

SHRI KAMLAPATI TRIPATHI:
Sir, I beg to move;

"That the Bill be returned."

*The question was put and the
motion was adopted.*

**I. STATUTORY RESOLUTION SEEK-
ING DISAPPROVAL OF THE PRE-
VENTION OF BLACKMARKETING
AND MAINTENANCE OF SUP-
PLIES OF ESSENTIAL COMMO-
DITIES ORDINANCE, 1979 (NO. 10
OF 1979)**

**II. THE PREVENTION OF BLACK-
MARKETING AND MAINTEN-
ANCE OF SUPPLIES OF ESSEN-
TIAL COMMODITIES BILL, 1980.**

THE VICE-CHAIRMAN (SHRI
R. R. MORARKA): The Statutory
Resolution seeking disapproval of the
Prevention of Blackmarketing and
Maintenance of Supplies of Essential
Commodities Ordinance, 1979, and the
Prevention of Blackmarketing and
Maintenance of Supplies of Essential
Commodities Bill, 1980, will be taken
up together. First I will call upon
Shri Jagdish Prasad Mathur to move
his Resolution.

श्री जादीश प्रसाद माथुर (उत्तर
प्रदेश) : मैं प्रस्ताव करता हूँ :

"यह सभा राष्ट्रपति द्वारा 5 अक्तूबर,
1979 को प्रख्यापित चोरबाजारी
निवारण और आवश्यक वस्तु
प्रदाय अध्यादेश, 1979 (1979
का संख्या 10) का निरनुमोदन
करती है।"

मैं इसको निरस्त करने के लिये खड़ा
हुआ हूँ। लगता है बिल की संख्या
से जैसा लगता है, वैसा ही इसका उद्देश्य

है। हम लोगों की कहावत में नं० 10
एक बड़ा शरारतपूर्ण शब्द बन गया है।
इस आर्डिनेंस में भी नं० 10 लगा हुआ
है, अर्थात् ऐसा दीखता है कि यह सारे
का सारा आर्डिनेंस जिसको कि सरकार
बिल के रूप में लाना चाहती है यह ऐसे
उद्देश्यों से भरा हुआ है जिसको कि भारत
की जनता आज स्वीकार करने को तैयार
नहीं है। इस लिए मैं सदन से प्रार्थना
करना चाहता हूँ कि इस को निरस्त करे,
इस को अस्वीकार कर दे।

मेरा मूल विरोध इस आधार पर है
कि इस में व्यक्ति की स्वतंत्रता को
छीनने का अधिकार दिया जा रहा है।
यह मैं नहीं कहता कि चोरबाजारी नहीं
होती, यह भी मैं नहीं कहता कि धोखा-
धड़ी नहीं होती, यह मैं नहीं कहता कि
दुकानदार या कारखानेदार इसमें हाथ
नहीं बटाते, लेकिन मैं यह भी कहना
चाहता हूँ कि इस में केवल दुकानदार,
कारखानेदार ही भागीदार नहीं हैं। इस
में, मेरे जैसे मैं नहीं कहता, लेकिन कुछ
ऐसे लोग हैं जो राजनीति में हैं, राज-
नीतिक लोग हैं और उन के साथ सरकार
के अधिकारी और व्यापारी तीनों मिल
कर चोरबाजारी के लिए जिम्मेदार हैं
इस बिल में व्यापार करने वाले, कारखाने
दार के लिए रुकावटें की गयी हैं।
लेकिन, श्रीमन, मैं पूछना चाहता हूँ
कि क्या चोरबाजारी और कीमतों का
बढ़ाना, चीजों की कमी अकेले व्यापारी
ही कर सकता है? कदाचित नहीं कर
सकता। गांवों में जा कर देखिए किस
प्रकार सीमेंट की चोरबाजारी होती है,
किस प्रकार से कोटे के कपड़ों की चोर-
बाजारी होती है। सब जानते हैं।
हम सब लोग कपड़ों के अन्दर नंगे हैं।
अगर कोई चोरबाजारी करना चाहे और

[श्री जगदीश प्रसाद माथुर]

कोई छोटा-मोटा नेता उसका साथ न देगा अधिकारी साथ न दे तो वह चोर-बाजारी नहीं कर सकता । तो मेरा पहला विरोध यह है कि इस में चोर-बाजारी रोकने के नाम पर स्वतंत्रता का अधिकार ले लिया गया है । इस में चोर-बाजारी रोकने का उद्देश्य इतना नहीं दिखाई देता जितना स्वतंत्रता के हनन का ।

किस को नहीं मालूम की सन 75 के अन्दर क्या हुआ । हमारे साथी जितने यहां बैठे हैं उन में से बहुत सों ने अपनी आजादी खोई थी । आज इस सरकार का 75, 76, 77 का रिकार्ड देखने के बाद यह अधिकार किस प्रकार दिया जा सकता है । प्रजातंत्र की एक कहानी है, संस्कृत का श्लोक है, जिस का अर्थ इस प्रकार है कि एक बन्दर शराब पी ले और फिर उसे बिच्छू डंक मार दे तो उस की स्थिति क्या होगी । वैसी ही स्थिति आज इस सरकार की है । उसे जीत का इतना मद है कि विरोधी दल की टीका टिप्पणी उसे बिच्छू के डंक की तरह लगती है । कैसे ऐसी सरकार को ऐसे अधिकार दे दिए जायें कि जिस को चाहे उस को नजरबन्द कर दे । कोई व्यक्ति ही ऐसा होगा जो किसी न किसी काम से व्यापार न करता हो, लेन-देन न करता हो । हम इस प्रकार से विरोध को अस्वीकार करने वाली सरकार को यह अधिकार दे सकते हैं ? कदाचित नहीं दे सकते ।

फिर मेरा विरोध इस दृष्टि से भी है कि जो प्रावधान इस में किये गये हैं वे अनुचित और अप्रत्याशित हैं । इस में यह कि आप ने किसी को

गिरफ्तार कर लिया तो कम से कम 15 दिन के अन्दर उस को बताया जा सकता है कि यह किस आधार पर किया गया है । जो विधान है अभी उस के अनुसार गिरफ्तार होने के आधार तुरन्त बताये जाने चाहिए । जिस व्यक्ति की आजादी ली गयी है उस व्यक्ति को यह अधिकार नहीं है कि उस को तुरन्त बताया जाय कि उस का अधिकार क्यों छीन लिया गया है । कहा गया है कि अधिकार होगा बोर्ड के सामने पेश होने का । बोर्ड के चेयरमैन और दूसरे लोग जजेज होंगे । जजेज क बने हुये बोर्ड के सामने जाकर वह अपनी बात कह सकेगा । कौन जानता है कि कौन नियम क्या है । जो सामान्य व्यापारी है वह कानूननहीं पढ़ सकता । क्यों उस को अधिकार नहीं दिया गया है कि वकील का सहारा ले सके । कहा गया है कि बोर्ड जो चाहे कार्यवाही करे । आवश्यक समझें तो पकड़ें हुए आदमी को उस के सामने जाने का अधिकार दिया जा सकता है । यह भी निश्चय बोर्ड स्वयं करेगा । यह बात स्वयं दिखाती है कि स्वतंत्रता को लेने के बाद उस की वापसी के लिए इतनी कठिनाई होनी चाहिए कि वह आसानी से अपनी स्वतंत्रता न ले सके । संविधान के अन्दर हेवियस कोर्पस की गुंजाइश है, उस में कानूनी सहायता ले सकने की गुंजाइश है । लेकिन मेरा सवाल यह है कि इस प्रकार का अधिकार दिया ही क्यों जाय, किस कारण दिया जाय ?

ऐसे ही और कई प्रावधान हैं जिन का कोई अनुमोदन नहीं कर सकता । इस लिए तीनों आधारों पर मैं इस विधेयक का विरोध करता हूँ । प्रथम कि यह कानून की दृष्टि से गलत है ।

इस के उद्देश्यों के अन्दर कहा गया है कि वर्तमान कानून अपूर्ण है, उस से काम नहीं चलता । यदि उस से काम नहीं चला तो यह भी कहा जा सकता है कि इस से भी काम नहीं चलेगा । अगर कानून कमजोर होगा तो उस के स्थान पर दूसरा पास किया जा सकता है । लेकिन कितने महीनों तक यही आधार रहा और मैं जानना चाहता हूँ कि इस के तहत कितने लोगों को पकड़ा गया, कितने लोगों का चालान किया गया और क्या इस से चोरबाजारी रुकी ? क्या इस से कीमतें घटी हैं । चोरबाजारी तो दूसरी तरह से होती है, कीमतें दूसरी तरह से घटती बढ़ती हैं । उन का कारण सरकारी तंत्र के अफसर हैं, राजनीतिक नेता हैं और व्यापारी हैं । तीनों को मिल कर चलना पड़ता है तब चोरबाजारी रुकती है । तो व्यक्तिगत स्वतंत्रता के आधार पर और जो प्राविजन किये गये हैं उन के आधार पर मैं इस विधेयक का विरोध करता हूँ और सदन से विनती करता हूँ कि इस विधेयक को वह पारित न करे और यदि इस को पारित करना हो तो कम से कम इस को एक सेलेक्ट कमेटी के सामने भेजा जाये ताकि इस में जो त्रुटियाँ हैं उन को दूर किया जा सके । मैं ज्यादा समय नहीं लेना चाहता इस लिये कि और भी कई साथी बोलने वाले हैं और इस लिये मैं अपील करता हूँ इस सदन से कि आप इस को पारित न करें और इस का सदन अनुमोदन न करें ।

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Now, Shri Pranab Mukherjee will move his Motion for consideration of the Bill.

THE MINISTER OF COMMERCE, STEEL AND MINES AND CIVIL SUPPLIES (SHRI PRANAB MUKHERJEE): Sir, I will reply to the points which the mover of the Statutory Resolution has made, while replying to the main debate. Sir, I beg to move:

"That the Bill to provide for detention in certain cases for the purpose of prevention of blackmarketing and maintenance of supplies of commodities essential to the community and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

The Bill seeks to replace Ordinance No. 10 of 1979, promulgated by the President on the 5th October, 1979, and was brought into force by a notification with effect from the 15th October, 1979. The Bill was passed by the Lok Sabha on the 2nd February, 1980. The Bill as passed by the Lok Sabha is before this House now for consideration.

The year 1979, from March onwards, witnessed an unprecedented rise in the prices of essential commodities due to various economic and other factors. The previous Government had promulgated the Ordinance to empower the Union as well as the State Governments to deal effectively with the various malpractices like profiteering and blackmarketing indulged in by unscrupulous elements, by taking recourse to preventive detention.

Sir, the present price situation is causing anxiety and the need to continue the legislation to effectively combat tendencies to indulge in malpractices is felt by the Government. The Bill which is in replacement of the Ordinance shall empower the Central Government and the State Governments and their officers specially empowered in this behalf, and the District Magistrate and the Commissioner of Police to detain persons. The orders

[Shri Pranab Mukherjee]

of detention passed by the District Magistrate or the Commissioner of Police will ordinarily be valid for a maximum period of 12 days, and 15 days in exceptional circumstances, and the detention has to be confirmed by the State Government within this period. The Bill provides that the grounds of detention will be furnished to the detenus and the Central Government will be informed of the passing of the detention order or its confirmation within a specified period. Necessary safeguards have been provided to refer the cases of detention to the Advisory Boards, set up for this purpose. The Advisory Boards have to be constituted by the Central Government as well as the State Governments in accordance with the recommendations of the Chief Justice of the appropriate High Court and will be presided over by a sitting Judge of the High Court, assisted by not less than two other retired or serving High Court Judges.

There is also a provision for personal hearing to the detenus who will not, however, be allowed to appear through a legal practitioner. The Advisory Boards will have to submit their reports to the appropriate Government within seven weeks from the date of detention and this will ensure that no person is kept under detention for a period longer than two months without the approval of the Advisory Boards. The State Government will be empowered to revoke the detention orders passed by an officer of the State Government. The Central Government will be similarly empowered to revoke the detention order passed by an officer of the Central Government or by the State Government. The maximum period for which any person could be detained after due confirmation by the Advisory Board is restricted to six months from the date of detention. The Bill which seeks to replace the said Ordinance and the provisions

made thereunder would enable the Government to take necessary preventive action against the anti-social elements who are likely to indulge in blackmarketing hoarding, profiteering, etc. and also act as an effective deterrent measure.

Sir, with these words, I beg to move that the Bill be taken into consideration.

The questions were proposed.

SHRIMATI PURABI MUKHOPADHYAY (West Bengal): Sir, I beg to move:

"That the Bill to provide for detention in certain cases for the purpose of prevention of blackmarketing and maintenance of supplies of commodities essential to the community and for matters connected therewith, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely—

- (1) Shri Shanti Bhushan,
- (2) Shri Sunder Singh Bhandari,
- (3) Shri Bhupesh Gupta,
- (4) Shri Yogendra Sharma,
- (5) Shrimati Purabi Mukhopadhyay,
- (6) Shri V. B. Raju,
- (7) Shri K. V. Raghunatha Reddy,
- (8) Shri K. S. Malle Gowda,
- (9) Shri Harkishan Singh Surjeet,
- (10) Shri Mohd. Yunus Saleem,
- (11) Shri P. Ramamurti,
- (12) Shri Era Sezhiyan,
- (13) Shri Ladli Mohan Nigam,
- (14) Shri B. Satyanarayan Reddy,
- (15) Shri Ajit Kumar Sharma,
- (16) Shri Amarprosad Chakraborty,
- (17) Shri Shiva Nandan Singh, and
- (18) Shrimati Ambika Soni,

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

(The motion also stood in the names of Shri V. B. Raju and Shri A. G. Kulkarni)

The question was proposed.

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Now, the Resolution and the Motion moved by the Minister and this amendment are before the House for discussion. Yes, Mr. Bhandari, please.

श्री सुन्दर सिंह भंडारी : (राजस्थान):
उपसभाध्यक्ष जी, चोरबाजारी निवारण
और आवश्यक वस्तु प्रदाय विधेयक के
सम्बन्ध में मैं इस मत का हूँ कि इस
कानून को इस देश में आवश्यकता नहीं
है। अक्टूबर महीने में इस बिल के सम्बन्ध
में एक आर्डिनेंस जारी हुआ था और
अक्टूबर, नवम्बर, दिसम्बर और
जनवरी तथा आज तक यह आर्डिनेंस
चल रहा है। सरकार जब इसे बिल
का रूप देना चाहती है तो यह उचित
होता कि इस आर्डिनेंस.....

संसदीय कार्य और संचार मंत्री
(श्री भीष्म नारायण सिंह) : श्रीमान,
मेरा व्यवस्था का प्रश्न है। सेलेक्ट
कमेटी को बिल भेजने में यह परम्परा
रही है कि जिन व्यक्तियों के नाम
सेलेक्ट कमेटी में भेजने के लिए प्रस्तावित
किये जाते हैं वे भाषण नहीं करते हैं।
इसलिए जैसा मैंने सुना सुन्दर सिंह भंडारी
जी का नाम उसमें प्रस्तावित हुआ है।
इसलिए उस परम्परा के अनुसार श्री
सुन्दर सिंह भंडारी का नाम बोलने
वालों में नहीं होना चाहिए।

(Interruptions)

SHRI BHUPESH GUPTA (West Bengal): Sir, as far as this ruling is concerned . . . (Interruptions).

SHRI MOHAMMAD YUNUS SALEEM (Andhra Pradesh): From where did you get it, Mr. Singh? Mr. Vice-Chairman, Sir, I want to know through you one thing. The point of order raised by the honourable Minister should be supported by some rule. I want to know through you, Sir, in support of his contention which rule he proposes to cite.

SHRI BHUPESH GUPTA: Sir, I can give you precedents. I can give you many precedents. One very historic precedent is there. When the Preventive Detention Act was sought to be renewed in 1952, it went to the Select Committee in the Lok Sabha and, Sir, many members, whose names had been listed for the Select Committee spoke and one of them was there in the other House. I remember, Shri Shyama Prasad Mukherjee, Shri A. K. Gopalan, and almost all the leaders spoke. You can consult the records. In this House, one of us went to the Select Committee and Shri Sundarayya and all of us spoke. So, it is a matter of courtesy. It seems you are not observing any courtesy.

SHRI PRANAB MUKHERJEE: We will follow that.

SHRI BHUPESH GUPTA: You can proceed with it. In any Bill, it is a matter for us to decide.

SHRI MOHAMMAD YUNUS SALEEM: It is rather strange that a Minister has raised this point. Had it been an ordinary Member, it would have been different. A Minister should be more responsible in raising point of order . . . (Interruptions).

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): The hon. Member may speak. But the convention is that generally Members whose names are mentioned in the list of Select Committee Members, give chance to others. But since there is no hard and fast rule, he can continue.

SHRI MOHAMMAD YUNUS SALEEM: There is no established convention.

SHRI PRANAB MUKHERJEE: A Minister can raise this point in this House.

SHRI A. G. KULKARNI (Maharashtra): I just want to know whether you would indicate the time when there will be voting.

SHRI MOHAMMAD YUNUS SALEEM: Not today.

SHRI S. W. DHABE (Maharashtra): Tomorrow . . . (Interruptions).

SHRI PRANAB MUKHERJEE: To-day in the morning when we discussed this point, thereafter we had discussion with the Leader of the Opposition also. The Leader of the Opposition and I met in the room of the Chairman and decided that today we will dispose it of . . . (Interruptions). At that time, the time schedule was that we shall start this business at 4 o'clock. But, unfortunately, it could not take place at 4 o'clock. It will be a little late. We cannot help it.

श्री सुन्दर सिंह भंडारी : उप-सभाध्यक्ष महोदय, मैं जैसा कह रहा था कि संसदीय कार्य मंत्री अपनी बात उठाने के साथ-साथ अगर इस बात को भी स्वीकार कर लेते कि सरकार ने इस बिल को सिलेक्ट कमेटी को रेफर करना स्वीकार कर लिया है तो किसी भाषण की या चर्चा की कोई जरूरत न होती। लेकिन क्योंकि अभी तक सिलेक्ट कमेटी का प्रस्ताव केवल प्रस्ताव मात्र है और मैं नहीं जानता कि उस कमेटी में मैं हूँ या नहीं हूँ और मुझे उस कैपेसिटी में काम करने का आप मौका लेने देंगे या नहीं देंगे, तब तक कमेटी की सहु-

लियत के लिये या सदन के विचार के लिये मैं अपनी बातें यहां रख देना आवश्यक समझता हूँ और इसीलिये प्रारम्भ में मैंने यह कहा था कि अगर श्री प्रणव मुखर्जी इस बात का भी विवरण यहां साथ-साथ रख देते कि पिछले चार महीनों में जब से यह आर्डिनेंस इस देश में लागू हुआ उसका क्या लाभ हुआ, इसके अधीन सरकार को कीमतें बढ़ने से रोकने में, चोरबाजारी को रोकने में, मुनाफाखोरी को रोकने में कितनी सफलता मिली, और वह सफलता न मिली होती अगर आर्डिनेंस उनके हाथ में न होता तो उस पर विचार किया जा सकता था।

मैं ऐसा मानता हूँ कि सिद्धांततः एक स्वतंत्र देश के किसी भी नागरिक को सामान्य रूप से बिना उस पर जुर्म का इल्जाम लगाये हुए उसको गिरफ्तार नहीं करना चाहिये और उसे अपनी स्वाधीनता के उपयोग करने का अवसर दिया जाना चाहिये।

श्री प्रकाश मेहरोत्रा (उत्तर प्रदेश) : मध्य प्रदेश में हुआ।

श्री सुन्दर सिंह भंडारी : मध्य प्रदेश की बात मध्य प्रदेश में करिये। मध्य प्रदेश में जब आर्डिनेंस लागू हुआ तो जनता पार्टी ने केन्द्र में यह तिश्तिय किया कि यह बिल न बन सके इसलिये आर्डिनेंस लेप्स कर दिया जाए और फिर आर्डिनेंस लेप्स हो गया और उसकी कानून की शक्ल नहीं बनी।

श्री प्रकाश मेहरोत्रा : आर्डिनेंस लागू किसने किया ?

श्री सुन्दर सिंह भंडारी : आर्डिनेंस को बिल का रूप कौन देने जा रहा है यह तो बताइये । अगर आप इसका जवाब नहीं दे सकते तो इस चीज को रहने दीजिए । जब कभी कोई राष्ट्रीय संकट आए, कोई सशस्त्र विद्रोह हो या युद्ध हो उस समय मैं समझ सकता हूँ कि कुछ मामलों में नजरबन्दी की जरूरत पड़ सकती है । यह तर्क दिया गया कि हिन्दुस्तान के कंस्टीट्यूशन में जब प्रिवेन्टिव डिटेन्शन की व्यवस्था है तो फिर इकोनोमिक ऑफेंस के लिये भी प्रिवेन्टिव डिटेन्शन को क्यों नहीं इस्तेमाल किया जा सकता है । मेरी राय में कंस्टीट्यूशन में अगर प्रिवेन्टिव डिटेन्शन की गुंजाइश है तो वह नेशनल कलेमिटी या वार या और कोई आर्म्ड रिबेलियन इस देश में हो जाए, या ऐसी परिस्थिति का निर्माण हो कि उस अवसर पर जिन लोगों के बारे में इस प्रकार का संदेह हो कि वह सारे देश के एकता के लिये खंडता के लिये संकट पैदा कर देगा तो उस चीज का मुकाबला करने के लिये संविधान में प्रिवेन्टिव डिटेन्शन की व्यवस्था है । मैं यह भी कहना चाहूंगा कि इस पर 6.00P.M. पुनर्विचार कर लिया जाये तो यह कोई हर्ज की बात नहीं है । हम इस पर विचार कर सकते हैं कि संविधान में प्रिवेन्टिव डिटेन्शन की जो व्यवस्था है वह अब लाजिमी है या नहीं । मैं अपनी तरफ से यह विश्वास दिला सकता हूँ कि अगर सरकार संविधान में प्रिवेन्टिव डिटेन्शन को हटाने पर विचार करेगी तो उस प्रश्न पर मैं उनसे सहयोग करने के लिए तैयार हूँ । लेकिन मैं इतना जरूर कह सकता हूँ कि इन पिछले चार महीनों में क्या कोई यह कह सकता है कि किस सरकार ने इसको लागू किया है और किसने लागू नहीं किया है ? पिछले

चार महीनों में जब यह आर्डिनेंस लागू रहा तो एक राज्य में कांग्रेस (आई) की सरकार भी काम करती रही है । विशेष कर मैं आन्ध्र प्रदेश का जिक्र करना चाहता हूँ । यह आर्डिनेंस अक्टूबर में आया । लेकिन ऐसे भी राज्य हैं जिन्होंने इस आर्डिनेंस को लागू करने की जरूरत नहीं समझी । उन्होंने कहा कि हमने वितरण की व्यवस्था ठीक की है, हमने कंग्रूमर को सस्ते दाम पर चीजें उपलब्ध कराने के लिए फेयर प्राइस शोप्स खोल रखी हैं, इसलिए हम इस आर्डिनेंस की आवश्यकता नहीं समझते हैं । हमारे यहां जो सामान्य कीमतें हैं वे सामान्य गति से चल रही हैं । मैं इस संबंध में तुलनात्मक दृष्टि से एक उदाहरण भी देना चाहूंगा । गुजरात एक ऐसा प्रदेश है जिसने प्रिवेन्टिव डिटेन्शन आर्डिनेंस के अन्तर्गत कदम न उठाने का फैसला किया, लेकिन आन्ध्र प्रदेश की सरकार ने ऐसी कोई घोषणा नहीं की कि वे आर्डिनेंस का उपयोग नहीं करेंगे । दिसम्बर के महीने में गुजरात में आलू का भाव 1.20 रु० था और आन्ध्र प्रदेश में 1.80 रु० था । प्याज का भाव, जिसकी बहुत चर्चा है और प्याज की तो एक राजनीति ही बन गई है । पता नहीं, इसकी कितनी परते उतरती रहेंगी और अन्त में प्याज नाम की कोई चीज रहेगी भी या नहीं, इस प्याज का भाव गुजरात में 3.50 रु० था और आन्ध्र में इसकी कीमत 4.50 रु० थी । इससे साफ मालूम होता है कि इन कीमतों को रोकने के लिए यह कानून, यह प्रिवेन्टिव डिटेन्शन कानून, कारगर साबित नहीं हुआ है । वास्तव में अगर चोर-बाजारी, मुनाफाखोरी पूरे जमाखोरी को रोकना है तो उसके लिए शासनतंत्र को ही अधिक चुस्त करना पड़ेगा

श्री सुन्दर सिंह भंडारी]

लेकिन मैं इस बात को समझ सकता हूँ कि हमारा उसमें जो एंसेंशियल कमोडिटीस एक्ट है उसमें कुछ कमियाँ हैं उनको ठीक करने के लिए हम कोई संशोधन ला सकें तो वह ज्यादा उचित होगा। इस संबंध में अगर कानून में तरमीम करने के लिए कोई सुझाव रखा जाता कि बिना नजरबंदी किये हम यह व्यवस्था कर रहे हैं तो कोई हर्ज नहीं होता और हम लोगों को उस कानून का समर्थन करने में कोई कठिनाई नहीं होती। यह आर्डिनेंस जब अक्टूबर के महीने में जारी किया गया तो जो भाई आज हमारे सरकारी बैंच पर बैठे हुए हैं वे उस वक्त विरोधी पक्ष में थे। उनकी नेता श्रीमती इंदिरा गांधी ने इस अध्यादेश के बारे में यह कहा था कि मुझे और मेरे समर्थकों को जेल में डालने के लिए इस अध्यादेश का उपयोग होगा। चुनाव भाषणों में भी वे इसी प्रकार का तर्क देती रही। यह बात सच है कि आज वे सरकार में आ गये हैं और श्रीमती इंदिरा गांधी का जेल में जाने का खतरा मिट गया है। लेकिन इसी प्रकार का रिएक्शन हर एक के मन में होगा क्योंकि पहले भी जब कोफोपोसा का कानून बना था तो यही आशवासन दिया गया था कि इकनोमिक आफेंसेज और इकनोमिक आफेंडर्स के ही खिलाफ इसका प्रयोग किया जाएगा। लेकिन हिन्दुस्तान का एक एक आदमी जानता है कि इसी कानून का जो इकनोमिक आफेंसेज को रोकने के लिए लाया गया था, राजनैतिक विरोधियों को दबाने के लिए और डराने के लिए प्रयोग किया गया और उनको महीनों तक नजरबन्द करने के लिए उसका इस्तेमाल हुआ। अब इसलिये जब यह नजरबंदी की व्यवस्था इस कानून में है तो यह सब आशंकाएं जागृत होंगी। यह स्वाभाविक है और विशेषकर उस समय जब कि पुलिस कमिश्नर और जिला मजिस्ट्रेट को यह अधिकार दिया जाता है। यह अधिकारी पार्ट आफ दि एक्जीक्यूटिव है।

आखिर में नजरबंदी कानून का दुरुपयोग हुकूमत ही कर सकती है, हुकूमत में बैठे लोग ही कर सकते हैं और हुकूमत के ये नुमाइन्दे हैं पुलिस कमिश्नर और डिस्ट्रिक्ट मजिस्ट्रेट। अच्छा होता अगर इस प्रिवेंटिव डिटेन्शन के अधिकार का दुरुपयोग न होने देने के लिए हम जूडीशियरी को बीच में लाते। क्योंकि आखिर जब आप प्रिवेन्शन डिटेन्शन में किसी को ले रहे हैं तो इसका मतलब यह है कि उसके प्रीवियस कन्डक्ट के बारे में आपको आशंका है। अगर उसने एक जुर्म कर दिया है तो उसको प्रिवेन्शन डिटेन्शन में लेने की जरूरत नहीं है। आप उस पर मुकदमा चलाकर सजा दिला सकते हैं। लेकिन प्रिवेंटिव डिटेन्शन का मतलब यही है कि इस आदमी का इतिहास कुछ रहा है, रिकार्ड कुछ ऐसा रहा है जो इस बात की शंका पैदा करता है कि इस व्यक्ति को अगर आजाद रखा गया तो यह चोरबाजारी या मुनाफाखोरी का काम कर सकता है। इसके लिए रिकार्ड देखना पड़ेगा, कुछ चीजों की तफसील में जाना होगा और कुछ बातों को लेकर इसको तोलना होगा। महोदय, मेरा निवेदन है कि इन चीजों को तोलने का काम, एवीडेन्स असेस करने का काम एक्जीक्यूटिव अथॉरिटी को नहीं दिया जा सकता, जूडीशियल अथॉरिटी को ही यह अधिकार दिया जाना चाहिए। इन कानून का उपयोग करने का हक जो इस बिल में दे रखा है पुलिस कमिश्नर को। मूवर आफ दि बिल ने इस बात पर इम्फेसिस किया है और वे डाइरेक्टरी एक्जीक्यूटिव को पिकचर में लाये हैं। यह आम कायदा है कि एक्जीक्यूटिव पिक एंट चूज के आधार पर इस प्रकार के अधिकार का उपयोग करती है। यह मैं मानता हूँ कि आपने इसमें कुछ दिनों में निश्चिन्ने देने की बात कही। आपने यह भी कहा कि कांस्टिट्यूशन में हैबियस कोर्पस, के अन्दर उस आदमी को जो अधिकार है वह उसको मिलेगा। मैं केवल यह कहना चाहता हूँ कि हैबियस कोर्पस के नाते

से उा व्यक्ति के अधिकारों की सुरक्षा का क्या मतलब आखिर एक बार उसको जल में डाल देंगे। जो मुकदमें अदालतों में रहते हैं उन पर जल्दी फैसला नहीं होता। इसलिये इसके बावजूद भी कुछ दिनों के लिये उसकी स्वतंत्रता का हनन हो जायेगा, जो कि हैरिस कार्पस के पिटीशन का समय होगा। कांस्टिट्यूशनल सेफगाइर्स के बाद भी वह व्यक्ति गिरफ्तार होगा। उा आदमी पर जुर्मा साबित नहीं होता, उस पर आपको केवल अंदेश है, इसलिए उसको पकड़कर पुलिस चौकी में आडिनरी क्रिमिनल्स के साथ नहीं रखा जा सकता। मैं इसे स्वीकार कर सकता हूँ अगर जूडीशियल स्कूटनी के बाद उसको प्रिवेंटिव डिटेंशन में रखते हैं। अगर मुकदमा चलाना है उसके ऊपर तो उसकी जमानत के बारे में आप कठोर से कठोर नियम बनाइये। जिन जुर्मा के लिये उा कैद की सजा होती है, ऐसे जुर्मा में बेल लेने के लिये जितनी पाबन्दियां हैं, जितनी मुसीबतों के बाद और मुश्किल से वह दी जाती है, एकानामिक आफेंडर्स के लिये भी आप ऐसे नियम बनाइये, जमानत मत लीजिये। आज यह जो शिकायत है कि 17-18 हजार मुकदमें इस तरह के पड़े हुए हैं इसका मुख्य कारण यह है कि इन लोगों को जमानत मिल जाती है। साधारण पैनल कोड के मामले भी जिनमें जमानतें हो जाती हैं उनकी पेशियां भी दो-दो महीने के बाद पड़ती हैं, तीन-तीन महीने के बाद पड़ती हैं। मेरा सुझाव है कि अगर आप वास्तव में इस आर्थिक अपराध को रोकना चाहते हैं तो एक तो जूडीशियल स्कूटनी के बाद उसको पकड़िये और पकड़ने के बाद जमानत मत लीजिये। इसके लिये अलग से अदालत ईयरमार्क कीजिये। क्योंकि आपने पकड़कर मुकदमा चला दिया तो इसका डेटेरेन्ट एफेक्ट नहीं होता। आप पकड़कर, मुकदमा चलाकर जितनी जल्दी हो सके उसको सजा देकर यदि देश में उदाहरण प्रस्तुत करेंगे तो उतना ही उसका डेटेरेन्ट एफेक्ट पड़ेगा।

इसलिए अगर तरमीम करने की जरूरत है तो इस क्षेत्र में तरमीम करने की जरूरत है। नजरबंदी की कोई आवश्यकता नहीं है। मैं केवल यही कहना चाहता हूँ कि ला कमीशन ने अपनी सैंतालीसवीं रिपोर्ट में इन इकोनोमिक आफेंडर्स के बारे में स्ट्रिक्टली डील करने के बारे में कुछ सुझाव दिए थे। अच्छा होता अगर मूवर महोदय इस बिल को पेश करते समय सैंतालीसवीं रिपोर्ट की रिकमेंडेशंस के आधार पर जो उन्होंने स्ट्रिजेंट मेजर्ज के सुझाव दिए थे उसके बारे में एक रिपोर्ट देते, वर्क आऊट करते और उस ला कमीशन की रिपोर्ट के आधार पर कदम उठाने की बात करते। इस बिल को इस रूप में कभी भी स्वीकार नहीं किया जा सकता जब तक कि यह आडिनैंस जो चार महीने तक लागू रहा इसकी वर्किंग के बारे में एक रिपोर्ट नहीं आती। अगर ला कमीशन की रिकमेंडेशंस के आधार पर जो सरकार को कदम उठाने चाहिए थे क्या उस संबंध में कोई फीजीबिलिटी रिपोर्ट या किसी भी प्रकार से इस रिपोर्ट के सुझाव मानने के बाद भी हमारे हाथ कमजोर साबित होते हैं? इन दोनों चीजों का अभाव है इसलिए मैं समझता हूँ कि बिल इस सदन की प्रवर समिति को निश्चित रूप से सुपुर्द करे। वहां पर मैं तो दावत दूंगा कि सरकारी पक्ष के प्रतिनिधि भी इसमें शामिल हों और हम लोग एकास दी टेबल बैठ कर इसके सब एस्पेक्ट्स डिस्कस करें। मैं सदस्य महोदय से, जिन्होंने सेलेक्ट कमेटी का अर्नेडमेंट दिया है उनसे भी अपील करूंगा कि

श्री प्रणव मुखर्जी : आपका सेलेक्ट कमेटी पूरे अपीजीशन के लिए है।

श्री सुन्दर सिंह भंडारी : आपने मना किया इसलिए। आप अपना कुछ जेस्चर बता दीजिए, मैं उपसभाध्यक्ष जी से स्पेशल परमीशन मांगूंगा इन नामों को जूड़वाने के लिए

SHRI V. B. RAJU (Andhra Pradesh): This has been conveyed to the Minister of Parliamentary Affairs to suggest names to be included.

SHRI BHISHMA NARAIN SINGH: He has not asked me for any names to be included there.

श्री सुन्दर सिंह भंडारी : उपसभाध्यक्ष जी, मैं तो यह कह रहा था कि अगर लीडर आफ दी हाऊस आज भी इस डिबेट के अवसर पर सेकेंड थाट्स रखते हों और अपनी पार्टी के नुमाइंदों को इसमें शामिल करने के लिए तैयार हों तो हम लोग आपसे स्पेशल परमोशन मांगेंगे, सेलेक्ट कमेटी के फॉर्मेशन के संबंध में इसकी लिस्ट को रिवाइज करने के लिये ताकि एक कम्प्रेहेंसिव कमेटी बने। इसलिए बड़े इम्पोर्टेंट मुद्दे हैं। यह मामूली चीज नहीं है और आगे भी अगर हम इन अधिकारों पर अंकुश नहीं लगायेंगे और किसी भी नागरिक को किसी भी काम के लिए क्योंकि आप अंदाज लगाइये बातों की जाती है चोर-राजारियों और मुनाफाखोरों की लेकिन आज ट्रेड यूनियन एक्टिविटी करने वाले लोगों के मन में शंका पैदा हो गई है, क्योंकि इसमें इतनी गुंजाइश है, इतना बड़ा दायरा है कि जिसको भी सरकार नज़रबन्द करना चाहेगी 6 महीने तक वृत्तिनिश्चित रूप से नज़रबन्द कर सकती है। एडवाइज़री बोर्ड की बात कही है लेकिन उस डिटेन्स को यह अधिकार नहीं है कि वह खुद जाकर अपनी बात वहां पर रख सके या अपने किसी वकील के जरिये से बात रखवाये। यह एडवाइज़री बोर्ड की स्वीट विल पर छोड़ दिया गया है उसकी एबसेंस में उसका बिना मुते हुए उसके डिटेन्शन के रीजंस को वॉलेंट मान ले और 6 महीने तक उसको जेल में डाल दे। इसी आधार पर मैं इस बिल का विरोध करता हूं। सरकारी बेंचेंज को कहूंगा कि वे सेलेक्ट कमेटी को रेफर करने वाले प्रस्तावको स्वीकार करें और उनके प्रतिनिधि भी अगर इसमें

शामिल करवाने के लिए बात सामने आई तो उसको भी सोचा जा सकता है। इस बिल का पार्टी विशेष से कोई संबंध नहीं है। देश के प्रत्येक वर्ग से संबंध है। इस संबंध में अगर हम सब मिल कर एक बिल बना सकें उसके लिए आवश्यक कदम उठाने का फैसला कर सकें तो वह देश के लिए फायदेमंद होगा और हर जरूरतमंद के लिए आवश्यक वस्तुएं सुलभ कराने में कारगर साबित होगा इन्हीं शब्दों के साथ मैं सेलेक्ट कमेटी को सौंपे जाने के संशोधन का समर्थन करता हूं।

SHRI K. V. RAGHUNATH REDDY (Andhra Pradesh): Mr. Vice-Chairman, Sir, the title of this proposed legislation is colourful, but the content of the legislation is colourable.

I am afraid while this is giving them vicarious pleasure of claiming it as inheritance from the past Government, I am afraid this is a vicarious liability as far as we are concerned. At the time when the Ordinance was issued, perhaps as a temporary measure, even at that point of time voices were raised in denouncing the Ordinance as a draconian piece of legislation designed for the purpose of dealing with the political opponents instead of dealing with the economic offences or offenders. These voices were raised not by ordinary men, not merely by Members of Parliament or Legislatures but by the highest persons in the country, including the Prime Minister herself. At that time the Prime Minister herself had raised her voice in denouncing this Ordinance. This piece of legislation now had not only been brought forward but it had been put through in the other House. Now we are asked to support this piece of legislation. I may say with great respect, if once at that particular time this piece of legislation was considered to be bad not only in terms of law and justice but in terms of propriety and in terms

of social good, now I do not think the situation has developed in the sense that this legislation deserves our active consideration.

It is also suggested that a comprehensive piece of legislation, as suggested by Mr. Bhandari, on the recommendations of the Law Commission, would be appropriate. It should not be understood, Sir, that we are opposed to any comprehensive piece of legislation to be brought forward for dealing with the economic offences or offenders who deserve to be dealt with by law, but this kind of legislation—as I said the title is very attractive—smacks of populism, populism in terms of political psychology. It is seductive in its effect and the so-called welfare measures that are suggested in the body of the legislation are sadative in character. And when both seductive populism and sedative welfare measures are combined together, it becomes a deadly weapon in the hands of the political operators in any country.

When we go to this piece of legislation, it is suggested that this piece of legislation is necessary for the purpose of dealing with an economic situation, that again can be called an inherent situation. This is not a sudden development. It is part of the economic crisis that had developed in the economic system itself. Without coming forward with the measures to deal with the economic crisis which is inherent in the economic system itself, some measures are contemplated to deal with the so-called offenders who have been described in this piece of legislation. It is nobody's case that economic offenders, the hoarders, the blackmarketeers and others who commit economic offences should not be punished. Heavy punishments are called for them. But it must be remembered, Sir, when the Government itself becomes an offender for creating such an economic situation or economic crisis, who is to deal with that Government which is res-

possible for developing this kind of economic crisis? It had been reported today that the economic growth is going to be minus three per cent next year. Already the economic growth was minus. Therefore, who is going to benefit out of this? By scarcity it is only those who can operate the economic system in their favour, can benefit and no amount of legislation is going to help us nor can palliatives provided for the economic crisis that has developed in this country help. If you want to deal with an offender here and an offender there, this might provide the necessary publicity and it might act as a deceptive measure for the purpose of cheating the people to make them believe that some thing is being done for them, but nothing more is going to happen and nobody is going to get the real benefit out of it. The Government must recognise that the present crisis of rising prices, the inflationary trends, fall in production, fall in investment—all of which create conditions of scarcity in this country in spite of plenty—is the result of the operation of the economic system itself. Unless this basic fact is fully realised, any amount of political jerryandering is not going to help the Government and this piece of legislation is at best a deceptive one rather than a real, not very honest exercise in undertaking economic analysis dealing with economic facts.

Now, Sir, coming to the merits of this legislation, my good friend Mr. Shiv Shankar is here and he is a very learned man in law. One of the speakers has already said that the Constitution itself provides for preventive detention. The more I think about it, the more is it my earnest opinion that the time has now come to review the provisions of the Constitution itself whether there should be provision for preventive detention . . .

SHRI BHUPESH GUPTA: Empowering provision, not providing for.

SHRI K. V. RAGHUNATHA REDDY: Yes, whether there should be an empowering provision empowering the Parliament and the legislatures to make legislation in relation to preventive detention. Whether that enabling provision itself should be allowed to be a part of the Constitution is a matter for consideration. Now the time has come in this country when the working of the Constitution itself will have to be reviewed in relation to preventive detention and the enabling provision under the Constitution under article 22. It has been said and very wisely said—that even amidst the clash of arms, the voice of courts cannot be silenced. But even without clash of arms, if in order only to deal with an economic crisis, which is the creation of the economic system itself, you are coming forward with a draconian legislation, it is the most absurd thing that any civilised government can think of doing.

Now coming to the merits of this legislation, Sir, the drafting of the legislation is very vague and it can be interpreted and misinterpreted to suit a particular situation, or to deal with anybody whom the Government wants to deal with. Sir, the Explanation under clause 3 of the Bill says:

“(a) committing or instigating any person to commit any offence punishable under the Essential Commodities Act, 1955, or under any other law for the time being in force relating to the control of the production, supply or distribution of, or trade and commerce in, any commodity essential to the community.”

Now this explanation is so comprehensive that it can punish the peasantry which might demand higher prices; it can punish the trade unions who will demand more wages; it can punish any class of persons in this country and anybody who has got very legitimate demands . . .

SHRI N. K. P. SALVE (Maharashtra): Trade unions under which category? Under distribution, trade or commerce?

SHRI K. V. RAGHUNATHA REDDY: Relating to the control of production. The working class deals with production, I hope. Mr. Salve should not ask this simple question. When you deal with control of production, it is not merely the producer, the investor, the manager, but it is the trade union also. After all, working class is said to be the primary producer of wealth in this country. In the name of maintenance of essential services, you can also deal with that class of persons. Again, in relation to production, I must warn you that the peasantry, out of patriotic duty when the country was once importing foodgrains, has now produced 130 million tonnes of foodgrains but there is no proper price for the peasantry at all, and if the peasantry demands higher prices, remunerative prices for their produce, then they can also be accused of playing with the distribution, or playing with production, or creating conditions that would create problems in relation to control of production or supply or distribution. Such an interpretation is possible under the law that is contemplated here. This would be a very unfortunate development that can be thought of. Mr. Pranab Mukherjee, my good friend, might say, “Why do you accuse us? This is a legislation that has been promulgated as an Ordinance. Now we have brought this piece of legislation to validate the Ordinance that has been issued by the previous Government.” This is a very facile argument that is being advanced now.

SHRI PRANAB MUKHERJEE: Your party was in the Government at that time.

SHRI YOGENDRA SHARMA (Bihar): Then you opposed it. Why are you bringing it now?

SHRI BHUPESH GUPTA: Mr. **MUKHERJEE**, sometimes you have done good things in life. Why are you shy of it? Many good things you did when you voted with us. Vote along with us today.

(Interruptions)

SHRI K. V. RAGHUNATHA REDDY: At the time when this Ordinance was issued it was described as a monster and this monster has been adopted with great pleasure as their child now. Now they have become foster parents and now they want to sell this child in the market to the people of this country. Therefore, since they have adopted this child they are not able to get over the illegitimacy part of it. That is why they are struggling with this piece of legislation and want us to accept this monster. We are not prepared to do so.

Now, Sir, again they say that in terms of freedom they provided necessary safeguards. When a man has been arrested without any notice to him, without even all the facts which had made the Government authorities under this legislation feel satisfied that a person's liberty can be put an end to, even those facts also cannot be given because they have got protection under the Constitution itself that all the facts need not be given under the pretext of public interest. Now the situation is like this. When a person is detained under the provisions of this law, not only is his liberty deprived but his good name also is affected. In society, as soon as a person is detained under this law, his reputation is affected because he is considered to be one detained under the Preventive Detention legislation mainly meant for economic offences and he is not brought before any court of law for the purpose of trial. Why? Even if a person is detained, what prevents them to bring him to book before a court of law for a proper judicial trial so that the public also would

know what are the offences committed by this man in open trial? And social criticism would be a much better weapon to deal with economic offenders than keeping them in a kind of closed doors. Why are you feeling shy about it? Because it is much easier to deal with certain persons whom they do not like under the cover of secrecy. They should bring them before any court of law and try.

There is the legislation on Special Courts. It would be very well if all the economic offenders are brought for trial before any Special Court in order to expedite the trial instead of bringing forward this kind of legislation. For certain reasons even the legislation on Special Courts' had been opposed by my friends when they were on this side. When they had opposed even the Special Courts, why should they now bring forward this kind of a legislation? There is a complete inconsistency between what they say and what they practice in this regard.

We are totally opposed to this piece of legislation for very valid reasons, our side had moved an amendment for referring this Bill to a Select Committee of this House. It will be a very wise step if the Government could agree that this piece of legislation goes before a Select Committee not merely to see what the defects are there in the drafting and in the legislation itself but also to consider the very merits of whether such a Bill is at all necessary or not. It will be open to the Select Committee to recommend that this Bill need not be accepted at all and this kind of legislation is not called for to deal with special cases that have been mentioned now by the Government.

Sir, we are totally opposed to this Bill. I strongly oppose the very legislation itself.

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Shri Salve.

SHRI BHUPESH GUPTA: Oh, Mr. Salve will be supporting it.

SHRI N. K. P. SALVE: Yes, Bhupeshda, after you heard me, I am sure you will decide to vote with us.

Mr. Vice-Chairman, Sir, at the outset... (Interruptions).

The difficulty is that your mind is not an open one.

AN HON. MEMBER: A great persuader.

SHRI N. K. P. SALVE: At the outset, I want to submit that any enactment on preventive detention is an exercise which is not a very pleasant task for any Government. It is not a welcome task for anyone of us here and we wish a situation had arisen where such an enactment was never necessary—not only now but also in the future. But situations do come about in this country when we forced to make a provision for prevention detention either under entry 9 of the Union List or entry 3 of the Concurrent List. I hope it will be a different world if the apprehensions of the founding fathers of the Constitution stand completely belied and the community and the society in this country becomes responsible and is responsive to its social needs so that we are able to bid good-bye to preventive detention once and for all.

Sir, prevention detention is a very much maligned word in western democracies. Excepting England and Canada where during the war time they had preventive detention, there is no democracy where they have preventive detention because the classical concept of preventive detention is divesting a person of certain rights. It is a very important legislative measure because this means you are divesting a person of his individual freedom and liberty without any conviction and without any trial. That being so, Sir, here in this House and in the other House, those who have considered and found in the western

democracy almost an ideal model for us, have on abstract philosophies considered preventive detention a concept to which they are allergic. Sir, a hard-headed evaluation and a hard-headed assessment is necessary. I am glad that the Leader of the Opposition is here. I have quite a few facts and bitter realities to tell him which, I am sure, he will also objectively evaluate and assess for himself the series of events which have brought the country to a stage of virtual collapse, to a stage of virtual disaster, to a stage where it has become necessary for us to take resort to this preventive detention. Things cannot be allowed to deteriorate any further than they have already so far.

Sir, there are a few things from legal aspects on which I would first speak. Then I come to the imperative necessity of this enactment. To my mind, there are some misconceptions in the mind of Mr. Bhandari about preventive detention. He said that, according to the Constitution, preventive detention can be resorted to only when there is armed rebellion or things like that. It is not so. The founding fathers of our Constitution have enumerated in entry 9 of the Union List three subjects, namely, Defence, Foreign Affairs, or the security of India. And in entry 3 of the Concurrent List there are again three subjects on which preventive detention is contemplated by the founding fathers of our Constitution, namely, the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community. One thing, therefore, is absolutely clear. The founding fathers of our Constitution were also aware of the hard realities of the community, which the community constituted, they knew our weaknesses and our strong points, they knew that a situation could arise when people could aggrandise their own personal interests, where a

section of the people could at times held the whole community to ransom. At this juncture if you get into the rigmarole of trying to get at them through the regular channel of the law, getting them arrested, would immediately mean that they would go on bail, and if they went on bail, the litigation would go on for twenty years when the purpose of immobilising them, preventing them from doing what was causing immediate damage to the society, would be stultified and stifled, and the whole purpose would be frustrated. It was foreseen by the founding fathers that such a situation would arise. But they did not vest unlimited authority. It was not unlimited powers given by the founding fathers. In respect of entries 9 and 3 only can preventive detention be made, and that is also circumscribed by other serious limitations because there is likelihood of very great abuse of this power. Therefore, they put the norms of natural justice into the exercise of administrative rules for detention, which would ensure their conforming to the principles of natural justice in detention. So, Article 22 was enacted. And Article 22 was amended at the behest of the then Law Minister, Shri Shanti Bhushan. I would want him really in this House to get up and tell us if there is any possibility of abuse after Article 22(4) stands, after it is ensured that it would be the Judges who would constitute the Advisory Committee to whom every representation would be sent. Is it not virtually a committee comprising of men who have a judicial training, who have a judicial mind and who are not going to be the henchmen of any politicians whatsoever? They will not be a party to any political vendetta, vengeance, being read through the media of this enactment. And if that be correct. I submit that it is a sufficient safeguard to ensure that there is no possibility of any political victimisation as long as Article 22(4) is on the statute, that was amended in

1978 by section 3(a) of the Forty-Fourth Amendment Bill.

SHRI BHUPESH GUPTA: The Forty-fourth Amendment Act.

SHRI N. K. P. SALVE: Thank you, Mr. Bhupesh Gupta. Sometimes, you are helpful.

Sir, the question that arises for consideration is whether or not conditions do come out in our society where today we have the tax-evaders, the racketeers, the profiteers, the black-marketeers, the hoarders and the adulterators absolutely let loose; with impunity they are carrying on their activities.

SHRI BHUPESH GUPTA: Now defectors are let loose.

SHRI N. K. P. SALVE: Sir, I can assure you that this is not the first time that they are let loose. For the preceeding 30 months they had run absolutely berserk and amuck. At any rate, once a while it is a good enough exercise. Be that as it may, I wish some enactment comes about defection also. But till then, Mr. Bhupesh Gupta, I have this appeal to you. If today the situation has come where these economic offenders are indulging in their anti-social activity—and they are indulging in it recklessly to which I am coming—how will you approach them? Through the income-tax law? If you do not go by these two entries, then, which are the other means to reach them. (*Interruptions*) I am addressing the Chair. Mr. Mohammad Yunus Saleem, by friend, Sir, finds it very difficult to have some patience when we are on a difficult subject like this. If no bears with me, I am sure . . .

SHRI MOHAMMAD YUNUS SALEEM: You know it very well.

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Order, please.

SHRI N. K. P. SALVE: They are a get of people, these offenders, who are out for a quick buck at the cost of the community, at the cost of impairing the very smooth working of the society, at the cost of endangering the very existence of the society. Sir, baby-food is adulterated to any extent. Excise collection is only to the extent of 35 to 40 per cent. The amount of tax evasion that is going on is like no one's business. And what it is due to is something to which I will be coming a little later. But if this has to be arrested, how do you go about it? Do you go to the Essential Commodities Act? Tax evasion, large-scale tax evasion in respect of excise, in respect of wealth-tax, is directly related to this Act. That is what I want to bring to your notice. And always if any action is taken under this Act.... (Interruptions).

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Order, please. Please go on.

SHRI N. K. P. SALVE: Sometimes useful suggestions also come. So I do not want to ignore them.

Sir, my submission was that to make this Bill effective, we must do something. One of the speakers argued: well, this has been an Ordinance; this has been the law for all these four months; what has come out of it? Our misfortunes have been increasing in the course of these six months. The graph has been going up steeply in these 30 months' time. It was bound to happen. Where a bunch of political opportunists masquerading themselves as a political party, devoid of any socio-economic or political philosophy or ideology come here and occupy the treasury benches, this is bound to happen. And we are blamed for all that happened in these 30 months. The other day sufficient eloquence was waxed to condemn us for many things for which squarely each one of them is sinfully responsible. But I am submitting that along with this the in-

come-tax authorities, the excise authorities and the wealth-tax authorities must act in concert. And if they acted in concert, you have any word that in 10 days' time, in 15 days' time, the prices will come down. In 10 days time, in 15 days' time the fear of God will be instilled into the minds of these selfish, dishonest, ruthless, unprincipled men who are most scared of going to jail. They are not worried if you levy a fine of Rs. 10 lakhs. on them. In the next deal they will make Rs. 20 lakhs. If you levy a fine of Rs. 20 lakhs, in the next deal they will make Rs. 40 lakhs, and that will all come from the pockets of the consumers. Monetary penalties do not matter anything to them. But if you tell them that they are going to be put behind bars for four hours, they come to their senses. And that is why this Bill is needed. But if a political party which was in power, or two political parties conglomerating together and forming a Government which was known for its monumental incompetence and political opportunism, if they could not do anything, is that a reason to say why we will also be not able to do anything? If nothing was done using this enactment, it was because there was no political will. That a set of incompetent people who were running the Government for the last six months could not work upon. It is no reason why we will not mean business about it.

Sir, the imperative conditions which necessitate the enactment of this law might be looked into. Sir, in excise I have already said only 40 per cent is being paid. In income-tax there is massive evasion. Sir, regarding crime in Delhi, the other day figures were given by the Prime Minister. Staggering figures have been given which she says were computed by the Janata Government itself. It would appear from those figures that we Delhites are possibly the biggest tribe of criminals in the world. There is hoarding of cereals, drugs, baby-foods and

oils in collusion with the Administration. All of them are making merry. The parallel economy is booming at a level higher than it was ever before. All this was happening. At that time Mr. Bhupesh Gupta was joining us. This is where I appeal to him. Was not the Finance Minister who belonged to the party of the Leader of the Opposition at that time, more busy working to draw on the favours of the son of the Prime Minister, trying to sell all the gold to the cartels, trying to arrange....

SHRI BHUPESH GUPTA: I told you we are suffering from the "sons" problem

SHRI VISWANATHA MENON (Kerala): Here also a son, there also a son.

SHRI N. K. P. SALVE: If you want to understand a serious proposition I am willing to explain to you. The difficulty was if you have a Finance Minister who at the behest of the son of the Prime Minister has the chairman of the Board of Direct Taxes superseded and brought someone from far below purely to aggrandise his own interests, what do you expect such a Finance Minister to do? Do you think such a Finance Minister is going to be worthy of his salt and have the slightest moral authority that way to arrest and check large scale evasion of income-tax. He has the least moral authority so far as administration of income-tax, wealth tax and direct taxes is concerned. They could go and try to search out a large scale treasure in the farm house of Mrs. Indira Gandhi and when they drew a blank, the officers told us, we were told to do it by the topmost people. Not only this. So many things have been done which would have put any person to shame here. They are responsible for bringing the country to this terrible situation where today in the Income-Tax Department in the Excise Department, the departments

which are connected with economic offences, there is complete chaos, there is complete disorder, there is no administration that exists. The consequence is those people who are supposed to be under check for their economic offences, they are having a field day. They have to be brought to book and they have to be brought to book expeditiously. The Prime Minister of the Janata Party having solemnly said that we will not have deficit financing, resorted to massive deficit financing; each year they resorted to massive deficit financing, much more than was anticipated in the Bill. We tried to explain to him that this sort of reckless deficit financing you are indulging in will ultimately ruin the economy, the unprecedented spurt in money supply the unprecedented and unprincipled growth in money-supply will bring about great distortion in the entire economy which will create another spiral and inflationary pressures. No, he never headed us. And then came the champion Finance Minister who thought he will be the greatest of agriculturists and the greatest of Finance Ministers. He brought certain proposals of taxation unheard of in the annals of fiscal legislation. He brought certain proposals of direct taxation, he brought certain proposals of indirect taxation, and completely ruined not only the fibre but the fabric also of the entire fiscal legislation, the entire machinery which was supposed to collect the revenues of the Government. This is the condition. This is what you have done all these days and months. And such is the legacy which the Government of my party has taken up. What else has not been done? The only one programme was somehow or other to victimise Mrs. Gandhi, to malign her, to harass her. The entire demonetisation, I am told, was carried out purely to get a large sum of money from Mrs. Gandhi. But what happened? The entire exercise was carried out to get crores of rupees, but they did not get

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a single rupee out of it. The other day so much eloquence was waxed about Mr. N. K. Singh's supposed arrest. He has gone in for an anticipatory bail. Do you understand the meaning of an anticipatory bail? If he was arrested, where is the question of his asking and getting a bail in anticipation. Anticipatory bail means, in anticipation of arrest you are asking for bail.

SHRI NAGESHWAR PRASAD SHAHI (Uttar Pradesh): You are confused.

SHRI N. K. P. SALVE: I am only saying one thing.... (Interruptions). Mr. Shahi, please listen to me. You will benefit if you listen to me. I for one would never want anyone to be harassed in this country outside the procedures laid down by law. A large many people were interrogated by the CBI. If I was interrogated, I must be interrogated. There is nothing in it. It is the motive that has to be looked into. If the motive has not been fair, I can understand this House being agitated and I have nothing to say. What has happened to the pedigree conscience of those who were worried about Mr. N. K. Singh when Mrs. Gandhi was arrested overnight—when a leader of her stature was arrested overnight without any warrant being served on her? And the next day within less than five minutes the Magistrate released her. Then the Home Minister and the Prime Minister did not have the slightest regret to express....

SHRI SURENDRA MOHAN (Uttar Pradesh): When we were all arrested under the MISA there was no Magistrate, Mr. Salve, to whom we could go. What do you say to that?

SHRI N. K. P. SALVE: I wanted only to submit this: Do not go by double standard.

SHRI BHUPESH GUPTA: On a point of order. My friend here has

managed to get Mr. Pranab Mukherjee to this side. Is he causing defection?

AN HON. MEMBER: He has defected on his own.

SHRI N. K. P. SALVE: The question is that no one in this country should be harassed. No one in this country should be harassed without the authority of the law, without the procedures laid down by law. That is the solemn mandate and dictate of our Constitution. Let not my friends get perturbed over something which does not exist.

SHRI SADASIV BAGAITKAR (Maharashtra): When opposition leaders were arrested under MISA where was our voice and where was your conscience?

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): Order, please.

SHRI N. K. P. SALVE: Because we put quite a few of them behind the bars, what happened to them? When they went to jails their personality was nothing more than that of sheer rats, but when they came out they became big heroes and were elected to both the Houses. They ought to thank those who put them in jails because they have some stature today?

SHRI SADASIV BAGAITKAR: Not rats or mice. I was asking you what happened to your voice and conscience then.... (Interruptions).

SHRI N. K. P. SALVE: If I called them rats, outside they will be happy if they are called worse than rats. Let us not go into what you think in public and what you think in private. Be that as it may, did any one of you worry for a moment when for days and for weeks we were praying you, beseeching you, imploring you that here are the charges which prima facie amount to corruption that is going on in your Party with your Prime Minister and his son, your Home Minister, with his wife and son-in-law? All of you defended them vehemently. What then about your conscience, Mr. Bagaitkar?

SHRI SADASIV BAGAITKAR: Mr. Salve, you are short of memory. I do not carry convenient conscience like you. Even when I was with the ruling party I sided with the opposition in the House on Kanti affair. It is a matter of record.

SHRI N. K. P. SALVE: My submission is that so far as Vaidialingam report is concerned, it has come here and whatever is the wish of the House will be done at the appropriate time in that connection. One thing needs to be made absolutely clear. The Party which vehemently defended corruption day in and day out, week after week, and which tried to stifle the resolution of this House have today become the greatest champions of democracy. It has become the champion to save our Constitution. Kindly do not arrogate to yourselves those prerogatives which you have tried to destroy in the last thirty months in the name of democracy, you tried to destroy the very foundations of individual freedom and liberty. This is not the sort of liberty and freedom which can ever nurture and nourish Parliamentary Democracy in the country.

Sir, the country today is in sheer disorder and disarray. After Mrs. Gandhi was elected, for some time the prices started coming down. But I appeal to the Leader of the House Sir—I am finishing in two minutes—that no action appears to have been taken against the hoarders, no action appears to have been taken against the tax evaders, and no action appears to have been taken against the economic offenders and they have started feeling that Mrs. Gandhi has softened down and her Government has softened down.

SHRI PILOO MODY (Gujarat): Nothing of that sort.

SHRI N. K. P. SALVE: Here is an economic offender. *(Interruptions)*. He is the product of economic offences.

Sir, I submit that the other day also talk came about proportional representation. I am glad he is there now. Mr. Advani said that we have got only 43 per cent of the votes. Sir, I am also a student of political science and I have also studied the proportional representation methods existing in different countries.... *(Interruptions)*.

SHRI SURENDRA MOHANTY (Orissa): Sir, how is this relevant? How is it relevant to the subject?

SHRI N. K. P. SALVE: Please understand what the mandate is and you will know the relevance. If we don't do this, if we are not going to give up to the mandate.... *(Interruptions)*.

SHRI SURENDRA MOHANTY: What is its relevance?

SHRI N. K. P. SALVE: I will explain the relevance. Sir, the mandate of the people is so relevant *(Interruptions)*. Sir, I am on the question of the mandate of the people. Sir, give me one minute's time. Mr. Advani said that we have 43 per cent of votes on our side. *(Interruptions)*. He has said that we have come on the basis of simple majority rule. It was not on the basis of the list system of Mr. Advani. If it were on the basis of that, then take it from me, that the party headed by Mrs. Gandhi would have taken 75 to 80 per cent of the votes right from Kanyakumari to Kashmir and from Gauhati to Gujarat and he would have been the biggest looser and they would have been nowhere.

Sir, the demand for reference to the Select Committee is the biggest joke and that need not even be considered. All that I submit in the end, Sir is that our economy is in absolutely a shambles and has come to the breaking point and I hope that this measure will not remain purely on paper, on the book, but they will act upon it and

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see that relief comes to the community and to those who have voted you to power. Thank you, Sir.

SHRI JAGDISH PRASAD MAT-HUR: You committed political offences against the country and against the entire Constitution.

THE LEADER OF THE OPPOSITION (SHRI LAL K. ADVANI): Sir, may I suggest that some time be fixed for the reply?

SHRI PILOO MODY: Let him reply now if he dares.

THE VICE-CHAIRMAN (SHRI R. R. MORARKA): I shall call upon the Minister to speak at 8-30.

SHRI BHUPESH GUPTA: Sir, I want to have my say. Sir, I have heard the speech of my good friend (Interruptions).

7 P.M.

[Mr. Deputy Chairman in the Chair]

श्री लाडली मोहन भिगम (मध्य प्रदेश)

मान्यवर, मैं बहुत शुक्रगुजार हूँ उस सरकार की चिंता पर कि इस मुल्क में दमों की जो उछल-कूद, कालाबाजारी है उसको रोकने के लिए बड़ी चिंता व्यक्त की जा रही है। मैं उन बातों को नहीं दोहराऊंगा जो मेरे पूर्व वक्ता इधर से कह चुके हैं। खासकर रघुनाथ रेड्डी साहब ने जो कुछ कहा है उसमें थोड़ा सा और इजाफा मैं करना चाहता हूँ। मुझ जैसे लोगों के सामने दो सवाल हैं। एक है रोटी और दूसरा आजादी। मैं चाहता हूँ दोनों चीजें इस मुल्क में मुकम्मल और मुस्तकल रहें। लेकिन साथ ही साथ अगर रोटी की बनिस्बत आजादी का सौदा करना पड़े तो मैं गलामी की रोटी छोड़ने को कबूल करूंगा बनिस्बत आजादी के। इस वास्ते मैं उन आदमियों

में से हूँ और मुझे घमंड है इस बात का कि इस धरती पर हिन्दुस्तान में जब साल्वे साहब की पार्टी गद्दी पर बैठी हुई थी पिछले 30 वर्षों में तो पी० डी० एक्ट चाहे डी० आर्डी० आर० के नाम पर जितने कानून बने उन सबका शिकार मैं रहा हूँ। हन्तुल इमकान हिन्दुस्तान; इतनी गिरावट आयी है पिछले 30 वर्षों के राजनीति जनजीवन में कि दफा 109 का इस्तेमाल राजनीतिक कार्यकर्ताओं पर किया गया और मुझ जैसे लोगों ने उसको भोगा है। खैर मुझे उससे कुछ नहीं लेना है। मैं एक बात आपसे पूछता हूँ और खासकर साल्वे साहब से बहुत नम्रता से कहना चाहता हूँ कि इस लूट को जो तुम कर रहे हो—लेकिन आज जा सरकारी कानूनी लूट हो रही है इस मुल्क में—क्या उसके ऊपर कुछ अकुश लगाने का इरादा है आपका। आप सोच नहीं सकते हैं कि इस मुल्क में अरबों रुपये की लूट हो रही है। हिन्दुस्तान के गरीब आदमियों पर कानूनन तरीके से रोजमर्रा करोड़ों का बोझ डाला जा रहा है। मैं एक मिसाल आपको देता हूँ कि रोटी के बाद इंसान की जो सबसे ज्यादा अजीज चीज है, जहरत की चीज है वह कपड़ा है। लेकिन अगर तन ही न हो कपड़ा ढकने को तो फिर क्या कर सकते हैं। वैसे बड़ी तरक्की की बात की गयी लेकिन मैं इतना ही कहना चाहता हूँ कि श्रीमती इंदिरा गांधी का जब मुनहरा राज्य था मुनहरी जिदगियां थीं, उस वक्त जो कपड़े का उत्पादन था उससे घटा है। हिन्दुस्तान में औसत साढ़े 13 मीटर कपड़े की आदमी खपत है। एक बहुत बड़ी चाल हुई है और मैं मंत्री महोदय से कहूंगा कि अब भी कुछ नहीं दिगड़ा है अगर इस चीज को दुस्त कर सकें तो शायद बहुत बड़ा एहसान वे मुल्क पर करेंगे और वह यह कि पहले हिन्दुस्तान में जब कन्ट्रोल आर्डर लगा तो लिखा रहता था कपड़ों पर—उन पर दाम छपा रहता था एक्स मिल प्राईस उसके नीचे

छपा रहता था एक्साइज ड्यूटी उसके नीचे रिटेल प्राइस छपा रहता था लेकिन आपात कालीन स्थिति के दौरान जब राजनीतिक नेताओं को अपनी प्रवृत्तियों को, अपनी खाहिशों को पूरा करने के लिए हिन्दुस्तान में दौलत की जरूरत पड़ी तो एक नया कानून बना। आज आप किसी चीज के लिए बाजार में चले जाइये उस पर लिखा रहता है एक्स मिल प्राइस, एक्साइज ड्यूटी उसकी जगह जहाँ पहले लिखा रहता था रिटेल प्राइस अब मेक्सिमम प्राइस नाट टु एक्साइज एण्ड लोकल टैक्सेस एक्सट्रा आदि लिखा होता है। आप ताज्जुब करेंगे 3 रुपये 24 पैसे गज की बनी हुई छींट चाहे किसी मिल की बनी हुई टाटा की या बिड़ला की जिस पर 15 पैसे सरकार को एक्साइज ड्यूटी मिलती है, वह बाजार में 8 रुपये 40 पैसे बेची जाती है। आप अंदाजा लगा सकते हैं भाड़े 13 मीटर पर कितना पड़ेगा। मैं श्रद्धेय पंडित जी श्री कमलपति जी को तस्लीम करूंगा कि हमारी बदकिस्मती है कि मुल्क की 30 प्रतिशत आबादी कपड़ा नहीं खरीदती है। मुल्क में वे बहुत खुशकिस्मत लोग हैं जो कपड़ा खरद पाते हैं शायद अपनी जिदगी में वे लोग तीन या चार मर्तबा ही नया कपड़ा पहन पाते होंगे एक शायद पैदा होते होंगे और जरा छठी होती होगी तब और एक मर्तबा जब शादी करेंगे तब तथा फिर एक मर्तबा जब कब्रिस्तान जाते होंगे तब नया कपड़ा पहनते होंगे। पूर्वांचल (उत्तर प्रदेश और बिहार) के लोग इस बात का आप जानते हैं कि ऐसा करते हैं। इस वास्ते आज मैं कहना चाहता हूँ, मेरा दर्द है कि साढ़े 13 मीटर अगर हिन्दुस्तान के आदमी की औसत कपड़े की खपत है और दो रुपये मीटर का मुनाफा ले लें, मतलब 27 रुपये सिर्फ कपड़े पर एक साल का एक आदमी मुनाफे की शक्ल में दे देता है। देश की आबादी आज 65 करोड़ है। 65 करोड़ से जरा गुणा कर दीजिए, कितना होगा। मेरी गणित

कमजोर है। मोटे तौर पर इस मुल्क में हर महीने करीब-करीब 170 करोड़ रुपये की लूट इस कपड़े पर हो रही है। मैं आपसे कर-बद्ध निवेदन करना चाहता हूँ, बड़ा करम करेंगे आप इस मुल्क पर अगर फिर से वही कानून लागू कर दें कि कपड़े पर रिटेल प्राइस छपने लगे। अगर वह नहीं छपेगा तो उस पर कम से कम यह तो छापा जाना चाहिए कि जो बीजक का दाम होता है जिसको इन्वाइस प्राइस कहते हैं वह इतना है तो हिन्दुस्तान में जो आज जैसा मैंने निवेदन किया कि महीने में 170 करोड़ की लूट हो रही है, वह रोकी जा सकती है।

दूसरी बात मैं यह कहना चाहता हूँ जैसा मैंने अर्ज किया कि मैं सिर्फ रोटी और आजादी की बात करूंगा। इस मुल्क में गल्ले के मामले में, एक गरीब किसान के बारे में यह भी खतरा है कि वह अपने दाम किस तरीके से बढ़ाएगा। जब खेत और खलिहान में अनाज पक कर तैयार होता है, दाम गिरना शुरू हो जाता है। इसी सदन में बहस हुई है कि खड़ा गन्ना लोगों ने जला दिया। आज जूट जिसका बोरा बनता है उसके दाम दिन प्रतिदिन गिरते चले गये हैं, लेकिन बोरो के दाम बढ़ते चले गये हैं। खेतों के कोमलों में आज तक कोई संतुलन नहीं हुआ है। आप लोग कानून बनाएं।

मैं विनम्रता से निवेदन करूंगा कि जब तक यह देश और हमारी सरकार कोई निश्चित दाम नीति नहीं तय करती, तब तक हिन्दुस्तान से मुनाफाखोरी, कालाबाजारी, भ्रष्टाचार नहीं हट पायेगा। भ्रष्टाचार का एक सबसे बड़ा कारण यह है कि जब तक हिन्दुस्तान में बिड़ला या टाटा या किसी दौलतमंद के बेटे का इस बात का तमीज़ रहेगा कि वह इन्सान की कोमत आंक सकता है, तब तक वह मुनाफाखोरी करता रहेगा, लूट चलती रहेगी।

[श्री लडलो मोहन निगम]

इस वास्ते जब तक हमारे देश के राजपुरुषों का कोई आदर्श नहीं हो, तो इस देश का क्या बनेगा। मैं आपके सामने इसी लिये निवेदन करना चाहता हूँ कि मुझ जैसा छोटा व्यक्ति जो गांधी जी की साया में रहा, उनके समय को देखा ठीक से यह कह सकता हूँ कि गांधी जी के साथ देश क्यों खड़ा हो जाता था। आप किसी एक विदेशी लड़के को गांधी जी की तस्वीर दे दें जिसने हिन्दुस्तान नहीं देखा हो और उससे कहो कि इस देश का वर्णन करो, तो वह आठ-दस लाइन लिख देगा कि यह जिस देश का रहने वाला है, उस देश के लोग भूखे, नंगे होंगे, कपड़े पहनने के लिये नहीं होंगे। उसी लड़के को आप नेहरू जी की तस्वीर दे दो तो वह लिख देगा कि यह व्यक्ति जिस देश का रहने वाला है, वहाँ के लोग गोरे, चिट्टे होंगे, वह देश धन-धान्य से पूर्ण होगा, वहाँ मुलाब की खेती होती होगी।

मेरे कहने का मतलब यह है कि जब तक सरकार आदर्श और सिद्धान्त को अपने कर्म और शरीर के साथ नहीं जोड़ेगी तब तक नहीं बच सकती। फ़ैशन और विलासिता चला कर, फ़ैशन की चीजों की होड़ को बढ़ा करके हिन्दुस्तान में नयी हबिश जगा कर के नव-दौलतिया वर्ग जो हमने पैदा किया है, उसके चलते हम कहां एक सकेंगे? जो काली मुद्रा की बात कही, पैरेलल इकानमी के विचार की बात कही, उसके बारे में भी कहना चाहता हूँ कि वह क्यों बढ़ रहा है, क्योंकि फ़ैशन और विलासिता की तरफ़ हमारा देश बड़ी तेजी से बढ़ा है। जैसा कि आपको याद होगा कि मैंने शुरू में निवेदन किया था पहली मर्तबा-यहां जो हम सब बैठे हैं, सब का सपना है न्यूयार्क और रास्ता अख़्तियार किया है मास्को का और साधन है वर्धा के, तो देश कैसे बनेगा?

मैं आपसे बहुत वनम्रता से निवेदन करना चाहता हूँ कि गल्ले को लें। अस्सी रुपये किसानों से खरीदा हुआ गल्ला जब सरकार

के गोदाम से जाकर 155 रु० का बिकेगा तो फिर कोई चांदनी चौक की मंडी वाला व्यापारी भी 200 रु० का बेचेगा। इस वास्ते मैं चाहता हूँ कि कोई निश्चित दाम नीति तय करो, ऐसा कानून बनाओ। बल्कि मैं इसके लिये तैयार हूँ। लेकिन एक ही चीज़ है किसी भी कीम की आजादी कायम रखने के लिये कि हम अपने गिरहवान में मुंह डाल के देखें कि हम अपनी आजादी के लिये कितना लड़ते हैं।

मैं आपसे कहना चाहता हूँ कि आजादी पर खतरा नहीं आना चाहिए। गांधी जी ने एक ही चीज़ सिखलाई कि और कोई चीज़ हो न हो, व्यक्ति की आजादी सर्वोपरि है। तो फिर मैं इतना ही कहना चाहता हूँ कि कानून और डंडे का सहारा लेकर दुनिया के तख़्तों ताज नहीं बचाए गये। आप लोगों ने इसका अनुभव किया है। जब कभी किसी ने भी कानून और डंडे का सहारा लेकर तख़्तों-ताज बचाने की कोशिश की है वह गिरा है। जो पुलिस और फ़ौज ब्रिटिश सल्तनत को नहीं बचा पाई, आपकी सारी हुकूमत को कायम करने वाली फ़ौज तुमको भी नहीं बचा पाई, हमको भी नहीं बचा पायेगी मैं इतना ही कहना चाहता हूँ कि हम एक गलती करने जा रहे थे, तो मैं नहीं चाहूंगा कि आप लोग वही गलती करें। अगर आजादी के साथ इस मुल्क में मज़ाक हुआ और खास करके सदन में जहां सब आप जैसे सम्मानित लोग बैठे हैं जिनके साथ आजादी काइ तिहास जुड़ा हो, तो मुझ जैसे को कहना पड़ता है कि हम अगली आने वाली पीढ़ी को क्या जवाब देंगे? मैं आपसे विनम्रतापूर्वक कहना चाहता हूँ कि गल्ले के लिये दाम नीति तय करनी है। आधुनिक खपत का जो सिद्धान्त हम ने नया प्रतिपादित कर रखा है उस पर रोक लगानी है। जब तक यह नहीं लगती, यह अश्याशी, यह बिलासिता, जो हमारी राजनीतिक विलासिता से जुड़ी हुई है, चलती रहेगी। इससे हिन्दुस्तान की राजनीति से जुड़े हुए

लोगों के रोजमर्रा के जीवन में और हमारे साधारण मतदाता के जीवन में कितना बड़ा भेद खड़ा हो जाता है। यही रही है चाल चुने हुए प्रतिनिधियों को जनता के लोगों से जितना दूर कर सकोगे उतना ही नौकरशाही मजबूत होगी। यह नौकरशाही की सब से बड़ी साजिश रही है कि चुने हुए प्रतिनिधि और चुनने वाले लोगों के बीच खाई दिन पर दिन बढ़ाते जाओ। मैं पूछना चाहता हूँ कि कहां कानून में रुकावट है। आप 107 के अन्दर कार्यवाही करके किसी को उठा कर बन्द कर सकते हो, 151 में किसी व्यापारी को बन्द कर सकते हो, 24 घंटे के अन्दर उस को नानी याद आ जायेगी। जो कानून है उसी से हो सकता है। यही करना है तो एक काम और करो, एक लाइन का कानून बना दो और अध्यक्ष महोदय, कल से इस मुल्क में चोरबाजारी और कालाबाजारी रुक जायेगी। और वह कानून यह है कि हमारी सदन की नेता, हिन्दुस्तान की प्रधान मंत्री आज रात को ही जाकर आल इंडिया रेडियो के ऊपर घोषणा करें कि आज से कालाबाजारी करने वाले, चोरबाजारी करने वाले, मुनाफ़ाखोरी करने वाले आदमी को जेल नहीं होगा, उसका किसी थाने में नहीं बुलायेंगे उसके ऊपर कोई मुकदमा नहीं चलायेंगे, लेकिन सरकार की यह नीति है कि जो चीजों के दाम तय किए हुए हैं अगर उनसे ज्यादा पर बेचना हुआ कोई पकड़ा जायगा तो उसे जेल नहीं दी जायेगी, सिर्फ उसकी सम्पत्ति जब्त कर ली जायगी, जिस रोज़ आप उस की सम्पत्ति जब्त करने का संकल्प ले लेंगे उससे कहेंगे वच्चू तुम ने चोरबाजारी से मुनाफ़ा कमाया है, तुम्हारी सम्पत्ति जब्त की जानी है, अब जाओ और मुनाफ़ा कमाओ, तब हमारा उद्देश्य पूरा हो सकता है। सम्पत्ति के लिए मोह जब तक है तब तक सम्पत्ति के आधारों पर चोट करनी चाहिए

जिससे वह मोह टूट सके। जब वह मोह टूटेगा तभी हिन्दुस्तान की राजनीति भ्रष्टाचार और पैसे के नागपाश से अलग हो सकेगी। मैं इन बुनियादी आधारों पर इस बिल का समर्थन नहीं कर रहा हूँ, बल्कि इसका विरोध कर रहा हूँ। मैं आपसे बहुत विनम्रता से निवेदन कर रहा हूँ कि आपको पूर्ण बहुमत मिला है, एक मौका आया है, एक नया कानून बनाइए, आइ इतिहास में अमर हो जायेंगे। आइये हम सब मिल कर एक ऐसा कानून बनाएं कि हिन्दुस्तान में जिस तरह कत्ल के कैंदी के लिए लोगों के मन में नफरत होती है उसी तरह से चोरबाजारी, कालाबाजारी करने वालों के लिए हो जाय। लेकिन वह तब होगा जब सम्पत्ति के लिए खुद के मोह को छोड़ना होगा और वह तभी हो सकता है, जब कठोर मन से मंत्री जी संकल्प लावें कि जो आदमी कालाबाजारी, चोरबाजारी करेगा उसे जेल खाना नहीं होगा, उसकी सम्पत्ति जब्त होगी, उसके परिजनों का धन्धा बन्द किया जाएगा।

मैं बहुत विनम्रता से थोड़े से शब्दों में अपनी बात कह कर खत्म करूंगा। जैसा मैंने शुरू में कहा था, मैं चीजों को दोहराना नहीं चाहता। मैंने सिर्फ यह कहा कि रोटी और कपड़े की लूट जो सरकार चलाती है, मंडियों में जो लूट होती है, वह कौन लूट करता है? मंडियों में किसान गल्ला लाकर खड़ा करता है, वह दाम तय नहीं करता, दाम तय करता है व्यापारी। कारखाने में बनी हुई चीजों का दाम तय करेगा मफतलाल या कारखानेदार और यहां का बैठा हुआ मंत्री। उन दोनों की सहमति के बिना हिन्दुस्तान में दाम तय नहीं किये जाते। आदर्श दाम नीति बनाई जा सकती है। मान लीजिए फसल के वक्त अनाज का दाम, गेहूँ का दाम 100 रुपये विन्टल है, तो उसी अनाज का दाम आने वाली फसल तक 120 रुपये से

[श्री लाडली मोहन निगम]

ज्यादा न हो। इसी प्रकार कपड़े के बारे में हो। जनोपयोगी चीजों के बारे में मैं बहुत विनम्रता से कहूंगा कि ऐसा कानून बनाएं कि देश की जनता के रोजमर्रा के काम में आने वाली चीजों के दाम लागत खर्चों के ड्योडे से ज्यादा न हों। अगर इन दो सिद्धान्तों को आप कबूल करने के लिए तैयार हों, अगर आप इसके लिए कानून बनाने के लिए तैयार हों, दाम नीति तय करने के लिए तैयार हों, तब मैं आप से कहना चाहता हूं कि मैं आप के हर कदम के साथ खड़ा हूं, वरना मैं इस तरीके से किसी आदमी की व्यक्तिगत आजादी के खिलाफ अपनी आवाज बुलन्द करता रहूंगा आपका बहुत-बहुत शुक्रिया उपसभापति महोदय।

श्री भ.ष्म नारायण सिंह : मान्यवर, ऐसा लग रहा है कि सदन की कार्यवाही देर तक चलीगी और उसको ध्यान में रखते हुए ऐसा विचार किया गया है कि रात का भोजन पार्लियामेंट हाउस में रेलवे कैटीन में दिया जाये। आप सब लोग सादर आमंत्रित हैं। सदन की कार्यवाही समाप्त होने के बाद आप वहां पधारेंगे। रात्रि भोजन की व्यवस्था वहां की गयी है।

मान्यवर, सदन में आज काफी इस बात पर उत्तेजना रही और माननीय सदस्यों की बड़ी इच्छा रही कि वैधलिगम समिति के प्रतिवेदन को सदन के समक्ष रखा जाये, लेकिन उस पक्ष में भी बैठे हुए बहुत सारे लोग मंवी रहे हैं और सरकार का काम कैसे होता है उस तरीके से वाकिफ रहे हैं। लेकिन फिर भी सदन की भावना को ध्यान में रखते हुए और आप के निर्देश को ध्यान में रखते हुए, प्रतिवेदन की जो समरी है, उसको कल सदन की मेज पर रख दिया जायेगा।

SHRI BHUPESH GUPTA: Sir, gastronomically, we have been enthused because provision has been made for our dinner but that will not make any change in our stand. Sir,

we are very glad. I hope we will have a good meal and equally good vote we shall give on this in order to get the whole thing to the Select Committee.

Sir, before I start. I wish to make it clear that ever since we came, we of the Communist Party at that time united, or we Communist and left forces came to Parliament, we have been opposing enactment of detention law. I remember in 1952, we opened free India's more correctly, the Republic's first Parliament with a grand and glorious fight against the preventive detention law which was waged by the entire opposition in the two Houses of Parliament. The fight was so intense and severe that even Pandit Jawaharlal Nehru had to yield certain concessions to our demands and agreed to make some changes in the law.

Today, after nearly 30 years, certainly 28 years we rise to again oppose it. This law we oppose in principle, to begin with. We are against preventive detention. The very concept is abhorrent; the very concept is contrary to the commitments of our freedom struggle Pandit Jawaharlal Nehru went on record by saying that a Government which cannot rule without preventive detention or detention without trial has no right to rule the country. Sir, we have travelled far far away from the days of Pandit Jawaharlal Nehru but after Independence, they found it necessary to have this law in order to maintain their class rule and it continues. It is not accident, therefore, that when they were there, Janata Party people were there. they brought in this law. They wanted to pass such a law and they were prevented. In fact, Janata Government wanted to enact this provision in the Criminal Procedure Code but, in the face of opposition from our side, retraced their step and MISA was ultimately repealed. Sir, now I am glad they are opposing it in the Lok Dal. When Mr. Charan Singh's Government—or that of the dual alliance, whatever you call it—

gated this Ordinance, we came out sharply against it irrespective of the politics on elections. We opposed it in principle at that time that such an Ordinance should not have been promulgated. We condemned it.

Now, Sir, we are glad that they are also with us to oppose it. You can understand that they must have realised that they did a wrong thing and that is why today they are opposing it and those who at that time echoed our sentiments sitting in these benches and their supreme leader Shrimati Indira Gandhi, they have now taken over the baby from the caretaker Government and have brought this Bill in order to codify the Ordinance and make it a permanent law of the land. This is not accidental because we see that the bourgeoisie rule, as we call it, no matter which Party is in power, cannot contemplate to rule the country without a preventive detention law. Whether the pretext is dealing with the hoarders or profiteers or with the Communists, as in the old days, or with others, that is a matter of detail, but they always want a preventive detention law. It does appear that this preventive detention has become a built-in feature of the system which has settled on this country to the misfortune of this nation.

Mr. Salve was speaking. I am very sorry for Mr. Salve because here was an exhibition of good talent, in certain respects, being grossly misplaced, misused; misdirected and even debauched in some respects. I am sorry for Mr. Salve because I like talented people. Although I may not be one I like talented people. He has some talent. We saw how wonderfully you were arguing the case. If you had been on my side, you would have done the same thing for me also. Mr. Salve is like a running taxi. You can catch it at any point you like and get into it. Sir, I am very sorry, but after all, you cannot do without a public transport.

SHRI N. K. P. SALVE: Can I go

for a cup of tea?

SHRI BHUPESH GUPTA: No, no, do not run away. We are prepared to pay the halting charges.

Now, Sir, as far as Smt. Indira Gandhi is concerned, she can never think of ruling the country without the preventive detention law. Once only she was forced to do without it. When was that? You were here. I think you were here at that time, something like a Home Minister of State, with or without power, I do not know, something like that. Sir, I remember a meeting was called by Smt. Indira Gandhi towards the end of 1969. I think it was in December. The Preventive Detention Act was to expire on the 31st December, 1969 and she wanted to consult the opposition leaders. She produced a list of business for the next year, major items, and there was the preventive detention law, renewal of the preventive detention law. It was a temporary law, but it had always been renewed. We were there, the CPI(M) was there, other left parties were there and also there were other parties of the opposition. We raised our voice against it. We said, we would not allow you to pass it. Well, Mrs. Gandhi being a clever person, understood it when we said that we would not allow her to pass it. Well, that sense dawned on her because there was no massive majority for her in that House. She was in fact, running the Government with only 222 members in the Lok Sabha, a House of 520. She realised and we told her frankly, if you bring it, you will be defeated in the House. The Bill would not be passed and under this parliamentary system when on a major issue of this kind the Government fails to get it through the Government resigns. You lose both, the Preventive Detention Act and your Government. Well, the prospect was very gloomy. We were happy to note that it never appeared in 1970, the whole of 1970. You note it young man in the Home Ministry. But you are very badly

[Shri Bhupesh Gupta]

advised, I am told. It was not there. There was no preventive detention. Then, Sir, she won her massive majority, as they call it. That majority, I would say, was higher than this; the votes were also higher than she has got this time. Within two months after the elections, in May an Ordinance was issued providing for preventive detention under a new title called Maintenance of Internal Security Act. And that was made permanent, whereas the earlier Preventive Detention Act was temporary—renewable. But this was made permanent. That was number one. Number two it was harsher than the Preventive Detention Act. That was the first implementation of the 'garibi hatao' massive mandate. That was the first 'gain' of the massive majority for the nation—betrayal of all those who had kept her in power for one year and four months. Let it be stated here today. We know. We had discussed again and again—CPM and all of us. We thought that in view of certain other circumstances of politics we should defeat Shri Sanjiva Reddy, the Presidential candidate and, as you know, he was defeated because of the massive vote that came from the United Front Government in Kerala and West Bengal. Today we are running a United Government in Kerala, and there is also a left Front Government in West Bengal.

Then, Sir, in the month of June, 1971, this Misa was passed—that is, the Ordinance was made into an Act. The massive majority, the Steamroller majority if we had in the Rajya Sabha as we are placed today, the nation would not have to hear the shame and disgrace of endorsing this betrayal on the part of the then ruling party and the Government. That is the record of preventive detention.

Now again they have come. Well, Sir, that is their habit. And I am sure that if these friends go there, they will do it. I hope you will not do this thing. We have not succeeded

in purifying. It seems we failed there and we have failed here. But still we shall try. After all we have got an angelic role in such missions. (Interruptions) For all of you. Mr. Salve, in your case the disease is not only chronic but sometimes very deceptive. The diagnosis becomes difficult even for a doctor like me.

Now why this is so? Why is it necessary? A very good speech has been made about tax evasion, prices etc. Very good. Except for 16 months, ever since the Constitution came into effect, you had such laws of preventive detention on the statute book. Why, then, the prices rose over this period of 28 or 30 years, I ask you? Over 28 years since the commencement of the Constitution, why the value of rupee has come down to less than 25 paise now compared to when we began with this Constitution? This hoarding, this price-rising, this profiteering, this black-marketing is not a phenomenon of the Janata rule only, or the caretaker Government? Was it not taking place all the time? Who made the appointment of the Monopolies Commission, the Wanchoo Committee? Who made recommendations on black money, parallel economy and measures against them? I ask you these questions. Who was ruling, the country at that time? Well, the Congress was ruling. Mrs. Gandhi was ruling. Therefore, don't think that preventive detention is a necessary remedy, effective remedy for dealing with the problems of speculation, hoarding black-marketing and price-rising. Had it been so, we would have been out of all this because all the time as I have said, except for 16 months, the preventive detention law which gave much wider powers than this to the Government was there. We would like stern action against profiteers, hoarders, blackmarketeers and speculators. But this is not the remedy. The remedy lies in changing economic policies, in structural changes in the economy, in giving remunerative prices to the peasant, curbing mono-

poly capital and high profits, lessening deficit financing if not totally doing without it, controlling money supply and having distribution through a public distribution network. These are the measures. For this we need nationalisation of certain industries producing consumer goods like essential drugs, textiles, cotton, tea, sugar and many other things that we consume. Are you going to do that? Unless you take such measures, basic yet important, you cannot have control over prices nor can you checkmate blackmarketing, profiteering and the operation of the parallel economy which had taken place under the Indira Congress Government of the old days.

For eleven years we had seen the steady advance of black money, parallel economy, causing worry to the nation, bringing the nation to the brink. Now with the explosion taking place today in the economic situation, blame, by all means, the Janata Government. I am with you. Blame, by all means, the caretaker Government for its incompetence and failure to utilise the four months they were in power effectively. But honesty demands, integrity demands, share the blame because you have been most of the time in power and during that period prices had risen, hoarding had grown, profiteering and speculation have boomed. We know it very well. Therefore, Mr. Salve, do not use this argument. Mr. Salve is there to advance such an argument because he is a Rajya Sabha Member. If he had been a Lok Sabha Member in the Congress Party, he would have known better as to who financed the election to help this attainment of a massive majority.

SHRI N. K. P. SALVE: We have no money.

SHRI BHUPESH GUPTA: You have won the election as half-naked fakir of India? You went to the elections with no money, nothing at all?

SHRI N. K. P. SALVE: I know people who were contesting and the

absolutely miserable condition, so far as money is concerned, under which we fought the election. That is something which is known to me.

SHRI BHUPESH GUPTA: Sir, record it; underline it. It is not the greatest joke of only 1980. It is the greatest joke of this country—what he has said.

SHRI N. K. P. SALVE: Don't talk through your hat, Bhupeshda, about something which you do not know. Have you any idea of what happened to our Scheduled Castes and Scheduled Tribes candidates who were contesting? At the end of the 10th day and the 11th day, two of them sent some people to me saying, "Get us at least Rs. 10,000/-. Otherwise we will lose." I am willing to put it on oath. So, don't talk through your hat. You are not in the habit of talking through your hat. Don't do that now and don't indulge in cheap gimmickry.

SHRI BHUPESH GUPTA: I have no hat at all and so the question of talking through it does not arise. But don't talk like one who knows. He has no case. Mr. Antulay is not here. What did he say? He said, "We have collected Rs. 5 crores from the poor people." You have come, Mr. Antulay. (Interruptions) He said, "We collected Rs. 5 crores from the poor people by selling coupons." Have you ever seen one coupon? (Interruptions)

SHRI PRANAB MUKHERJEE: This is not fair, Sir. He cannot bring in all sorts of charges taking advantage of this opportunity. We will answer each and every charge. We will answer how the Communist Party collects money. We will show how they exploit people. These things cannot be allowed, Sir.

SHRI BHUPESH GUPTA: Sir, I know Mr. Pranab Mukherjee... (Interruptions) Sir, Mr. Pranab Mukherjee may be angry, but let it not be disputed that there is no... (Interruptions). I never said anything like that Sir, the way he is going about—talkin

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against the Communists nowadays, as I find, and threatening the West Bengal Government—we will be well qualified to be the grand-child of McCarthy very soon, politically speaking and spiritually speaking. (Interruptions) I am very sorry for him. Another intelligent man gone in the wrong company!

SHRI GIAN CHAND TOTU (Himachal Pradesh): If somebody replies you in your language, why are you so much offended? Why don't you take it in a sportsman's spirit? You go on saying all sorts of things. When anything is said about you, you lose your balance. This is not the way. Why make senseless accusations?

SHRI BHUPESH GUPTA: Sir, I am taking it in a sportsman spirit. But a sportsman is not one who allows himself to be caught leg before wicket all the time? That is no sportsmanship. Have I said anything personal against him? Can't I be sorry for him? Well, it was to Mr. Antulay I was speaking. (Interruptions).

MR. DEPUTY CHAIRMAN: We have a long list of speakers. So please be brief.

SHRI BHUPESH GUPTA: Sir, as far as the Bill is concerned, I do not wish to annoy Mr. Pranab Mukherjee. (Interruptions) That coupon business.

SHRI A. R. ANTULAY (Maharashtra): Mr. Deputy Chairman, Sir, there is a limit even to the jokes that are cracked on the floor of the House. I know that we all indulge in this kind of thing. But since he made a mention about the collection of funds, let me say something. It is an open book. I told the press that we got the coupons printed and sold them. It was not done overnight. This went on for four or five months. Unfortunately, we do not get money as my friend may be getting and, therefore, it is no shame for me to admit that we did collect money from small people.

SOME HON. MEMBERS: From big people, blackmarketeers also. (Interruptions).

SHRI A. R. ANTULAY: We distributed those coupons and sold them. We make no bones about it. Everybody knows it. We planned it. (Interruptions) Mr. Deputy Chairman, even though my friend is not accustomed to raising funds in this manner, I think he should not disbelieve others when they do so because it is this way that we collect funds.

SHRI BHUPESH GUPTA: Sir, that is all right. I am very grateful to him.

MR. DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, you return to the Bill now.

SHRI BHUPESH GUPTA: Sir, I was not saying anything other than that except when he said about black money. I said that they have given black money to many people, not to them only. Therefore, action is not taken against the hoarders and black-marketeers by such a law. As I said, we know how black money or money power has weighed in the elections. The beneficiary is certainly not the Congress (I) alone others have also been benefited. The only thing is that what has happened this time is that fortune has smiled on them better than it did on others.

Sir, with regard to this Bill, I find there are provisions in the Bill which Mr. Salve should have noted will not be good. There is section 3(1)(a) which says: "committing or instigating any person to commit any offence punishable under the Essential Commodities Act, 1955, or under any other law for the time being in force relating to the control of the production, supply or distribution of, or trade and commerce in, any commodity essential to the community". All the trade union things can come under it. We have seen, Sir, how the Essential

Commodities Act itself was used to suppress the union rights. They sent police and interfered with normal democratic rights. Any offence which is an offence under the Essential Commodities Act is liable to be covered by this Act and liable to invite detention without trial. This is what I am saying. It is there. Therefore, in the other House, an assurance was sought. Even that assurance was not given that this would not be used against the trade union democratic rights. Sir, I do not attach any importance to such an assurance; many such assurances had been given in the past only to be violated.

Here we find our friend, Mr. Pranab Mukherjee. When he gets angry, I feel very sorry. Therefore, I feel that I will not make him angry any more. First of all, we come from the same State. In Calcutta on this matter of the Bill, "THE STATESMAN" of today reads:

"The State Government will have to execute the Centre's order on detention under the proposed Act to check black-marketing, profiteering and hoarding, Union Commerce Minister, Mr. Pranab Mukherjee said. Then asked what would be done if the State Government refuses to implement the new law, Mr. Mukherjee said,...."

Mr. Ajoy Mukherjee would not have spoken in this tough language. He loves Mr. Mukherjee, not me. Therefore, I am mentioning this.

"....we will see to it." "We will see to it."

DR. RAFIQ ZAKARIA (Maharashtra): You do not read in your own manner.

SHRI BHUPESH GUPTA: It is reported:

"The provisions of the Act are clear so that the Centre will operate in some areas and the State in some other areas."

The provisions of the Act are clear, we know all that. But what is the meaning of "We will see to it"? Earlier also he had made a statement also. Is he threatening with Central intervention?

SHRI GIAN CHAND TOTU: The Government would not be idle as was the last one.

SHRI BHUPESH GUPTA: I can tell him that the West Bengal Government is not made of wax. The West Bengal Government has also the mandate of the people. The West Bengal Government is one of the finest Government that West Bengal ever has had. And, this West Bengal Government cannot be talked to in this language. I am sure that the West Bengal Government, the left front and the left forces, wherever they are, whether in the Government or not, will take it as a challenge and see to it that this challenge does not work in West Bengal.

DR. RAFIQ ZAKARIA: You said "See to it." Mr. Pranab Mukherjee said, "See to it."

SHRI BHUPESH GUPTA: This statement is unconstitutional. Law and order problem is a State subject. Arrest and detention in the State are to be made by the State Government. Have we amended the Constitution so that they will intervene? Mr. Jyoti Bosu has said that he is not going to apply this Act. How will you see to it? By sending directions under Article 256 in order to prepare a ground for invoking Article 356? This is what I see in it. Sir may I, from this platform, strike a note of warning to the left and democratic forces in West Bengal that this Government in power should mind its business properly—they should be ready to meet any challenge coming from it. We do not want confrontation. It is a language of confrontation. We will function according to the provisions of the Constitution in West Bengal. It is they who are

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saying something which is outside the spirit of the Constitution, let alone the federal spirit.

Mr. Mhukarjee knows very well what happened in 1969 when the Government there was toppled. He was on our side. He knows how the verdict of the people came in the mid-term poll. The Congress Party at that time was brought down from more than 200 something to barely 51. Remember that also.

Sir, already tuff language is being spoken. Now, with regard to the final point, Mr. Salve said this will be used against economic offenders. Do you think Birlas and Tatas, big merchants or hoarders are going to be arrested under this Act? Have you ever seen it happen?

SHRI N. K. P. SALVE: Do it in Bengal against them.

SHRI BHUPESH GUPTA: No, we shall deal with them in other ways. Sir, my lady comrade has brought a very interesting thing. Mr. Pranab Mukerjee comes to the Rajya Sabha first as a representative of the Bangla Congress, a constituent body of the United Front. Sir everybody has the right to be a prodigal son. I do not deny Mr. Pranab Mukerjee his right to be a prodigal son. We shall be looking forward to his coming back home. But, Sir, the son has now found such guardians that I do not have any hope of his recovery in the foreseeable future.

MR. DEPUTY CHAIRMAN: Please finish.

SHRI BHUPESH GUPTA: Therefore, I say, this Ordinance will not stop them. We are all for stern action against profiteers and hoarders. But, as I said, Tatas and Birlas, big wholesalers, big merchants, multi-millionaires who finance big elections, provide the machinery and all the rest of it, are not touched by it. On the contrary, small people are harassed and intimidated, and sometimes, we have known,

such measures are used to collect election fund or political fund. I am not naming anybody now. "Give money or you will be arrested." And the poor chaps become jittery and give everything possible. Therefore, my fear is that it is not going to be effective. It has not proved effective at any time. Why with the Essential Commodities Act, the PD Act and later on this Ordinance, the prices could not be checked, hoarding could not be checked, profiteering could not be checked? We know what we need is change in the economic policies. I agree with some of the policy changes suggested. Those policies should be changed. I think the Government should address its mind to this aspect of the matter. But I would only say that I never thought that they would like Mr. Charan Singh so much. They have taken Mr. Charan Singh's Ordinance absolutely without a change of comma. How have they taken it from Mr. Charan Singh whom they attacked? It has been taken from Mr. Charan Singh without any mutation at all, just as Shrimati Indira Gandhi's anti-defection Bill of 1973 with atrocious clauses was accepted by Mr. Morarji Desai wholesale. It seems there is give and take.

I say this Ordinance should be opposed outright. We would be happy to defeat it on the floor of the House. But my friends being more reasonable, want to discuss it, want it to be referred to a Select Committee. I bow to democratic opinion in the Opposition. So we have agreed. Let it go to the Select Committee. My friend Mr. Surjeet's name is there; my friend Mr. Ramamurti's name is there. We have agreed to refer it to a Select Committee. But we would have liked it to be defeated outright. But then friends for whom I have respect so long as they are in the Opposition....

SHRI N. K. P. SALVE: You have no option.

MR. DEPUTY CHAIRMAN: Please, Mr. Salve, do not prolong the debate.

SHRI BHUPESH GUPTA: I hope, Sir, I will not have Mr. Salve's options in my life. These options are very elastic, changable and, therefore, not very reliable options.

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI BHUPESH GUPTA: Our option is clear: defeat it. If others will join with us, we will be very happy. Therefore, I really oppose this Bill. But since our friends wanted it to go to a Select Committee, let it go to the Select Committee. We shall then examine as to what should be done. We can have mutual consultations. I am not asking our friend Mr. Kamla-pati Tripathi to join the Select Com-mitte because he has joined some-where else. Sir, that side should also have been there. We wanted them to come. But they would not come. What can I do? They have boycotted us. Therefore, let it go to the Select Committee. Whether before food or after food, whenever you take the vote, let it be settled today. We are opposed to preventive deten-tion. We were opposed to it when the Fortyfifth Amendment of the Constitution was discussed. The CPI, CPI(M), we of the left parties and other friends were opposed to any provision in the Constitution that em-powered preventive detention. That is our stand. Our quarrel is with cer-tain hedious positions of the law. We are fighting on principle. Let that be well fought. (*Time bell rings*) Once again Rajya Sabha has been given an opportunity to show its majesty and mettle. I do hope before the sun sets—of course, the sun has already set today—before the next dawn Rajya Sabha will make yet another history by defeating the Government and sending this Bill to a Select Com-mittee, in the glorious tradition of

its fighting for good causes. Thank you.

MR. DEPUTY CHAIRMAN: There are six names still on the list. I was told that the Minister would start his reply at 8.30. Now Mr. Krishnan.

*SHRI E. R. KRISHNAN (Tamil Nadu): Mr. Deputy Chairman, 65 crores of people are not getting essen-tial commodities at fair prices. It is the primary duty of the Government to make essential commodities avail-able at fair prices at proper time. At present only affluent sections of the people are able to get all the benefits, only those who have enough money are in a position to get all supplies. Business people are able to collect lakhs and lakhs of rupees and they are aggrandising themselves more and more. They have got all ways and means of satisfying their needs, however improper the means they adopt. The business people in our society are exploiting other sections of the people by resorting to hoard-ing, smuggling etc. They are collect-ing crores of rupees. Businessmen are indulging in blackmarketing. If a businessman is making a profit of a lakh of rupees, it means he is deceiv-ing a lakh of people and depriving them of the essential commodities. He is selling his goods in the black-market. Now, how to prevent this blackmarketing and hoarding? Today 80 per cent of the rural population are not able to get essential commo-dities, they are not able to get their foodstuffs at fair prices. Whether it is the State Government, or the Cen-tral Government, it is the Govern-ment's primary duty to make all es-sential commodities available at fair prices to the people. All of us should realise this. The Essential Commo-dities Act was enacted in 1955 by the Central Government. At that time the people were wondering why such an Act should be there, why there

*English translation of the original speech in Tamil.

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was any necessity for an Act called Essential Commodities Act. This feeling has been there because the Act did not give the necessary powers and did not have legislative sinews to take the offenders, the anti-social elements, the blackmarketeers, the hoarders, the smugglers, to catch them and punish them on the spot. The present measure gives such powers. But the only problem is, it should not be implemented with political motivations. Political motivation should not be used for implementing this Act. This Act should prove beneficial to the 65 crores of people so that they are able to get the essential commodities at a fair price. As soon as this Ordinance was proclaimed some of the essential commodities at fair prices started becoming available to people from Kashmir to Kanyakumari. This Act should not be misused.

I would like also to refer here how essential commodities are being blackmarketed in Calcutta and in the Eastern States. Salt is sold at Rs. 4 a k.g. in these places. In Tuticorin 19 lakhs of tonnes of salt are produced per year and there salt is being sold at 40 paise a k.g. In the Eastern provinces, what is the reason for this steep rise in the price of salt? Salt produced in Tuticorin is being transported in ships to Calcutta and other places. These ships are not vacated or dislodged of the salt. The business people are purposely keeping the ships without dislodging the salt. They are thus creating artificial scarcity of salt while there is plenty of salt in Tuticorin. The Central Salt Commissioner is encouraging the intermediaries and business people by recommending allotment of ships to them. On the basis of his recommendations, the D. G. Shipping allots ships to them. During the last one week three ships have been allotted to these business people who are creating artificial scarcity. It is re-

ported that a sum of Rs. 15,000 has been taken by the Central Salt Commissioner under the table. In Tuticorin about 600 small salt producers have formed themselves into an association but this association has not been allotted even a single ship during the last four months. On the contrary, the big business people and intermediaries are able to get ships with the assistance of the Central salt Commissioner. How? The Central Salt Commissioner recommends allotment of ships and the D. G. shipping is allotting ships. The Central Salt Commissioner with ulterior motives is recommending allotment of ships to the business people and intermediaries. They are responsible for the rise in price of salt in Calcutta and other places.

Mr. Deputy Chairman, certain essential commodities like pulses have to come from some Northern States to the Southern States. But railway wagons are not given in sufficient numbers for transporting such essential commodities to the people. There are malpractices in the allotment of railway wagons. They are now carrying the goods through lorries by paying exorbitant freight rates. That also contributes to the rise in price of essential commodities. These should be made available at fair price. This law is very necessary for achieving that purpose.

During the last year itself cement was being imported from other countries to tide over the shortage within the country. But the ship carrying the cement was not offloaded. It remained in the centre of the sea for more than three months. You can imagine the result and there was such a heavy rise in the price of cement. The business people are exploiting this opportunity. We have to change the system and this law should be

used for that purpose. For any reason this law should not be 8 P.M. an instrument for suppressing the legitimate activities of the people. If people, especially those who are in power, misuse the legislative sanction behind this Act, it should be checked. But this Act should not prove such an impediment in the day-to-day activities of the people. Sir, in Tamil Nadu, the DMK Government is not there and Mr. Karunanidhi is not the Chief Minister. If only the DMK Government had been there in Tamil Nadu, then they would have utilised this Act and made greater use of it for making crores of rupees. I would like to give you an example here. In 1970-71, when levy sugar . . . (*Interruptions*). Sir, in 1971, in Tamil Nadu, when the DMK Government was there, under the leadership of Dr. Karunanidhi, levy sugar was to be released from the Government godowns and the sugar magnates, especially the sugar mill-owners, appealed to the State Government and Shri Karunanidhi, for releasing the levy sugar, demanded three rupees per bag and said that only then the levy sugar would be released. The sugar mill-owners did not pay for four months and thousands of tonnes of sugar were not released. But, because of difficulties of finance, they wanted to get the levy sugar released . . .

(*Interruptions*)

SHRI V. GOPALSAMY (Tamil Nadu): Sir, on a point of order. (*Interruptions*).

SHRI M. KADERSHAH (Tamil Nadu): Sir, the honourable Member is quoting only from the Sarkaria Commission Report. Why is the DMK Member getting agitated?

***SHRI E. R. KRISHNAN**: These have appeared in the Press. Sir, the allegations which have been made are not baseless. These allegations

have been proved. If he does not interrupt my speech, I would have finished. When Mr. Karunanidhi was the Chief Minister, for the release of levy sugar, the sugar mill-owners approached him for the release of that sugar, and he demanded three rupees per bag of sugar in addition. It is not that I am saying all these things. The Sarkaria Commission has given its report after an inquiry into all these things for a year and a half. They have submitted a report to the Central Government and I would like to refer to the Report of the Sarkaria Commission.

SHRI V. GOPALSAMY: The persons who have been found guilty are in your camp now. They are the Chief advisers of your leader Mr. M.G.R.

***SHRI E. R. KRISHNAN**: Mr. Deputy Chairman, Sir, on 3-2-76, the Central Government, when Mrs. Gandhi was the Prime Minister, set up the Sarkaria Commission and that Commission inquired into the misdeeds of the DMK Government and they have submitted this Report. Whoever gave black money, corrupt money, to the DMK Government, his name appears on page 64 of the Report. I would like you to refer to the contents of the Report.

SHRI V. GOPALSAMY: Sir, this is irrelevant to the discussion. My point of order is this. This is irrelevant to the discussion now. This is irrelevant . . . (*Interruptions*).

MR. DEPUTY CHAIRMAN: You have made your points. Please be brief.

***SHRI E. R. KRISHNAN**: Sir, he wants that the newspapermen who are sitting in the Press Gallery should not hear what I am saying. The DMK people are afraid that they would be shunned by people. That is

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what has prompted the hon. Member to interrupt my speech.

These allegations have a basis in the report of the Sarkaria Commission. Many people have been found guilty. A former Reserve Bank Governor and E.I.D. Parry Company's Managing-Director, a big man, Mr. H. V. R. Iengar, gave evidence before the Sarkaria Commission.

The total contributions made by each of the nine Mills towards these payments, were as follows: E. I. D. Parry—Rs. 1,76,365.00, Deccan Sugar—Rs. 2,09,267.50, Cauvery Sugars—Rs. 96,100.00 Sakthi Sugars—Rs. 2,79,161.50, Kothari Sugars—Rs. 1,61,164.00, Aruna Sugars—Rs. 1,41,736.50, Thiru Aroran Sugars—Rs. 1,12,610.00, S. I. Steel & Sugars—Rs. 85,464.50 and Madurai Sugars—Rs. 49,427.00. Total Rs. 13,21,296.00 for the release of levy sugar . . .
(Interruptions)

Shri M. G. Ramachandran is giving a good government to four and a half crores of people in Tamil Nadu. He is working for the distribution of essential commodities at fair prices also. It is an established fact Shri Karunanidhi took money from the sugar mill-owners. The Sarkaria Commission conducted a detailed inquiry and they gave a full report . . . (Time bell rings). On the recommendations of the Sarkaria Commission, the Central Government could take action. That is why the D.M.K. has come to Mrs Indira Gandhi. This is the motive behind the D.M.K. joining hands with Mrs. Indira Gandhi. When the Janata Government was here, they approached Mr. Morarji Desai, who was the Prime Minister, for the condonation of . . . (Interruptions). That is why Mr. Karunanidhi has come to have an alliance with Mrs. Indira Gandhi. It is not an ideal alliance based on understanding. Mr. Karunanidhi wants to escape the clutches of law. Really

speaking, when Mrs. Indira Gandhi went to Madurai, she was sought to be murdered by the D.M.K. . . . (Interruptions). The D.M.K. people tried to murder Mrs. Gandhi. They want to escape from the clutches of law. They want to ensure that the Tamil Nadu Government would be dismissed. They are looking up to the calendar when the Government will be dismissed and the D.M.K. party would come into power. But the four and a half crores of people of Tamil Nadu are not going to be deceived, and they are not going to vote for Mr. Karunanidhi who is known for all the corrupt practices. Today the people of Tamil Nadu have voted for a stable Government at the Centre. They have not voted for . . . (Interruptions) DMK candidates because of their regard for Shri Karunanidhi.

I have spoken with sufficient proof. I have not made baseless charges. The Sarkaria Commission has gone into the misdeeds of Mr. Karunanidhi for more than one and a half years. The big sugar-mill owners have given evidence before the Sarkaria Commission. This Preventive Detention Act should not reach that level. It should be used to ensure that crores of people of India got the essential commodities at fair prices.

With these words, Sir, I conclude my speech.

SHRI HARKISHAN SINGH SURJEET (Punjab): Mr. Deputy Chairman, Sir, we from the beginning, have opposed the introduction of the preventive detention in any form. Even when the Constitution Amendment Bill was being debated and when the Congress Party and the Janata Party, both had joined together to keep the provision in the Constitution for enabling the enactment of the Preventive Detention, we opposed it. And even when Chaudhury Charan Singh's Government promulgated the Ordi-

nance, we came in open opposition to it. And not today, even at that time, the West Bengal Government had stated, "We are not going to implement it." And the whole experience of working the Preventive Detention Acts in whatever form that they have been enacted, goes to prove that whatever the declarations made when those Bills were introduced before the Parliament, they were always misused.

Sir, I myself have the experience of being in detention for more than six years under the British Raj as well as the Congress regime. I know how these charge sheets are conducted. If now some commission is appointed not for other purposes but to go into the various detentions in the period of the British as well as the Congress regime, you will come to know that most of the cases were falsely made out, and all the charges were framed somewhere and one detention order was passed for everybody in one night. It has been happening to us that all of a sudden, early in the morning at 4 O'clock, you are woken up. And everywhere every person's detention order is the same. Here, it is said that it is meant for black-marketeers, tax-evaders and hoarders. These wishes will remain on paper. But is anybody going to use anything against them? If that was the case, today, Sir, Rs. 30,000 crores would not have been used as black money and working in the country as a parallel economy. Sir, when I see this Bill and the Bills earlier adopted on the preventive detention, I see no difference between them. All the provisos, clauses of precaution are said to be here. Then why did they not assure here? "No, this will not be used against the working class, this will not be used against any strikes, this will not be used against any genuine struggle". Why has this not been included here? And what is clause 3(1)? It is stated here, "if satisfied, with respect to any person

that with a view to preventing him from acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community it is necessary so to do, make an order directing that such person be detained." What is said here? With whom the authority to detain is vested? It is the District Magistrate and the Commissioner of Police. Sir, on the basis of past experience, which we have got, can anybody rely on the judgment of these officials? Is it possible? Will it not be acted upon ruthlessly? Why was it feared at that time when Shri Charan Singh's Government enacted it by means of an Ordinance? Why was it feared then? The fear was expressed and it was said that it will be used politically. Has that fear gone today?

Then, it has been said that for 12 days he will be kept there without being told of the charges. Then the chargesheet may be made after five days giving him the grounds of detention. The grounds of detention need not necessarily be given to him after five days. They can be given to him even after ten days. After ten days he is going to get the charges and the grounds of his detention, as to why he was detained. Then the conditions of detention are given here. They are worse than those obtaining in the British days. With whom is the power vested? With whom is the power vested to determine the place and conditions of detention. Sir, I know that during the war all of us were sent from various States to the Deoli concentration camp. Shri Jayaprakash Narayan, many Communists in the country, many other socialists and many radical Congressmen were put in one prison, in one concentration camp and what were the conditions prescribed in that enactment? At that time it was called the Defence of India Rules under the British Government. It was also mentioned there that if the person to be detained thereunder is out-

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side the limits of the territorial jurisdiction of the Government or officer making the order, he also can be got and all that. Everything is stated here.

Then, it has been mentioned that each State Government and the Central Government shall, whenever necessary, constitute one or more Advisory Boards. The words 'whenever necessary' are mentioned here. Then, again, if somebody is released after withdrawing the detention order, there is power immediately to give new grounds on the basis of which that person can be arrested again. All these draconian measures are provided in this Act.

Sir, are they meant to arrest black-marketeers? Are they meant to provide the necessities of life to the common people? If that was the case, then there was a straight course open to the Government. Why has the Government so far not come out with a proposal nationalising the whole-sale trade in essential commodities and properly organising the whole distribution system? This is the only solution. Why has the Government not come out with a proposal to see that some remedial measures are taken and this black money in the form of parallel economy does not operate in the country? Why does the Government not come forward with a proposal nationalising the sugar industry? Sugar prices went up in spite of the Ordinance. Why does the Government not come out with a proposal nationalising the sugar industry? Why was the Bhargava Commission report shelved. It can ensure payment of proper wages to workers as well as selling of sugar at cheaper rates to consumers. The Government has not acted on that report. Sir, this Act will not be used against the people mentioned therein. It will not be used against big people. Never. The big people have got a very long hand. They can

reach all levels of the bureaucracy in the political structure which we are having today, they can reach anywhere. They have got a very long hand and these people cannot be touched. Only poor people and smaller fries will be touched. Small shopkeepers will be harassed and detained. So far as big people are concerned, nobody will be able to touch them. Of course, they may be told that on the statute book we have got this law and under that a lot of pressure will be exerted upon them and a lot of collection of funds will take place. Nothing else will be done. So far so many Acts were there and we have seen what has happened. Never so far have the big businessmen, the big traders, the big people been punished for their crimes which they have been committing in the society. So that question does not arise. The point here is that it is not going to be used against them. That is, why, in the whole debate and discussions, no categorical statement, what to say of amending, no acceptance of any amendment has come where it should be stated that in no case it will be used against the working class and mass movement. If the fear of the Prime Minister was that it could have been used against her and her party, why today it is not stated categorically that this is not the case. I am fundamentally opposed to it because on the Statute Book there are ordinary laws which can deal with black marketeers and smugglers but they can only be dealt with if some stringent measures are taken and by taking over the wholesale trade, organising the distribution system properly and providing all the necessities of life to the common man. Only this way, they can be dealt with. There is no other way. It is only meant to harass the smaller people and they will suffer.

I do not want to add to whatever arguments, comrade Bhupesh Gupta has given. I stand by those arguments; I support those arguments.

But I only want to say that even Chaudhury Charan Singh did not dare to threaten the West Bengal Government that if you are not going to implement the preventive detention, we know how to deal with it. I think some humility is required. Congress Party may have come with a pledge of dealing with the public with preventive detention. We also have come with a mandate from the people. West Bengal Government has come with a mandate of not using preventive detention against the people. There are two different manifestos on the basis of which both have been elected. They have got the verdict here and a majority but there also, the West Bengal Government has come with a massive majority. And during these elections also they have come with this mandate. I do not think this type of threat can cow down or create a fear complex among the people of West Bengal. So I would say that you must restrain from using these words and statements which do not go to help because since 1967 onwards, you see the strength which the left forces are gathering and the Congress Party is losing. You must take this thing into consideration when you talk of these things.

I do not want to take much time of the House. I only want to say that today there are so many other measures which could be utilised for taking action against the blackmarketeers and tax evaders but nobody is taking this action. The point is that this will be misused and misused against the working class, against the political opponents and for that purpose only. Now there is a proposal to refer it to the Select Committee. It is on the basis of my experience that I agreed to be on the Select Committee to show to the Select Committee that such a measure is always misused. There is no other use. I am fundamentally opposed to this Bill and even then I agreed to be on the Select

Committee to argue with the people, to argue with other hon. Members that this measure will not help for the purpose for which it is sought to be brought here.

Thank you, Sir. With these words, I support the proposal for a Select Committee.

DR. RAFIQ ZAKARIA: Mr. Deputy Chairman, the confusion that has unfortunately been created about this Bill by my friends on the other side, has created some kind of doubts in the minds of a good number of Members and the confusion is the result of the apprehension that it is the same kind of measure as the MISA or the Preventive Detention Act in the past. I would like to make it clear that this Bill is of a very restrictive kind and to read into it any of the provisions of the old Preventive Detention Act would be misleading the House. Sir, this measure, as the House well knows, was brought forth by the caretaker Government of Chaudhury Charan Singh and Mr. Y. B. Chavan. Now why did they do it? Chaudhury Charan Singh himself was detained under MISA and if he felt that there was any such basis for a measure like this, I am sure, he would never have been a party to it. This measure had to be brought forth and an Ordinance promulgated because the economic condition was in grave danger. The whole economic fabric was in jeopardy. Prices were rising. Inflation was sky rocketing and the conditions, specially of the poor and the down-trodden were so threatened that unless a measure like this was brought forth, it would not have been possible to have any kind of a grip on the economy. It was in that context that we have to understand the situation. The economy is in shambles. As even Mr. Bhupesh Gupta knows, in the last three years the two Governments did everything to wipe out the whole good that was

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done in the past and to create situations under which a measure like this became inevitable. If we have to have control over the economy, if we have to fulfil the promises that we gave to the people during the elections that prices will be brought down, that inflation shall be controlled, that the economic conditions would be improved, then I am afraid, unless some such restrictive measure is adopted, one who has had some experience in the Government, we should understand that we will not be in a position to succeed. That is why my humble appeal to the House is not to read too much in today's measure and to understand its implications in terms of the economic danger that the country faces today.

Sir, in this connection, I would like also to emphasise that reading the provisions of the Bill, as some of my friends did in terms of what was provided in the old Preventive Detention Act, could also be a travesty of fact. For implementation purposes it is necessary that those provisions have to be maintained, but what is important is to understand what is the objective, what is the basis of a legislation of this kind. The very fact that the Home Minister is not piloting this Bill, but mild-mannered, soft speaking person like the Commerce Minister....

SHRI BHUPESH GUPTA: Do you mean to say that the Home Minister is not mild-mannered.

SHRI A. G. KULKARNI: Can an hon. Member cast aspersions against a Home Minister of his own party?

DR. RAFIQ ZAKARIA: I will ignore Mr. A. G. Kulkarni because I have* but I shall reply....

SHRI A. G. KULKARNI: I have the same*.

DR. RAFIQ ZAKARIA: For Mr. Bhupesh Gupta, I have some respect.

When I said that the Commerce Minister was piloting the Bill, what I wanted....

SHRI A. G. KULKARNI: We know what type of culture Dr. Zakaria has got because having gone recently there he has become like a converted Mohammaden who eats more onions.

DR. RAFIQ ZAKARIA: I have neither gone recently nor am I a product of the kind of politics as Mr. Kulkarni is. I know Mr. Kulkarni's whole basis and bearings and roots and how he manipulates, but I will not waste the time of the House in that. All that I would like to say in regard to what Mr. Bhupesh Gupta has said is that.. The fact that the Commerce Minister is piloting the Bill and not the Home Minister shows the restrictive nature of this measure. (Interruptions).

SHRI HAREKRUSHNA MALLICK (Orissa): Sir, the hon'ble Member is saying that he has* Is it parliamentary for one Member to say that he has* He should withdraw that statement, or it should go off the record.

SHRI A. G. KULKARNI: Mr. Mallick, why are you worried about it?

(Interruptions)

SHRI HAREKRUSHNA MALLICK: I am worried for the House. Nobody can say that.

(Interruptions)

SHRI A. G. KULKARNI: Dr. Zakaria always salutes the rising sun.

MR. DEPUTY CHAIRMAN: Order, please. It is regrettable that some unhappy terms have been used. They will be taken off the record.

DR. RAFIQ ZAKARIA: I ignore what Mr. Kulkarni has said in view of the fact that I do not want to be unparliamentary. He has been given indulgence to do so, but that, I hope should be the last time that he is allowed to indulge in such kind of tactics. He has been doing it for too

long and I do not think the other hon. Members should be subjected to this kind of treatment at his hands. The House is well aware of his this type of behaviour.

Sir, as I was saying (Interruptions).

SHRI HAREKRUSHNA MALICK: What does he mean by this: He should not use terms that are unparliamentary. Elders must talk as elders.

DR. RAFIQ ZAKARIA: As I was submitting before the House to consider that this measure can in any circumstances be used for any other purpose than for which it is going to be enacted would be a travesty of not only facts but also of the Constitution and the law. And, Sir, Mr. Ladli Mohan, my good friend, said that if Mrs. Gandhi wants to stop black marketing and smuggling, she should go on the air, make the announcement and create the atmosphere. But, Sir, without being armed with the power of law. It is not possible to fulfil any of these objectives and, as I said, it does not lie in the mouth of those who have misused in the past every opportunity to use democratic norms in order to perpetrate the greatest crimes against the law and the Constitution to say this. In this connection, Sir, with your permission I would like to make a reference to all this talk these days—to which, unfortunately, my good friend, Mr. Bhupesh Gupta, has fallen a victim to also—of the threat of dissolution of the Assemblies in a way as if something which is against the Constitution is sought to be done. But what is the history as far as dissolution of Assemblies is concerned?

I will not go into the question of promulgation of that Ordinance. I will not go into the fact of the dissolution of the Assemblies. But the House is well aware that after the euphoria that the Janata victory had

created, within a few weeks of their coming into power, the Morarji Desai Government not only promulgated that Ordinance but threatened the then acting President that if he did not put his signature on it, he will face dire consequences. He wanted a few days. Even those few days to consider the situation were denied to him. Does it lie in the mouth of these people to charge this Government that they would misuse restrictive measures like this when they did every thing in their power to misuse their authority when they need not have resorted to these unconstitutional and illegal means? That is why my submission is that there is no danger as far as this Government is concerned.

DR. BHAI MAHAVIR (Madhya Pradesh): May I seek one small clarification, Sir? What was the constitutional position? Was the President not supposed to act on the advice of the Prime Minister? Was he not bound to do it under the constitutional amendment which your party had brought in?

DR. RAFIQ ZAKARIA: Sir, I am willing to answer even these questions. What was the President asking? He did not say he would not sign it. He said it was for the first time in the history of free India that nine State Assemblies, by a stroke of pen, were sought to be dissolved. "Will you give me some time to understand the constitutional implications". He wanted to consult the Attorney-General. Even that opportunity was denied to him. And today, when there are all kinds of grounds and reasons as to why these Assemblies should be dissolved, when the Supreme Court had put its seal of approval on that Ordinance under which nine Assemblies were dissolved, the whole impression that is sought to be created is that what was done then was all right but despite the fact that the present Maharashtra situation is on all fours with

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the situation in Orissa, still confusion is sought to be created. Sir, I am reminded of a famous couplet of Ghalib:

हम ग्राह भी करते हैं तो हो जाते हैं बदनाम,
 वे कत्ल भी करते हैं तो चर्चा नहीं होता ।”

Sir, I can give a series of incidents.

श्री मुहम्मद यूनस सल्लम : यह गालिब का शेर नहीं है, क्यों कहते हैं कि यह ...

डा० रफ़ीक़ ज़क़रीया : मतलब तो आप समझ गये। मुझे मतलब से मतलब है।

श्री मुहम्मद यूनस सल्लम : यह मत कहिए कि यह गालिब का शेर है। यह कहिए कि यह मेरा शेर है।

Sir, as I said, the position is quite clear. What is the necessity of bringing forth this measure? The necessity is that in the last three years, as I said, the whole economy has been so jeopardized that in order to wash away their sins and to put the economy back on the rails, it has become necessary that we are armed with a legislation of this type.

Sir, I do not want to take more time of the House but I would like to end my speech with another couplet which, I hope, Mr. Yunus Saleem will not object to with all his love for Urdu.

SHRI MOHAMMAD YUNUS SALEEM: If you will not name the poet, I will not object to it.

DR. RAFIQ ZAKARIA: All right, I will not name the poet. If only this little bit of quibbling pleases a man like Mr. Yunus Saleem, I have no objection in conceding that point to him

I shall not, therefore, name who the poet is but it is a couplet which is very significant because we are facing the calumny of this measure in order to do away with all the crimes and sins against economy that were committed by the previous Government.

“अजीब गर्दिशे दौरां है दोस्त यह भी ।
 तुम्हारे जुर्म व गुनाहों का भार देते हैं ।”

It is in order to wash away these crimes and these sins which the two Governments committed. And the second Government had the backing of Mr. Bhupesh Gupta and my friend, Mr. Surjeet, but for whose mishandling the economy would not have been in such a terrible condition. Because it is so, I plead with my friends like Mr. Bhupesh Gupta not to fall a prey to the trap which the Janata Party has laid. The Lok Dal and the Congress (U) were the co-origina-tors of this measure and they brought forth this measure. They are the ones who, in order somehow or other to non-co-operate with this Government, have found this device to refer this Bill to a Select Committee. My appeal, therefore, is that this Select Committee business is a trap into which the Members should not fall because we have to see that the economy is saved.

Thank you, Sir.

SHRI SHANTI BHUSHAN (Uttar Pradesh): Mr. Deputy Chairman Sir, in view of the late hour, I propose to be very brief. I am in entire agreement with the hon. Commerce Minister that this Bill has very laudable objectives. But it is not enough if a Bill has laudable objectives. The means by which those objectives are sought to be achieved are also very important. Very shortly before, Dr. Rafiq Zakaria recited a couplet. Though, of course, I am not in a position to recite the couplet in the same beautiful manner that he did, I am tempted to repeat it:

हम ग्राह भी करते हैं तो हो जाते हैं बदनाम,
 वह कल भी करते हैं तो चर्चा नहीं होता ।

This fits in exactly with the situation which is there today. If a similar ordinance is signed by Mr. Charan Singh or Mr. Y. B. Chavan, it is called a black measure. If it is signed by Mrs. Indira Gandhi, it is called the Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Bill. The couplet fits in with the situation squarely, the situation which is there today.

The hon. Commerce Minister would perhaps like to know what the alternative to this Bill is, if the economy, which, I agree, is in a very bad shape today, has to be saved. But it has been gradually deteriorating, as Mr. Bhupesh Gupta pointed out, not during the last two or three years but during the last 25 or 30 years. Now, as to the remedy, preventive detention is not the remedy. I will tell him what the remedy is. The Essential Commodities Act is there. You can say that after all if a person is sought to be detained properly and honestly and not arbitrarily and dishonestly, what is the harm? But, as the experience is, whenever preventive detention has been resorted to—particularly during the emergency—it is not properly done because the Government may be honest about it, but it is not possible for any Council of Ministers to keep a watch on the activities of the civil servants in whom this power has to be vested. They use the power for their own ends, for various ends, for nefarious ends and, therefore, cause a lot of misery to the innocent public at large. That is why there is something wrong about the Preventive Detention Bill. Well, it might be said that so far as the prosecutions for committing offences under the Essential Commodities act are concerned, the courts are over-crowded and it takes a long time and that if a person is to be given necessary

deterrent punishment, this is necessary, because a long time lapses therefore, people don't bother about being prosecuted and committing offences under the Essential Commodities Act. But the question is only last year the Criminal Procedure Code had been amended and a clause had been added and provision had been made for the creation of special courts for trying cases of offence. In fact, a directive had gone from the Centre to the States that benefit should be taken of that provision so that for offences committed against the Essential Commodities Act or against similar other offences, the special courts could be created which could very expeditiously try those cases and impose the severest sentence on the offender. Another thing which may also be argued is that when the prosecution starts, it does not have an immediate deterring effect because people are released on bail. I shall remind the hon. Commerce Minister that, so far as the Prevention of Food Adulteration Act is concerned, a provision exists there which provides that if a person is arrested on a charge of contravening the Prevention of Food Adulteration Act, then no court shall have a right to release that person unless, of course, the court is satisfied that *prima facie* there is a case for it. Therefore, if such amendments are brought, the Opposition today will be naturally in agreement with the Government and will try to co-operate with the Government in order to make the commission of these offences absolutely impossible. But, so far as preventive detention is concerned, I would like to quote the resounding words of the great Judge which are now a part of the history. His words have become history. So far as preventive detention is concerned, this is the important judgment of the great Justice H. R. Khanna in the *habeas corpus* case during the Emergency. This is what he said in regard to preventive detention:

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"Law of preventive detention, detention without trial, is an anathema to all those who love personal liberty as the law makes deep inroads into the basic human freedoms which we cherish and which occupy prime position among higher values of life."

It is, therefore, not surprising that those who have an abiding faith in the rule of law and sanctity of personal liberty, do not surely reconcile themselves to a law in which persons get detained for a long period without trial. I would like to put a straight question to the Treasury Benches. Are they lovers of rule of law and personal liberty or not? If not, then, of course, you can go ahead with this Bill. If you are, you must mind and mind in a very proper manner. These have flown from a great Judge of this country.

DR. RAFIQ ZAKARIA: This personal liberty and all that is being said is not in this Bill. Why are you confusing the issue? From a lawyer of your eminence, I expect a better exposition.

SHRI SHANTI BHUSHAN: I may also refer to something which has emanated from the entire civilised world, namely, the views expressed by the Bangkok Conference of the International Commission of Jurists in which they have said this. I quote:

"Save during a period of public emergency threatening the life of a nation, no person of sound mind shall be deprived of his right except upon a charge of an specific offence, and preventive detention without trial shall be contrary to the rule of law."

If you want to have the rule of law in this country which the Constitu-

tion makers have shown, in that case, this preventive detention Bill should not be proceeded with.

Sir, certain points have been made by Mr. Salve, and I would deal with them very briefly. It seems that Mr. Salve needs to be salvaged from certain wrong notions which he has entertained. Of course, he is a fine cricketeer. He referred to the black-marketeers and so on. I want to warn him that such a law can be misused by petty officials against not only the black-marketeers and profiteers but also against good cricketeers also. This is the danger.

Sir, much has been said that during the Emergency *habeas corpus* was not available. The Constitution amendment, we passed. I am grateful to the people who are occupying the Treasury Benches because it was with their co-operation only that we were able to adopt that Constitutional amendment. The result was that even during the period of the emergency the right of *habeas corpus* would be there but the distinguished lawyers who are sitting on the other side are aware of the limitations of the right of *habeas corpus*. The court cannot do full justice. The District Magistrate or the Police Commissioner cannot give relief to everybody against whom injustice has been done because the scope of a *habeas corpus* petition is extremely limited. It is only if the *mala fides* is established that the *habeas corpus* petition can succeed, and it is very difficult in a *habeas corpus* petition to establish the *mala fides*, with the result that people can be detained without rhyme or reason although the right of *habeas corpus* is available.

Somebody from this side pointed out that this Bill produces a very curious position of the trade union workers etc. I will try to point out how these forces are very well founded and why it is necessary to refer this Bill to a

Select Committee for a detailed study. Sir, so far as section 3(1) is concerned, there is an explanation on what it is:

"... the expression "acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community" means—".

Class (a) can also be used against the trade union people because it says:

"(a) committing or instigating any person to commit any offence punishable under the Essential Commodities Act, 1955, or under any other law for the time being in force . . .".

Mark the words, "any other law".

"...relating to the control of the production, supply or distribution of, or trade and commerce in, any commodity essential to the community";

Now, so far as the Industrial Disputes Act is concerned, when it bans a strike in certain situations, what is the purpose of that law? The purpose of that law is to maintain production, because if a strike is allowed to be carried on, then in that case production will suffer. And production of essential commodities is absolutely essential. Therefore, if at any time a trade union goes on an illegal strike contrary to the provisions of the Industrial Disputes Act, then in that case all the members of the trade union can be detained under clause (a) of this provision. So far as farmers are concerned, clause (b) appears to be even more draconian. Clause (b) says:

"dealing in any commodity—

(i) which is an essential commodity as defined in the Essential Commodities Act, 1955, or

(ii) with respect to which provisions have been made in any such other law as is referred to in clause (a),

with a view to making gain in any manner which may directly or indirectly defeat or tend to defeat the provisions of that Act or other law aforesaid."

Now, one of the clearest objectives of the Essential Commodities Act is to make commodities, essential commodities, available at reasonable prices to the consumers. Now, if a farmer, because the price of diesel has gone up very high, because the irrigation rates have been increased steeply, and because he wants not even a remunerative price for his produce but merely the cost price of his produce, refuses to sell his crop at a loss, then he can be detained under clause (b). That is the purpose for which clause (b) can be used.

DR. RAFIQ ZAKARIA: Gross misleading of the House.

SHRI SHANTI BHUSHAN: Now, it was said that after the Constitution (Forty-fourth) Amendment Act, there is provision for an advisory board which will be presided over by a sitting High Court Judge and in which either sitting High Court Judges or retired High Court Judges will be members; so, how can this provision be misused when the advisory board is constituted in this manner? Now, I quite agree that trust and confidence can be reposed in them because our judiciary has a great name, our judiciary has a great reputation and that is why that provision was introduced in article 22. But there is a time gap, two months. It is only two months after that the advisory board would come in. Therefore, do they not attach any importance to a person's liberty for two months? Is it that if a person's liberty is interfered with wrongly, illegally, maliciously, for two months, it does not matter at all

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to them? In fact, this was what was said on behalf of the Congress Party when the care-taker Government had come out with this Ordinance, that the threat of action under such law will be used for nefarious purposes, for wrong purposes, for extortion, for extracting illegally money for elections and so on. All these things had been said. Have all these things disappeared today? And the mere fact that there is provision for the constitution of an advisory board does not mean much.

Then Mr. Salve said that if such a law is in proper hands, it would be different. He said that so far as the care-taker Government was concerned, it was a nincompoop Government, an incompetent Government. All right, I accept what he says. But who installed that incompetent Government? It was Mrs. Gandhi's support which installed them in power. Therefore, Mrs. Indira Gandhi and those on the treasury benches today have to bear full responsibility if it was an incompetent Government which did not know how to utilise that law. Mr. Salve also said that if the law is used by a proper Government, then in that case, within 10 days, the situation could be completely altered . . .

SHRI N. K. P. SALVE: Absolutely.

SHRI SHANTI BHUSHAN: . . . totally altered, and the prices could be brought down immediately. I would like to remind Mr. Salve that Mrs. Gandhi and her party have been in power now for the last 21 days, more than double the number of days he wanted. Have the prices come down? (Interruptions). Has profiteering disappeared? (Interruptions). The economic situation cannot be improved in this manner. Now advantage was also taken by Mr. Salve of this debate to make some reference. . . (Interrup-

tion by Shri N. K. P. Salve). The Ordinance is still there; it has been there all the time. Don't forget it, Mr. Salve. The Ordinance is not yet dead. The Ordinance will not die till 5th March.

Now I come to the last point. Advantage was taken by Mr. Salve of this debate .? . .

DR. RAFIQ ZAKARIA: As Law Minister he was himself responsible for drafting a Preventive Detention Bill when Mr. Morarji Desai was the Prime Minister . . .

SHRI SHANTI BHUSHAN: But our party did not accept it. Our party asked the Government to withdraw it . . .

DR. RAFIQ ZAKARIA: Now it does not lie in your mouth to say all this.

SHRI SHANTI BHUSHAN: Advantage was also taken by Mr. Salve to refer to the Vaidyalingam Report also because they happen to be the originators of matters which culminated in some kind of reference to Justice Vaidyalingam. Now an impression is sought to be given as if Justice Vaidyalingam has recorded findings, certain findings, positive conclusions. I would like to clear the matter here that the reference which was made to Justice Vaidyalingam was only this: A large number of allegations had been made inside this House by Mr. Salve against certain individuals. Other allegations had been made by Mr. Kalp Nath Rai against certain other individuals. So far as Justice Vaidyalingam was concerned, he was not required to make an inquiry and come to any conclusions or reach any positive conclusions. All that he was required to do was to examine as to whether any, if so which of those, allegations required and merited an inquiry or going into to determine either the

falsity or the truth of those allegations . . .

DR. RAFIQ ZAKARIA: No, no, he is misleading the House. It was to establish a *prima facie* case.

SHRI SHANTI BHUSHAN: Yes, yes, it was the purpose of the reference, I know, as to whether there was any *prima facie* case for constituting a commission of inquiry for the purpose of making an inquiry into the charges. What is the purpose of constituting a commission of inquiry? It is to determine whether certain allegations are false or certain allegations are true. Today it has not been determined whether the allegations are true or false. It is yet to be determined as to whether the allegations are true or false. All that Justice Vaidyalingam said was that it is desirable to make a proper inquiry into the charges. Therefore, it was not quite correct of Mr. Salve . . . (Interruptions).

SHRI N. K. P. SALVE: If you have any sense of honour, any sense of respect, please do not bring in this report unnecessarily.

SHRI SHANTI BHUSHAN: I would therefore urge the Treasury Benches to coolly and calmly consider, because every human being is fallible, nobody is infallible, they might have thought that this is a very well drafted Bill, let them coolly and calmly consider and come to the conclusion that this is a proper case for a reference to a Select Committee of the House so that all issues, the various clauses, what the alternative, etc. are, can be considered in a cool atmosphere and the House can have the benefit of the views of the Advisory Committee. Thank you.

MR. DEPUTY CHAIRMAN: Now Shri V. B. Raju. After Shri Raju the Minister would reply.

SHRI V. B. RAJU: Mr. Deputy Chairman, I would like to be brief. I am one of the Members who proposed for a reference to the Select Commit-

tee. The idea of referring this to a Select Committee is to reduce heat and to throw more light because this is a very important piece of legislation. I would like to draw the attention of the honourable Minister to his own Statement of Objects in part 2.—own Statement of Objects in part 2:—“The Ordinance recognised preventive detention as a necessary evil and accordingly sought to provide for various safeguards to avoid scope for possible abuse of powers thereunder”. So, there is that feeling in the subconscious mind. This is a piece of evil legislation, a black legislation and also there is scope for misuse of power. I think in our country our political system has revealed that the Parties are not trying to compete how to use the power for the benefit of the people, but how to misuse power for their own benefit. This has come as a revelation to us.

I would like to draw the attention of the House and the ruling party to what Mrs. Gandhi said during the election. As every hon. Member is aware, the Ordinance was promulgated on the 5th October. On the 6th October at Haridwar Mrs. Gandhi said that the President had committed a blunder by signing an Ordinance on preventive detention and allowing the Lok Dal Government to arm itself with sweeping powers. This is the reaction and response of Shrimati Gandhi to the Ordinance issued by the Charan Singh Government. On the 24th October it was reported from Chandigarh that Mrs. Gandhi criticised the Charan Singh Government for its decision on the preventive detention Ordinance. There are other responses also. All of a sudden, why this love to make this Ordinance a permanent piece of legislation? Sir, this Party claims a massive mandate. This Party says that the people are behind the Party. I agree with that. Why you bring a piece of legislation which could be brought in an emergency situation? Such a preventive detention legislation could be

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thought about when there is a situation of emergency like threat to the country or great calamity in the country, as has been already pointed out; natural calamities and man-made calamities. But we had a peaceful election and we have a stable Government and you have a big majority and you claim that people are with the Government. What critical situation is there to warrant such a piece of legislation? Blackmarketing is not a new thing. Do not use some words to cover or shield certain intentions behind the legislation. I will now go into the merits of the legislation. In clause 3(1), Explanation, it is said 'committing or instigating anyone to commit any offence'. Who is going to report on this instigation? A Sub-Inspector or a Police Constable, sometimes. Not the Police Commissioner. I think the ruling party is not realising the danger out of this. No party is permanently in office. Let us rely on Indian democracy. If you create this tradition and take shelter under the plea that the Charan Singh Government has actually promulgated the Ordinance and that you are not at fault. If you want in the Charan Singh Government a soapgoat, then it is not correct politics. In fact Charan Singh Government had no sanction to promulgate this Ordinance because it was only a Caretaker Government. We opposed it. Our Ministers had no mandate for this. I have no hesitation in condemning this. It is not necessary at all . . .

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHIV SHANKAR): You never said that before.

SHRI V. B. RAJU: Mr. Law Minister, you are new to politics. Do not refer to these things. See another crime, namely, "dealing in any commodity with a view to making gains in any manner which may directly, or indirectly defeat the purpose". Sir, what wordings are there, you see:

"directly or indirectly which might defeat the purpose". You can put anybody behind the bars and you are empowering actually the executive with such a power. Don't think that it is a political power. It is not a political power. Not at all. You are only arming the executive with such a power which can be misused. I know and I remember those days when some people used to ask: "Can you give a list of names of persons who can be put behind the bars?" This became the usual talk then. My mind is fresh with those things. Therefore, Sir, I am frightened. It is not actually the Minister, Mr. Pranab Mukherjee, who is going to supervise all these things. Sir, on the 25th September, 1979, the Chief Ministers' Conference had taken place and almost all the Chief Ministers opposed this. Now, today the same picture is there and the same scenario is obtaining. We are in a federal polity and now through this Bill Centre takes the power in the matter of law and order to arrest anybody. Now, the Centre is entering the field of powers of the States. I will ask you one question. I will ask you whether your party Government in Andhra Pradesh has implemented it or implemented any provisions of this Ordinance. Has it actually put any blackmarketeer behind the bars? The prices have gone up much and have gone up steeper only after the Ordinance was promulgated. I will put it that way. You are trying to fool us saying that you are trying to control the prices with this type of legislation.

SHRI HARISINH BHAGUBAVA MAHIDA (Gujarat): You were also trying to fool us. Your party also was trying to fool us.

SHRI V. B. RAJU: Forget your party and my party.

SHRI HARISINH BHAGUBAVA MAHIDA: At that time you remained silent. (Interruptions).

SHRI V. B. RAJU: Don't talk of my party and your party. Mr. Zakaria

was in our party yesterday and he is now in your party. You are there now and if by chance Mrs. Gandhi loses support, you will come over here. So, let us not go into the question of your party and my party. Now, it is said that the Advisory Boards will submit their reports to the appropriate Government within seven weeks from the date of detention of the person concerned. There is a period of two months. For two months you are actually destroying what you call the social reputation of a person, not merely his freedom. There is another thing also. It is said that nothing in this section shall entitle any person against whom a detention order has been made to appear through any legal practitioner in any matter concerned with the reference to the Advisory Board. Now, what is the other side of the picture? Only the Police Commissioners or the District Magistrates actually report. So, even before these Boards what is going to happen? When we look to every word in this clause, we find that it is so detrimental to the democratic norms and principles in this country. Therefore, it is not out of any partisan outlook that I am saying all these things. In fact, the suggestion to refer this to a Select Committee is only to find unanimity in this House on an important legislation like this. Now, if you are throwing away this opportunity and if you want merely to take shelter behind your so-called majority had things like that, then, I think, you will not be appreciated in the eyes and estimate of the people of this country. Why are you afraid of sending it to the Select Committee? What is your difficulty? I have taken the first opportunity of consulting the Minister of Parliamentary Affairs and I told him that I did not want to take him by surprise. This is the considered view and I have consulted the leaders of the other parties also and it is the considered view of all that we should bring about a good piece of legislation to see that the blackmarketing and smuggling activi-

ties are arrested. If you have that objective in view, then the whole House is with you. Don't think that you alone have become patriotic within 31 days and others are not as patriotic as you are. That is not the case. Please let us build up a good tradition. Let us not divide the House. As I said in the morning also, once in five years we shall quarrel and abuse each other for about two or three months. But the remaining part of those five years let us spend our time for doing something good to the people. But you are not interested in doing that. So, without taking much time of the House, I appeal, even though it is very late, to the good sense of the senior Members there, who have spent actually their best part of life for the good of the country, to keep the country's interests in view and to keep the health of the politics of the country in view and respond to the request made—it is not a demand actually, but a request—by the Opposition that this matter be examined thoroughly at the Select Committee level.

श्री जादोश साद साथुर : श्रीमन्, अधिकांश बातें आ चुकी हैं, मैं कहना नहीं चाहता। सिर्फ इतना ही कहना चाहता हूँ कि प्रणब बाबू यह वायदा करें कि इसका राजनीतिक दृष्टि से दुरुपयोग नहीं किया जाएगा। मगर इंदिरा जी के वायदे हम पहले भी देख चुके हैं —

बड़ा गुनाह किया तेरे वादे पर हमने एतबार किया।

इसलिए श्रीमन्, मैं चाहता हूँ कि वायस वोट से मेरे प्रस्ताव पर निर्णय लिया जाए।

SHRI PRANAB MUKHERJEE: While listening to the debate, particularly from the spokesmen of the Congress Party and Lok Dal, at least I expected that we would get a satisfactory explanation from them because

[Shri Pranab Mukherjee]
they were the persons directly concerned to bring the Ordinance in October and today they are opposing it. So what was the situation in October which compelled them to bring that Ordinance and how it has changed now... (Interruptions). Sir, it is not fair. I have listened to them very patiently. Let them listen to me at this late hour. It is no use shouting. We can also shout... (Interruptions) Mr. Mody has the option, the biggest option. Hardly he sits in the House. He goes out and relaxes. But we have to listen here to them. Have some patience... (Interruptions).

Therefore, Sir, the point is let them explain the reasons why it was brought in the form of an Ordinance and why they found it necessary to provide certain powers to the Executive to take care of blackmarketeers, hoarders, profiteers, etc. etc., in the context of the rising prices and certain other economic situation. Nobody in this House, including myself, would say that merely by passing the Preventive Detention Act we are in a position to take care of the price rise. Sir, the economic problem has to be taken care of, on the economic front and economic solution is needed. But so far as preventive detention is concerned, it has a very limited application. When there is shortage in the economy and certain unscrupulous sections of trade and commerce want to utilise the shortage of economy and when it is found that with the existing framework of the laws it is not possible to take a strong action against them, then and then only the question of preventive detention comes up.

Much has been said about the philosophy of the preventive detention, and particularly as a brilliant lawyer. Mr. Shanti Bhushan, has quoted two important quotations, one from the Declaration of Bangkok of the international jurists and another from the quotation of Justice H. R. Khanna. Sir, I am not a lawyer. I am not provided with those important quotations. But

I am provided with a quotation from Mr. Shanti Bhushan himself from his speech on the floor of this House. It is from the debate in the Rajya Sabha, dated 31st August, 1978, while piloting the Constitution (Amendment) Bill in 1978. I am just presenting it to him for his consideration, so far as the philosophy of preventive detention is concerned, why preventive detention should be accepted, though it is against the rule of law. On this he said at that particular time:

"... The attempt has been to see while in a certain special situation to deal with the criminals of mafia type, etc., some special powers may be needed, at the same time the misuse of these and other powers should not be possible, and this can only be done by strengthening the safeguards against the preventive detention.

Next, this is important:

"It is not the time to ban preventive detention and wipe it off from the Constitution."

This is what Mr. Shanti Bhushan has said. If philosophically they feel that any sort of preventive detention is against the rule of law, what prevented them to wipe it off from the Statute Book, from the Constitution? They themselves found that some sort of preventive detention is necessary. And what they wanted to provide? They wanted to provide sufficient safeguards. Can the former Law Minister say that the safeguards which he contemplated in the Constitution are not there in the Bill which is under the consideration of the House and whether every piece of safeguard which he contemplated and which he provided in the Constitution is not bodily lifted in the text of this Bill itself? Therefore, where is the objection? If the objection is simply that when they are in power they would like to utilise it and when somebody else is in power, all these things are to be said, then, of

course, the reason is something different and nobody can understand the rational of it. Sir, so far as the Congress and the Janata are concerned, I have already said that I am still to find out a convincing answer from them as to what prompted them to bring this piece of legislation. Mr. Raju may say that they are opposed to it. Some people always think that they are beyond everything, they are more than the party, they are more than the leader. But we are the common men. Sometimes we are guided by certain principles. Mr. Y. B. Chavan is still the leader of the party. He was the Deputy Prime Minister at that particular time when this Ordinance was passed. At least, he could have got clarified from him as to what prompted him to bring this piece of legislation in the form of an Ordinance at that particular time, and what the changed situations are today that they are to oppose it. Sir, from the newspapers we are finding that even today the President of the Congress Party feels....

SHRI V. B. RAJU: Will you allow me to clarify? (*Interruptions*).

SHRI PRANAB MUKHERJEE: Even the President of the Congress Party feels that the Congress Party should not oppose this piece of legislation. Therefore, Sir, it is their matter. I am not going into that aspect. But at least here must be a convincing reason why they supported this piece of legislation in October and why they are opposed to it today, and what the material changes are which have taken place during this period... (*Interruption by Shri Bhupesh Gupta*). I am not going to be satisfied by you. I am to be satisfied by the Members representing the Congress Party. You do not belong to them. (*Interruptions*).

Sir, the second point is this. An attempt has been made to show as if all the State Governments are against it. Sir, I am placing the facts before the House that at what stage

the various State Governments are looking into it. And it will be interesting to note that even certain State Governments which are not managed by the Congress(I) Party have accepted and implemented these provisions. Sir, I am mentioning the States which have implemented these provisions. They are: Nagaland, Uttar Pradesh, Madhya Pradesh, Karnataka, Haryana, Orissa and Tamil Nadu. Except Karnataka, all other States are managed either by the Janata Party or their off-shoots or their allies. And, Sir, the States where the action is initiated are: Mizoram, Andaman and Nicobar Islands, Dadra and Nagar Haveli, Arunachal Pradesh and the Union territory of Delhi itself. All these Union Territories of Delhi, Chandigarh, Lakshadweep and Pondicherry have implemented it. Only four States have said that they are not going to implement it. Which are these State? They are: Gujarat, Tripura, Kerala and West Bengal. All other States have indicated that either they are going to implement it or that they have initiated certain measures to implement it or that they have implemented it fully or that it is under their consideration, including Andhra Pradesh. The question came as to what has been done by the Andhra Pradesh Government. It is under the consideration of the Andhra Pradesh Government also. Only four States have said that they are not going to implement it. And Mr. Surjeet gave me some advice that I should be polite and that we should have some sort of humility. And what have they quoted? They quoted my statement. I don't think there is any lack of humility. What I said, I said it on the floor of that House and I said on the floor of this House. Even if a piece of legislation is passed by Parliament, when it is passed by Parliament, it does not belong merely to the party of the Government. It gets the approval of the whole Parliament, both the Houses of Parliament. And if it becomes a piece of law, and if it entrusts certain powers to the Government of India in

[Shri Pranab Mukerjee]

its own area of operation, and if some Government even refuses to implement it where they have to implement it with the concurrence of the Government of India, and where the Government of India is concerned directly and not the State Government, and if they do not implement it, should the Government of India remain a mute spectator? There is a case of dual responsibility. So far as the COFEPOSA is concerned, the Government of India is to issue the detention order. There are those who are saying today that they do not want to have any sort of preventive detention. The COFEPOSA is in the statute book. We implemented it. We brought that piece of legislation and we implemented it. We took action under it. The Janata Party did not take any action under that Act. But still it is in the statute book. If you were philosophically so averse to the idea of any sort of preventive detention, why did you retain it? You had the power. No two-thirds majority was needed. You could have passed it in the joint session of the two Houses. You could do it, if this House opposed it. But you retained it. In the Constitution you retained Preventive Detention. And, today, all of a sudden, you find that if a Preventive Detention Bill is passed to take care of the blackmarketeers, profiteers, etc. heavens will fall and this has to be opposed tooth and nail. Therefore, Sir, that is the point. I wanted to draw the attention and that too in the context of a reply from a Member, who said, we are not going to implement it. If you do not want to implement it, that is your matter. But so far as we are concerned we would like to evolve a mechanism through which we can have it implemented because the detention order can be issued by the Government of India itself under section 3.

SHRI BHUPESH GUPTA: I challenge it.

SHRI PRANAB MUKHERJEE: You can challenge it. But I have given you an example already. Therefore, there is no question of a confrontation. It cannot be taken merely West Bengal represents all the States. According to the facts which I have placed before the House, most of the State Governments have expressed their desire to implement it and some of them have already implemented it, and some of them are to be done are going to implement it. I mentioned it earlier also that this is an enabling provision, which the State Governments may like to utilise. A suggestion has come, why cannot you amend the Essential Commodities Act and certain other measures? The Essential Commodities Act is already there. When I mentioned that particular point to which Mr. Shanti Bhushan has also drawn the attention of the House, we drew the attention of the State Government, we did not tell them, you go and have special court's we also suggested to them earmark certain courts to try the economic offenders under this Act, for instance, the Essential Commodities Act etc. Now, in West Bengal alone 17,400 cases are pending in various courts. And, Sir, when we wrote to them, it was written to them in 1978, not today, but there is no reply, not to speak of any action, not even any reply. This is just a typical example. They may have their own difficulties. But if we want to tackle the problem, it requires co-operation. There is no question of having any confrontation at any stage. Did I say that there will be confrontation? What I wanted to point out is that if Parliament passes a law, it is the responsibility of the Government of India to see that that law is implemented where the Government of India has this jurisdiction to implement it and to make it a law.

SHRI BHUPESH GUPTA: Pass it first.

SHRI PRANAB MUKHERJEE: That is a different issue. If it is not passed, it will not be a law. Neither Mr. Bhupesh Gupta nor Mr. Pranab Mukherjee can do it. It is for the House to decide. Do not take it that you are the guardian of the House.

SHRI BHUPESH GUPTA: No, no.

SHRI PRANAB MUKHERJEE: Sir, much has been said outside the purview of the debate. The money matter has been brought in. It has even been suggested that I first came to this House as a Member of the Bangla Congress. Every Member knows it who comes with the support of whom. We know all these things. All these things are known to us. But it is not the proper forum to mention these kinds of things. All sorts of extraneous things have been said. Therefore, what I would like to say here is that so far as this piece of legislation is concerned, they have already said that they do not want to have any assurances from us because they have no confidence on us. I do not want to inject any amount of confidence by reiterating our assurance that it will not be misused. What I want to say is that so far as the scope of this piece of legislation is concerned there is very little scope of misuse. Yes, somebody may be detained for a maximum period of two months without approval of the Advisory Board. But it need not necessarily so happen. Within two months the entire process of getting the report from the Advisory Boards has to be completed.

AN HON. MEMBER:: It is 12 days.

SHRI PRANAB MUKHERJEE: Not 12 days. That is for getting the opinion of the State Governments. So far as the Advisory Board is concerned, it is to be presided over by a sitting judge of the High Court and is to be assisted by two serving or retir-

ed judges. They will go through the whole process.

One hon. Member said that there is no scope of personal hearing. Even the Advisory Board, if they find that there is need for personal hearing, can allow a personal hearing. The only restriction is that the person cannot be represented by a lawyer. When we deal with the smugglers and foreign-exchange racketeers, we find many people, many important people who are smugglers and foreign-exchange racketeers who can never be prosecuted. Not to speak of prosecution, I know of one particular case where the man could not be sent to jail on the certificate of a top medical practitioner of a particular metropolitan city who said that the man cannot be removed from his bed. And when that man was released, he had a joy ride of about 40-50 miles. Therefore, with their money power, it is not very easy to get them convicted under the ordinary law. And all these things are known to everybody, much more known to the Members belonging to the other side and particularly to Mr. Bhupesh Gupta. Therefore, it is no use saying that we can take care of the economic offenders merely under the ordinary laws.

So far as the comprehensive legislation is concerned, when the appropriate time comes, Government will definitely look into it and it may bring a comprehensive piece of legislation. But that has nothing to do with the present legislation.

A point has been raised as to why we are supporting it. As I have already mentioned, yes, we opposed it at that time not merely because it will be misused, we had that apprehension that the Government which did not face Parliament even for a single day and the Government which was so vindictive and which expressed its vindictiveness days in and days

[Shri Pranab Mukherjee]
out from the very moment it took over, is going to misuse it... (*Interruptions*).

AN HON. MEMBER: What about N. K. Singh?

SHRI PRANAB MUKHERJEE: These gentlemen are talking of N. K. Singh. May I ask Mr. Shanti Bhushan and other leaders on the other side, that when on the 24th March, you tookover, when even the Ministers were not appointed, the portfolios were not distributed, how many officers were asked to go on leave by you within forty minutes? Please tell me how many officers you sacked within forty minutes? (*Interruptions*). I am asking you when were the Chairman, Direct Taxes, the Home Secretary and others were asked to go on leave? Was the Finance Minister appointed? Was the Home Minister appointed? Therefore, do not tell these things to us. We have seen it days in and days out. Mr. Shanti Bhushan went to the extent of certifying for a particular judge and now, Sir, another judicial pronouncement is there. I am not going to all that. Therefore, we objected not only from our point of view of apprehensions, we objected to the passing of the Ordinance on another issue that a caretaker Government which did not enjoy the confidence of the House even for a single day, when people are going to give their mandate and choose their representatives, in between the period, the President should not allow a caretaker Government to take important decisions through Ordinances. That was one important aspect as to why we objected to that piece of legislation.

With these words, Sir, I appeal to the Members of the House that let this Bill get their seal of approval.

MR. DEPUTY CHAIRMAN: I shall now put the Resolution to vote.

The question is:

"That this House disapproves the Prevention of Blackmarketing and

Maintenance of Supplies of Essential Commodities Ordinance, 1979 (No. 10 of 1979) promulgated by the President on the 5th October, 1979."

The motion was negatived.

MR. DEPUTY CHAIRMAN: I shall now put the amendment of Shri V. B. Raju, Shri Kulkarni and Shrimati Purabi Mukhopadhyay to vote.

The question is:

"That the Bill to provide for detention in certain cases for the purpose of prevention of black-marketing and maintenance of supplies of commodities essential to the community and for matters connected therewith, be referred to a Select Committee of the Rajya Sabha consisting of the following Members, namely:—

- (1) Shri Shanti Bhushan,
- (2) Shri Sunder Singh Bhandari,
- (3) Shri Bhupesh Gupta,
- (4) Shri Yogendra Sharma,
- (5) Shrimati Purabi Mukhopadhyay,
- (6) Shri V. B. Raju,
- (7) Shri K. V. Raghunatha Reddy,
- (8) Shri K. S. Malle Gowda,
- (9) Shri Harkishan Singh Surjeet,
- (10) Shri Mohd. Yunus Saleem,
- (11) Shri P. Ramamurti,
- (12) Shri Era Sezhiyan,
- (13) Shri Ladli Mohan Nigam,
- (14) Shri B. Satyanarayan Reddy,
- (15) Shri Ajit Kumar Sharma,
- (16) Shri Amarprosad Chakraborty,
- (17) Shri Shiva Nandan Singh, and
- (18) Shrimati Ambika Soni,

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

The House divided.

MR. DEPUTY CHAIRMAN:

Ayes : 87

Noes : 101.

AYES — 87

Advani, Shri Lal K.
Alva, Shrimati Margaret
Anand, Shri Jagjit Singh
Asthana, Shri K. B.
Bagaikar, Shri Sadasiv
Baleshwar Dayal, Shri
Banerjee, Shri Jaharlal
Bhabhra, Shri Hari Shankar
Bhagat, Shri Ganapat Hiralal
Bhandari, Shri Sunder Singh
Bhattacharjee, Prof. Sourendra
Bhola Prasad, Shri
Bose, Shrimati Pratima
Chakraborty, Shri Amarprosad
Deb Burman, Shri Bir Chandra
Dhabe, Shri S. W.
Ghose, Shri Sankar
Gupta, Shri Bhupesh
Gupta, Shri Ram Lakhan Prasad
Hashmi, Shri Syed Ahmad
Hegde, Shri Ramakrishna
Jagbir Singh, Shri
Jamuna Devi, Shrimati
Jha, Shri Shiva Chandra
Joshi, Shri Jagdish
Joshi, Shri Jagannathrao
Kulkarni, Shri A. G.
Kumaran, Shri S.
Lahane, Shri Motiram Udaybhanji
Lakhan Singh, Shri
Mahapatro, Shri Lakshmana
Mahavir, Dr. Bhai
Mallick, Shri Harekrushna
Master, Shri K. Chathunni
Mathur, Shri Jagdish Prasad
Menon, Shrimati Leela Damodara
Menon, Shri Viswanatha
Mishra, Shri Kalraj
Mody, Shri Piloo
Mohanty, Shri Surendra
Mohinder Kaur, Shrimati
Morarka, Shri R. R.
Mukherjee, Shrimati Kanak

Mukhopadhyay, Shrimati Purabi
Naidu, Shri N. P. Chengalraya
Nanda, Shri Narasingha Prasad
Narendra Singh, Shri
Nathi Singh, Shri
Nigam, Shri Ladli Mohan
Nizam-ud-Din, Shri Syed
Parbhu Singh, Shri
Patel, Shri Manubhai
Pattanayak, Shri Bhabani Charan
Prem Manohar, Shri
Rajan, Shri Pattiam
Raju, Shri V. B.
Rameshwar Singh, Shri
Ray, Shri Rabi
Reddy, Shri B. Satyanarayan
Reddy, Shri K. V. Raghunatha
Reddy, Shri Mulka Govinda
Roy, Shri Kalyan
Sahaya, Shri Dayanand
Saleem, Shri Mohammad Yunus
Samad, Shri Golandaz Mohammed-
husain A.
Sarup, Shri, Dr.
Scindia, Shrimati Vijaya Raje
Sezhiyan, Shri Era
Shah, Shri Viren J.
Shahabuddin, Shri Syed
Shahedullah, Shri Syed
Shahi, Shri Nageshwar Prasad
Shanti Bhushan, Shri
Sharma, Shri Ajit Kumar
Sharma, Shri Yogendra
Shastri, Shri Bhola Paswan
Shastri, Shri Brahmdeo Ram
Sheikh, Shri Abdul Rehman
Siddhu, Dr. M. M. S.
Singh, Shri J. K. P. N.
Singh, Shri Shiva Nandan
Sinha, Shri Indradeep
Sinha, Dr. Ramkripal
Soni, Shrimati Ambika
Surendra Mohan, Shri
Surjeet, Shri Harkishan Singh
Varma, Shri Mahadeo Prasad

NOES — 101

Adivarekar, Shrimati Sushila Shankar
Amla, Shri Tirath Ram
Anandam, Shri M.
Anjiah, Shri T.
Antulay, Shri A. R.

Arif, Shri Mohammed Usman
 Avernoankar, Shri R. D. Jagtap
 Balram Das, Shri
 Banerjee, Shri B. N.
 Bhagwan Din, Shri
 Bhattacharya, Shri G. C.
 Bhim Raj, Shri
 Chanana, Shri Charanjit
 Chandrasekhar, Shrimati Maragatham
 Chattopadhyaya, Prof. D. P.
 Chaurasia, Shri Shivdayal Singh
 Das, Shri Bipinpal
 Deshmukh, Shri Bapuraoji Marotraoji
 Dinesh Chandra, Shri Swami
 Dwivedi, Shri Devendra Nath
 Gogoi, Shri Tilok
 Gopalsamy, Shri V.
 Goswami, Shri Dinesh
 Gowda, Shri U. K. Lakshmana
 Gupta, Shri Gurudev
 Habibullah, Shrimati Hamida
 Jadhav, Shri Pandurang Dharmaji
 Jain, Shri Dharamchand
 Janardhanam, Shri A. P.
 Joshi, Shri Krishna Nand
 Joshi, Shrimati Kumudben Manishan-
 kar
 Kadershah, Shri M.
 Kalaniya, Shri Ibrahim
 Kamble, Prof. N. M.
 Kesri, Shri Sitaram
 Khan, Shri F. M.
 Khan, Shri Khurshed Alam
 Khan, Prof. Rasheeduddin
 Khaparde, Shrimati Saroj
 Kripalani, Shri Krishna
 Krishna, Shri M. R.
 Krishnan, Shri E. R.
 Krishnan, Shri U. R.
 Kureel, Shri Piare Lall urf Piare Lall
 Talib
 Lalsawia, Shri
 Lokesh Chandra, Dr.
 Lotha, Shri Khyomo
 Mahanti, Shri Bhairab Chandra
 Mahida, Shri Harisinh Bhagubava
 Makwana, Shri Yogendra
 Manhar, Shri Bhagatram
 Maran, Shri Murasoli
 Maurya, Shri Buddha Priya
 Mehrotra, Shri Prakash
 Mehta, Shri Om
 M. isekar, Shri G. R.

Mishra, Shri Mahendra Mohan
 Mittal, Shri Sat Paul
 Mohideen, Shri S. A. Khaja
 Mondal, Shri Ahmad Hossain
 Moopanar, Shri G. K.
 Moses, Shri M.
 Mukherjee, Shri Pranab
 Mulla, Shri Suresh Narain
 Munusamy Shri V. P.
 Muthu, Dr. (Shrimati) Sathiavani
 Naik, Shri L. R.
 Pande, Shri Bishambhar Nath
 Prasad, Shri K. L. N.
 Rahamathulla, Shri Mohammad
 Rajasekharam, Shri P.
 Ranganathan, Shri S.
 Rao, Shri V. C. Kesava
 Ratan Kumari, Shrimati
 Reddy, Shri R. Narasimha
 Roshan Lal, Shri
 Sahu, Shri Santosh Kumar
 Salve, Shri N. K. P.
 Saring, Shri Leonard Soloman
 Sharma, Shri A. P.
 Sharma, Shri Kishan Lal
 Sheikh, Shri Ghouse Mohiuddin
 Shyamkumari Devi, Shrimati
 Singh, Shri Bhishma Narain
 Singh, Shri Ng. Tompok
 Singh, Shrimati Pratibha
 Sisodia, Shri Sawaisingh
 Sujan Singh, Shri
 Sultan Singh, Shri
 Swaminathan, Shri V. V.
 Swu, Shri Scato
 Totu, Shri Gian Chand
 Vaishampayan, Shri S. K.
 Venigalla Satyanarayana, Shri
 Venka, Shri V.
 Venkatrao, Shri Chandalavad
 Verma, Shri Shrikant
 Warjri, Shri Alexander
 Yadav, Shri Ramanand
 Yadav, Shri Shyam Lal
 Zakaria, Dr. Rafiq

The motion was negatived

MR. DEPUTY CHAIRMAN: I shall
 now put the Motion moved by Mr.
 Mukherjee to vote. The question is:

"That the Bill to provide for detention in certain cases for the purpose of prevention of black-marketing and maintenance of supplies of commodities essential to the community and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill. Clause 2—there are no amendments.

Clause 2 was added to the Bill.

Clause 3 (Power to make orders detaining certain persons)

SHRI SUNDER SINGH BHANDARI: I beg to move:

2. "That at page 2, for lines 6 to 15, the following be substituted namely:

3. (1) Any Chief Metropolitan Magistrate or Judicial Magistrate of the First Class may, on material being presented to him by or on behalf of the Central Government or any State Government, if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community it is necessary so to do, make an order directing that such person be detained."

3. "That at page 2, lines 24 to 31 be deleted."

(The amendments No. 2 and 3 also stood in the name of Shri Shanti Bhushan).

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

4. "That at page 2, line 42, for the words 'twelve days' the words 'seven days be substituted."

SHRI SUNDER SINGH BHANDARI: Sir, I move:

5. "That at pages 2-3, lines 32 to 45 and lines 1-3, respectively, be deleted".

(The amendment also stood in the name of Shri Shanti Bhushan).

SHRI SHANTI BHUSHAN: Sir, I move:

6. "That at page 3, line 4, the words 'or approved by the State Government' be deleted."

SHRI SUNDER SINGH BHANDARI: Sir, I move:

7. "That at page 3, line 4 to 11 be deleted."

8. "That at page 3, after line 11, the following be inserted, namely:

'(5) No person shall, however, be detained under subsection (1) unless within one year prior to the making of the order of detention he has been convicted by a Court of competent jurisdiction of an offence punishable under any of the laws mentioned in the explanation to that subsection'."

(The amendments No. 7 and 8 also stood in the name of Shri Shanti Bhushan).

The questions were put and the motions were negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4, 5 and 6 were added to the Bill.

Clause 7 (Powers in relation to absconding persons)

SHRI SHIV CHANDRA JHA: Sir, I move:

9. "That at page 3, lines 42-43, the words 'and his property' be deleted."

10. "That at page 4, line 3, for the words 'one year' the words 'six months' be substituted."

The questions were put and the motions were negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 7 stand part of the bill."

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8—(Grounds of order of detention to be disclosed to person affected by the orders)

SHRI SUNDER SINGH BHANDARI: Sir, I move:

11. "That at page 4, for lines 7 to 13, the following be substituted, namely:

'3(1) When a person is detained in pursuance of a detention order, the grounds on which the order has been made shall be supplied to the person detained immediately.'

(The amendment also stood in the name of Shri Shanti Bhushan).

SHRI SHIVA CHANDRA JHA: Sir, I move:

12. "That at page 4,—

(i) line 9, for the words 'five days' the words 'two days' be substituted and

(ii) line 10, for the words 'ten days' the words 'five days' be substituted.

The questions were put and the motions were negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9 was added to the Bill.

Clause 10—(Reference to Advisory Boards)

SHRI SHIVA CHANDRA JHA: Sir, I move:

13. "That at page 4, line 43, for the words 'three weeks' the words 'two weeks' be substituted."

The question was put and the motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 10 stand part of the Bill."

The motion was adopted.

Clause 10 was added to the Bill.

Clauses 11 and 12 were added to the Bill.

Clause 13—(Maximum period of detention)

SHRI SHIVA CHANDRA JHA: Sir, I move:

14. "That at page 5, line 31 for the words 'six months' the words 'three months' be substituted."

The question was put and the motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

*Clauses 14, 15, 16 and 17 were added
to the Bill.*

*Clause 1—Short title, extent and
commencement*

SHRI SHIVA CHANDRA JHA: Sir,
I move:

1. "That at page 1, after line 3,
the following be inserted, namely:

'(4) It shall not be used against
political and trade union workers
making peaceful protest'."

*The question was put and the motion
was negatived.*

MR. DEPUTY CHAIRMAN: The
question is:

"That clause 1 stand part of the
Bill."

The motion was adopted.

Clause 1 was added to the Bill.

*The Enacting Formula and the Title
were added to the Bill.*

SHRI PRANAB MUKHERJEE: Sir,
I move:

"That the Bill be passed."

*The question was put and the motion
was adopted.*

MR. DEPUTY CHAIRMAN: The
House stands adjourned till 11 A.M.
tomorrow.

The House then adjourned
at forty-one minutes past nine
of the clock till eleven of the
clock on Tuesday, the 5th
February, 1980.