी जी आप कान खोलकर सुनें कि वकील खड़ा करने का प्रावधान होना चाहिए और इसलिये मैं कहना हूँ कि इन लाइन को हटा दिया जाय। दूसरा कारण और है इसमें कहा गया है कि  
" . . . and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Board is specified, shall be confidential."

यानी जो कि वह अन्त में फैसला दे देगा वह तो भूलजिम को बताया जायेगा, बाकी बोर्ड क्या करता है वह भी उसको जानकारी नहीं दी जायेगी। आप वकील भी नहीं रखना चाहते, दलील भी सुनने नहीं देते। आदमी अनपढ़ है। बाद में उनके ऊपर जो फैसला आ जाता है तो उसको भी कॉन्फिडेंशियल रखा जाये यानी इन्तहा है, आपकी बर्बरता की इन्तहा है। आप आदमी को बताना भी नहीं चाहते कि वह क्यों पकड़ा गया है। आपको यह नहीं भूलना चाहिए कि जो पकड़ा जाता है वह भी देश का नागरिक है और जो हकूक आपकी कांग्रेस पार्टी के अन्दर मौजूद सदस्यों के हैं वही उसके भी हैं, वही समान अधिकार गरीब अमीर औरत मर्द के हैं। आप उन अधिकारों को छीन रहे हैं। ऐसे ही किसी के बारे में कुछ सुनेंगे और उसे पकड़ लिया जायेगा, बन्द कर देंगे, इसलिये मैं कहता हूँ कि कम से कम ये चार लाइन निकाल दीजिये। कुछ लोग थे, जो समझदार थे वे अंग्रेजों की तानाशाही को समाप्त करना चाहते थे। इसलिये कम से कम कुछ समझदारी नर्प पुरुषों के लिये छोड़ दीजिये वरना लोग कहेंगे और जैसा कि आडवाणी साहब ने कहा कि मरदार जैन सिंह जेल सिंह हो जायेंगे।

श्री उपसमापति : हो गया, दोहराये  
मन।

MR. DEPUTY CHAIRMAN : Yes.  
Raju.

SHRI V. B. RAJU: Sir, my request is this: I do not request for the deletion of four lines, but only one word. In sub-clause (4), only one word is to be changed: Instead of saying "Nothing in this section shall entitle a person", you can say, "Nothing in this section shall bar a person". In the place of the word "entitle", you can use the word "bar".

'इन्टाइटल' की जगह पर 'बार' रखिये,  
आमान है, बहुत आमान है।

I do not understand why the law should make a distinction between one type of detainee and another type. You have got two types of detainees. One, those who are charged with murder. For them, you are allowing legal assistance. Here is a fellow whom you suspect, but to him you are denying legal assistance. I just bring to the notice of the Minister as to what is happening elsewhere, in England, Regulation 18B authorises detention of any person whom the Secretary of State had reason to believe was of hostile origin or association. The detention was not justiciable before a court of law but was liable to be reviewed by the Advisory Committee before whom the detainee could however be represented by a solicitor. Sir, nowhere in the world an individual is denied legal assistance. Mr. Zail Singh, Home Minister, are you going to prevent the detainee from having medical assistance also? Tomorrow he becomes sick. Are you going to deny him medical assistance also?

MR. DEPUTY CHAIRMAN: MR. Kalyanasundaram.

SHRI M. KALYANASUNDARAM: I have given four amendments on this. The whole scheme of Advisory Board conceived in this Bill under sections 9, 10 and 11, will reduce the whole functioning of the Advisory

Board into a farce. The composition of the Advisory Board is also left to the pressure of the Executive. The

- » material on which the Advisory Board will also act will also be prepared and cooked up by officials. Now, in this situation, why should the detainee not be allowed to appear before the Advisory Board for personal representation or through an advocate? That help is denied. It is left to the Advisory Board. If they think, they can call the person. Why not to make it obligatory? That, is the purpose for which I have given this amendment, that the appearance before the Advisory Board also must be obligatory. If the detainee so desires, he **must** be al-

% lowed to have the help of an advocate.

**श्री हरकिशन सिंह सुरजीत:** उपसभापति जी, मुझे इस संबंध में तीन बातें कहनी हैं (Interruptions) जानीं जो ज़रा मुन लें (Interruptions) इतना तो डिकोरम में नटेन करें कि व मुन रहे हैं, चाहे न मुन रहे हों। तो कम से कम यह तो हो कि हाऊस में वे लोगों को मुन रहे हैं। पहली बात यह है कि बोर्ड के डिमिशन होने के बाद सात हफ्ते की क्या जरूरत है कि उनको अन्दर रखा जाए। अगर वह निर्दोष साबित हो जाए, उनके मृताधिक भी तो फिर सात हफ्ते के लिए क्यों अन्दर रखा जाए? यह एक बहुत ही वाजिब बात है कि दो हफ्ते का टाइम बहुत काफी है इस बात के लिए कि बोर्ड अपनी ओपीनियन बनवा कर दे। यह बिल्कुल नावाजिब बात है चाहे जानी जी कुछ भी करें इसको वे जस्टिफाई नहीं कर सकते कि मुनने के बाद बोर्ड अपनी ओपीनियन बनवा करने में सात हफ्ते लगा दे। दूसरी बात यह है कि मैं आपको याद दिलाना चाहता हूँ हंटर कमेटी का कांग्रेस ने वायकाट किया था। उस वक्त पंडित मदन मोहन मालवीय जी मदर थे उस वक्त की सरकार ने यह इन्कार कर दिया कि न तो हम नज़रबन्दों को मिलने देंगे और न उनके लिए वकील करने देंगे और उसके बाद में कांग्रेस ने फैसला किया कि इसका वायकाट

कर दिया जाए। उस कमेटी में पंडित मोती लाल जी थे, थोड़ा और इजाफा किया गया महात्मा गांधी और पंडित जवाहर लाल नेहरू जी को शामिल कर दिया गया और कहा गया कि हम इन्वॉयरी इस बात की करेंगे। लेकिन हमारे यहां तो आपने यह भी मना कर दिया है; वकील भी नहीं कर सकते हैं, इस को भी मना कर दिया गया है।

तीसरी बात यह है कि अगर एक मिनट को यह मान लिया जाए कि चोर बाजारियों या ऐसे लोगों को ही पकड़ना है, एंटी स्पेशल एल्लोमेंट्स को पकड़ना दरकार है तो उसका कार्यवाही को छिपा कर रखने की क्या बात है। करेज होनी चाहिए इनमें इसको एक्सपोज करने की। सामने आएँ और उनके लिए बताया जाए कि वह ज़रायम है ताकि लोगों की स्थिती हासिल की जाए। इनको एक्सपोज किया जाए। मैं मानता हूँ कि यह सुझाव मान लेने चाहिए।

MR. DEPUTY CHAIRMAN:.. The question is:

78. "That at page 5, line 2, for the words 'Seven weeks' the words 'Ave weeks' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

79. "That at page 5, line 2, for the words 'Seven weeks' the words 'four weeks' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

80. "That at page 5, line 2, for the words 'seven weeks' the words 'two weeks' be substituted."

81. "That at page 5, line 2, for the words 'seven weeks' the words 'one week' be substituted."

[Mr. Deputy Chairman]

86. "That at page 5, after line 14, the following be inserted namely:—

'(5) Except in extraordinary circumstances the Government shall accept and give effect to the recommendations of the Advisory Board.' "

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

82. "That at page 5, after line 3, the following be inserted, namely :-

'(1)A. The Advisory Board shall allow every opportunity to the person detained to disprove the alleged grounds.' "

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

83. "That at page 5, lines 10 to 14 be deleted."

84. "That at page 5, line 10, for the word 'entitle' the word 'bar' be substituted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

85. "That at page 5, line 10-11, for the words 'Nothing in this section shall entitle any person against whom a detention order has been made' the words 'Every person against whom a detention order has

been made shall be entitled' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

151. "That at page 5, line 1, after the word 'person' the words 'and through any advocate of his choice if he wants' be inserted."

152. "That at page 5, line 2, for the words 'seven weeks' the words 'two weeks' be substituted."

154. "That at page 5, lines 10 to 14 be deleted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

153. "That at page 5, line 10, for the word 'entitle' the word 'disentitle' be substituted."

155. "That at page 5, lines 12 to 14, the words 'and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential' be deleted."

*The motions were negatived.*

THE DEPUTY CHAIRMAN: The question is:

"That clause 11 stand part of the Bill."

*The House divided*

MR. DEPUTY CHAIRMAN: Ayes— 117: Noes—66.

AYES—117

- |   |  |
|---|--|
| Ali, Shri Syed Rahmat                       | Khan, Shri F. M.                                       |
| * Amarjit Kaur, Shrimati                    | Khan, Shri Khurshed Alam                               |
| Amla, Shri Tirah Ram                        | Khan, Shri Maqsood Ali                                 |
| Arif, Shri Mohammed Usman                   | Khaparde, Shrimati Saroj                               |
| Balram Das, Shri                            | Krishna, Shri M. R.                                    |
| Banerjee, Shri B. N.                        | Krishnan, Shri U. R.                                   |
| Barman, Shri Prasenjit                      | Kureel, Shri Piare Lall Urf Piare<br>Lall Talib Unnavi |
| Bhagwan Din, Shri                           | Lokesh Chandra, Dr.                                    |
| Bhamidipati, Shri Krishna Mohan             | Maddanna, Shri M.                                      |
| Bhandare, Shri Murlidhar Chandra-<br>kant   | Madni, Shri Asad                                       |
| Bharadwaj, Shri Ramchandra                  | Makwana, Shri Yogendra                                 |
| Bhatt, Shri Nand Kishore                    | Malhotra, Shrimati Usha                                |
| * Bhim Raj, Shri                            | Malik, Shri Syed Abdul                                 |
| Chanana, Shri Charanjit                     | Manhar, Shri Bhagatram                                 |
| Chandrasekhar, Shrimati Maragatham          | Maran, Shri Murasoli                                   |
| Chattoopadhyaya, Prof. D. P.                | Maurya, Shri Buddha Priya                              |
| Chowdhari, Shri A. S.                       | Meena, Shri Dhuleshwar                                 |
| Das, Shri Bipinpal                          | Mehrotra, Shri Prakash                                 |
| Das, Shrimati Monika                        | Mehta, Shri Om   |
| Deshmukh, Shri Bapuraoji Marotraoji         | Mhaisekar, Shri G. R.                                  |
| Dinesh Chandra, Shri Swami                  | Mirdha, Shri Ram Niwas                                 |
| Dinesh Singh, Shri                          | Mishra, Shri Mahendra Mohan                            |
| Dharmavir, Shri                             | Mistry, Shrimati Roda                                  |
| D'Souza, Dr. Joseph Leon                    | Mohanty, Shri Surendra                                 |
| * Gopalsamy, Shri V.                        | Mohapatra, Shri Shyam Sundar                           |
| Gupta, Shri Gurudev                         | Mondal, Shri Ahmad Hossain                             |
| Habibullah, Shrimati Hamida                 | Moopnar, Shri G. K.                                    |
| Handique, Shri Bijoy Krishna                | Mukherjee, Shri Pranab                                 |
| Haq, Shri (Molana) Asrarul                  | Mulla, Shri Suresh Narain                              |
| Hanspal, Shri Harvendar Singh               | Munusamy, Shri V. P.                                   |
| Heptulla, Dr. (Shrimati) Najma              | Muthu, Dr. (Shrimati) Sathiavani                       |
| Ibrahim, Shri B.                            | Naidu, Shri N. P. Chengalraya                          |
| Jadhav, Shri Pandurang Dharmaji             | Naik, Shri G. Swamy                                    |
| Jain, Shri Dharamchand                      | Nalwa, Shri Hari Singh                                 |
| Jain, Shri J. K.                            | Narendra Singh, Shri                                   |
| Joshi, Shri Krishna Nand                    | Pande, Shri Bishambhar Nath                            |
| * Joshi, Shrimati Kumudben Manishan-<br>kar | Pandey, Shri Narsingh Narain                           |
| Kalaniya, Shri Ibrahim                      | Pandey, Shri Sudhakar                                  |
| Kamble, Dr. N. M.                           | Pandey, Shrimati Manorama                              |
| Kesri, Shri Sitaram                         | Paswan, Shri Ram Bhagat                                |
|   | Pattanayak, Shri Bhabani Charan                        |
|   | Prajapati, Shri Pravin Kumar                           |



Prasad, Shri K. L. N.  
 Rahamathulla Shri Mohammad  
 Raj, Shri Kalpnath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sible  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

## NOES—66

Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh

Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bhola Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhan Prasad  
 Hansda, Shri Phanindra Nath  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandewal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhan Singh, Shri  
 Lepcha, Shri Sangdopal  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohindar Kaur, Shrimati  
 Mohanta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladi Mohan  
 Oza, Shri Ghanshyambhai  
 Pant, Shri Krishna Chandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Raju, Shri V. B.  
 Ramamurti, Shri P.

Eameshwar Singh, Shri Reddy, Shri B. Satyanarayan > Roy, Shri Katyan Sarup Singh, Dr. Scindia, Shrimati Vijaya Raje Sezhiyan, Shri Era Shahabuddin. Shri Syed Shahedullah, Shri Syed Shahi. Shri Nageshwar Prasad Sh'arma, Shri Ajit Kumar Shastri, Shri Bhola Paswan Sin ha, Shri indradeep Suiendra Mohan, Shri Surjeet, Shri Harkishan Singh

ihra. Sardar Gurcharan Singh Viidav. Shri HukmiJse Narayaff

*The motion was adopted.*

*Clause 11 was added to the Bill.*

MR. DEPUTY CHAIRMAN: Now amendment of New Clause HA by Shri Era Sezhiyan.

SHRI ERA SEZHIYAN: Sir, I beg I move.

87. "That at page 5. after line 14, the following new clause be inserted 0 namely: —

'11 A. (1) In every case where a detention of a person is to be continued for a period of more than three months appropriate Government shall plac<sub>e</sub> before the Advisory Board all the grounds for continuance of detention of the person at least fifteen days before the expiry of the detention period.

(2) If the Advisory Board has reported that there is, in its opinion no sufficient cause for continuance of detention of the person concerned, the person shall be released immediately after the term expires'."

(The amendment also stood w the iiamtfe of Shri Ghanshyambhai Oza

*Shri Manubhai Patel, Prof Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and<sup>Dr</sup> Shanti G. Patel.)*

To be very brief, Sir, I have de manded that no detention of a person should be made unless with the ap proval of the Advisory Board of all the grounds. If there is no suffi- cient reason, that man should be released forthwith. That is the crux of mv amendment.

*The question was proposed.*

MR. DEPUTY CHAIRMAN: The question is.

87. "That at page 5, after line 14, the following new clause be insert ed namely: —

MLA. (1) In every case where a detention of a person is to be continued for a period of more than three months appropriate Government shall place before the Advisory Board all the grounds for continuance of detention of the person at least fifteen days before the expiry of the detention period.

(2) If the Advisory Board has reported that there is, in its opinion no sufficient cause for continuance of detention of the person concerned, the person shall b<sub>e</sub> released immediately after the term expires'."

*The motion was negatived.*

*Clause 12 (Action upon the report of the Advisory Board.)*

MR. DEPUTY CHAIRMAN: Now. we take up Clause 12. There are five amendments.

SHRI ERA SEZHIYAN; Sir, I beg to move:

88. "That at page 5, line 18. for the words 'such period as it thinks fit' the words 'not more than ome month' be substituted."

I Shri Era Sezhiyanl

90. "That at page 5, line 22 alter • the words 'released forthwith' the words 'with appropriate compensation for the financial loss suffered by the detenue which the Advisory Board may decide,' be inserted."

(The amendment Nos. 88 and 90 also stood ki the names of Shri Ghan. shyambhai Oza, Shri Manuhhai Patel, Prof. Ramlcti Parikh, Dr. M. M. S. j Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel.)

SHRI JASWANT SINGH; Sir, I beg to move;

a». "That at page 5, after line 18, the following be inserted, namely: —

'Provided that the case is placed before the Advisory Board at intervals of one month, for its approval to continue the detention of the person concerned.'

SHRI M. KALYANASUNDARAM: Sir, I beg lo move;

156. "That at page 5, linē 18, for the words 'such period as it thinks fit' the words 'not more than one month' be substituted."

157. "That at page 5, linē 22, after th<\* word forthwith' the words 'with i appropriated compensation for the financial loss suffered by the detenue which the Board may decide he inserted."

(The amendment Nos. 156 and 157 also stood in the names of Shri S. Kumaran, shri Kalyan Roy. Shri In-dradeep Sinha and Shri Bhola Prasad.)

The Question^ toere proposed.

SHRI ERA SEZHIYAN: Sir. it is said here m the Bill that:

(1) "In any case where the Advisory Board has reported that

therē is. in its opinion, sufficient cause for the detention of a p\* ihe appropriate Government may confirm the detention order and continue the detention of the person concerned for such period thinks tit."

Therefore, we are leaving the discretion here to the Government a<sup>t</sup> to how long that person cart be in detention. Here, I am suggesting tiat it should be for not more than one month. And beyond that, it should again come before the Board.

SHRI JASWANT SINGH ; Sir. % " I as Clause 12 is concerned, I wouM draw your attention to the fact that the Advisory Board has no jurisdiction to determine as to how long the person is to be detained. Whether the detention is justified or not justified, thereafter it is a political, executive decision of the State to state for how long they are going to detain a person. In the initial stages, as it is, the ground for detention is subject to the approval of the Advisory Board. As to what the quantum of detention should be, the Advisory Board has no voice at all. My amendment makes a statement... Sir, there is much merriment on the Treasury Benches. Should I wait fill their laughter is over?

MR, DEPUTY CHAIRMAN: You please continue.

SHRI JASWANT SINGH: I submit for the hon. Home Minister's consideration that if you are granting the Advisory Board the right to determine whether you have detained a person rightly or wrongly and thereafter not giving the Advisory Board the right to say for how long.

then I would say. please permit the Advisory Board to review the detention at a specified periodicity.

11 P.M.

My amendment relates to laying down that periodicity, within which the State is obliged to refer the case to advisory board to say the continued detention of a person is necessary under this Act. I would submit to the hon. Home Minister to consider this amendment.

SHRI M. KALYANASUNDARAM: Sir, the past experience of the advisory boards is well known. They function only as rubber stamps. My experience is that there has not been a single case where the detainee was released on the advice of the advisory board. When such is the case my amendment seeks to reduce the period of detention.

MR. DEPUTY CHAIRMAN: Does the hon. Home Minister want to say anything?

GIANI ZAIL SINGH: No, Sir.

MR. DEPUTY CHAIRMAN: I will now put the amendments to vote.

The question is:

88. "That at page 5, line 18, for the words 'such period as it thinks fit' the words 'not more than one month' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

89. "That at page 5, after line 18, the following be inserted, namely: —

'Provided that the case is placed before the Advisory Board at in-

tervals of one month, for its approval to continue the detention of the person concerned'."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

911. •That at page 5, line 22, after the words 'released forthwith' the words "with appropriate compensation for the financial loss suffered by the detainee which the Advisory Board may decide," be inserted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

156. "That at page 5, line 18, for the words 'such period as it thinks fit' the words 'not more than one month' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

157. "That at page 5, line 22, after the word 'forthwith' the words 'with appropriate compensation for the financial loss suffered by the detainee which the Board may decide' be inserted."

*The motion, was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 12 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes—117; Noes—66.

## AYES—117

Ali, Shri Syed Rahmat	Khan, Shri Maqsood Ali
Amarjit Kaur, Shrimati	Khaparde, Shrimati Saroj
Amla, Shri Tirath Ram	Krishna, Shri M. R.
Arif, Shri Mohammed Usman	Krishnan, Shri U. R.
Balram Das, Shri	Kureel, Shri Piare Lal Urf
Banerjee, Shri B. N.	• Piare Lal Talib Unnavi
Berman, Shri Prasenjit	Lokesh Chandra, Dr.
Bhagwan Din, Shri	Maddanna, Shri M.
Bhamdipati, Shri Krishna Mohan	Madni, Shri Asad
Bhandare, Shri Murlidhar Chandrakant	Makwana, Shri Yogendra
Bharadwaj, Shri Ramchandra	Malhotra, Shrimati Usha
Bhatt, Shri Nand Kishore	Malik, Shri Syed Abdul
Bhim Raj, Shri	Manhar, Shri Bhagatram
Chanana, Shri Charanjit	Maran, Shri Murasoli
Chandrasekhar, Shrimati Maragatham	Maurya, Shri Buddha Priya
Chattopadhyaya, Prof. D. P.	Meena, Shri Dhuleshwar
Chowdhari, Shri A. S.	Mehrotra, Shri Prakash
Das, Shri Bipinpal	Mehta, Shri Om
Das, Shrimati Monika	Mhaisekar, Shri G. R.
Deshmukh, Shri Bapuraoji Marotraji	• Mirdha, Shri Ram Niwas
Dinesh Chandra, Shri Swami	Mishra, Shri Mahendra Mohan
Dinesh Singh, Shri	Mistry, Shrimati Roda
Dharamavir Shri	Mohanty, Shri Surendra
D'Souza, Dr. Joseph Leon	Mohapatra, Shri Shyam Sundar
Gopalsamy, Shri V.	Mondal, Shri Ahmad Hossain
Gupta, Shri Gurudev	Moopnar, Shri G. K.
Habibullah, Shrimati Hamida	Mukherjee, Shri Pranab
Handique, Shri Bijoy Krishna	Mulla, Shri Suresh Narain
Haq, Shri (Molana) Asrarul	Munusamy, Shri V. P.
Hanspal, Shri Harvendar Singh	Muthu, Dr. (Shrimati) Sathiavani
Hepatalla, Dr. (Shrimati) Najma	Naidu, Shri N. P. Chengalraya
Ibrahim, Shri B.	Naik, Shri G. Swamy
Jadhav, Shri Pandurang Dharamaji	Nalwa, Shri Hari Singh
Jain, Shri Dharamchand	Narendra Singh, Shri
Jain, Shri J. K.	Pande, Shri Bishambhar Nath
Joshi, Shri Krishna Nand	Pandey, Shri Narsingh Narain
Joshi, Shrimati Kumudben Manishan-	Pandey, Shri Sudhakar
kar	Pandey, Shrimati Manorama
Kalaniya, Shri Ibrahim	Paswan, Shri Ram Bhagat
Kamble, Prof. N. M.	Pattanayak, Shri Bhabani Charan
Kesri, Shri Sitaram	Prajapati, Shri Pravin Kumar
Khan, Shri F. M.	Prasad, Shri, K. L. N.
Khan, Shri Khorsheq Alam	Rahamathulla Shri Mohammad

Raj, Shri Kalpnath  
Rajasekharam, Shri P.  
Rajindra Singh Ishwar Singh Shri  
Ramachandran, Shri M. S.  
Ramakrishnan, Shri R.  
Ram Sewak, Chaudhary  
Rao, Shri V. C. Kesava  
Ratan Kumari, Shrimati  
Razack, Shrimati Noorjehan  
Razi, Shri Syed Sibte  
Reddy, Shri Mulka Govinda  
Roshan Lal, Shri  
Sahu, Shri Santosh Kumar  
Salve, Shri N. K. P.  
Saring, Shri Leonard Solomon  
Sharma, Shri A. P.  
Sheikh, Shri Ghouse Mohiuddin  
Singh, Shri Bhishma Narain  
Singh Shri J. K. P. N.  
Singh, Shri Ng. Tompok  
Singh, Shrimati Pratibha  
Singh, Dr. Rudra Pratap  
Sisodia, Shri Sawaisingh  
Sujan Singh, Shri  
Sukul, Shri P. N.  
Sultan, Shrimati Maimoona  
Sultan Singh, Shri  
Tama, Shri Ratan  
Vaishampayan, Shri S. K.  
Venkatarao, Shri Chadalavada  
Verma, Shri Shrikant  
Yadav, Shri Ramanand  
Zakaria, Dr. Rafiq

NOES—66.

Advani, Shri Lal K.  
Ashwani Kumar, Shri  
Bagaitkar, Shri Sadashiv  
Banerjee, Shri Jaharlal  
Bhabhra, Shri Hari Shankar  
Bhagat, Shri Ganpat Hiralal  
Bhandari, Shri Sunder Singh  
Bhattacharjee, Prof. Sourendra  
Bhattacharya, Shri G. C.  
Bhattacharya, Shrimati Ila

Bhola Prasad, Shri  
Bose, Shrimati Pratima  
Chakraborty, Shri Amarprosad  
Dhabe, Shri Shridhar Wasudeo  
Ghose, Shri Sankar  
Goswami, Shri Biswa  
Goswami, Shri Dinesh  
Gupta, Shri Bhupesh  
Gupta, Shri Ram Lakhan Prasad  
Haasda, Shri Phanindra Nath  
Iman, Shrimati Aziza  
Jaswant Singh, Shri  
Jha, Shri Shiva Chandra  
Joshi, Shri Jagannathrao  
Kakati, Shri Robin  
Kalyanasundaram, Shri M.  
Khandelwal, Shri Pyarelal  
Kumaran, Shri S.  
Lakhan Singh, Shri  
Lepcha, Shri Sangdopal  
Madhavan, Shri K. K.  
Malik, Shri Satya Pal  
Mallick, Shri Harekrushna  
Master, Shri K. Chauthunni  
Mathur Shri Jagdish Prasad  
Mishra, Shri Kalraj  
Mody, Shri Piloo  
Mohinder Kaur, Shrimati  
Mohunta Shri Sushil Chand  
Morarka, Shri R. R.  
Mukherjee, Shrimati Kanak  
Nanda, Shri Narasingha Prasad  
Nigam, Shri Ladli Mohan  
Oza, Shri Ghanshyambhai  
Pant, Shri Krishna Chandra  
Patel, Shri Manubhai  
Pradhan, Shri Patitpaban  
Rajan, Shri Pattiam  
Raju, Shri V. B.  
Ramamurti, Shri P.  
Rameshwar Singh, Shri  
Reddy, Shri B. Satyanarayan  
Roy, Shri Kalyan  
Sarup Singh, Dr.

Scindia, Shrirati Vijaya Raje  
Sezhiyan, Shri Era Shahabuddin, Shri  
Syed Shahedullah, Shri Syed Shahi, Shri  
Nageshwa, Prasad Sharma, Shri Ajit  
Kumar Shastri, Shri Bhola Paswan Sinha,  
Shri Indradeep Surendra Mohan, Shri  
Surjeet, Shri Harkishan Singh Tohra,  
Sardar Gurcharan Singh Yadav, Shri  
Hukumdeo Narayana The motion was  
adopted.

Clause 12 was added to the Bill.

Clause 13 (Maximum period of detention.)

MR. DEPUTY CHAIRMAN: Now, we  
take up clause 13. There are nine  
amendments.

SHRI ERA SEZHIYAN: Sir, I move:

91. "That at page 5, lines 24-25, for the  
words 'twelve months' the words 'six  
months' be substituted."

(The amendment also stood in the names  
of Shri Ghanshyam Oza, Shri Manubhai  
Patel, Prof. Ramlal Parikh, Dr. M. M. S.  
Siddhu, Shri Biswa Goswami, Dr. Shanti G.  
Patel, Shri V. B. Raju and Shri Jaswant  
Singh.)

95. "That at page 5, line 27, the words  
'or modify' be deleted."

(The amendment also stood, in the names  
of Shri Ghanshyam Oza, Shri Manubhai  
Patel, Prof. Ramlal Parikh, Dr. M. M. S.  
Siddhu, Shri Biswa Goswami and Dr. Shanti  
G. Patel.)

SHRI SHIVA CHANDRA JHA: Sir, I  
move;

92. "That at page 5, lines 24-25, for the  
words 'twelve months', the words 'four  
months' be substituted."

SHRI DINESH GOSWAMI: Sir, I move:

95. "That at page 5, lines 24-25,  
for the words 'twelve months'  
words 'one months' be substi  
tuted."

(The amendment also stood in the names  
of Shri Era Sezhiyan, Shri Ghanshyam  
Oza, Shri Manubhai Patel, Prof. Ramlal  
Parikh, Dr. M. M. S. Siddhu, Shri Biswa  
Goswami and Dr. Shanti G. Patel.)

SHRI BHUPESH GUPTA: Sir, I move:

94. "That at page 6, line 25, for the word  
'months' the words 'days' be substituted."

96. "That at page 5, line 28, after  
the word 'time' the words, or the  
power of Parliament or the concern  
ed State Legislature to review, if  
considered necessary, by more than  
five of its members, every case of  
detention' be inserted."

SHRI HARKISHAN SINGH SURJEET:  
Sir, I move:

158. "That at page 5, lines 24-25, for  
the word 'twelve months' the words 'one  
month' be substituted."

159. "That at page 5, line 27, the words  
'or modify' be deleted."

(The amendment Nos. 153 and 159 also  
stood in the names of Shri Bor-kishan Singh -  
Surjeet and Shri Pattam Raja, n.)

SHRI M. KALYANASUNDARAM: Sir, I  
move:

IS, "That at page 5, after line 28, the  
following New Clause 13A be inserted,  
namely: —

'13A. The persons who are detained under this Act shall be treated as special class prisoners for food and dress, with facilities for medical treatment, for reading and writing, communications with relatives without restrictions and also be paid maintenance allowance for families and dependents'."

(The amendment also stood in the names of Shri S. Kumam and Sfiti Kalyan Roy.)

The questions were proposed.

SHRI ERA SEZHIYAN: Sir, clause 13 says:

"The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention."

It is too long a period and I have, therefore, suggested six months, Mr. Jha has suggested four months, Mr. Dinesh Goswami has suggested one month and I am prepared to accept Mr. Goswami's amendment that it should be one month.

MR. DEPUTY CHAIRMAN: The question will be whether the Home

आपकी बात

इन्होंने कह दी है, मान जाइये ।

श्री शिव चन्द्र झा : इनका संशोधन है कि 12 महीने की छः महीने में बिसमम होना चाहिए । मेरा संशोधन यह है कि छः महीने भी ज्यादा है, चार महीने में ज्यादा नहीं होना चाहिए । एक साल तक एक आदमी बन्द रहे । अध्यक्ष महोदय, कितना बड़ा जुल्म उसके साथ होगा । सरकार की तो यह नीयत है कि इस विधेयक के मुताबिक उसको एक साल बन्द रखा जाय । मेरा संशोधन है कि 12 महीनों की जगह चार महीने रखा जाय । यह बहुत बड़ा संशोधन नहीं है और जैव सिंह जी इस को मजे में मान सकते हैं ।

SHRI BHUPESH GUPTA: I have suggested that instead of "months", it should be "days". Twelve months should be substituted by twelve days and I need not explain it very much.

MR. DEPUTY CHAIRMAN: It is already explained.

SHRI BHUPESH GUPTA: Then about amendment No. 96, after the word "time" I have suggested "or the power of Parliament or the concerned State Legislature to review, if considered necessary, by more than five of its members, every case of detention". I would not like to be left entirely in the hands of the police and the executive and if five members of an Assembly or of either House of Parliament think that a particular case is or a number of cases are wrong, then Parliament should review so that Parliamentary superintendence is there. Parliament should see the

whole thing, and to make it overlook this thing is in attempt to stab Parliament in the back by taking the seal of Parliament in order to do the mischief, and that is the idea. Hence, Sir, if my amendment is there that all right, you take this power; you have taken it; we do not quarrel but suppose, five members from this side or that side or on both sides see that so and so or a number of people had been wrongly detained, they could review. It is to safeguard against the rampage of the police and the executive wanting to satisfy the Government and the power that be. That is my amendment. I do not wish to say very much on it.



श्री हरकिशन सिंह सुरजीत : पहले पर तो मैं कुछ कहना नहीं चाहता। दूसरे पर एक छोटी सी बात है, जानी जी मान लें तो अच्छा है। वह बात यह है कि 'मोडीफिकेशन' का शब्द जो इस्तेमाल किया है अगर उसका मतलब यह है कि नया डिटेन्शन आर्डर बना कर देना चाहते हैं तो वह तो नेक्स्ट क्लाज में कवर होता है। मेरे बयान में यह रिडिफेंड है और यहां पर गलत तौर पर लिखा गया है क्योंकि यहां पर परपज यह नजर आता है कि उसको पहले रिवोक करना है आर्डर, तो उसको अधिकार होना चाहिए। इसलिये इसको छोड़ देना चाहिए, अगर मोडीफाई, यह नेक्स्ट क्लाज में आता है जिस में यह लिखा है कि सरकार को यह अधिकार है कि रिहा करने के बाद भी फिर में उनको दे दिया जाय। वह कवर्ड है। इस लिये मेरे बयान में यह इम्पिटिंग की मिस्टेक है, गलत है और यहां से मोडीफाई का शब्द निकाल देना चाहिए। यह जानी जी पर छोड़ दिया जाय, शायद यह मान लें।

SHRI M. KALYANASUNDARAM:

Sir, my amendment is for insertion of new clause 13A. It relates to the treatment of detenus inside the jail, during the period of detention, and for relief to their families and dependents. It says: "The persons who are detained under this Act shall be treated as special class prisoners for food and dress, with facilities for medical treatment, for reading and writing, communications with relatives without restrictions and also be paid maintenance allowance for families and dependents".

जानी जेल सिंह : मैंने बड़े गौर में इन संशोधनों को देखा और सुना है और मैं समझता हूँ कि इन संशोधनों के होने से डिटेन्सु को, सरकार को या लोगों को कोई फायदा नहीं पहुंचेगा। इस लिये इनको नामंजूर किया जाय।

MR. DEPUTY CHAIRMAN: The question is:

91. "That at page 5, lines 24-25, for the words 'twelve months' the words 'six months' be substituted."

93. "That at page 5, lines 24-25, for the words 'twelve months', the words 'one month' be substituted."

95. "That at page 5, line 27, the words 'or modify' be deleted."

*The motions was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

92. "That at page 5, lines 24-25, for the words 'twelve months', the words 'four months' be substituted."

*The motion was negatiiv*

MR. DEPUTY CHAIRMAN: The question is:

94. "That at page 5, line 25, for the word 'months', the word 'days' be substituted."

96. "That at page 5, line 28, after the word 'time', the words 'or the power of Parliament or the concerned State Legislature to review, if considered necessary, by more than five of its members, every case of detentions' be inserted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: " question is:

158. "That at page 5, lines 24-25, for the words 'twelv<sub>e</sub> months' the words 'six months' be substituted."

159. "That at page 5, line 27, the words 'or modify' deleted."

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The question is:

160. "That at page 5, after line 28, the following New Clause 13 A, be inserted, namely:—

'13A, The persons who are detained under this Act shall be treated a-j special class prisoners for food, and dress, with facilities for medical treatment, for reading and writing, communications with relative<sub>s</sub> without restrictions and also be paid maintenance allowance for families and dependents'."

*The motion was negatived.*

MR DEPUTY CHAIRMAN: The question is:—

"That clause 13 stand part of the Bill."

The House divided.

MR. DEPUTY CHAIRMAN: Ayes—117, Noes—66.

AYES—117 Ali, Shri Syed Rahmat Amarjit Kaur, Shiimati Amla, Shri Tirath Ram Arif, shri Mohammed Usman Balram Das, Shri Banerjee, Shri B. N. Barman, Shri Prasenjit Bhagwan Din, Shri Bhamidipati, Shri Krishna Mohan Bhandare, Shri Murlidhar Chandra-

kant Bharadwaj, Shri Ramchandra Bhatt, Shri Nand Kishore Bhim Raj, Shri Cbanana, Shri Charanjit Chandrasekhar, Shrimati Maragatham

Chattopadhyaya, Prof. D. P.

Chowdhari, Shri A. S.

Das, Shri Bipinpal

Das, Shrimati Monika

Deshmukh, Shri Bapuraoji Marotraoji

Dinesh Chandra, Shri Swami

Dinesh Singh, Shri

Dharmavir, Shri

D'Souza, Dr. Joseph Leon

Gopalsamy, Shri V.

Gupta, Shri Gurudev

Habibullah, Shrimati Hamida

Handique, Shri Bijoy Krishna

Haq, Shri (Molana) Asrarul

Hanspal, Shri Harvendar Singh

Heptulla, Dr. (Shrimati) Najma

Ibrahim, Shri B.

Jadhav, Shri Pandurang Dharmaji

Jain, Shri Dharamchand

Jain, Shri J. K.

Joshi, Shri Krishna Nand

Joshi, Shrimati Kumudben Mahi-shankar

Kalaniya, Shri Ibrahim

Kamble, Prof. N. M.

Kesri, Shri Sitaram

Khan, Shri F. M.

Khan, Shri Khurshed Alam

Khan, Shri Maqsood Ali

Khaparde, Shrimati Saroj

Krishna, Shri M. R.

Krishnan, Shri U. R.

Kureel, Shri Piare Lal Urf Piare Lal

Talib Unnavi

Lokesh Chandra, Dr.

Maddanna, Shri M.

Madni, Shri Asad

Makwana, Shri Yogendra

Malhotra, Shrimati Usha

Malik, Shri Syed Abdul

Manhar, Shri Bhagatram

Maran, Shri Muraoli

Maurya, Shri Buddha Priya

Meena, Shri Dhuleshwar

Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhalsekar, Shri G. R.  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Mahendra Mohan  
 Mistry, Shrimati Roda  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Shyam Sundar  
 Mondal, Shri Ahmad Hossain  
 Moopnar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiyani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri G. Swamy  
 Nalwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Pande, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rai, Shri Kalpnath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin

Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujana Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

## NOES—66

Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bhola Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhan Prasad  
 Hansda, Shri Phanindra Nath  
 Imani, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal

Kumaran, Shri S.  
 Lakhan Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 — Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohinder Kaur, Shrimati  
 Mohunta, Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Pant, Shri Krishna Chandra  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan  
 Roy, Shri Kalyan  
 Sarup Singh, Dr.  
 Scindia, Shrimati Vijaya Raje  
 Sezhiyan, Shri Era  
 Shahabuddin, Shri Syed  
 Shahedullah, Shri Syed  
 Shahi, Shri Nageshwar Prasad  
 Sharma, Shri Ajit Kumar  
 Shastri, Shri Bholu Paswan  
 Sinha, Shri Indradeep  
 Surendra Mohan, Shri  
 Surjeet, Shri Harkishan Singh  
 Tohra, Sardar Gurucharan Singh  
 Yadav, Shri Hukmdeo Narayan

*The motion was adopted.*

*Clause 13 was added to the Bill.*

*Clause 14 (Revocation of detention orders)*

1500 RS—1.

MR. DEPUTY CHAIRMAN: Now we go to clause 14. There are six amendments.

SHRI ERA SEZHIYAN: Sir, I beg to move:

97. "That at page 5, line 30, the words 'or modified' be deleted."

*(The amendment also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ram Lai Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Palel).*

SHRI DINESH GOSWAMI: I beg to move:

98. "That at page 5, lines 36 to 41 be deleted."

*(The amendment also stood in the names of Shri Bhupesh Gupta, Shri Era Sezhiyan, Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ram-lal, Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel.)*

SHRI LAL K. ADVANI: Sir, I beg to move:

99. "That at page 5, 41, after the word 'made' the following be inserted, namely: —

"but in no case the fresh order of detention shall be passed on the same grounds on which the person was previously detained."

*(The amendment also stood in the names of Shri Jagdish Prasad Mathur, Shri Era Sezhiyan, Shri Ghanshyam. bhai Oza, Shri Manubhai Patel, Prof. Ramlal Parikh, Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patil.)*

SHRI P. RAMAMURTI: Sir, I beg to move:

161. "That at page 5, line 30, the words 'or modified' be deleted."

162. "That at page 5, lines 36 to 41 be deleted."

*(The amendment Nos. 161 and 162 also stood in the names of Shri Harkishan Singh Surjeet and Pattiam Rajan.*

SHRI M. KALYANASUNDARAM: Sir, I beg to move:

163. "That at page 5, line 41, alter the words 'be made' the following be inserted, namely: —

'but in no case the fresh order of detention shall be passed on the same grounds on which the person was previously detained.' "

*{The amendment also stood in the names of Shri S. Kumaran, Shri Kalyan Roy, Shri Indradeep Sinha and Shri Bhola Prasad.}*

*The questions were proposed.*

SHRI ERA SEZHIAN: This is an amendment where in we do not want to give any additional powers to the Government or the officers. Clause 14 says: "Without prejudice to the provisions of section 31 of the General Clauses Act, 1897, a detention order may at any time, be revoked or modified". It means you are going to issue a fresh order apart from the original orders. Once the Advisory Board has found that the detention is not valid, they should not come round and try to say that we shall have the revocation. No revocation should be there. But it is an atrocious thing.

Sub-clause (2) says: "The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person..."

So if the Advisory Board is not satisfied, they would revoke and come with fresh orders. That I want to oppose.

SHRI DINESH GOSWAMI: Sir, my amendment relates to clause (2). Clause (2) gives power than even after the expiry of the detention order, which the Government has the power to make for 12 months, the Government on the pretext of some new grounds can come round and pass an order for another 12 months. The

entire provisions are for preventive detention, but this power has made it punitive. You cannot think of having somebody behind the bars beyond 12 months without a trial. I do not think there is any statute in the world which gives this power. Even dictatorial countries do not give this power that any person can be kept in jail without trial for his entire life. Therefore, I submit this is an obnoxious provision and it cannot be permitted. I request the Home Minister to accept this amendment.

SHRI LAL K. ADVANI: Mr. Deputy Chairman, Sir, in the preceding clause itself, many of my colleagues here suggested that instead of 12 months it should be 12 days or a briefer period. It was not agreed to by the majority and the Home Minister made it 12 months. Furthermore to add to it, he says that even after the expiry of 12 months, another order can be made of detention. I entirely agree with what Mr. Goswami said, and if that is accepted, fine. And even if it is not accepted, I have tried to add a proviso which says, "but in no case the fresh order of detention shall be passed on the same grounds on which the person was previously detained."

SHRI BHUPESH GUPTA: Sir, I have an amendment. It is a very preposterous proposition in the Bill that a person can be indefinitely detained, one detention followed by another detention. There is no protection whatsoever and for five years\* they can detain a person. There should be a limit to wickedness even in the name of making legislation.

MR. DEPUTY CHAIRMAN: Shri Surjeet.

श्री हरिकान्त सिंह मुखर्जी : यह जो बलाज है बहुत खतरनाक बलाज है। मैं इसलिये कहता हूँ क्योंकि मैं खुद इसका शिकार हुआ हूँ। 1964 में मुझे केरल में गिरफ्तार किया गया। वहाँ मुझे डिटेन्शन के लिये कारण दिये गये। पाँच महीने केरल की जेल में रहने

के बाद मुझे रोहतक जेल में भेज दिया गया। रोहतक जेल में पहुँचने के बाद यह समझा गया था कि डिटेन्शन आर्डर कुछ डिफेक्टिव है इसलिये मुझे रिलीज कर दिया गया। मैं खुश हो गया कि बहुत अच्छा हुआ। जब मैं पंजाब पहुँचा तो पंजाब गवर्नमेंट ने डिटेन्शन आर्डर जो वहाँ था उसमें पकड़ लिया। उन्होंने कहा कि पंजाब में तुमने यह बात की है। मुझे एक नया आर्डर दे दिया जिसमें मुझे फिर 8 महीने, 9 महीने बन्द रहना पड़ा। इसलिये मैं यह कहना चाहता हूँ कि जो प्रिवेन्टिव मेजर्स हैं उन्हीं से सेटिसफेक्शन होना चाहिये। आप यह समझें कि वर्षों तक बन्द करके सरकार चल सकती है, गलत बात है। यह बात जो है कि जितनी तकरीरें यहाँ से हुई या वहाँ से हुई, भाषण यहाँ से हुए या वहाँ से हुए कि आप बीमारों को बड़ाने से पहले ही रोक देना चाहते हैं यह बात नहीं है। मैं अपने तज्जबों से कहना चाहता हूँ कि इनमें से कुछ लोगों को डिटेन्शन में रहने का मौका नहीं मिला है। मुझे तो अंग्रेजों के जमाने में भी मौका मिला और इनके जमाने में भी मौका मिला। इसलिये कहना चाहता हूँ कि यह बहुत खतरनाक है। बार-बार डिटेन्शन आर्डर नहीं देना चाहिये। उनको एक दफा डिटेन करने के बाद दुबारा नहीं देना चाहिये। अगर एक वर्ष में सुधार नहीं कर सकते और उसको और सजा दी जाए तो यह बात सुधार की नहीं है। मेरा कहना है कि इस बलाज की डिलीट कर दिया जाना चाहिये।

**SHRI M. KALYANASUNDARAM:**

Sir, this section provides for indefinite detention although section 3 contemplates a limit of one year. Any person can be kept in detention on fresh grounds. What is stated here is, it will be on a fresh fact, above the old grounds. Under that plea, for any length of time it can be extended. It should be opposed.

MR. DEPUTY CHAIRMAN; Hon. Minister, have you anything to say? Nothing? (*Interruptions*) He is **not** saying anything. If you are insistent, he is ready to say.

श्री हरकिशन सिंह सुरजीत : मैं दस्तावेज कहूँगा कि इम्पोर्टेंट चीज पर जरूर बोलें। लगता है इन्होंने इरादा ही कर लिया है। आखिर इम्पोर्टेंट क्लोज चल रही है इस पर इनको कुछ कहना चाहिये कि गलत है या कुछ कर सकते हैं।

श्री उपसभापति : आप इनको कहने दीजिए।

जानी जैत सिंह : कानरेड सुरजीत ने ठीक ही कहा है। मुझे कोई एतराज नहीं। क्लोज बाई क्लोज जो कंसिडरेशन हो रहा है तब मेम्बर साहेबान के बिचार और से मुन रहा हूँ और देख रहा हूँ कि कौन मारना जा सकता है और कौन नहीं। उपसभापति जी, मैं यह प्रार्थना करता हूँ कि कितनी तरमीम और संशोधन आए हैं उनके अनुसार कोई सुधार नहीं हो सकता। इसलिये उन्हें मैं परवान में असमर्थ हूँ। मेहरबानी करके वह वापस ले लें।

MR. DEPUTY CHAIRMAN: The question is:

97. "That at page 5, line 30, the words 'or modified' be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: THE question is:

98. "That at page 5, lines 36 to 41, be deleted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

99. "That at page 5, line -11, after the word 'made', the following inserted namely: —

IMr. Deputy Chairman.]

'but in no case the fresh order of detention shall be passed on the same grounds on which the person was previously detained.'

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

161. "That at page 5, line 30, the words 'or modified' be deleted."

162. "That at page 5, lines 36 to be deleted."

The motion were negatived.

MR. DEPUTY CHAIRMAN: The question is:

163. "That at page 5, line 41, after the words 'be made' the following be inserted namely: —

'but in no case the fresh order of detention shall be passed on the same grounds on which the person was previously detained.' "

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

"That clause 14 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes— 116;  
Noes—65.

AYES— 116.

All, Shri Syed Rahmat Amarjit Kaur,  
Shrimati Amla, Shri Tirath Ram Arif,  
Shri Mo.ham.med Usman Balram Das,  
Shri Banerjee, Shri B. N. Barman, Shri  
Prasenjit Bhagwan Din, Shri  
Bhamidipati, Shri Krishna Mohan

"Shandare, Shri Murlidhar Chandra-ant

Bharadwaj, Shri Ramchandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Maragatham  
Chattopadhyaya, Prof. D. P.  
Chowdhari, Shri A. S.  
Das, Shri Bipinpal  
Das, Shrimati Monika  
Deshmukh, Shri Bapuraoji Marotraoji  
Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
Dharmavir, Shri  
D'Souza, Dr. Joseph Leon  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida  
Handique, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Hanspal, Shri Harvendar Singh  
Heptulla, Dr. (Shrimati) Najima  
Ibrahim, Shri B.  
Jadhav, Shri Pandurang Dharmaji  
Jain, Shri Dharamchand  
Jain, Shri J. K.  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben Mani-  
shankar  
Kalaniya, Shri Ibrahim  
Kamble, Prof. N. M.  
Kesri, Shri Sitaram  
Khan, Shri F. M.  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Aji  
Khaparde, Shrimati Saroj  
Krishna, Shri M. R.  
Krishnan, Shri U. R.  
Kureel, Shri Piare Lal Urf Piare  
Lal Talib Unnavi  
Lokesh Chandra, Dr.  
Maddanna, Shri M.  
Makwana, Shri Yogendra  
Malhotra, Shrimati Usha  
Malik, Shri Syed Abdul

ntr \*

Manhar, Shri Bhagatram  
 Maran, Shri Murasoli  
 Maurya, Shri Buddha Priya  
 Meena, Shri Dhuleshwar  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhaisekar, Shri G. R.  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Mahendra Mohan  
 Mistry, Shrimati Roda  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Shyam Sundar  
 Mondal, Shri Ahmad Hossain  
 Moopananar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sethiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri G. Swamy  
 Naswa, Shri Hari Singh  
 Narendra Singh, Shri  
 Pande, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rai, Shri Kalpnath  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon

Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

NOES—65

Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bhola Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhopesb  
 Gupta, Shri Ram Lakhan Prasad  
 Hansda, Shri Phanindra Nath  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin



Kalyanasundaram, Shri M.  
Khandelwal, Shri Pyarelal  
Kumaran, Shri S.  
Lakhan Singh, Shri  
Lepcha, Shri Sangdopal  
Madhavan, Shri K. K.  
Malik, Shri Satya Pal  
Mallick, Shri Harekrushna  
Master, Shri K. Chathunni  
Mathur, Shri Jagdish Prasad  
Mishra, Shri Kalraj  
Mody, Shri Piloo  
Mohinder Kaur, Shrimati  
Mohunta, Shri Sushil Chand  
Morarka, Shri R. R.  
Mukherjee, Shrimati Kanak  
Mukhopadhyay, Shrimati Purabi  
Nanda, Shri Narasingha Prasad  
Nigam, Shri Ladli Mohan  
Patel, Shri Manubhai  
Pradhan, Shri Patitpaban  
Rajan, Shri Pattiam  
Raju, Shri V. B.  
Ramamurti, Shri P.  
Rameshwar Singh, Shri  
Reddy, Shri B. Satyanarayan  
Roy, Shri Kalyan  
Sarup Singh, Dr.  
Scindia, Shrimati Vijaya Raje  
Sezhiyan, Shri Era  
Shahabuddin, Shri Syed  
Shahedullah, Shri Syed  
Shahi, Shri Nageshwar Prasad  
Sharma, Shri Ajit Kumar  
Shastri, Shri Bhola Paswan  
Sinha, Shri Indradeep  
Surendra Mohan, Shri  
Surjeet, Shri Harkishan Singh  
Tohra, Sardar Gurcharan Singh  
Yadav, Shri Hukmdeo Narayan

*The Motion was adopted.*

*Clause 14 was added to the Bill.*

Clause 15 *Temporary release of persons detained.*)

MR. DEPUTY CHAIRMAN: Now taken up clause 15. There are nine amendments. Amendment No. 100 by Shri Dinesh Goswami—not moved.

SHRI ERA SEZHIYAN: Sir, I move.

101. "That at page 6, line 3, after the word 'such' the word 'reasonable' be inserted"

104. 'That at page, after line 4, the Mowing be inserted namely:—

"Provided that if the person detained in pursuance of the detention order is either a member of Parliament or a member of the State Legislature he shall "be released for the period when the Parliament or State Legislature are in Session'."

105.  
"

That at page 6, after line 4, the following be inserted namely:—•

"Provided that in case of serious illness to be certified by the medical practitioner or death of the near relation, of the person detained, the appropriate Government shall release the person detained for a reasonable period."

(The amendment Nos. 101, 104 and 105, also stood in the names of Shri Ghanshyambhai Oza, Shri Manubhai Patel, Prof. Ramlal Parikh, Dr. M. M. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patil.)

SHRI JAGDISH PRASAD MATHUR: Sir, I move:

102. "That at page 6, after line 4, the following be inserted, namely:—

"Provided that if the person detained in pursuance of the detention order is either a member of Parliament or a member of the State Legislature, he shall be enabled to attend the Session of Parliament or State Legislature, the case may be."

103. "That at page 6, after line 4, the following be inserted, namely: —

'Provided that if the person detained in pursuance of the detention order is a student due to appear at some examination to be held during the pendency of his detention, he shall be enabled to appear at such examination.'

*(The amendment Nos. 102 and 103 also stood in the name of Shri Lai K. Advani.)*

SHRI JASWANT SINGH: Sir, I move:

106. "That at page 6. lines -12«13 for the words 'he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both', the words 'the order of release may be revoked, be substituted"

SHRI SHIVA CHANDRA JHA: Sir, I move:

107. "That at page 6, line 13, for the words 'two years or with fine, or with both' the words 'six months' be substituted."

SHRI HARKISHAN SINGH SUR-JEET: Sir, I move:

164. "That at page 6, for the existing clause 15, the following be substituted, namely: —

'15. The appropriate Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period.'

*(The amendment also stood in the names of Shri Harkishan Singh Sur-jeet and Shri Pattiam Rajan.)*

*The questions were proposed.*

SHRI ERA SEZHIYAN: Sir, I have suggested that the appropriate Government when it wants to release a person should be worded like this.

Whereas it is stated here "\_\_\_\_\_ upon such conditions specified....", I want to put "\_\_\_\_\_ under reasonable condition...." because It can be argued

in a court what is reasonable, what is unreasonable. If it is put "such conditions specified" this may lead to very many difficulties.

My next amendments are 104 and 105. Two things I am inserting there:

"Provided that if a person detained in pursuance of the detention order is either a Member of Parliament or a Member of the State Legislature' he shall be released for the period when the Parliament or State Legislature are in Session." and

"Provided that in case of serious illness to be certified by the medical practitioner or death of the near relation of the person detained, the appropriate Government shall release the person detained for a reasonable period."

These are the few things which I want to make imperative on the Government, I can recall here that in 1965 or 1966 when an hon. Member of Parliament was detained in Tiruchi, when he came he was allowed to attend Parliament. Therefore, detention does not preclude a Member from attending Parliament. Therefore, the Members of the State Legislatures and Parliament should be released. The second thing is crucial. Often times, the Government does not bother to take any care of the persons detained or their close relatives suffering from illness. That also I want to make obligatory by amendment No. 105.

SHRI LAL K. ADVANI: Sir, it is slightly different from the suggestion given by Mr. Era Sezhiyan because all that I have said is to formulate and incorporate in the Act something that the Supreme Court has already satisfied in my case. I remember, I was a detenu in the Bangalore Central Jail, and I was elected while I was in detention. After having been elected, I was not allowed to come to Parliament to take my oath. I approached the High Court and filed a writ petition there, and the High Court decided in my favour that I had an obligation to the people to come to Par-

[Shri Lai K Advani] liament. So, without ordering my :e-lease, it directed ffe Central Government to enable me to come here even •under escort, does not matter. AU that I have done is to introduce a proviso saying:

-Provided that if the person detained in pursuance of the detention order is either a Member of Parliament or a Member of the State Legislature, he shall be enabled to attend the Session of Parliament or State Legislature, as the case may be."

In that case the Government went and appealed to the Supreme Court, md the Supreme Court stayed that order. But so far as the judgement of the High Court is concerned, it was in. favour of the suggesfion of my amendment. I hope it would be accepted.

T^e second point is with respect to students. When students are arrested, I think it is the duty of the Government to provide them all facilities for study inside the jail and for appearing for examination to be taken under escort. The High Court of Karnataka once again decided in favour of several students. They were allowed to appear. But the State Government went in appeal against the High Court judgement and had the order of the High Court' set aside. It was a cruel case. Therefore, I have brought in a formal amendment suggesting incorporating in the Act itself this provision. I hope for once this kind of amendment will be accepted by ihe Minister.

SHRi BHUPESH GUPTA: Even the British did it.

SHRI LAL K. ADVANI: Even the British did it. I remember that in a case a Member of Parliament was interned in the Mandal Prison in Burma by the British. The Speaker, Mr. Vittal Bhai Patel, took up the case. He asked, "He was elected to Parliament. How can you keep him in detention?" rhe British Government actually released him because the Speaker himself in-

tervened on his behalf. We ' are in a different world today. The presi officers----- I cannot say anything, I do not want to say anything. I hope ' Government will agree to my reasonable proposal that I have made.

SHRI JASWANT SINGH: amendment relates to sub-section 4 of clause 15. Please understand the plications and the ramifications of it. For the original fault or suspicion of fault you prison a man for a in mum period of 12 months. During prisonment with or without conai> should he be granted parole or rele for a temporary period? It is mentioned here "without sufficient; cause". Who decides whether the reasons <>re not sufficient or Insufficient is left unclear. For reasons completely and totally beyond the control of the person temporarily released, if he is thereafter not able to reappear, represent himself, then he is to be arrested for a period twice the original arrest period. Then he is to be arrested for a period which may run to two years plus a fine. This is arbitrary; this is uncalled for; and it goes against natural justice. I would submit to the hon. Minister to consider the ame merit that I have submitted here.

श्री शिव चन्द्र झा : उपसभापति जी,  
हमारा संशोधन बहुत आसान है....  
(मैथिली में) ...

श्री उपसभापति : आप ऐसी भाषा  
में बोल रहे हैं जिसको मैम्बरज नहीं समझ  
रहे हैं ।

श्री शिव चन्द्र झा : ... (मैथिली में) : ...

श्री उपसभापति : आप ऐसी भाषा  
बोल रहे हैं, आपकी स्पीच रिपोर्टज नहीं  
लिखेंगे । आपकी भाषा को कोई रिपोर्टर  
नहीं लिख पा रहा है ।

श्री शिव चन्द्र झा : बिल्कुल आसान  
है, सुनिये न । थोड़ी सी कामनसेंस  
लगाइये, आपकी समझ में आ जाएगा ।

श्री रामानन्द यादव :... (मैथिली में) ...

श्री उपसभापति : माननीय मंत्री जी  
क्या कुछ कहना चाहेंगे ।

ज्ञानी जंन सिंह : उपसभापति जी,  
सारे विचारों और संशोधनों के ऊपर जो  
राय दी गई है उनको बहुत गौर से  
सुना । जहाँ तक मेरा ख्याल है मेम्बर  
पार्लियामेंट और एम० एल० ए० इस  
कैटेगरी में आएंगे ही नहीं ....  
(Interruptions)

SHRI SYED SHAHABUDDIN: That is  
an assurance.

श्री पी० रामभूति : इस वक्त में  
आप इसे लिखें दें ।

ज्ञानी जंन सिंह : ओज्जेक्ट्स और  
रीजन्स जो दिए गए हैं, जिस मकसद  
के लिए यह बिल लाए हैं उस मकसद  
का यह मतलब नहीं है और हम यह  
सोचते हैं कि जो कैटेगरीज रखी गई है  
ऐसे लोगों को नजरबन्द किया जाएगा  
तो नजरबन्द की उस कैटेगरी में ये  
आशा नहीं रखता कि पार्लियामेंट के  
मेम्बर या एम० एल० ए० आएंगे ।  
अगर कोई बदकिस्मती से खुदा-न-खास्ता  
या जाता है तो आडवाणी जी की बात  
का ध्यान रखा जाएगा । बाकी संशोधनों  
को इसलिए जरूरत नहीं है । सरकार  
इन ह्यूमैन नहीं होगी । शादी में, गमी में,  
और कहीं बीमारी में गवर्नमेंट का जो  
फसला होगा वह ह्यूमैन कंसीडरेशन के  
मुताबिक होगा ताकि उनको कोई तकलीफ  
न हो ।

MR. DEPUTY CHAIRMAN: The  
question is:

101. "That at page 6, line 3, after 'the  
word 'such' the word 'reasonable' be  
inserted."

104. "That at page 6, after line 4,  
the following be inserted, namely:—

'Provided that if the person defined in  
pursuance of the detention order is either a  
member of Parliament or a member of the  
State Legislature, he shall be released for the  
period when the Parliament or State  
Legislature are in Session'."

105. "That at page 6, after line 4  
the following be inserted, namely:—

'Provided that in case of serious illness  
to be certified by the medical practitioner  
or death of the near relation of the person  
detained, the appropriate Government  
shall release the person detained for a  
reasonable period.'"

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The  
question is:—

102. "That at page 6, after line 4,  
the following be inserted, namely:—

'ProvideH that if the person detained  
in pursuance of the detention order is  
either a member of Parliament or a  
member of the State Legislature, he shall  
be enabled to attend the Session of  
Parliament or State Legislature, as the  
case may be.'"

103. "That at page 6, after line 4,  
the following be inserted, namely:—

'Provided that if the person detained in  
pursuance of the detention order is a  
student due to appear at some  
examination to be held during the  
pendency of his detention, he shall be  
enabled to appear at such examination.'"

*The motions were negatived.*

MR. DEPUTY CHAIRMAN: The  
question is:—

106. "That at page 6, lines 12-13  
for the word, 'he shall be punisha  
ble with imprisonment for a term

[Mr. Deputy Chairman.] which may extend to two years or with fine or with both', the words the order of release may be revoked-be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:

107. "That at page 6, line 13, for the words 'two years or with line, or with both' the words 'six months' be substituted."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:—

164. 'That at page 6, for the existing clause 15, the following be substituted, namely:—

'15. The appropriate Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period.'

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is:—

That Clause 15 stand part of the Bill."

*The House divided.*

MR. DEPUTY CHAIRMAN: Ayes—117; Noes—66.

AYES—117

Ali, Shri Syed Rahmat Amarjit  
Kaur, Shrimali Amla, Shri Tirath  
Ram Arif, Shri Mohammed Usman  
Balram Das, Shri Banerjee, Shri B.  
N. Barman, Shri Prasenjit Bhagwan  
Din, Shri

Bhamidipati, Shri Krishna Mohan  
Bhandare, Shri Murlidhar Chandra-  
kant  
Bharadwaj, Shri Ramchandra  
Bhatt, Shri Nand Kishore  
Bhim Raj, Shri  
Chanana, Shri Charanjit  
Chandrasekhar, Shrimati Margatham  
Chattopadhyaya, Prof. D. P.  
Chowdhari, Shri A. S.  
Das, Shri Bipinpal  
Das, Shrimati Monika  
Deshmukh, Shri Bapuraoji Morotraoji  
Dinesh Chandra, Shri Swami  
Dinesh Singh, Shri  
Dharmavir, Shri  
D'Souza, Dr. Joseph Leon  
Gopalsamy, Shri V.  
Gupta, Shri Gurudev  
Habibullah, Shrimati Hamida  
Haidique, Shri Bijoy Krishna  
Haq, Shri (Molana) Asrarul  
Hanspal, Shri Harvendar Singh  
Heptulla, Dr. (Shrimati) Najma  
Ibrahim, Shri B.  
Jadhav, Shri Pandurang Dharmaji  
Jain, Shri Dharamchand  
Jain, Shri J. K.  
Joshi, Shri Krishna Nand  
Joshi, Shrimati Kumudben  
Manishankar  
Kalaniya, Shri Ibrahim  
Kamble, Prof. N. M.  
Kesri, Shri Sitaram  
Khan, Shri F. M.  
Khan, Shri Khurshed Alam  
Khan, Shri Maqsood Ali  
Khaparde, Shrimati Saroj  
Krishna, Shri M. R.  
Krishnan, Shri U. R.  
Kureel, Shri Piare Lal Urf Piare Lal  
Talib Unnabi  
Lokesh Chandra, Dr.

Maddanna, Shri M.  
 Madni, Shri Asad  
 Makwana, Shri Yogendra  
 Malhotra, Shrimati Usha  
 Malik, Shri Syed Abdul  
 Manhar, Shri Bhagatram  
 Maran, Shri Murasoli  
 Maurya, Shri Buddha Priya  
 Meena, Shri Dhuleswar  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhaisekar, Shri G. R.  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Mahendra Mohan  
 Mistry, Shrimati Roda  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Syam Sundar  
 Mondal, Shri Ahmad Hossain  
 Moopanar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiyani  
 Naidu, Shri N. P. Chèngalraya  
 Nalk, Shri G. Swamy  
 Nalwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Pande, Shri Bishambhar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Monorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Chàran  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla, Shri Mohammad  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.  
 Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati

Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Roy, Shri Kalyan  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan, Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chandavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

NOES-26

Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hirala  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Na  
 Bhola Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosad  
 Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Senkar

Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhan Prasad  
 Hansda, Shri Phanindra Nath  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhan Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Mahavir, Dr. Bhai  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohinder Kaur, Shrimati  
 Mohanta, Shri Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri, Ladli Mohan  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattam  
 Raju, Shri V. B.  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan  
 Roy, Shri Kalyan  
 Sarup Singh, Dr.  
 Scindia, Shrimati Vijaya Raje  
 Sezhiyan, Shri Era  
 Shahabuddin, Shri Syed  
 Shahedullah, Shri Syed

1 Shahi, Shri Nageshwar Prasad Sharma,  
 Shri A jit 3)Cumar Shastri, Shri Bhola  
 PasWaa Sinha, Shri Indradeep Surendra  
 Mohan, Shri Surjeet, Shri Harkisfian  
 Singh Tohra. Sardar Gurcharan Singh  
 Yadav, Shri Hukmdeo Narayan

*The motion was adopted.*

*Clause 15 was added to the Bill*

*Clause 16 (Protection of action taken in  
 good faith)*

SHKI PYAEELAL KHANDELWAL  
 (Madhya Pradesh): Sir, I move:

103. "That at page 6,' for the ex\* isting  
 clause 16, the following be substituted,  
 namely:—

'16(1) \* If any person is detained  
 without any cause, the Government shall  
 compensate him the loss suffered by him  
 on that account.

(2) A suit for compensation may. be  
 filed in the appropriate court.

(3) If a force of any kind used for  
 detention the person concerned shall  
 have the right to institute a judicial  
 proceeding against such person or  
 persons.' "

SHRI BHUPESH GUPTA: Sir, I move:

109. "That at page 6.—

(i) in line 18, for the words 'No suit'  
 the words 'A suit' be substituted.

(ii) in line '9, for the words 'no suit' the  
 words 'a suit' be • substituted; and

(iii) in line 20, the words 'in good  
 faith' be deleted."

SHRI LAL K. ADVANI: Sir, I move:—

110. "That at pag; 6, alter line, 21, the following be inserted name-ly:-

*'Explanation,—"Good faith" shall have the same meaning as it has in the Indian Penal Code.- "*

*amendment also stood in the names of Shri Jagdish Prasad Mathur, 3 Seizhiyan, Shri Ghanshyam-bhai Oza^ Shri Manubhai Pate I, Prof, Ram Lai Parikh, Dr. M.M.S. Sidhu. Shri Biswa Goswami and Dr. Shanti G. Patel).*

' SHRI JASWANT SINGH: Sir, I move—

111. "That at page 6, after line 21, the following be inserted namely:

*'Replanation.—Nothing is said to be done or believed to be in good faith which is done or believed to have been done without due care and attention, which is defam and which interferes with the legitimate activities of political parties and their leaders.' "*

*The questions were proposed.*

श्री प्यारे लाल खंडेलवाल : उप-सभापति महोदय, खंड 16 की जो मूल धारा है उसके संबंध में मैंने एक अपना संशोधन प्रस्तुत किया है। मेरा संशोधन यह है कि पूरी धारा की जगह पर : "यदि किसी व्यक्ति को अकारण निरुद्ध किया जाता है तो सरकार उसको इसके कारण हुई क्षति की पूर्ति करेगी" क्षतिपूर्ति के लिए बात उपयुक्त न्यायालय में चलाई जा सकेगी। यदि इस निरुद्धता के लिए किसी भी प्रकार का बल प्रयोग

किया जाता है, तो संबंधित व्यक्ति को यह अधिकार होगा कि वह किसी ऐसे व्यक्ति अथवा व्यक्तियों के विरुद्ध न्यायिक कार्यवाही संस्थापित कर सके।

मेरा यह संशोधन रखने का उद्देश्य यह है कि पिछले अनुभव के आधार पर हम सब लोगों ने यह भुगता है कि राजनैतिक बदले की भावना से या कार्यपालिका दुश्मनी निकालने के उद्देश्य से गिरफ्तार लोगों को ऐसे कानून में बन्द कर लेते हैं। आपातकाल के दिनों में भी यह देखा है और इन दिनों में भी यह देखा गया है फिर इसलिए मेरा संशोधन है कि अगर किसी व्यक्ति को बिना कारण गिरफ्तार किया जाए, तो ऐसे व्यक्ति को क्षतिपूर्ति निश्चित रूप से दिया जाने का प्रावधान होना चाहिए।

दूसरी बात जो मैंने कही है कि क्षतिपूर्ति के लिये उसको न्यायालय में जाने का अधिकार होना चाहिए। कई बार उसको क्षतिपूर्ति सरकार नहीं देती। तो उस आधार पर उसको न्यायालय में जाने का अधिकार होना चाहिए।

. तीसरी बात जो मैंने कही है वह यह है कि कई बार जो लोग पकड़े जाते हैं, गिरफ्तार किये जाते हैं, उन पर कार्यपालिका पुलिस अधिकारी, कर्मचारी अत्याचार करते हैं, आंग बना देते हैं और इन दिनों देखा गया है, भागलपुर में हुआ, बनारस में, ग्याविलयर में वकीलों पर लाठी-चार्ज हुआ, जब ऐसे निर्दोष व्यक्तियों को सताया जाता है, उन पर बल प्रयोग किया जाता है, तो ऐसे व्यक्तियों पर जो बल प्रयोग करते हैं, उनके विरुद्ध न्यायिक कार्यवाही की जानी चाहिए। यह मैंने तीन संशोधन प्रस्तुत किये हैं।



[ श्री प्यारें लाल खंडेलवाल ]

मैं चाहता हूँ कि माननीय गृह मंत्री जी मेरे इन संशोधनों को स्वीकार करेंगे क्योंकि पिछले दिनों का अनुभव ऐसा है कि गरीब आदमियों को सताया जाता है। इसलिए कि वे गरीबों के हामी हैं—जो उन्होंने कहा कि—और पिछले दिनों का अनुभव यह कि कोई भी पैसे वाला, सम्पन्न आदमी डाटा, बिरला गिरफ्तार नहीं होता—अगर वह गरीबों के हामी है सही माने में तो उन्हें यह संशोधन स्वीकार करना चाहिए।

SHRI BHUPESH GUPTA: I have moved two amendments, namely, Nos. 109 and 113. As far as 109 is concerned, it is very simple. The Government gives protection to the detaining authority saying that no legal proceedings shall lie against the Central Government or State Government and no suit, prosecution or legal proceedings shall lie against any person for anything in good faith done. I want to alter it. I want to say that suit shall lie. These officers should not be outside the law. We do not want to give them complete impunity. They should not be in a position to do what ever they like. This is my amendment. I am not saying anything more.

The other amendment is a little important. It is for insertion of a new clause. I shall speak on it later.

SHRI LAL K. ADVANI: I have moved an amendment which gives an explanation to the words "good faith" In law "good faith" has different meanings. One is under the General Clauses Act and the other is under the Indian Penal Code. The General Clauses Act postulates that something which is done with ulterior motive or which is mala fide is not done in good faith. Under the Indian Penal Code anything is done in good faith only if it is done with due care and caution. Even though there may not be any ulterior motive if due care and caution is not there,

it is not done in good faith For instance, take the case of a person signing, a cyclostyled copy without seeing anything. He may have no mala fide intention or ulterior motive against the person detained. But, because he has not taken due care and caution, it is not good faith. Therefore, I have tried to define precisely "good faith" in this clause by suggesting that after this clause an Explanation should be added saying that "Good faith" shall have the same meaning as it has in the Indian Penal Code.

SHRI JASWANT SINGH: Sir, I would like to lend my voice for what ever it is worth to what my honourable colleague has submitted with one submission. But my submission is slightly different. I would like to lend my voice to what he has said by moving an amendment for the consideration of the honourable Minister. It is a question of assurance 'in good faith' and this is what this section is all about. I have submitted for consideration that we should incorporate here an Explanation in this clause which shall specify that nothing shall be said to be done or believed to be in good faith which is done or believed to have been done without due care and attention, which is defamatory and which interferes with the legitimate activities of political parties and their leaders. He has himself endlessly and repeatedly said that nothing in this Act is directed against any legitimate political activity, legitimate political dissent and any expression of political differences. All that my amendment is to do is to incorporate the honourable Home Minister's assurances in a positive sense and frame it as an Explanation and append it to this clause.

MR, DEPUTY CHAIRMAN: That will do. Yes. Mr. Minister.

श्री जल सिंह : उपसभापति जी,  
इस क्लॉज के मुताबिक सरकार को  
सद्भावनापूर्ण की गई कार्यवाही के लिए  
संरक्षण प्रदान किया गया है। तरमियों

में गुड् फेथ—सद्भावनापूर्ण कार्यवाही—की  
 परिभाषा देने का यत्न किया गया है,  
 और इस के अलावा कंपेंसेशन देने का  
 भी सुझाव दिया गया है और भी सुझाव  
 दिए गए हैं। खैर मैं उसकी डीटेल में  
 नहीं जाना चाहता लेकिन मैं इतना कहना  
 चाहता हूँ कि इस क्लॉज में जो यह रखा  
 गया है कि मुकदमा नहीं चलेगा—स्टेट  
 गवर्नमेंट पर नहीं चलेगा, सेंट्रल गवर्नमेंट  
 पर नहीं चलेगा या आफिशर पर नहीं  
 चलेगा—यह हर एक ऐक्ट में ऐसा होता  
 है और इसमें भी होना लाजमी था इसलिये  
 यह जो तरमीमें दी गई है उनको पखान  
 नहीं किया जा सकता है।

MR. DEPUTY CHAIRMAN: The  
 question is:

108. "That at page 6, for the  
 existing clause 16, the following be  
 substituted, namely: —

'16(1) If any person is detained without any  
 cause," the Government shall compensate  
 him the loss suffered by him on  
 that account.

(2) A suit for compensation may  
 be filed in the appropriate court.

(3) If a force of any kind used for  
 detention the person concerned shall  
 have the right to institute a judicial  
 proceeding against such person or  
 persons. ' "

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The  
 question is:

109. "That at page 6 —

(i) in line 18, *for* the words 'No  
 suit' the words 'A suit' be sub  
 stituted; and »

(ii) in line 19, *for* the words 'no suit', the  
 words 'a suit' bfr substituted; and

(iii) in line 20, the words 'in good faith'  
 be *deleted*." ..

« The motion was *negatived*.

MR. DEPUTY CHAIRMAN: The  
 question is:

110. "That at page 6, *after* line 21, the  
 following be inserted, namely: —

'Explanation,—"Good faith"  
 shall have the same meaning  
 it has in the Indian Penal  
 Code'."

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The  
 question is:

111. "That at page 6 after line 21, the  
 following be *inserted* namely: —

'Explanation:—Nothing is said to be  
 done or believed to be in good faith  
 which is done or , believed to have been  
 done without due care and attention,  
 which is defamatory and which  
 interferes with the legitimate activities of  
 political parties and their leaders.' "

*The motion was negatived.*

MR. DEPUTY CHAIRMAN: The  
 question is:

"That Clause 16 stand part of thfr Bill."

MR. DEPUTY CHAIRMAN: Ayes— 116;  
 Noes—65.

AYES—116

Amarjit Kaur, Shrimati Amla, Shri  
 Tirath Ram Aarii, Shri Mohammed  
 Usman Balram Das, Shri Banerjee,  
 Shri B. N. Barman, Shri Prasenjit

Bhagwan Din, Shri  
 Bhamidipati, Shri Krishna Mohan  
 Bhandare, Shri Murlidhar Chandrakant  
 Bharadwaj, Shri Ramchandra  
 Bhatt, Shri Nand Kishore  
 Bhim Raj, Shri  
 Chanana, Shri Charanjit  
 Chandrasekhar, Shrimati Maragatham  
 Chattopadhyaya, Prof. D. P.  
 Chowdhari, Shri A. S.  
 Das, Shri Bipinpal  
 Das, Shrimati Monika  
 Deshmukh, Shri Bapuraoji Marotraoji  
 Dinesh Chandra, Shri Swami  
 Dinesh Singh, Shri  
 Dharmavir, Shri  
 D'Souza, Dr. Joseph Leon  
 Gopalsamy, Shri V.  
 Gupta, Shri Gurudev  
 Habibullah, Shrimati Hamida  
 Handique, Shri Bijoy Krishna  
 Haq, Shri (Molana) Asrarul  
 Hanspal, Shri Harvendar Singh  
 Heptulla, Dr. (Shrimati) Najma  
 Ibrahim, Shri B.  
 Jadhav, Shri Pandurang Dharmaji  
 Jain, Shri Dharamchand  
 Jain, Shri J. K.  
 Joshi, Shri Krishna Nand  
 Joshi, Shrimati Kumudben Manishan-  
 kar  
 Kalaniya, Shri Ibrahim  
 Kamble, Prof. N. M.  
 Kesri, Shri Sitaram  
 Khan, Shri F. M.  
 Khan, Shri Khurshed Alam  
 Khan, Shri Maqsood Ali  
 Khaparde, Shrimati Saroj  
 Krishna, Shri M. R.  
 Krishnan, Shri U. R.  
 Kureel, Shri Piare Lall Urf Piare Lall  
 Talib Unnavi

Talib Unnavi  
 Lokesh Chandra, Dr.  
 Maddanna, Shri M.  
 Madni, Shri Asad  
 Makwana, Shri Yogendra  
 Malhotra, Shrimati Usha  
 Malik, Shri Syed Abdul  
 Manhar, Shri Bhagatram  
 Maran, Shri Murasoli  
 Maurya, Shri Buddha Priya  
 Meena, Shri Dhuleshwar  
 Mehrotra, Shri Prakash  
 Mehta, Shri Om  
 Mhaisekar, Shri G. R.  
 Mirdha, Shri Ram Niwas  
 Mishra, Shri Mahendra Mohan  
 Mistry, Shrimati Roda  
 Mohanty, Shri Surendra  
 Mohapatra, Shri Shyam Sundar  
 Mondal, Shri Ahmad Hossain  
 Moopnar, Shri G. K.  
 Mukherjee, Shri Pranab  
 Mulla, Shri Suresh Narain  
 Munusamy, Shri V. P.  
 Muthu, Dr. (Shrimati) Sathiavani  
 Naidu, Shri N. P. Chengalraya  
 Naik, Shri G. Swamy  
 Nalwa, Shri Hari Singh  
 Narendra Singh, Shri  
 Pande, Shri Bishambar Nath  
 Pandey, Shri Narsingh Narain  
 Pandey, Shri Sudhakar  
 Pandey, Shrimati Manorama  
 Paswan, Shri Ram Bhagat  
 Pattanayak, Shri Bhabani Charan  
 Prajapati, Shri Pravin Kumar  
 Prasad, Shri K. L. N.  
 Rahamathulla Shri Mohammad  
 Rajasekharam, Shri P.  
 Rajendra Singh Ishwar Singh, Shri  
 Ramachandran, Shri M. S.  
 Ramakrishnan, Shri R.

Ram Sewak, Chaudhary  
 Rao, Shri V. C. Kesava  
 Ratan Kumari, Shrimati  
 Razack, Shrimati Noorjehan  
 Razi, Shri Syed Sibte  
 Reddy, Shri Mulka Govinda  
 Roshan Lal, Shri  
 Roy, Shri Kalyan  
 Sahu, Shri Santosh Kumar  
 Salve, Shri N. K. P.  
 Saring, Shri Leonard Solomon  
 Sharma, Shri A. P.  
 Sheikh, Shri Ghouse Mohiuddin  
 Singh, Shri Bhishma Narain  
 Singh, Shri J. K. P. N.  
 Singh, Shri, Ng. Tompok  
 Singh, Shrimati Pratibha  
 Singh, Dr. Rudra Pratap  
 Sisodia, Shri Sawaisingh  
 Sujan Singh, Shri  
 Sukul, Shri P. N.  
 Sultan, Shrimati Maimoona  
 Sultan Singh, Shri  
 Tama, Shri Ratan  
 Vaishampayan, Shri S. K.  
 Venkatarao, Shri Chadalavada  
 Verma, Shri Shrikant  
 Yadav, Shri Ramanand  
 Zakaria, Dr. Rafiq

NOES: 65

Advani, Shri Lal K.  
 Ashwani Kumar, Shri  
 Bagaitkar, Shri Sadashiv  
 Banerjee, Shri Jaharlal  
 Bhabhra, Shri Hari Shankar  
 Bhagat, Shri Ganapat Hiralal  
 Bhandari, Shri Sunder Singh  
 Bhattacharjee, Prof. Sourendra  
 Bhattacharya, Shri G. C.  
 Bhattacharya, Shrimati Ila  
 Bholra Prasad, Shri  
 Bose, Shrimati Pratima  
 Chakraborty, Shri Amarprosada

Dhabe, Shri Shridhar Wasudeo  
 Ghose, Shri Sankar  
 Goswami, Shri Biswa  
 Goswami, Shri Dinesh  
 Gupta, Shri Bhupesh  
 Gupta, Shri Ram Lakhana Prasad  
 Hansda, Shri Phanindra Nath  
 Imam, Shrimati Aziza  
 Jaswant Singh, Shri  
 Jha, Shri Shiva Chandra  
 Joshi, Shri Jagannathrao  
 Kakati, Shri Robin  
 Kalyanasundaram, Shri M.  
 Khandelwal, Shri Pyarelal  
 Kumaran, Shri S.  
 Lakhana Singh, Shri  
 Lepcha, Shri Sangdopal  
 Madhavan, Shri K. K.  
 Mahavir, Dr. Bhai  
 Malik, Shri Satya Pal  
 Mallick, Shri Harekrushna  
 Master, Shri K. Chathunni  
 Mathur, Shri Jagdish Prasad  
 Mishra, Shri Kalraj  
 Mody, Shri Piloo  
 Mohinder Kaur, Shrimati  
 Mohunta Shri, Sushil Chand  
 Morarka, Shri R. R.  
 Mukherjee, Shrimati Kanak  
 Mukhopadhyay, Shrimati Purabi  
 Nanda, Shri Narasingha Prasad  
 Nigam, Shri Ladli Mohan  
 Patel, Shri Manubhai  
 Pradhan, Shri Patitpaban  
 Rajan, Shri Pattiam  
 Ramamurti, Shri P.  
 Rameshwar Singh, Shri  
 Reddy, Shri B. Satyanarayan  
 Roy, Shri Kalyan  
 Sarup Singh, Dr.  
 Seindia, Shrimati Vijaya Raju  
 Sezhiyan, Shri Era  
 Shahabuddin, Shri Syed

Shahedullah, Shri Syed Shahi, Shri Nageshwar Prasad Sharma, Shri Ajit Kumar Shaatri, Shri Bhola Paswan Sinha, Shri Indradeep Surendra Mohan, Shri Surjeet, Shri Harkishan Singh Tohra, Sardar Gurcharan Singh Yadav, Shri Hukmdeo Narayan

*The motion was adopted.*

*Clause 16 was added to the Bill.*

*New Clause 16A*

SHRI ERA SEZHIYAN: Sir, I beg to move:

112. "That at page 6, after line 21, the following new clause be inserted, namely: —

'ISA. If any person under colour of office commits any act contrary to law of the land, such act shall be presumed to have been committed in "bad faith and such person shall be punishable with imprisonment which may extend to three years, or with fine, or with both.

*Explanation.*—Act contrary to law shall also include signing blank detention orders under section 3 of the Act.' "

(The amendment also stood in the names of Shri Ghanshyarribhai Oza, Shri Manubhai Patel, Prof. Romtol Parikh Dr. M. M. S. Siddhu, Shri Biswa Goswami and Dr. Shanti G. Patel.)

SHRI BHUPESH GUPTA: Sir, I beg to move—

113. "That at page 6, after line 21, the following new clause be inserted, namely:—

'16A. (1) The parliament and the State Legislatures shall have power to review the wording of the Act in respect of the deten-

tions under the authority of the Central and State Governments, as the case may be.

(2) There shall be Review Committee, for overseeing the working of this Act by the Central Government and the State Governments consisting of 50 members; 15 members from the Council of States and 35 members from the House of the People to be nominated by the Chairman and the Speaker, respectively, keeping in view that the Committee duly reflects the political composition of either House and in the case of a State Legislature, 21 members nominated by the Speaker of the concerned Legislature.' "

*The question was proposed.*

SHRI ERA SEZHIYAN: Sir, it is a very simple amendment. Suppose somebody acts in bad faith, there is no provision as to how to tackle the situation. Therefore, I am suggesting clause 16A. It has also been brought to our notice that a lot of blank forms are being filled. Recently also this has been done. Therefore, I want to be specific about this that any act contrary to law shall also include signing blank detention orders by some Secretary or Under Secretary of the Ministry or some petty officer. Whenever he does not want somebody, he fills up some grounds, some stencilled form and even the reasons given in the stencilled form. It is not the ruling party; it is not the Opposition which is going to suppress. It is the bureaucracy which gets the power. Once they get this power...

MR. DEPUTY CHAIRMAN: You have made your point.

SHRI BHUPESH GUPTA: Sir, it is not accidental that this clause is going to be passed at midnight, because the banditry, robbery and crimes generally take place somewhere around midnight. Sir, this is

a legal, a legislative crime committed against the lives and liberties of the citizens and the fundamental rights.

12 MIDNIGHT

(Interruptions)

MR. DEPUTY CHAIRMAN: Please resume your seats. I can hear all of you. (Interruptions) I can't hear anybody, I want to hear all of you. First of all, please take your seats. Otherwise, I cannot call anybody.

SHRI DINESH GOSWAMI: I am rising on a point of order. My point of order is this. I have before me a List of Business for the 22nd December. Now, we have exhausted the 22nd December. Now, I do not have any List of Business before me. Therefore, I must enquire from the Chair whether the Chair is conducting business from the List of Business of 22nd December, if the Chair wants to say that there is a List of Business of 23rd December, then we must take up the business mentioned therein. I am sure that only that List of Business will be taken and no other item will be taken on the 23rd, which we have started now. (Interruptions) If there is a List of Business, then I submit that only that list should be taken up. (Interruptions) If you want, we can proceed.

SHRI LAL K. ADVANI: I presume that the answer, to this point would be.....

MR. DEPUTY CHAIRMAN: Please be brief.

SHRI LAL K. ADVANI: I will be very brief. This is going to be a precedent for all times to come. Therefore, even though it is technical, I would think that the Chairman must give his considered ruling. The hon. Member has raised a point to which the answer may be that it has already been circulated for today and tomorrow i.e. for 22nd and 23rd December. This may be the answer. But I may quote Rule 29 of our Rules of Procedure. Rule 29(1) says:

A list of business for the day shall be prepared by the Secretary, and a copy thereof shall be made available for the use of every member."

Everything is sharp and mandators and it is only for one day. For the sake of convenience, it may be that the list is circulated containing 3 or 4 items that are likely to come up in the next two or three days. But that does not substitute this particular rule wherein it has been made obligatory for the Secretariat to give us a list of business that has to be taken up on a particular day. I would submit that we have received a list of business for the 22nd December and now the 22nd December is over. We have entered the 23rd of December. For the first time in the history of Rajya Sabha—I do not know about Lok Sabha—we are sitting after 12 o'clock midnight. I can tell you that I was seeing the irritability in the Treasury Benches. The discomfort is equal on both sides. But despite the discomfort, I think that this House has done a very great duty by attending to its work of discussing this important Bill. I would like to suggest that in view of the fact that there is no Business on continue this business only after a regular List of Business for the 23rd has been circulated.

SHRI NARASINGHA PRASAD NANDA: Mr. Deputy Chairman, Sir, now we are faced with an unprecedented situation.

MR. DEPUTY CHAIRMAN: Please do not repeat the points already made.

SHRI NARASINGHA PRASAD NANDA: Would you allow me to open my mouth?

MR. DEPUTY CHAIRMAN: I am requesting you.

SHRI NARASINGHA PRASAD NANDA:  
I am raising the point straight.  
(Interruptions)

MR. DEPUTY CHAIRMAN: Order,  
please.

SHRI NARASINGHA PRASAD NANDA:  
Sir, I will not repeal; what has been said by  
Mr. Dinesh Goswami and Mr. Advani. I will  
make a new point. And that is, Sir, the List  
of Business for today, that is, the 23rd  
December, has been circulated. I would  
submit, that in that List of Business, it is very  
clearly mentioned that the House has to meet  
at 11 o'clock. Many Members have left the  
House. And, Sir, if the House is to meet at 11  
o'clock, those Members will get the right to  
again participate in the debates of the House.  
If we continue the proceedings now, those  
Members will be deprived of their valuable  
right for participating in the proceedings of  
the House. Therefore, Sir, this House should  
meet at 11 o'clock.

SHRI K. K. MADHAVAN: Sir, I rise on a  
point of order.

SHRI HAREKRUSHNA MALLICK: Sir,  
I am on a point of order.

SHRI ERA SEZHIYAN: Sir, I have  
got before me a List of Business  
(Interruptions) Sir, I have before me the List  
of Business for December 23, 1980. The  
opening sentence says consideration of any  
Business entered in the List of Business for  
December 22, 1980, and not concluded on  
that day." So, whatever is left over at 12  
o'clock was to come according to the List of  
Business of 23rd December at 11 o'clock. So,  
whatever is left unfinished on 22nd December  
can be taken up only at 11 o'clock on the 23rd  
December. That is my point of order.

SHRI BHUPESH GUPTA: Sir, I wonder....  
(Interruptions)

SHRI HAREKRUSHNA MALLICK: Sir, I  
was the first to rise on a point of order.

SHRI BHUPESH GUPTA: Sir, we are  
entitled to have a word of congratulations  
from you for the extreme vigilance that we  
have displayed. Sir, with the other thing, I am  
not concerned. Here, I have got the Revised  
List of Business for Monday, December 22,  
1980. In that Business, you can say anything  
you like. This Business, Sir, is strictly  
confined to the hour, 22nd ends, and this List  
of Business-hour, 22nd ends, and this List of Busi-  
ness becomes inoperative. Sir, you cannot  
extend it. You may have finished it by now.  
But we do not extend beyond the day.  
Sometimes, Sir, it happened that we finished  
the Business earlier and we took up what  
would have been taken up otherwise the next  
day. This is not the case here. This Business  
was meant to be completed on 22nd. It has not  
been. And you have included in the long list  
the other things, perhaps in the expectation  
that you would complete it and then before  
midnight you shall come to the other thing.  
Sir, it is now for you to decide. Sir, here we  
are mandated to speak for 22nd, to deal with  
the business of the 22nd. You, Sir, cannot  
extend it. Sir, do not try to accommodate the  
Government by violating everything.  
Therefore, Sir, I suggest that tomorrow a  
revised list of business comes for the 23rd.  
That should be the proper course. Now, Sir,  
the only course for you is to adjourn the  
House because we have exceeded by 10  
minutes of illegality, ten minutes of illegality  
is going on. Kindly realise it, ten minutes of  
illegality. This is all I can say.

MR. DEPUTY CHAIRMAN: Yes, Mr.  
Shahi. (Interruptions)

SHRI HAREKRUSHNA MALLICK: Sir, I  
rise on a point of order. (Interruptions)

श्री नागेश्वर प्रसाद शाही : डिप्टी चेयरमैन साहब, राज्य सभा के कार्यालय ने दिनांक 23 दिसम्बर का कार्यक्रम प्रसारित कर दिया है और उस कार्यक्रम के अनुसार अब सदन 11 बजे बैठेगा।

श्री उपसभापति : अभी तो सदन बैठा हुआ है।

श्री नागेश्वर प्रसाद शाही : 23 तारीख का आपके कार्यालय ने आपके निर्देशानुसार और बिजनेस एडवाइजरी कमेटी के फैसले के अनुसार कार्यक्रम को प्रसारित किया है। उसके अनुसार यह सदन 23 तारीख को 11 बजे के पहले नहीं बैठ सकता। 11 बजे ही बैठेगा और आपने उसके अन्दर विस्तृत अपना कार्यक्रम दिया है कि 23 तारीख को क्या-क्या होगा। आपने लिखा है कि 22 तारीख का जो काम बच जाएगा वह 23 तारीख को टेक-अप होगा। 22 तारीख अब खतम हो गई और बचा हुआ काम 23 तारीख को 11 बजे ही टेक-अप हो सकता है, उसके पहले नहीं हो सकता है। इसलिए 12 बजे के बाद 23 तारीख में जो भी आप कार्यवाही करेंगे वह अवैधानिक और अनियमित होगी। इन शब्दों के साथ मैं निवेदन करता हूँ कि संविधान को और विधान को मानते हुए आप हाउस को स्थगित कर दें।

(Interruptions) SHRI

HAREKRUSHNA MALLICK: Sir, I rise on a point of order.

MR. DEPUTY CHAIRMAN: Yes, Mr. Salve.

SHRI HAREKRUSHNA MALLICK: Sir, I raised my point of order first of all. (Interruptions). As I am not being heard, I walk out in protest.

(At this stage the hon. Member left the Chamber)

MR. DEPUTY CHAIRMAN: Yes, Mr. Salve,

SHRI N. K. P. SALVE: Sir, the only short point for consideration is whether it is within your discretionary power.... (Interruptions). Sir, the only issue for consideration is whether.... (Interruptions) Sir, I am on a point of order. (Interruptions)

श्री रामेश्वर सिंह : उपसभापति महोदय, मेरा व्यवस्था का प्रश्न है।

श्री उपसभापति : व्यवस्था के प्रश्न के दौरान दूसरी व्यवस्था का प्रश्न नहीं उठ सकता।

श्री रामेश्वर सिंह : मेरा एक दूसरा व्यवस्था का प्रश्न है।

MR. DEPUTY CHAIRMAN: Mr. Rameshwar Singh, please take your seat. I will explain. Please hear me first. (Interruptions) Nothing of what Mr. Rameshwar Singh says will go on record. When the House is discussing one point of order, at least, you should have the commonsense to know what you cannot raise another point of order. You cannot raise another point of order until I have disposed of the point of order which is under consideration. (Interruptions) Mr. Salve is on a point of order.

SHRI N. K. P. SALVE: Sir, the only issue for consideration is 'whether you have the discretion...' (Interruptions)

MR. DEPUTY CHAIRMAN: Mr. Rameshwar Singh, please sit down. Nothing of what Mr. Rameshwar Singh says will go on record. As long as I am standing, nothing will go on record. (Interruptions)

SHRI K. K. MADHAVAN: Sir, I am on a point of order. (Interruptions)

MR. DEPUTY CHAIRMAN: I would like to make this clear to hon. Members. One point of order has been raised by Shri Dinesh Goswami and this is under consideration. I can hear all the 240 Members on this point.



[Mr. Deputy Chairman] But you should have the patience. Do not be so eager to express your views. Let us hear one by one. There is no urgency, If you do not get time now, do not; think that you will lose your argument. Please note down your points and you can make them afterwards. *(Interruptions)* If more than one Member from each Party want to express their views, if they are so eager to express their views, they should wait. Now, let us hear Mr. Salve first. *(Interruptions)*

SHRI MANUBHAI PATEL: Sir, let him go to his seat. *(Interruptions)*

SHRI N. K. P. SALVE: Sir, I crave your indulgence. My throat is bad. The only issue for consideration is, whether, in the absence of there being no item listed for the 23rd for discussion, it is in your discretionary power, in terms of rule 29, to permit a discussion and the further consideration of the National Security Bill on the 23rd. This is the only question. This is how I frame the issue. The issue is whether or not. . . . *(Interruptions)*

SHRI MANUBHAI PATEL: Sir, his throat is alright. *(Interruptions)*

MR. DEPUTY CHAIRMAN: Mr. Patel, you are not a doctor. *(Interruptions)*

SHRI BHUPESH GUPTA: Sir, there is a standing rule. Every day, we are supposed to meet at 11 AM. Today, we are meeting, I do not know.... *(Interruptions)*

MR. DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, it is unfair. You have had your say. *(Interruptions)*

SHRI N. K. P. SALVE: Sir, I frame the issue in this manner. The question is, whether or not, in terms of rule 29, the Chair has the discretionary power to continue the consideration of the Bill that this House was considering clause-by-clause, just because it is not listed on the 23rd. This was the issue. If this is the issue, the answer

is provided in the Rules of Procedure. Mr. Advani quoted rule 29(1). I would like to quote rule 29(2). Rule 29(2), in terms, says:

"Save as otherwise provided in these rules, no business not included in the list of business for the day shall be transacted at any meeting without the leave of the Chair."

It has also been held in terms of a ruling. I am quoting from Kaul and Shak-dher's Practice and Procedure of Parliament, page 360. It says:

"In the exercise of his discretionary power, the Speaker may also permit the consideration of an item of Business, not included in the List of Business giving consideration to the wishes of the House... *(Interruptions)*

"... giving due consideration to the wishes of the House and urgency of the business to be transacted." *(Interruptions)* Sir, the only requirement.

SHRI PILOO MODY: In the last week you know what had been done.

SHRI N. K. P. SALVE: Don't start that if you have any sense of shame. Sir, this has been the ruling in the Lok Sabha debate on 7-9-1956, again on 17-12-1959 and 11-2-1960. According to this, the only conditions to be satisfied are, the urgency of the business to be transacted, and the wish of the House. If it be the pleasure of the House that notwithstanding that the consideration of the NSO is not listed in the List of Business for 23rd, and if you do think that it is urgent, then I submit it is within your discretionary power to continue the discussions....

*(Interruptions)*

SHRI PILOO MODY: Mr. Deputy Chairman, it is quite obvious that the Member has gone a little astray. He has picked the point that was not made; he has ignored the point that was made, and he read a rule that does not apply under the circumstances. How can you take him seriously?

SHRI N. K. P. SALVE: He has never been a student of law. He is in the habit of standing on his head to look handsome.

SHRI B. N. BANERJEE: Sir, if you look at the question from a proper angle, the answer is very simple. It is not a question of Rule 29, nor a question of discretionary power of the Chair. Sir, we have a sitting which is commenced at 11 O'clock on the 22nd, and under all our rules and the practice, that sitting... (Interruptions) Sir, they should have patience. The sitting continues unless and until the Chair adjourns the House, no matter whether the clock has passed beyond 12. I give you an illustration, conveniently, other Members quote Parliamentary practice, Kaul and Shakdher and also the proceedings of the House of Commons when it suits them. We have also to sometimes look at Kaul and Shakdher's book on the practice in Lok Sabha. In fact, you never sat beyond 12; that is why, today you are getting impatient. If you look to the proceedings of the House of Commons, you will see that almost in every session, there have been innumerable days when the House sits beyond 12 O'clock... (Interruptions). And then again, if you look to the Rules of Procedure even in the Lok Sabha, we see that unless the Chair otherwise orders, ordinarily the sitting of the House shall end at 6 O'clock. So there also it has been held by the speaker that the sitting does not terminate unless and until the Chair adjourns the House. In the Rajya Sabha Rules of Procedure, it is still easier. Rajya Sabha rules nowhere say that the sitting shall ordinarily end at 6 O'clock or 6; on the other hand, the rule says that—the relevant rule is Rule 13, not Rule 29—the sitting of the Council shall conclude at such hour as the Chairman may direct. Sir, now I will give you an illustration from the Lok Sabha. This is quoted in the book by Kaul and Shakdher. I am not going into what happens in the House of Commons. It is stated here on page 331 that this was one of the longest sittings of the

Lok Sabha. It happened in the Fifth Lok Sabha. It is not a very ancient precedent.

SHRI PILOO MODY: This is what happens when there are two Speakers and two Secretaries.

SHRI B. N. BANERJEE: If I support them, my argument is very good. The Chair may say that I am wrong. This sitting was on May 9, 1974 and it lasted for more than 13 hours from 1100 hours to 1.30 on May 10, 1974, without a lunch break. Therefore, if you look at the question from a correct angle the proceedings which the Secretariat draws up will show whatever transpires until you, Sir, adjourn the House as the proceedings of the 22nd and not as the proceedings of the 23rd and the List of Business which has been circulated for tomorrow is to commence at 11 o'clock. The point of order has been raised because for the first time we are sitting beyond 12 in the night. But this is not a very difficult point of order for the Chair to dispose of.

MR. DEPUTY CHAIRMAN: I have heard almost all the parties on this point.

(Interruptions)

SHRI PILOO MODY: Sir, only a point has been made. (Interruptions)

श्री लाडली मोहन निगम : उप-  
सभापति महोदय, आप यदि एक व्यवस्था  
कर दें तो सब मामला ठीक हो सकता है।  
इन घड़ियों पर 12 बजा दिया जाए।  
घड़ी बन्द कर दीजिए तो काम चलता  
रह सकता है। आप घड़ी बन्द कर  
दीजिए (Interruptions) हाउस आफ कामन्स  
में भी एक बार हो चुका है

(Interruptions)

श्री बी० सत्यनारायण रेड्डी : हाउस  
की घड़ियां तो बन्द हो सकती हैं लेकिन  
अपने हाथों की घड़ियां तो चल रही  
हैं ...

(Interruptions)

SHRI PILOO MODY: Mr. Deputy Chairman, Sir, the hon. Member has just given us a ruling.

MIL. DEPUTY CHAIRMAN: Not a ruling. He has expressed his views.

SHBİ PILOO MODY: I was under the impression that it should have come from you. Since it has come from behind, so we can assume that it is a stab in the back.

My point is that if this interpretation of the rule is correct and that a sitting once started can go on {or ever and ever, then I visualise a situation in which a Government like this in collusion with the Chair can make the sitting go on and on and on till the Member<sub>g</sub> of the Opposition are so worn out and tired that they all drop dead. Therefore, to carry the argument ad *absurdum*, it would be necessary to modify it, and the modification that we seek i3 to what we have been following for centuries—that is with the clock, that the date changes at midnight.

SHRIMATI PRATIBHA SINGH: Mr. Piloo Mody was not saying all these things when he was in the Lok Sabha.

SHRI PILOO MODY: Madam, it i<sub>s</sub> now past midnight and past your bedtime. Will you please allow me to have my last say.

Mr. Deputy Chairman, more than 33 years ago, we signed a tryst with destiny—also at the midnight hour—and as the whole world was supposed to go to sleep India was to awake. Thirty three and a half years later, we are witnessing a very different type of tryst with destiny. While the whole world is about to awake, India is going into an age of darkness, and therefore I think to continue this at this hour is not only psychologically dangerous for us but is historically disastrous.

SHRI K. K. MADHAVAN: Sir,...  
(Interruptions)

MR. DEPUTY CHAIRMAN: Mr. Madhavan... (Interruptions)

SHRI K. K. MADHAVAN: Please hear me. I have not spoken. I am raising a point. You are granting, for arguments sake, Mr. Banerjee's quotation. The specified hour-relates to a particular date.

• MR. DEPUTY CHAIRMAN: Now everyone has said it.

SHRI BHUPESH GUPTA: Sir, I want to answer Mr. Banerjee.

SHRI P. RAMAMURTI: Sir, i do not think the Leader of the House can put an end to it. Sir, the Leader of the House can easily agree to have th<sub>e</sub> subject taken up tomorrow at 11 o'clock. There is no urgency. They have already got the Ordinance and the Ordinance doe<sub>s</sub> not expire. ' So, there is no question of hurrying up. It is past midnight. They can easily agree to it and take it up tomorrow at 11 o'clock. Why wrangle over this? There is no urgency.

SHRI BHUPESH GUPTA: Sir, I want to answer Mr. Banerjee. I was a little Surprised that the ex-Secretary-General gave such an interpretation.

MR. DEPUTY CHAIRMAN: Please be brief.

SHRT BHUPESH GUPTA: The business is settled. You know very well, Sir, e<sub>ven</sub> if you extend the business of the House from 5 o'clock to 6 o'clock, either you have the sanction of the Pusinss Advisory Com-mitte or you take the sanction of the House. (Interruptions) Such is the position. Here I do not know how Mr. Banerjee could bring in the House of Commons. The House of Commons does not conduct its business as we do i<sub>n</sub> this House. You, Sir, have said in the beginning of the session that normally the House should meet every day at 1.1 o'clock. Is there any provision that th<sub>e</sub> House should meet at half past 12 on a new date? Nothing at all. Therefore, you will be ex-

ceeding your authority. I think the best course for you 'would be to adjourn the House and declare that the House meets today at 11 o'clock.

MR. DEPUTY CHAIRMAN: Please take your seat. Hon. Members will recall that at the very beginning of the discussion yesterday, I have told the House that the sitting will continue till the business is concluded. The rule has been pointed out by Mr. Banerjee and he has explained the whole thing. I need not go into details. *(Interruptions)* Please hear me first.

SHRI PILOO MODY: Your representation, Sir, and since you will not...

*(Interruptions)*

MR. DEPUTY CHAIRMAN: Rule 13 says, "Sittings of the Council shall conclude at such hour as the Chairman may direct." I have conducted the proceedings and the proceedings are continuing uninterrupted till this Bill is concluded. Therefore, the House is in order and the discussion on the Bill will continue till it comes to an end. The sitting for today is scheduled to start at 11 A.M. and it will start at 11 A.M. as we decided today. *(Interruptions)* Mr. Mody, you must know the courtesy of the House. You have to sit down when I am speaking.

SHRI PILOO MODY: I wanted to say one thing before you gave your ruling.

MR. DEPUTY CHAIRMAN: First you hear me. The discussion is to be concluded today.

SHRI PILOO MODY: Mr. Deputy Chairman, Sir, since our please...  
*(Interruptions)*

श्री भोलादास शास्त्री (बिहार) :  
उपसभापति जी, अभी आप लोग मेजरिटी  
में हैं जो की जाए *(Interruptions)* जिस  
1482 RS—16.

प्वार्ट पर बहस चल रही थी उस पर  
आपने कुछ कहा । मैं समझता हूँ विरोधी  
दल समझता है कि हाउस ऑर्डर में नहीं  
हैं और इसलिए हम लोग डिस्ऑर्डरली  
हाउस में नहीं बैठेंगे । आप बैठिये काम  
चलाइये हम लोग वाक आउट करते हैं ।

*[At this stage some Hon. Members left the Chamber]*

MR. DEPUTY CHAIRMAN: Now I will put the New Clause 16A. The question is:

112. "That at page 6, after line 21, the following new clause be inserted, namely:—

'16A. If any person under colour of office commits any act contrary to law of the land, such act shall be presumed to have been committed in bad faith and such person shall be punishable with imprisonment which may extend to three years, or with fine, or with both.

Explanation?—Act contrary to law shall also include signing blank detention orders under section 3 of the Act."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

113. "That at page 6, after line 21, the following new clause be inserted, namely:—

'16A. (1) The Parliament and the State Legislatures shall have power to review the working of the Act in respect of the detentions under the authority of the Central and State Governments as the case may be.

(2) There shall be Review Committees for overseeing the working of this Act by the Central Government and the State Governments consisting of 50 mem-

[Mr. Deputy Chairman.] bers; 15 members from the Council of State\* and 35 members from the House of the People to be nominated by the Chairman and the Speaker, respectively, keeping in view that the Committee duly reflects the political composition of either House and in the case of a State Legislature, 21 members nominated by the Speaker of the concerned Legislature'."

*The motion was adopted.*

MR. DEPUTY CHAIRMAN: Now we take up clause 17. There are three amendments. None of the Membrs is here. The amendments are not moved. The question is:

"That clause 17 stand part of the Bill."

*The motion was negatived. Clause 17 was added to the Bill.*

MR. DEPUTY CHAIRMAN: Clause 18. There are three amendments. "None of them is here. The amendmnts are not moved. The question is:

"That clause 18 stand part of the Bill."

*The motion xuas adopted.*

*Clause 18 waj added to the BUI.*

MR. DEPUTY CHAIRMAN: Clause 1. There are seven amendments. None of them is here. The amendments are not moved.

The question is:

"That clause 1 stand part of the Bill."

*The motion was adopted.*

*Clause 1 was added to the BUI.*

MR. DEPUTY CHAIRMAN: The Enacting Formula. Ther<sub>e</sub> is no amendment.

The question is:

"That the Enacting Formula stand part of the Bill."

The motion toas adopted.

*The E?iacting Formula was added to the Bill.*

MR. DEPUTY CHAIRMAN: The Title. Ther<sub>e</sub> is one amendment. None oi them i<sub>s</sub> here. The amendment is not moved.

The question is;

"That the Title stand part of the Bill."

*Ttie motion was adopted. The Titl<sub>e</sub> was added to the Bill.*

GIANi ZAIL SINGH: Sir I beg to move:

"That the Bill be passed."

*The question was put and the motion was adopted.*

## MESSAGE FROM THE LOK SABHA

### The Appropriation (No. 4) Bill, 1980.

SECRETARY-GENERAL: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary of the Lok Sabha:—

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith the Appropriation (No. 4) Bill, 1980, as passed by Lok Sabha at its sitting held on the 22nd December, 1980.

2. The Speaker has certified that this Bill i<sub>s</sub> a Money Bill within the meaning of article 110 of the Constitution of India."

Sir, I lay the Bill o<sub>n</sub> the Table.