

MR. CHAIRMAN : You did not seek my permission to make this statement and I do not allow it.

SHRI CHITTA BASU : Today is the last day of this Section. He said :

"When I say it with all sense of responsibility that Mr. Chandy has not been fair to the Parliament."

MR. CHAIRMAN: I rule it out of order.

SHRI CHITTA BASU : He also said that.

MR. CHAIRMAN : No, please. This is not a point of order.

SHRI CHITTA BASU : Has he given any particulars with regard to the statement he has made ? I want to know it, because today is the last day.

MR. CHAIRMAN : Please, now Mr. Akbar Ali Khan.

SHRI CHANDRA SHEKHAR (Uttar Pradesh) : Mr. Chairman, Sir, it is not fair to me. I do not know in what context the hon. Member wants to raise the question.

MR. CHAIRMAN : I have not permitted him.

SHRI CHANDRA SHEKHAR : He is already on record. Will you please hear me ? Mr. Chairman, Sir, whether you permitted him or not, the hon. Member has raised the question. He said that I have said that with all sense of responsibility and that I should produce facts before you. Now, if I do not say anything on it, it means that I went back on my word. So, at last you should say that though I could not send it earlier, I have already submitted the document to you. You at least clarify it.

MR. CHAIRMAN : I received some papers from you only last night. No, please sit down. Mr. Akbar Ali Khan.

THE MAINTENANCE OF INTERNAL SECURITY BILL, 1971—contd.

SHRI AKBAR ALI KHAN (Andhra Pradesh) : Mr. Chairman, while speaking on the Maintenance of Internal Security Bill I want to make it clear to the whole House and particularly to our friends in the opposition that I fully support this Bill. We support it with a mixed feeling and with a heavy heart. Sir, we

fully realise that the bringing of this motion does curtail liberty. We do realise that this Bill will go against certain definitely established principles of democracy. We also feel that we are wedded to the principles of the rule of law and it goes against those principles also.

SHRI BHUPESH GUPTA (West Bengal) : You are wedded to the principle of rule of law ?

SHRI AKBAR ALI KHAN : Yes.

SHRI BHUPESH GUPTA : You are divorced from the principle of rule of law.

SHRI AKBAR ALI KHAN: My friend does not know anything about divorce, so let him not speak about divorce. So, having that in mind we feel we could not have brought this motion before this House, but unfortunately as things stand, as some stark realities come before our mind, on the one side we see the safety and the defence and the integrity of the country are questioned and we have to take measures to see that the country's security is fully safeguarded. We have also to see that there are elements who want to demolish all the cherished ideals of democracy for peaceful persuasion and settlement of affairs through the Parliament and through democratic means. Although they say they are wedded to democracy, they are wedded to violence. Yesterday when my friend Mr. Chitta Basu referred to it, some of my friends took objection. I think he was perfectly right. There is a greater realisation now amongst all sections of the people that violence will not serve the cause of democracy, that violence will not serve any idea. When there are people who want to achieve their objects through violent means I think the country and I am sure those who are supporting them. . . (*Interruption*) I am not yielding. Those who have been supporting them for the sake of opposition, for the sake of political alliance now it is a grand alliance between the Swatantra, Jan Sangh and our Marxist friends.

SHRI MAHAVIR TYAGI (Uttar Pradesh) : There is alliance between you and the Muslim League.

SHRI AKBAR ALI KHAN : I appreciate you. We have not *forgotten* you.

SHRI KALYAN ROY (West Bengal) : Muslim League, Independents and Shri Babu-bhai Chinai, the woiit speculator.

SHRI AKBAR ALI KHAN : I appreciate the attitude of the opposition Congress that they realise that at least in the interests of the country they should support the Bill.

So, having that object in mind this Bill has been brought before this House, and we want this measure not to get power but to see that those ideals of democracy, those principles for which the Father of the Nation led this country to freedom _____

SHRI A. P. CHATTERJEE (West Bengal): The more you speak the more you are getting into trouble.

SHRI AKBAR ALI KHAN : I know it is inconvenient for you. The cap fits you. So you better be patient, My submission is....

SHRI A. P. CHATTERJEE: You wear the Congress cap which fits you. As soon as you wear that cap you lose your brain.

SHRI AKBAR ALI KHAN : Sir, you have understood him and the whole House has understood him.

Now, in addition to that, there are communal elements who want to create disturbances and spoil the peace of the country. And in view of the unfriendly neighbours, the problem of Bangla Desh and the commitment of the whole Parliament to take all measures to see that the Bangla Desh problem is solved, I think there is a great responsibility on everyone of us to see that such measures, in case of necessity, are adopted before any damage is done. That is why, thinking that prevention is better than cure, we are bringing with a heavy heart this measure before the House.

SHRI K. P. SUBRAMANIA MENON (Kerala): Have you got a heavy heart ?

SHRI A. G. KULKARNI (Maharashtra) : The Communists have no heart. How can the Communists have any heart ? They are a heartless people. They are heartless.

(Interruptions)

MR. CHAIRMAN : Please sit down. Now, I want to appeal to this House that in view of the fact that it was agreed yesterday that the Minister will reply at 2.00 p. m. today and this Bill should be finished today -----

SHRI A. P. CHATTERJEE : You are adding. Nothing was decided.

MR. CHAIRMAN : I would request hon. Members not to interrupt.....(Interruptions)
Please sit down. You be seated, please.

श्री निरंजन वर्मा (मध्य प्रदेश) : यह कदम और कहाँ तय हुआ था ?

MR. CHAIRMAN: You have to sit down now. I will hear you later. Now, I request Members not to interrupt because _____

(Interruptions)

SHRI A. G. KULKARNI: Sir, he must know how to behave.

SHRI A. P. CHATTERJEE: Are you in the Chair ?

MR. CHAIRMAN: Mr. Chatterjee, you are again standing up when I am standing. Fifteen minutes should be the outside limit. And I request the hon. Members not to make interruptions so that the speaker may be able to finish his speech within as short a time as possible.

SHRI BHUPESH GUPTA: Sir, I have a submission to make. No Member should make hypocritical speeches. He is speaking with a heavy heart. Does he look it ?

श्री निरंजन वर्मा : मैं आपका ध्यान इस ओर आकर्षित कर रहा हूँ कि कल यह तय हुआ था कि अगर 2 बजे मिनिस्टर साहब अपना जवाब देंगे तो प्रातःकाल 11 बजे से जो पीरियड शुरू होता है, उसमें जो बिजनेस कार्लिंग अटेन्शन का लाया जाए, उसको कर्टेज कर दिया जाय ।

श्री सभापति : कर दिया, आध घंटे में मैंने सब काम खत्म कर दिया ।

It is not a valid point. Yes, Mr. Akbar Ali Khan.

SHRI AKBAR ALI KHAN : Sir, I do not want to spend time in replying to Mr. Bhupesh Gupta.

MR. CHAIRMAN : You need out. (Interruptions) You are interrupting, Mr. Kulkarni, unnecessary. Please do not interrupt.

SHRI A. G. KULKARNI : Why heavy heart ?
Sound heart.

SHRI A. P. CHATTERJEE : May I make a suggestion ?

MR. CHAIRMAN: No, please sit down. You have got to", Mr. Chatterjee.

SHRI AKBAR ALI KHAN : Yesterday two of the prominent leaders of the Opposition spoke on this Bill. One was my esteemed friend, Mr. Goray, representing the PSP. His main contention was that you have been given a heavy mandate and why do you do this ?

SHRI NIREN GHOSH (West Bengal) : How 'heavy mandate' ? Where is the mandate ?

SHRI AKBAR ALI KHAN: I am referring to Mr. Goray, not to you.

SHRI NIREN GHOSH : Why does he say 'with a heavy heart', then ?

MR. CHAIRMAN : Please sit down.

SHRI AKBAR ALI KHAN : He said there was no necessity....

SHRI BHUPESH GUPTA : I suggest you better put him in the Chair.

MR. CHAIRMAN : No, please.

SHRI AKBAR ALI KHAN: His main argument was that in view of the popularity of our Party there was no need to introduce such a measure. With due respect let me tell him that that mandate and that popular support has given us the responsibility to bring such a measure ?

SHRI NIREN GHOSH : What a mandate ?

SHRI AKBAR ALI KHAN:., to alleviate the sufferings of the poorer sections of the society.

SHRI A. P. CHATTERJEE : Was that mandate for bringing a preventive measure like this one ?

SHRI AKBAR ALI KHAN: The sufferings of the poorer sections cannot be obviated if there is no law and order, if there is no peace. If there is no normal working in the State. That is the main contention. And in order to achieve that object, in order to bring socialism, in order to fight poverty, we felt that

in case of necessity we must have this legal arm so that if some of my friends disturb those programmes they may be dealt with properly.

My esteemed friend, Mr. Venkataraman felt that we are bringing this measure to curb labour, peasants and so on. May I ask how many times we have acted against genuine leaders during the last twenty years this measure has been on the Statute Book ?

(Interruptions)

SHRIM. R. VENKATARAMAN (Tamil Nadu) : May I point out that in place of Comrade Ramaswamy another Ramaswamy was brought by the police and kept in the jail ? It took them six months to discover that a wrong person had been arrested. Hence my apprehension.

SHRI AKBAR ALI KHAN : I cannot explain individual cases. Individual cases will have to be gone into in detail. My appeal to my friends is that in case you keep alert and if you see that it is abused, then you bring the matter to the notice of Parliament _____

SHRI A. P. CHATTERJEE : He puts questions and then appeals.

SHRI AKBAR ALI KHAN : I am not putting a question to you. I say in the interest of the realities of the situation in the country...

SHRI NIREN GHOSH : Sir, he is referring to you.

SHRI AKBAR ALI KHAN: I know they are feeling uneasy. In view of the defence of the country, the security of the country, the communal harmony of the country and to carry out the plan for removing poverty, we have adopted this measure unwillingly.

SHRI G. A. APPAN (Tamil Nadu) : On a point of order, Mr. Chairman....

SHRI AKBAR ALI KHAN : Sir, my submission is that as regards the provisions of the Bill, I would like my Government to explain and assure us that this measure has been brought only for a certain period, one year, two years or three years. But it seems this has been brought permanently. I would like the Government to explain this position. Secondly,

I would like the Government to explain every year about the progress, or what has been the situation with reference to this measure.

SHRI NIREN GHOSH : The progress is that you are speaking here.

SHRI AKBAR ALI KHAN : Secondly, so far as working members are concerned, if they are put under detention, I would like to know what provision is there to see that their families do not starve. Thirdly, under this Act an Advisory Board is going to be appointed. I would like to say that the members of the Board should be appointed in consultation with the Chief Justice of the High Court, so that people may have confidence in the members of the Board. With these observations, Sir, I support the Bill.

SHRI BHUPESH GUPTA : I hope, Sir, hon. Members' hearts have now been lightened a little.

SHRI A. P. CHATTERJEE: Or have become a little less heavy.

MR. CHAIRMAN : Please sit down. Dr. Mahavir.

डा० भाई महावीर (दिल्ली) : जिस बिल पर चर्चा के सम्बन्ध में आज ...

श्री ए० जी० कुलकर्णी : इंग्लिश में बात करो ।

डा० भाई महावीर : इंग्लैंड से ताजा-ताजा आये दिखायी देते हैं ।

श्री नीरेन घोष : कोआपरेटिव कामन-वैल्य से आये हैं ।

डा० भाई महावीर : जिस बिल के विषय में आज चर्चा के लिये इस सदन को मजबूर होना पड़ा है, उसके बारे में जो सफाइयां दी गयी हैं, मैं समझता था कि हमारी सरकार के पक्ष की ओर से उसमें कुछ ऐसे तर्क दिये जायेंगे, जिनको सुन कर हम यह समझ सकेंगे कि सचमुच में इस बिल की आवश्यकता क्या थी । कल हमारे मित्र श्री शीलभद्र याजी ने कुछ तर्क

द देने की कोशिश की । उन्होंने कहा कि हमारा इलाका पाकिस्तान के कब्जे में है, हमारे देश का एक बड़ा भाग चीन के कब्जे में है, उसके अधिकार में है । उन्होंने कहा कि इस देश के अंदर इस तरह के तत्व हैं, जो माओत्से तुंग को अपना नेता बताते हैं और उन सब तत्वों के कारण हमारे देश के ऊपर पाकिस्तानी और चीनी कब्जा होने के कारण हमको इस बिल को लाने की आवश्यकता पड़ी । उन्होंने जो कहा उससे आगे जाकर श्रीमती पूर्वी मुकर्जी ने कहा कि कंजैक्ट वाइटिस की जो बीमारी फैल रही है, उसको रोकने का कोई तरीका इसके सिवाय नहीं था कि यह प्रिवेंटिव डिटेंशन का बिल लाया जाय । मैं कहना यह चाहता था कि शीलभद्र याजी और हमारी सरकार के पक्ष के मित्र कुछ और तर्क और मुजाव भी दे सकते थे । मैं उनको मुझना चाहता हूं कि वे यह भी कहते कि जैसलमेर में वर्षा नहीं हो रही है, इसलिए इस बिल की आवश्यकता थी, बम्बई में ज्यादा वर्षा हो गयी और वहां बाढ़ आ गयी, इसके लिए बिल की आवश्यकता थी और आबादी बढ़ती जा रही है, देश में इसके लिए इस बिल की आवश्यकता थी और राजस्थान कैनल नहीं बनी इसके लिए बिल की आवश्यकता है, और कीमतें नहीं रुक रहीं, वह बढ़ती जा रही है, और ऐसी ही बहुत सी समस्याएँ हैं देश में, लेकिन हमें यह पहली बार पता लगा कि पाकिस्तान का जो हमारे देश की भूमि पर कब्जा है या चीन का जो हमारे इलाके पर अधिकार है, वह इस कारण नहीं हट सका कि इस देश में प्रिवेंटिव डिटेंशन का अधिकार सरकार को नहीं था । मुझे लगता है कि बहुत गलत फहमी हो गयी हमारे याजी साहब को और इसलिये वे समझते हैं कि इस बिल को पास करने की जरूरत है । और सभापति महोदय, मैं एक बात और भूल गया । हमारे मित्र श्री पंत ने कहा कि देखिये आज सुबह यहाँ चर्चा हुई अमरीका से फौजी सामान के जहाज पाकिस्तान को आ रहे हैं और ऐसी कठिन परिस्थिति है कि इस बिल के बगैर कोई

[डा० भाई महावीर]

चारा नहीं है। पता नहीं यहां इस सदन के किसी माननीय सदस्य को यह तर्क समझ में आया या नहीं, लेकिन मुझे समझ में नहीं आया कि प्रिवेंटिव डिटेंशन का अधिकार मिलने से यह सरकार अमरीका के शस्त्रास्त्र लाने वाले जहाजों को कैसे रोकेगी? क्या हमारे मित्र यह समझते हैं कि यह अधिकार मिलने के बाद पहले डिटेंशन का आर्डर जो है वह प्रेसिडेंट निकसन या चेयरमैन माओत्सेतुंग या जनरल याह्या खां के खिलाफ जारी किया जायगा? अगर उनको यह उम्मीद है तो हो सकता है कि उनके इस तर्क के अन्दर मुझे कोई अर्थ दिखाई दे सके, लेकिन मैं तो उनसे यही कहूंगा कि वह इस गलत फहमी में से निकले। उनको पता होना चाहिये कि जब से हमारे देश की भूमि पर चीन और पाकिस्तान का कब्जा हुआ, उसके कई वर्ष बाद तक इस देश में इस सरकार को प्रिवेंटिव डिटेंशन का अधिकार रहा और सब अधिकार रहने के बाद आज तो यह सरकार इस स्थिति में पहुंच गई है कि जो वचन दिया था पंडित जवाहर लाल नेहरू ने, सारे संसद् को अपने साथ लेकर इस देश के सामने जो प्रतिज्ञा की थी कि चीन के अधिकार में गई हुई भूमि के एक-एक इंच को वापस लेंगे वह वचन, वह प्रतिज्ञा अपनी सरकार बिलकुल भूल चुकी मालूम होती है और अगर नहीं भूल चुकी हो तो मैं चाहूंगा कि इस सरकार ने पिछला जो चुनाव कराया उसके घोषणा पत्र में दिखाया जाय कि कहीं लिखा है कि इस भूमि को छुड़ाने के लिये सरकार प्रतिज्ञावद्ध है और उसके लिये सरकार कदम उठायेगी। महोदय, मैं तो इस समय एक सौदा भी कर लेने को तैयार हूँ, अगर सरकारी पक्ष यहां यह वचन देता है कि किस दिन तक वह इस भूमि को वापस ले लेंगे तो मैं अपनी तरफ से, कोई निश्चय के न होते हुये भी, हम एक यह अधिकार ही नहीं बल्कि इससे बढ़ कर अधिकार सरकार को देने के वास्ते तैयार हूँ, अगर देश की सार्वभौम अखंडता के ऊपर जो

आघात है या देश की विदेशी कब्जे में गई हुई भूमि को छुड़ाने के लिये सरकार एक निश्चित अवधि तय करे। नारा लगाना एक अलग चीज है और एक ठोस आधार पर दलील देना अलग चीज है। और यह किया जा रहा है आज इंटरनल सिक्योरिटी के नाम से। महोदय, मेरे मित्र श्री अडवाणी ने कल लोक सभा में हुई उस बहस का जिक्र किया था जिस समय डा० श्यामा प्रसाद मुखर्जी थे और उन्होंने उस समय जो इस बिल के ऊपर वक्तव्य दिया उसका भी उन्होंने उल्लेख किया। मैं आपको कहना चाहता हूँ, महोदय, कि 22 जुलाई, 1952 ई० को डा० मुखर्जी जब वहां पर थे तो वहां प्रिवेंटिव डिटेंशन एक्ट पर बोलते हुए उन्होंने जो कुछ कहा आज वह उतना ही सच है और आज भी उतना ही अर्थपूर्ण है जितना कि उस समय था। उन्होंने जिक्र किया था उस समय का जब कि अंग्रेज इस तरह का अधिकार लेने के लिये बिल लाये थे, उस बिल का भी संयोग से जो नाम था वह भी "पब्लिक सिक्योरिटी बिल" था। मुझे लगता है कि श्रीमती इन्दिरा गांधी की सरकार अंग्रेजों से जो कई बातें सीखने की कोशिश करती है, उनमें से इस बिल का एक नये प्रकार का नामकरण करने की बात भी सीख गई है। प्रिवेंटिव डिटेंशन एक्ट का सीधा-सीधा नाम रखने के बजाय इंटरनल सिक्योरिटी का एक बड़ा युफिमिस्टिक नाम, एक बड़ा लुभाने वाला नाम, एक खूबसूरत नाम, एक सुगन्धयुक्त नाम देने की कोशिश की गई है। ऐसा ही एक नाम पिछला पब्लिक सिक्योरिटी बिल का था और उस समय पंडित मोतीलाल नेहरू विरोधी पक्ष के नेता थे, पंडित मदन मोहन मालवीय उस समय विद्यमान थे, श्री श्रीनिवास आर्यंगर उस समय विद्यमान थे। तो उस समय पंडित मोतीलाल नेहरू ने जो शब्द कहे उनका थोड़ा सा उद्धरण, महोदय, आपकी अनुज्ञा से मैं यहां पर रखना चाहता हूँ। उन्होंने जो कहा वह आपके सामने रखना चाहता हूँ। यह कहा उन्होंने :

"My submission is that the principle of the Bill is a very simple one and it comes to this. Where the courts will not convict, give us power to punish. That is the principle of the Bill. You may conceive it in any embellishments of style, but that is the things to which it resolves itself.

इसके आगे डा० मुखर्जी के शब्द हैं :

And then he proceeds to demolish the arguments which were advanced by my honourable friend, Pandit Thakur Das Bhargava who said, "We give you an Advisory Committee." Look at that. What a great act of benevolence it is. We give a copy of the grounds. There sits the Advisory Committee to consider the grounds and yet you say that we are doing an injustice to that man. This is the reply which Pandit Motilal Nehru gave to Sir James Crerar. There was a provision there also that the detenu's case would be placed before a tribunal of three High Court Judges."

श्री हाई कोर्ट जजेज । ऐसा नहीं कि जो जजेज बन सकते हैं या बने थे या बनाये जा सकते हैं, बल्कि तीन हाई कोर्ट जजेज हों, उन्हीं को रखा जाने वाला था । आगे यह है :

"There was no question of an Advisory Committee. The grounds had to be communicated to the accused. The Judge must have access to other papers also, but only on the basis of the grounds supplied to the tribunal would he be able to decide what was to be done. He said...." Pandit Motilal Nehru said,—

"... This man is to be brought before three experienced Judges. I say that if this man were to be brought before three angels they would not be able to do anything for him. And why? Simply because though the Judges are there, they are crippled, they cannot exercise their functions."

इस पर इन्द्रप्रान हुआ—क्यों नहीं वह अपना फंक्शन एक्ससाइज कर सकती । इसका जवाब पं० मोतीलाल नेहरू ने दिया :

"Because the evidence is one-sided, because they are told not to lay the whole of the evidence or the facts before the accused".

Let the House listen to this—the first Parliament of free India. Appreciate the seriousness of the decision which the House is going to take—It is not a matter to be laughed at or joked about.

"What can a judge do in those circumstances", he continues.

यह फिरसे कोट कर रहा हूं पं० नेहरू को ।

"How can he possibly expect the case against the accused to be disproved, unless the accused knows what was the case. All that you give to the accused is a general statement. These three learned judges sit there. The counsel of the accused has no access to the documents, the confidential documents, and the accused—what can he do ? So, the poison is there to taint the fountain of justice and the man is not made acquainted with the allegations and evidence against him. This is called justice ! Can there be anything more barbarous than this ?

यहां पर मैं डा० मुखर्जी और डा० काटजू में जो बातचीत हुई, उसको छोड़ रहा हूं । बीच में कुछ बातों को छोड़ कर मैं आगे कह रहा हूं :

That summarises in a nutshell certain fundamental principles from which India cannot depart whether India is under foreign rule or whether India is a free country.

I came across, Sir, another statement of a shorter nature.

यह डा० काटजू के ही अपने एक वक्तव्य के बारे में उन्होंने कहा है । पं० मोतीलाल नेहरू की एक बात के बारे में श्री आडवाणी ने कल जिक्र किया था । उनके एक वचन का मैं यहां पर उल्लेख कर रहा हूं :

Now, Sir, Pandit Motilal Nehru was a man of emotion and when the discussion on that Bill took place, he gave certain names to the Bill. We are not going to the Select Committee, in view of the attitude taken by Government. But I shall suggest some amendment to the title of the Bill because it came from no other person than Pandit Motilal Nehru. Dr. Katju may consider it.

पं० नेहरू जो नाम इस कानून को दिये वह इस प्रकार था :

[डा० माई महावीर]

"If a name has to be given by me to this Bill, I am disposed to call it "Slavery of India Bill—No. 1", because I expect others to follow, or the "Safety of Bureaucracy Bill", or if you like "Public Danger Bill".

पब्लिक सिक्वोरिटी बिल की बजाए पब्लिक डेन्जर बिल यह शब्द पं० मोतीलाल नेहरू ने दिए थे। आज मैं चाहता हूँ कि उन्हीं की पोती इस बात पर विचार करे कि इन नामों में से कौन सा नाम इस बिल के लिये पसन्द किया जा सकता है। श्री पंत कल जो दलील दे गए, अभी हमारे मित्र श्री अकबर अली खान ने फिर से यह सवाल उठाया कि हमें बताया जाए कि कब हमने इसका दुरुपयोग राजनैतिक विरोधियों को दबाने के लिए किया है। महोदय, हम लोग भुक्त भोगी रहे हैं। डा० श्यामा प्रसाद मुखर्जी स्वयं इसी तरह के कानून के अंदर नजरबंद रह कर काश्मीर की जेल में, शेख अबदुल्ला के कब्जे में स्वर्गवासी हुए—वह किस तरह से गुजरे, किस तरह उनकी मृत्यु हुई क्या वह स्वाभाविक मृत्यु हुई थी या हत्या हुई थी, यह रहस्य तक खोलने के लिए सरकार को साहस नहीं हुआ। पर हमें इस बात के संकेत मिलते हैं, इस बात के आधार हैं, कि डा० मुखर्जी की मृत्यु स्वाभाविक नहीं थी, उनकी हत्या की गई थी। वह किस कसूर में, कौन से जुर्म में पकड़े गए थे आज श्री अकबर अली खान बताएं। मैं खुद भी प्रिवेन्टिव डिटेन्शन में बंद रहा योल कैम्प जेल के अंदर। हमारा कसूर यह था कि जम्मू और काश्मीर के अंदर अलग झंडा, अलग संविधान, अलग राष्ट्रपति नहीं होना चाहिए। यह मांग हम कर रहे थे। मुझे बताया जाए इससे कौन सा पब्लिक आर्डर को खतरा पैदा होता था, किसके कत्ल करने की साजिश की जा रही थी? और कौन खून बहाने की कोई योजना बनाई गई थी। लेकिन यह सब कहने के बाद भी उन सब बातों की तरफ ध्यान देने की जरूरत सरकार को नहीं होगी। सच्ची बात यह है,

किसी भी तरह का सुंदर नाम दें, कुछ भी तर्क दें, जब भी कोई सत्ता ऐसी बनती है, जिसको बहुत बड़ी ताकत मिल जाए, सबसे बड़ा काम उस सत्ता के सामने आता है कि वह उस संभावना को खत्म करे, जिससे उसे सत्ता से हटाया जा सके। जब कभी सत्ता के मद में चूर होकर कोई भी शासक निरंकुश बना है, उसने यही कोशिश की है कि कोई अंकुश लगाने वाला पैदा ही न हो। और जब मैं सारी बातों को देखता हूँ तो बहुत पुराने समय की कहानी का रूप दिखाई देता है। मुझे याद आता है, इसी देश में राजा कंस के कथानक में यह बात आती है कि सबसे पहले प्रिवेन्टिव डिटेन्शन उसने किया और कृष्ण के माता पिता को कैद की कोठरी में डाला जब उसे पता चला कि उनकी आठवीं संतान उसका काल बनेगी। वे कारागार के अन्दर बन्द किये गये

12 Noon

और जब तक कृष्ण पैदा नहीं हुये तब तक वे बन्द ही रहे। मैं यह जानता हूँ कि आज श्री कृष्ण चन्द पन्त इस बिल को लाये और यह भाग्य की एक विडंबना है कि उस समय प्रिवेन्टिव डिटेन्शन का कानून या निरोध की आज्ञा जो भी प्रारम्भ हुई वह शायद कंस के जमाने में प्रारम्भ हुई और उसके पहले शिकार श्रीकृष्ण और उनके माता पिता थे, लेकिन आज उनका नाम रखने वाला एक व्यक्ति सारे देश के वास्ते इस बिल को लाने का साहस कर रहा है। यह भाग्य की विडंबना है, लेकिन यह केवल विडंबना नहीं है।

महोदय, मैं आपसे बताना चाहता हूँ कि अभी दो वर्ष पहले जम्मू काश्मीर राज्य के जनसंघ के प्रधान श्री त्रिलोकी नाथ धर को दो महीने से ज्यादा अर्से के लिये प्रिवेन्टिव डिटेन्शन ऐक्ट के अन्दर या जो भी काश्मीर राज्य में उसका हो उसके अन्दर रखा गया।

केवल इतना ही नहीं नक्सलवादियों का नाम लेकर कल यह तर्क दिया गया और आज भी

दिया जा रहा है कि इस देश के अन्दर ऐसे लोग हैं जो सारे समाज के ढाँचे को उखाड़ना चाहते हैं। मैं याद दिलाना चाहता हूँ सरकारी बैंकों को कि नक्सलवादियों का नाम हम लोगों ने भी लिया था और श्रीमती इन्दिरा गांधी के सामने हम लोगों ने सवाल पूछा था कि इस तरह के तत्वों को जो इस देश के सारे ढाँचे को खून की क्रांति से उखाड़ना चाहते हैं, शांति व्यवस्था को खत्म करना चाहते हैं, उनके खिलाफ आप क्या कार्यवाही कर रही हैं, तो श्रीमती इन्दिरा गांधी ने जो जवाब दिया था वह यह था कि यह केवल ला एंड आर्डर का सवाल नहीं है, इसके पीछे सोशियो इकोनामिक काजेज भी हैं। मैं जानना चाहता हूँ कि वे सोशियो इकोनामिक काजेज आज भी हैं या बिलकुल खत्म हो गये। एक बार आप को मैसिव मंडेट मिल गया और आप लोक सभा में पहुंच गये, इतने से सारे सोशियो-इकोनामिक काजेज खत्म हो गये। अगर खत्म नहीं हुये तो उनको खत्म करने के लिये आज सरकार ने क्या किया या क्या कर रही है। हम को बताया जाता था कि उनके विरुद्ध इसलिये कुछ नहीं किया जा रहा है; क्योंकि सोशियो-इकोनामिक काजेज हैं। सच्ची बात यह थी कि उनके खिलाफ कार्यवाही नहीं हो सकती थी; क्योंकि भूपेश गुप्त जी और उनके दल का समर्थन श्रीमती गांधी को चाहिये था। श्रीमती गांधी यह जानती थीं कि श्री भूपेश गुप्त नक्सलवादियों का समर्थन या उनका प्यार छोड़ नहीं सकते, इस बात को जानते हुये भी एक ऐसा वर्णन दिया गया, इस तरह की बातें बताई गईं कि सारे देश के अन्दर एक भ्रम का जाल फैल गया।

महोदय, श्री मोहन धारिया आज मन्त्री हैं। मैं नहीं जानता कि आज वे उस तरह के शब्द कहेंगे या नहीं जब भूमि हथियारों आन्दोलन चल रहा था, हथियार लेकर इस देश के अंदर भूमि पर कब्जा करने की कोशिश हो रही थी, तब हमने कहा था कि क्या यह सरकार इस आन्दोलन को अच्छा समझती है। हमने यह

भी कहा था कि अगर आप भूमि छीनना चाहते हैं तो कानून बनाइये। कानून आपने बनाया भी फिर भी आपने भूमि नहीं ली। हमने दावा किया था कि दिल्ली के अन्दर जहां पर जनसंघ का प्रशासन है यही एक ऐसा पहला क्षेत्र है जहां पर जितनी सरप्लस भूमि है, अधिक भूमि है, वह ले ली गई है और बांटी जा रही है। आपका राज्य सारे देश के अन्दर है और अगर आपने नहीं किया तो आप कीजिये और कानून को ठीक तरह से लागू कीजिये। एक तरफ आप कानून लागू नहीं करते और दूसरी तरफ लोगों को भड़काते हैं कि हथियार लेकर लोगों की जमीन पर कब्जा कर लो। यह अशांति और अफरातफरी फैलाने का तरीका है कि ऐसे आन्दोलन का आप समर्थन करें और आपके श्री मोहन धारिया यह कहें कि हम इस भी आन्दोलन के साथ हो जायेंगे। हमने पूछा तो दलील दी गई कि गांधी जी का फर्क हमें मालूम है। श्रीमती गांधी बैठी हैं। मैंने कहा था कि यह बतायें कि गांधी जी ने जो बात कही थी अंग्रेजों के राज्य में आज वही बात होनी चाहिये या नहीं। भगत सिंह ने उस वक्त बम फेंका था। मुझे याद आया कि जिस बिल की चर्चा डा० मुखर्जी ने की उसी बिल के समय सबसे पहले पं० मोती लाल नेहरू ने प्वाइन्ट आफ आर्डर उठाया था और प्वाइन्ट आफ आर्डर यह था कि सरकार बयान दे कि यह बिल फारेनर्स पर लागू होने वाला था और अब कौन से कारणों के आधार पर सरकार यह अधिकार लेना चाहती है। सर जेम्स ने वह बयान नहीं दिया और प्वाइन्ट आफ आर्डर यह उठाया गया कि जब तक उसका आधार नहीं बताया जाता तब तक हाउस उसके ऊपर विचार नहीं करेगा। आपको याद होगा कि उसके बाद डिस्कशन जब पूरा हो गया और बिट्ठल भाई पटेल जी, जो सदन के अध्यक्ष थे, उस प्वाइन्ट आफ आर्डर पर निर्णय देने के लिये उठे उसी समय ट्रेजरी बेंच के ऊपर एक बम फेंका गया। जो हुआ वह इतिहास की एक कहानी है। दूसरे दिन जब सदन बैठा तो बिट्ठल भाई पटेल जी ने खड़े हो कर कहा कि मैं इसको

[डा० भाई महावीर]

आउट आफ आर्डर रूल करता हूँ, यह बिल कंसीडर नहीं किया जा सकता जब तक कि सरकार यह बयान न दे कि सरकार को किन कारणों से इस बिल को लाने की आवश्यकता हुई। लेकिन आधे घण्टे के बाद लार्ड इविन आये सदन में और आ कर के उन्होंने कहा कि हमारे जो विशेषाधिकार हैं, उनका उपयोग कर के मैं यह आदेश देता हूँ कि इस बिल को कानून बना दिया जाय। अंग्रेजों के समय में यह हो सकता था, लेकिन क्या आज हमारे कांग्रेस सदस्य, क्या सत्तारूढ़ दल के हमारे मित्र इतने हतप्रभ हो गये हैं, क्या उनके दिल इतने गिर चुके हैं? और उनकी आत्मा जो जागी थी वह जागी उस वक्त थी जब राष्ट्र के जीवन का वह एक युग था और आज यह दूसरा युग है। यही सवाल है आज सारे देश के सामने और सारे देश की जनता के सामने उसके ऊपर एक ऐसा नशतर लगाया जा रहा है, जो इस देश की आने वाली सरकारों के वास्ते भी गलत परम्परा पैदा करता है। मैं मानता हूँ और मान सकता हूँ कि श्री पंत बड़े सज्जन आदमी हैं, हो सकते हैं। हो सकता है कि मैं इस बारे में भी सहमत हो जाऊँ कि श्रीमती गांधी जान बूझ कर कोई इस तरह का काम नहीं करेंगी, जिसमें लोगों की आजादी पर कोई खतरा आये, तर्क के लिए शायद मैं मान लूँ, लेकिन आपके पास क्या गारंटी है। आज आप ऐसा कानून रख रहे हैं सदा के लिए अपनी स्टेट्यूट बुक पर ला कर कि जो सरकार को अबाध अधिकार देता है। सरदार पटेल जब पहले यह कानून लाये थे, राजा जी जब ऐसा कानून लाये थे तो एक-एक साल के लिए लाये थे, आज उसके लिए कोई सीमा नहीं कही जा रही है कि कितने दिनों तक यह कानून रहेगा। बंगला देश का जो सवाल है, सचमुच उसके साथ इसका कोई सम्बन्ध नहीं जोड़ा जा सकता। यह बॉंग है, ढकोसला है और अगर सही है तो सरकार बतलाये कि...

श्री उपसभापति : अब आप खत्म करें।

डा० भाई महावीर : मैं दो, तीन मिनट में खत्म करता हूँ। जो तर्क सरकार की ओर से दिये गये हैं उनमें अगर जान है तो मैं दो, तीन बातों के लिए चाहूँगा कि सरकार की ओर से उनका कोई स्पष्टीकरण हो। जो काश्मीर में प्लेबोसाइ फ्रंट चल रहा है, इस देश के बारे में उनका एक रवैया है और जो उनका कहना है वह किसी सदस्य से भी छिपा हुआ नहीं है। लेकिन हम ने प्रधान मन्त्री से और गृह मन्त्री से भी, श्री चह्माण से बार बार यह जानना चाहा कि जब आप के पास कानून है तो आप इस तरह की गतिविधियों पर रोक लगा सकते हैं, क्या आप ने इसके लिए कोई कार्यवाही की? हमें उसका कोई जवाब नहीं दिया गया। मुझे स्वयं याद है इस सदन में भी और सलाहकार समिति में भी यह सवाल उठाया गया है। एक जासूस का सवाल था। वह जासूस वहाँ की सरकार के लोगों की सहायता से फारेस्ट इंस्पेक्टर बना कर लगाया गया और उसका प्रमोशन किया गया। पाकिस्तान को वह रोज रात को खबरें भेजता रहा। कुछ महीने के बाद जब पता लगा तो उसके खिलाफ वारंट जारी हुआ। वारंट जारी होने के पहले ही उसको खबर मिल गयी और वह खिसक गया। उसकी बीबी जब मैंने सवाल उठाया था तो सरकारी मुलाजिमत में थी और उसका लड़का सरकारी खर्च पर सैनिक स्कूल में तालीम पा रहा था। उसके भाग जाने के बाद कई महीने बाद जब मैंने पूछा तो गृह मन्त्री जी को पता नहीं था। उन्होंने कहा कि हमें देखना पड़ेगा, पूछना पड़ेगा और उसके भी 6 महीने के बाद फिर जब एक समिति में मैंने पूछा कि क्या उस जासूस के बेटे की शिक्षा हो रही है सैनिक स्कूल में सरकारी खर्च पर तो उस समय भी उनको कुछ पता नहीं लगा था उसके बारे में। मैंने सवाल उठाया था कि जब 1965 में पाकिस्तान का आक्रमण हुआ और एक चौकी पर लोगों ने हमला किया और एक पुलिस चौकी पर 17 कांस्टेबिल मारे गये थे और कई

महीने तक वहां की पुलिस ने कोई मामला पेश नहीं किया, कोई गवाही को तैयार नहीं किया और जब मामले को पेश किया, तो गलत तरीके से केस को पेश किया जिससे कि वह सारे लोग छूट गये। जब पाकिस्तान का हमला हुआ तो श्री गुलजारी लाल नन्दा गृह मंत्री थे और चह्वाण साहब रक्षा मंत्री थे। वे काश्मीर में गये थे और उन्होंने कहा था कि जो लोग पाकिस्तान चले गये हैं, अब हम उनको आने नहीं देंगे। उन्होंने अपना फैसला कर लिया है, वह उधर रहना चाहते हैं, उधर रहें। लेकिन लड़ाई के खत्म होने के बाद वही लोग वापस आये। जो सरकारी नौकरियों में थे, वे फिर सरकारी नौकरियों में लगाये गये। उनकी जायदादें वापस हो गयीं, उनकी रियासतें वापस हो गयी हैं और कहा गया कि यह ह्यूमैनिटेरियन प्राउन्डस पर किया गया है, अगर आप जासूसों के खिलाफ कार्यवाही करना चाहते थे तो यह आपने उस वक्त क्यों नहीं की? आप का प्लैन हाई जैक हुआ। हमारा विमान ले जाया गया। अशरफ या कुरेशी जो भी रहा हो, उसके खिलाफ शिकायत थी। राज्य सरकार ने कहा था कि हम उसकी छान बीन करना चाहते थे, लेकिन केन्द्र ने नहीं करने दी। जासूसों को पाल कर, अपने देश के अंदर सांपों को पाल कर आप सोचते हैं कि इस तरह के अधिकार लेकर आप सोचते हैं कि आप जनता को झूठला सकेंगे, आप जनता को धोखा दे सकेंगे? सच्ची बात तो यह है कि अगर जासूसों के खिलाफ कोई कार्यवाही सरकार करना चाहती तो सरकार कर सकती थी, लेकिन नहीं की इसलिए कि कार्यवाही करने की हिम्मत नहीं है। क्या हुआ? हमारा जहाज ले गये और इसकी सजा कौन लोग भुगत रहे हैं? सब लोग भुगत रहे हैं। पार्लियामेंट के सदस्यों को भी जब विमान में जाना पड़ता है तो तालाशी देनी पड़ती है, सामान की तालाशी होती है। हैरेसमेंट कितना होता है। कितना वक्त और पैसा बर्बाद होता है, क्यों? क्योंकि केन्द्र की सरकार ने जाने हुए

जासूस के बारे में पूरा प्रकाशन लेने की, पूरी छान-बीन करने की कोई परवाह नहीं की और आज यह कहते हैं कि हमको अधिकार देना चाहिए। अधिकार लेना आसान है, जरूर लें लेकिन सारे अधिकार लेने के बाद भी प्रश्न यह है कि क्या हमारी सरकार उनका ठीक उपयोग करेगी? सचमुच में बात तो यह है कि...

MR. DEPUTY CHAIRMAN: Conclude now please.

DR. BHAI MAHAVIR: I am finishing in just a minute or so.

महोदय, ऐसा कहा गया कि प्राफिटियरिंग करने वाले, होर्डर्स के खिलाफ कार्यवाही होगी। मैं ऐसे लोगों को जानता हूँ। एक स्मगलर को जानता हूँ, उसका नाम मस्तान है। चांदी की स्मगलिंग के लिये उसको पकड़ा गया। वह पहले पकड़ा गया नहीं था क्योंकि वह इतना बड़ा आदमी है। गुजरात के तट पर पानी के बीच में बहुत चान्दी मिली, उस पर जिसका नाम था उनमें से कुछ को पकड़ा गया और पकड़ करके 20 लाख रुपये का जुर्माना हुआ। जिसकी तरफ से बेची गई थी उन्होंने कहा कि हमने बेचा है, हमारे पास एकाउंट है, बोजक है, सब कुछ है। उस मस्तान ने भेजने के बाद कोशिश की कि जो उस वक्त कलेक्टर थे, उनको दबाने की, खुश करने की कोशिश की। कलेक्टर श्री श्रीवास्तव थे, वह नहीं दबे, वह खुश नहीं हुये। लेकिन मैं सरकार से जो कहना चाहता हूँ वह यह है कि वह कलेक्टर को वहां से डिमोट करके ट्रांसफर कर दिया गया और वह मस्तान छूट गया, अब भी शायद वह छुटा हुआ होगा। यहां पर पिछले दिनो जानसन साहब की चर्चा हुई थी 50 लाख रुपये के स्कैंडल के बारे में। सरकार के पास कोई जवाब है। मैं जानता हूँ कि कांग्रेस की तरफ से भी हमारे बहुत से मित्र ऐसे हैं, जिन्होंने इस सबाल को उठाया है। उन्होंने कहा कि बड़े आदमियों के खिलाफ कार्यवाही नहीं होती। श्री कृष्ण कान्त, हमारे श्री चन्द्र शेखर, हमारे दोस्त यहां बैठे हुये हैं। लेकिन मैं इनसे पूछना चाहता हूँ कि सचमुच

[डा० भाई महावीर]

में जब सरकार के पास अधिकार होते दूये कदम नहीं उठाया जाता तो क्या इसकी वजह यह है कि प्रिवेंटिव डिटेंशन का अधिकार सरकार के पास नहीं है। इसकी वजह यह है या वजह सचमुच में कोई और है। वह यह है कि सरकार हिम्मत नहीं रखती, जो सचमुच में गड़बड़ करने वाले हैं, उनके खिलाफ कदम नहीं उठाती।

उपसभापति महोदय, आपकी इजाजत से एक दो मिनट में मैं बताऊंगा और याद दिलाऊंगा कि शेख अब्दुल्ला क्या कहते हैं। मैं जानना चाहूंगा कि इस पर क्या सरकार कार्यवाही करेगी। बंगला देश पर शेख अब्दुल्ला का जो बयान है वह मेरे पास है। उन्होंने एक बयान में यहां तक कहा है कि यह गलत है कि कायदे-आजम ने पाकिस्तान बनाया। यह कहा है :

Qaid-e-Azam did not wish the partition of India or the establishment of Pakistan. On the contrary it was the desire of Pandit Jawaharlal Nehru and Sardar Vallabhbhai Patel. But today the blame of establishing Pakistan is laid at the door of the Qaid-e-Azam.

कायदे-आजम, पंडित जवाहर लाल नेहरू और सरदार पटेल में इस क्रेडिट को बांट दिया।

MR. DEPUTY CHAIRMAN : Don't quote any more please. You have taken more than enough time.

DR. BHAI MAHAVIR : No, I have taken more than my quota but not more than enough time.

महोदय, मैं बताता हूँ। यह पत्रों में बयान छपा है। सुनिये :

I have been quoting all this from Sheikh Mohammed Abdullah's interview with Mr. Chandra Srivastava, Special Correspondent of "REHNUMA-DECCAN, Hyderabad, 0_n 11th May, 1971.

मुझे जिनसे यह मिला है वह श्रीमती मृदुला साराभाई, शेख अब्दुल्ली की विशेष सखी हैं

और बड़ी कृपा करके उन्होंने यह पूरा वक्तव्य भेज दिया कि लोगों को गलत फहमी न हो इसलिये जो गलत फहमी थी वह दूर हो गई मुझे उन्होंने आगे और कहा है, शेख अब्दुल्ला ने।

MR. DEPUTY CHAIRMAN : Please do not read any more now. You have taken fifteen minutes. Saying one more minute you have taken seven minutes.

डा० भाई महावीर : महोदय, मैं आपके आदेश में रहना चाहता हूँ। आपको पता है कि कुछ सदस्य जबरदस्ती करते हैं, मैं नहीं करना चाहता, लेकिन मैं आपसे अनुनय करूंगा कि जो बात मैं कह रहा हूँ उसको खत्म करने में एक दो मिनट में ले लूँ तो इतनी कजूसी आप न कीजिये थोड़ी उदारता रखिये।

श्री उपसभापति : एक-एक मिनट कर के आठ मिनट ले लिया।

डा० भाई महावीर : मैं बिलकुल खत्म कर रहा हूँ।

तो, श्रीमन्, शेख अब्दुल्ला ने कहा :

Today the position is that almost all the countries of the world consider that India is behind this conflict and in his considered opinion India failed to play its proper role.

बंगला देश की बात कर रहे हैं। आगे उन्होंने कहा है :

We have invited on ourselves the trouble of more than one and a half million refugees on whom not less than a crore of rupees are being spent daily.

और इससे आगे भी मजेदार बात जो उन्होंने कही है मैं चाहता हूँ कि आज सरकार कान खोल कर सुन ले, श्री पन्त भी सुन लें उन्होंने कहा है :

Whatever West Pakistan is doing in Bangla Desh India has been doing the same in Kashmir for the last twenty-two years.

यह कहने वाला व्यक्ति जहाँ तक मैं जानता हूँ, आज भी सरकारी एलाटेड, बंगले के अन्दर, दिल्ली के अन्दर विराजमान है, उसको एक हजार रुपया मिलता है या कितना, नहीं जानता, लेकिन क्या इस सरकार के अन्दर जुआरात है इस तरह के तत्वों के ऊपर हाथ डाले, अगर जुरंत नहीं है तो फिर यह क्यों ? उन्होंने जस्टीफाई किया है या ह्या खां को आगे कहा है :

There was only one course left open for the President of Pakistan, Yahya Khan, for preserving the integrity and solidarity of Pakistan, which he followed.

या ह्या खां की इससे बढ़ कर वकालत इस देश में और कौन करेगा ? तो मैं जानना चाहता हूँ, वह कहाँ है ? लेकिन यह वकालत करने वाले लोगों पर यह कानून लागू होगा, मुझे इसमें शक है । मैं जानता हूँ लागू नहीं हो सकता । इसका कारण यह है—अपनी सरकार को एक और बात बता कर महोदय, मैं खत्म करूँगा ।

श्री उपसभापति : इससे पहले आप का लास्ट पॉइंट था ।

डा० भाई महावीर : दिस इज द लास्ट पॉइंट । मगर सरकार के मंत्री श्री मोइनुल हक चौधरी मंत्री बने हैं—कैबिनेट के । उनका इतिहास क्या है ? ये आल इंडिया मुसलिम स्टुडेंट्स फेडरेशन के जनरल सेक्रेटरी थे जब पढ़ते थे; उसके बाद लीग के डाइरेक्ट ऐक्शन के मिलसिले में थे ऐरेस्ट हुये, पकड़े गए 1946 में, उसके बाद जब विभाजन हुआ तो नार्थ वेस्ट सीमा प्रान्त में विद्यार्थियों को लेकर गये—वहाँ पर जाकर उन्होंने पाकिस्तान का प्रचार किया, सीमा प्रान्त भारत के साथ न आए इस बात का रेडक्लिफ कमिशन एपॉइन्ट हुआ, भारत को सीमा निर्धारित करने के लिए, उसके सामने पाकिस्तान का पक्ष लेकर ये पेश हुए कच्छार जिला पाकिस्तान जाए इस बात की वकालत की, 1950 के साम्प्रदायिक उपद्रवों में—अर्जुन अरोड़ा जी भी आ गए ...

श्री अर्जुन अरोड़ा (उत्तर प्रदेश) : मैंने कोई हिस्सा नहीं लिया ।

डा० भाई महावीर : आपने नहीं लिया, आपकी पार्टी ने जिनको सीधे आसाम से उठा कर कैबिनेट मिनिस्टर बनाया है, उनको डिटेन किया गया था एज ए सेक्योरिटी प्रिजनर और जब असम के मंत्रिमण्डल का पुनर्गठन हुआ, तब वहाँ के मुख्य मंत्री नहीं चाहते थे उनको लेना, लेकिन श्रीमती इंदिरा गांधी ने दबाव दिया, फिर भी उन्होंने नहीं माना यह उनके लिए ब्लेसिंग इन डिफगण्ड हुआ और यहाँ आकर वे इन्डस्ट्रियल डेवलपमेन्ट के मंत्री बन कर बैठे । तो मैं पूछना चाहता हूँ : क्या यह सरकार सचमुच सिक्पोरिटी के सवाल पर इस तरह के खतरा पैदा करने वाले लोगों के खिलाफ कार्यवाही करेगा, इस तरह के खतरा पैदा करने वाले लोगों के खिलाफ कार्यवाही करेगा और इस वास्ते क्या श्री मोइनुल हक चौधरी को दंडित किया जाएगा ? अगर नहीं, तो यह डकोसलाबाजी छोड़ आज कहा जाए कि हम सिर्फ अपना सत्ता को रखने के लिए, राजनीतिक विरोध को दबाने के लिए यह बिल लाए ।

SHRI BHUPESH GUPTA: I wish to bring this to the notice of the House. Sir, I am very sorry, I must appologize to you because when Mr. Chandra Shekhar said that he had given certain papers to the Chairman regarding the visit of the Chairman of the Hindustan Steel to the United States, I could not catch it. I was trying to catch it but unfortunately there was disturbance. This matter should be circulated in connection with the question of Mr. Gandhi, the Chairman's visit to the United States. Sir, I understand that among these documents there is an arrangement between the Hindustan Steel and the United Engineering Company in which some stipulation are there that the products of Hindustan Steel shall not be sent to the Communist countries or socialist countries. They shall not be sent to China, but may be sent to Formosa. In the agreement, the territory of GDR is described as the "Soviet occupied Zone" of Germany. Now, Sir, this document should be circulated. It is in violation of the sovereign right of the country.

SHRI JAGDISH PRASAD MATHUR : Sir, he is not speaking on the Bill. We cannot allow this to go on.

MR. DEPUTY CHAIRMAN : Please sit down.

SHRI ARJUN ARORA : On a point of order. Sir.

MR. DEPUTY CHAIRMAN : No point of order. Please sit down.

SHRI ARJUN ARORA : Mr. Bhupesh Gupta has made a request. Before hearing me, how can you decide that I should sit down ?

MR. DEPUTY CHAIRMAN : Why do you rise on a point of order at this stage ? There is no point of order. Let him continue the debate.

SHRI ARJUN ARORA : My point of order relates to this....

MR. DEPUTY CHAIRMAN : It means that you do not want to continue this debate.

SHRI ARJUN ARORA : I want the debate to continue.

MR. DEPUTY CHAIRMAN : I have already called Mr. Dahyabhai Patel. In this manner we will not be able to finish the debate.

SHRI ARJUN ARORA : Mr. Bhupesh Gupta said this.

(Interruptions)

MR. DEPUTY CHAIRMAN : He is on a point of order. Please wait for one minute. Be calm and quiet please.

SHRI ARJUN ARORA : You permitted Mr. Bhupesh Gupta....

MR. DEPUTY CHAIRMAN : I did not permit him. Anybody can go on saying anything.

SHRI ARJUN ARORA : All right, Sir. I change my word. You very patiently heard Mr. Bhupesh Gupta about certain agreements entered into by....

MR. DEPUTY CHAIRMAN : It is not before the House and there can be no point of order on that. If you have any point of order on this Bill, you may raise it.

SHRI ARJUN ARORA : No, Sir.

MR. DEPUTY CHAIRMAN : Whatever Mr. Bhupesh Gupta said was without permission and there is nothing for a point of order.

SHRI ARJUN ARORA : Anything that happens in the House can give birth to a point of order.

(Interruptions)

MR. DEPUTY CHAIRMAN : Order please. Mr. Dahyabhai Patel.

SHRI BHUPESH GUPTA : I will return to the subject. I am not leaving it.

SHRI DAHYABHAI V. PATEL (Gujarat) : Mr. Deputy Chairman, Sir, our party has always been against any preventive detention Ordinance and I voice our protest against it once again. We have stood for democracy. We are against government by ordinances. The previous speaker has quoted chapter and verse from the freedom struggle of this country, what eminent leaders of this country have done in that regard. This Bill means the denial of the *habeas corpus* principle, which we oppose. How can anyone, who believes in democracy, support such a measure ? Can we say that there is emergency all over India ? One could have understood it if the Government had itself provided certain safeguards in the measure itself. We are not in a mood to support any such blanket powers. If the Government had said that there is an emergency, say in Bengal because of the coming in of refugees, that is a matter that could be considered. Is there a time-limit ? I am sorry we cannot support blanket powers of this type. Then, examples have been given how, with all the good intentions that the Ministers may voice in this House, ultimately it is the small man on the spot, in the village or in the district, who administers it. Have we not been told of people who have arrested the wrong man because of identity perhaps, because of similarity in names and kept in detention ? As a lawyer you, Sir, know the simple principle that *one* innocent man must not suffer even if a large number of guilty men get abroad. Because of this principle perhaps we are suffering so much, but then this principle has to be maintained. A man who is not guilty must not be made to suffer because he is not guilty of the crime. You should not rope in people merely on suspicion.

Speaker referred to the doings of certain Cabinet colleagues of the Prime Minister. How many of them are free from it, I do not know. We hear about this off and on. Before bringing forward such a Bill, would it not have been better if the Prime Minister herself had screened her Cabinet colleagues and had seen how they stood in regard to this Bill, to how many of them this Bill would be applicable? She could then bring a general Bill like this. Certainly this is a measure that cannot be supported.

Sir, in the last elections what happened in Rajasthan? The brother of a Minister has been named openly for violence. He perpetrated violence on certain candidates. You know how they were beaten up, how their cars were broken up. What did the Government do? They sat in silence. Why did they not use their power? You want us to give this power to such a Government and it is they who are going to administer the law. How can we agree to such a thing? I am sorry.

My friend Shri Pant quoted Sardar Patel. What were the words that Sardar Patel used at that time? What safeguards he offered to the country, and what warning did he give to Shri Nehru in his last speech during his last days in Delhi which Shri Nehru utterly disregarded? And we are paying for it, are we not? What was the warning that he gave about Tibet? What did Shri Nehru do about it? It is because that warning was not heeded that this country is suffering and we are having all this trouble. This Ordinance or this Bill is not going to repair that damage or the damage that has been already done to this country. There were many complaints in this House, I myself had complained. What was happening in Bengal? As long as they supported the Prime Minister the safety of the people of Bengal, their lives and property, did not seem to worry people on the opposite side. People were murdered in broad daylight, some are even being murdered today. People were driven out of their hearths and homes. Their property was looted in broad daylight, people were pulled out of their cars and their cars were set on fire. What happened to the Government? Did they not think of such an Ordinance then? What did they do? If this Government does not like to administer the law, if it is not capable of administering the

law fully and fairly, how can we give them such blanket powers? Repeatedly complaints were made in the other House and in this House but simply because the Government of Shrimati Indira Gandhi relied on a certain party, they were afraid to displease that Government and therefore they kept quiet. Now perhaps they know they have got a massive mandate. Have they got a massive mandate to run over the lives and liberties of the people? Surely not. This should be made clear to them. The massive mandate was given to them on the basis of "garibi hatao". Where is "garibi hatao" in this? This is "garibi badao". How many lakhs of refugees you are getting? I am not against refugees. I am not worried, I have great sympathy for those people who are coming in great distress. I am not against what our Government is doing for them. I would like that more should be done for them, I would like to help them in their distress. But what is going to happen to this country? Each one of these refugees is going to cost our exchequer Rs. 3 a day to maintain them at least. How many crores are we going to get? Where is "garibi hatao" here? This is the result of taking the vote of the people on a false promise. We have taken the country for a ride. You have taken your party for a ride. Those who have sided with you will be answerable. We will also have to suffer because we are part of the country. Under these circumstances I am against giving any blanket power to this Government. This Government has any amount of power. This Government has always been greedy of power, whether it is in the matter of curbing business or in the matter of curbing civil liberties, anything. Yet it does not know how to administer properly. Power is a thing that is very dangerous. Power is very dangerous if you do not know how to use it. They have got so much power and so much patronage that they can do anything. They can topple Governments. They can corrupt Governments. They can corrupt Ministers. One is in the opposition today. Tomorrow he is Chief Minister. Day after tomorrow you can put him under preventive detention, put your own Minister. Is this the type of democracy that we want in this country? Sir, this will corrupt the morale of the country, whatever little is left with it, because the Congress Government for so many years has already done it. And we will have a Fascist Government here above

[Shri Dahyalbhai V. Patel] us. It is no use complaining that the Communists are Fascists. What are you doing ? Where are you taking your policies from ? Every third day you go to Mr. Kosygin or to the Russian Embassy and get the details from them, and you are doing exactly what they want you to do. Now, it seems that after your massive mandate, at least you do not depend upon the Communists inside the country. So you want to show your strength. It is not the way of dealing with this matter. It is a very sad day when a measure like this, if at all, is passed. I hope at least this House will resist any effort of theirs to rush this measure and to pass it. Let us all join together and try to oppose it at every stage.

SHRI MANUBHAI SHAH (Gujarat) : Sir, I rise to support the Bill. When I was hearing the speeches of the hon. Members for the last three days and particularly when Dr. Bhai Mahavir mentioned where is the emergency which requires such an Act, I was surprised whether he is speaking with sincerity in his voice or he was making only a propaganda stunt. I read this morning in the newspapers that Mr. Kar, the President of the Youth Congress in Calcutta was murdered yesterday and the day before yesterday in the Statesman there is the report of Mr. Ajoy Mukherjee's Conference which says that 460 people have been murdered in Calcutta and in West Bengal in the last four months. All the hon. Members of this House are fully knowledgeable of the political conditions of this country, and why is it that they should question the necessity of such a Bill ? Such laws have been on the Statute Book of every country of the world. The other day I was going into the Library and I found that in France the National Security Bill had been on the Statute Book for a period of about 39 years. The Scandinavian countries which are well known for their freedom and public-spiritedness have themselves such laws.

SHRI N. K. SHEJWALKAR (Madhya Pradesh) : Will he tell us whether there is any such Act in West Bengal or not ?

SHRI MANUBHAI SHAH : If you will give me time, I will come to that.

SHRI N. K. SHEJWALKAR : You were putting forth that argument now.

SHRI MANUBHAI SHAH : Please let me have my say and then you can say. The Scandinavian countries, all the four of them, where democracy and socialism have been in operation for the last three decades have this on their Statute Books. There has been the Defence of the Realm Act in the United Kingdom for use whenever there is emergency ; it has been used on several occasions for the last 200 years, and the great House of Commons has been always supporting a preventive....

SHRI BHUPESH GUPTA : I will correct you. I know something. Never in England was emergency declared excepting in an actual state of war. Never in England emergency continues after six months after the war.

SHRI MANUBHAI SHAH : I am merely referring that as far as emergency is concerned, it is for the nations to decide when it considers that its democracy, freedom and liberty are threatened.

Now, Sir, here the great Indian National Congress had been putting this Bill before us from 1950 when the great Sardar, the Bismark of India, found that this country required some preventive measures to see that subversion, sabotage and subterfuge of the fifth columnist! do not endanger the security of this country. It is true that in those years the Bill used to come from year to year, and the Lok Sabha and the Rajya Sabha for the past 16 years have been passing this Bill and it has also received the approval of a big majority of the Houses— which was in order to protect the security of this country. My friend, Mr. Niranjana Varma, when speaking on the Resolution earlier said that there is the Criminal Procedure Code, there, is the IPC and there are sections 103, 104, 108 and 112 and why is this Bill necessary to take preventive measures ? The difference is this. When the crime ends, the Criminal Procedure Code takes over. But in the process of a conspiracy, the State has to prevent the mischief taking place, to prevent the menacing posture both of violent people and those who are not wedded to the nationalism of this country....

SHRI N. K. SHEJWALKAR : I think you know the Criminal Procedure Code. Section 151 is there

SHRI MANUBHAI SHAH : Section 151 also. Unless and until you bring the culprit to trial, it is not possible to check any type of mischief being done under The Criminal Procedure Code I have read the provision and unless you read all in a connected manner the provisions of this Bill will not be understood. Here it is not a case of a conspiracy or a case of one theft here and a murder there. It applies in a case of a string of murders throughout the country; in different parts of the country and spreading of complete lawlessness and violence in order to subvert democracy. Freedom, Sir, has got to be cherished. The historical fight that the Congress has put up for the independence of the country is well known. Nobody can accuse us that we are not the lovers of freedom....

SHRI DAHYABHAI V. PATEL : That Congress is not your monopoly. That Congress is ours too.

SHRI MANUBHAI SHAH ! That Congress is still ours.

SHRI DAHYABHAI V. PATEL : Today it is a corrupted Congress.

SHRI MANUBHAI SHAH: For twenty years Mr. Dahyabhai Patel, my dear friend, has been protesting against this, but his father and all the successive Congress people have supported the Preventive Detention Act. The problem is this. Is there any country in the world—I am not mentioning the Soviet Union or the great book of Dr. Zhivago. What is the security measure that the Soviet Union takes ?—Which country has not adopted such measures in difficult times ? My friend, Mr. A. P. Chatterjee gets up and gets so much excited and says that this Bill is a black, lawless law. Has he not heard of Stalin regime where for 30 long years during the regime of the Communists a man used to be arrested without trial (*Interrupts n by Shri Bhupesh Gupta*) Please listen.

SHRI BHUPESH GUPTA : You see, Sir, how anti-Communist propaganda is being carried on. Shrimati Indira Gandhi should note that she is admitting people to her party who indulge in anti-Soviet propaganda. Let the Prime Minister know this. How Does the Soviet Union come in here ?

SHRI A. P. CHATTERJEE : I am on a point of order.

SHRI MANUBHAI SHAH : I am giving an example.

SHRI BHUPESH GUPTA: Mr. Manubhai Shah, your credentials are well-established after you resigned from the Government. Therefore, you need not say all these things. Now I know that the logic of this measure is anti-Communist and anti-Soviet provocation which the Congress Party has now started. Why have you brought the Soviet Union ? There is no such law in the Soviet Union. There is detention law within the Soviet Union.

SHRI A. P. CHATTERJEE : I am on a point of order. Mr. Manubhai Shah first of all said something against the Soviet Union.... (*Interruption*)... as if it was during the days of Stalin. He has made an insinuation that during the time of Stalin there was preventive detention. First of all, Sir, he is completely wrong. During the days of Stalin in the Soviet Union there was no preventive detention, and if he wants any enlightenment—of course, he is the most unenlightened and politically illiterate person I have ever come across. That is the position—let him come to us.

My second point of orders is this. I think our country, our Government is on friendliest relations with the Soviet Union. In such a situation will that gentleman be allowed to malign a country towards which we are friendly.

SHRI BHUPESH GUPTA : You want support of the Soviet Union while fighting for the cause of Bangla Desh who are fighting with their back to the wall and yet you are talking ill of the Soviet Union. We are not going to tolerate this slander of the Soviet Union. We will not allow this anti-Soviet propaganda. They are welcome to do so at the national peril but we shall not allow them to do so. I shall not bear it as a Communist. You talk of emergency and you speak ill against the great Soviet Union and yet you seek their support. Here on the floor of the House from the Treasury Benches you are maligning the Soviet Union.

SHRI MANUBHAI SHAH : I am saying nothing of the kind. May I appeal to my friends opposite....

SHRI BHUPESH GUPTA : If that kind of behaviour goes on nothing stands. I will convey our feeling to the Prime Minister that the Treasury Benches are indulging in anti-Soviet propaganda in order to get this measure passed.

SHRI MANUBHAI SHAH : I was giving example of how the security of a nation is saved....

SHRI BHUPESH GUPTA : Do not go to the Soviet Union. Give your own example, if you have any.

SHRI MANUBHAI SHAH : You have not heard me....

SHRI BHUPESH GUPTA : I should like to know : Is it the policy of the Government to allow anti-Soviet propaganda on the floor of the House ? Mr. Manubhai Shah is indulging in anti-Soviet and anti-Communist propaganda.

MR. DEPUTY CHAIRMAN : Please allow him to proceed. Listen to him.

SHRI BHUPESH GUPTA : When there is emergency they need the Soviet help and now they are attacking that great country.

MR. DEPUTY CHAIRMAN : Mr. Bhupesh Gupta, your partymen will reply to whatever he says. Please allow him to speak.

SHRI MANUBHAI SHAH: Sir, you would recall that I mentioned Scandinavian countries. I mentioned France and U. K. I am only referring to what steps are taken in every country to protect their freedom and security. I have the highest regard for the Soviet Union. As a matter of fact, before I took over charge of the foreign Trade, Ministry, Mr. Bhupesh Gupta may recall, this country's trade with the Soviet Union and East European countries was less than Rs. 9 crores per year. And when I left the Ministry, it was over Rs. 450 crores. It is on record. Sir, as far as the Soviet Union is concerned, we are on the friendliest terms. But it does not mean that we cannot compare the political systems of different countries for enlightening *(Interruptions)*.

MR. DEPUTY CHAIRMAN: Order please.

SHRI BHUPESH GUPTA : Let us not have any loose and frivolous talk about comparison.

MR. DEPUTY CHAIRMAN: You can reply afterwards.

SHRI BHUPESH GUPTA : Let them make the right to work a fundamental right. Let them develop a system in which no monopolist, no landlord, exists. After that, let them come and talk about the Soviet Union.

MR. DEPUTY CHAIRMAN: I would appeal to all Members not to interrupt other speakers.

SHRI MANUBHAI SHAH: My friends should have a little patience. I expect this at least from Bhupesh Babu. I am only mentioning what happens in every country in order to maintain security. We are not running down the Soviet Union. It has given us so much help. It has helped us to establish the Bhilai Steel Plant. It is helping us in the setting up of the Bokaro Steel Plant. But that does not mean that when we are putting arguments here----- *(Interruption by Shri Niren Ghosh)*. In the U. S. A., Sir, the Meceran Act called the Internal Security Act is on her Statute Book since 1950.

MR. DEPUTY CHAIRMAN : Please do not interrupt, Mr. Niren Ghosh.

SHRI MANUBHAI SHAH: Then, Mr. Dahyabhai Patel asked, when the danger is only sectional or regional, why the Act is being made nation-wide. Sir, this is a federal country. In the Union of India, if one man who has committed mischief in one area walks over to another area, say, from Asansol to Jharia, do you wish to suggest that a preventive detention law in West Bengal can take care of those people who have gone over to Bihar ? We had similar cases in Saurashtra when we abolished the zamindari system in 1948. Ninety-one princes and rulers were detained under the preventive Detention Act. Why did we have to do it ? It was because all the rulers were backing the zamindars and the landlords, They did not want to see that landlordism was removed.

SHRI BHUPESH GUPTA : You get them privy purses and give us detention.

SHRI MANUBHAI SHAH: You can speak later as much as you like. Now please listen to me. Were the people who brought complete abolition of the zamindary system in

that State in nine years and we faced the greatest struggle. In the election of 1948 after Mr. Dhebar and others were addressing a meeting, nine persons were killed by the dacoit, Bhupat, backed by the princes and rulers of the area. Therefore, when social transformation is taking place on a massive scale.

SHRI NIREN GHOSH : No. Question.

SHRI MANUBHAI SHAH: You please listen, for heaven's sake. You have all the time to speak. We have all the respect for you. But now please listen. So, when social transformation is taking place, when *garibi hatao* is being made a national programme did you ever see a 8 per cent wealth-tax being imposed? It is a capital levy for the first time in India when we are trying to bring about social changes. If the Nixalites, who are sometimes misguided youths, backed by certain other types of violent forces, try to do mischief, it is the duty of this august House and the people of this country to empower the Government to see that miscreants and violent people of this type are properly handled. Sir, they are saying that it is a lawless law. I want to understand.

SHRI BALACHA NDR A MENON (Kerala): One question, please. How will you know the Naxalbaris? They have no case history, they come and go out. You do not know them. You know only people like us.

SHRI MANUBHAI SHAH : This law is not meant for people like you. This law is impersonal. If tomorrow I do something wrong or somebody else does something wrong the law will take care of us. So the law is not personal. Sir, the fundamental principle of jurisprudence is natural justice, the right to be heard, the right to be represented. If you go through this Bill, you will see that a specific provision has been made for this purpose. Within thirty days if the arrest or detention of an individual, the State has to be given in writing all the causa. The Advisory Board will call him if he wants for personal representation. Therefore, the right of the person to be heard, the right of representation, is fully provided in a democratic manner. Therefore, I beseech of the House that when for nineteen long years it remained on the Statute Book of this country and only for the last two years for several administrative reasons

we could not bring it, so let us have this. Why is that so much of hue and cry from a particular section of our friends is taking place?

SHRI NIREN GHOSH : Because of our past experience.

SHRI MANUBHAI SHAH : May I say that my friend, Mr. Pant, while replying to the Resolution, had already assured that there will be a periodical review? I may request my friend, Mr. Pant, that there must be a periodical review even if it is not provided in the Bill. In fact, my friends in the Cong (O) wanted it to remain for one year or two years. It is not possible every year or two years to have the same debate. They made the practice of non-confidence motions every session but—

(Interruptions)

MR. DEPUTY CHAIRMAN : Mr. Chatterjee, please sit down. Do not interrupt.

SHRI MANUBHAI SHAH : Many countries have provided a periodical review without making it time-bound. I would request my friends in the Cong (O) to apply their mind to this particular approach that there are many countries where instead of spending every year.

SHRI A. P. CHATTERJEE: What is Congo? It is a country in Africa.

MR. DEPUTY CHAIRMAN: Please sit-down.

SHRI MANUBHAI SHAH : I am sorry.

SHRI A. P. CHATTERJEE : You crossed the floor from this party.

SHRI S. D. MISRA (Uttar Pradesh) : Mr. Deputy Chairman, what we were suggesting was this. Of course, we have given many amendments, but we are again and again saying this—many friends of my party have already said—that we are keen, but if they do not accept anything, at least let them accept review after two years and come to Parliament. What is their objection to it? Can there be any objection to this suggestion?

SHRI MANUBHAI SHAH : A review and a provision in the Bill are two slightly diffe-

[Shri Manubhai Shah] rent things. My friend will appreciate that, and what I am requesting the Minister in this regard is this. In view of the fact that this is a national security Bill, the working of it will have to be known and placed before Parliament from time to time. Therefore, we can have a periodical review without necessarily putting it as part of the Bill. I may say only for the information of the House that when in Sau-rashtra we had this Act we found that many of the officers had done *bona fide* work—I am glad that Mr. Pant has provided only District Magistrates and specially appointed Additional District Magistrates and nobody lower than that ; these are senior officers—but they had to take certain action before the Act lapsed and the process of conspiracy and locating miscreants takes time. So it is better to have this measure on a long term basis on the Statute Book with a periodical review so that when the cause for the emergency no more exists, and this type of a Bill is quite unnecessary, the same can be repealed.

SHRI BHUPESH GUPTA ; Where is the emergency ?

SHRI NIREN GHOSH : In his head.

SHRI BHUPESH GUPTA : Has he declared a state of emergency under Article 356 of the Constitution ? He cannot use that word here.

SHRI MANUBHAI SHAH : You may call it an emergency or difficult times. Use any word you like....

SHRI NIREN GHOSH : In order to do black things. That has been our experience over the past two decades.

SHRI MANUBHAI SHAH : Whether it is called emergency or not, it is agreed by all that more than six million refugees are with us. ...

SHRI BHUPESH GUPTA : So what ?

SHRI NIREN GHOSH : So what ?

SHRI MANUBHAI SHAH : At least those of us who have visited

SHRI BHUPESH GUPTA : And for that do you mean to say there should be detention in Kanyakumari ?

SHRI MANUBHAI SHAH : It is not for detention in Kanyakumari. It is for detention of those who foment trouble in those difficult areas. And this measure has to be there in the interests of security of the country. I went to see the refugees from Bangla Desh on our border. What do we find there ? In a village of 10,000 there are 20,000 refugees sitting..

SHRI NIREN GHOSH : You have already betrayed them.

SHRI MANUBHAI SHAH : It is not that all these refugee friends who have come do not contain certain other types of germs which are threatening the security of this country. It is for this august House to consider seriously the question that when the Government is confronted with almost such a vast number of human beings coming into our borders because of the various situations created by the Yahya Khan Government, it is necessary for us, it is the sacred duty of this House, to empower the Government, to see that it is empowered to tackle the situation properly. Therefore, the point is this. Neither can this law be called a black law nor can it be called a lawless law. It has been on the Statute Book of this country and it has been on the Statute Books of many countries. I h^e heard many debates on the floor of the House and whenever it suited them they have said there is no law and order in the country. Now there are so many murders. We see portraits of Mahatma Gandhi and Rabindranath Tagore being destroyed. Last year what happened was a matter of shame. During the Durga Puja days I visited the Hindustan Steel. I was told there by a very senior officer that parallel to every Kali Mandir which was built up there was a hut displaying Mao's portraits. Is it a normal situation ? It is in some part of the country. But it is like a boil anywhere in the human body. It may be on the toe. The pain will be in your chest. It may be on your finger. But the pain will be felt everywhere. In a federal country it is true that one has to be cautious about the working of this measure. In my State during the operation of the provisions of this Act for 19 years, the officials have been generally impartial. Now greater caution is necessary because public opinion is much more awakened. Therefore, I would say that the grounds of detention should be clearly given in writing.

And the provision; should be used only when really the security of the country is threatened and should not be used for setting political vendetta. I was here when Shri Pant was giving this assurance that it will not be used for such purposes. When there are lapses they have to be pointed out. But for the sake of one mistake, the measure need not be given up. Mahatma Gandhi used to say that out of hundreds of wells dug up for irrigation purposes, if in one well somebody falls, that does not mean that we should give up irrigation. In the interests of individual freedom and security of the country, this measure is necessary. Individual has to be protected from the communal violence. This measure is to be used only for the purposes of prevention of crimes and threat to the security of the country. There is a difference between the Criminal Procedure Code or Indian Penal Code and this Act. In one case only after a crime is committed, the culprit is brought to book before a court. But under this measure, when a conspiracy is in the process of making, even before it takes the form of a crime, people can be arrested, if it is in the interest of maintenance of security of the country. ...

SHRI A. P. CHATTERJEE : You do not understand it. Why don't you give your known knowledge...

(Interruption)

SHRI MANUBHAI SHAH : I do not know what Shri Chatterjee's credentials are. I can tell you that I was detained as a detenu for 4½ years in Ferozpur jail under Sec. 126 of the Defence of India Act. When under the Indian Penal Code under the Mudie and Maxwell governments, they could not succeed in prosecuting me under Section 120 of the IPC for waging war against the Crown they detained me under the DIR. Whatever knowledge I have got, I am placing it before the House.

Then, freedom is not licence. When freedom degenerates into licence, the whole community life is threatened, individual life is threatened. Think of Shri Hemant Basu who was murdered in West Bengal. I am one of his admirers.....

SHRI NIREN GHOSH: I say, he was killed by your Party....

(Interruptions)

SHRI MANUBHAI SHAH : It is not a Party issue. I want to lift it from that plane. Therefore....

SHRI BHUPESH GUPTA : Did you ask Shri Morarji Desai why he did not take precaution when information was sent to him about threat to Gandhiji's life.....

(Interruptions)

SHRI MANUBHAI SHAH : The real problem is this. We need not all the time get agitated over this issue and introduce politics into everything. Here is a national issue. It cuts across all Parties and all ideologies. My friends on the opposite side have seen how we have operated this Act during the last 19 years. Whether it is time bound for one year or two years, it is a matter of detail. I would say that it is necessary that the massive support of this House and people of India should be given to this Maintenance of Internal Security Bill because India is passing through a critical stage.

SHRI BHUPESH GUPTA: Sir, he can go and tell Mrs. Gandhi. Mr. Manubhai Shah has qualified for re-admission into the party.

MR. DEPUTY CHAIRMAN : All right.

SHRI A. P. CHATTERJEE : One thing more, Sir, Mr. Pant has said that the members of the Congress (O) are patriots and a bridge has been built today between the old organisation and the new organisation.... *(Interruptions)*

MR. DEPUTY CHAIRMAN : All right. Please sit down.

SHRI A. P. CHATTERJEE : Sir, Mr. Pant has said that they are patriots..

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS/
मैं राज्य मंत्री (SHRI K. C. PANT) : I was trying to build a bridge between the CPM and the Forward Block also.

SHRI NAWAL KISHORE (Uttar Pradesh) : Mr. Deputy Chairman, Sir, I have heard with rapt attention the speeches of the hon. Members on this Bill. I fully understand, appreciate and sympathise with the roused feelings and the apprehensions in the minds of

[Shri Nawal Kishore] those friends who are opposing it, because this is not a routine Bill. It is not an ordinary law, but something unusual through which the Government wants to assume sweeping powers for itself. The mental agony of many of us here sitting on either side of the House, who had the privilege of participating in the glorious struggle for our country's freedom, is still greater, because we have suffered under the black and the barbarous laws of the British Government such as the Rowlatt Act and the DIR etc. We and our great national leaders condemned, opposed and fought against them and gave them so many different nicknames. Such laws are basically bad laws, because they contradict and violate the fundamental rights, individual liberties and the basic human freedoms. Naturally, no Government that believes in democracy, democratic values and human freedoms can be happy about, much less proud of, bringing such drastic enactment before the Parliament. But, sometimes conditions so develop in the country that even such unpleasant jobs and duties have to be performed. It was for this reason that in 1950, when the situation in the country so warranted, Sardar Patel, the 'Iron Man' of India and the great freedom fighter, was forced in spite of three sleepless nights to bring forward the Preventive Detention Act before Parliament to deal with the deteriorating situation prevailing then. At that time too, Sir, the views of the great national leaders like Motilal Nehru, Jawaharlal[^] and Malaviyaji, were quoted, but Sardar Patel said and I will quote what he had said. Sardar Patel had said :

"If law is flouted and offences are committed put ordinarily there is the criminal law which is put into force. But, when the very basis of the law is sought to be undermined and attempts are made to create a state of affairs in which, to borrow the words of Pt. Motilal Nehru, 'Men would not be men and law would not be law', we feel justified in invoking an emergent and extraordinary law".

Now, Sir, the present situation is still more difficult, because we feel that the very unity and integrity of the country seems to be in danger.

It is true that in some respects the present 'Maintenance of Internal Security' Bill is har-

sher and even more rigid than the Rowlatt Act. Here, the powers have been given to the District Magistrates, Additional District Magistrates and the Police Commissioners, and the judiciary is very much debarred. The Advisory Boards are no doubt there, but their composition needs to be improved.

Sir, it has been asked, that what was the hurry for promulgating this Ordinance on the 7th of May when Parliament was meeting on the 24th of May. I agree that ordinarily the country should not be governed through Ordinances and it is rather unfortunate that the tendency of misusing the Ordinance-making power is increasing both at the Centre and in the States. But, here we have to see whether the condition in the country were such as to warrant immediate action or not.

Sir, I feel that the conditions were such, and I would like to go even to the extent of saying that this timid Government should not have allowed the PD Act to expire in December 1969. I know and Shri Bhupesh Gupta also said the other day in the House that this Government wanted to bring forward the PD Act in 1969 and then in early 1970. But it was vehemently opposed by the CPI, CPM and the other parties who were then the anchors of the Government and the then Home Minister strategically and honourably retreated, under the force and intimidation of Shri Bhupesh Gupta. I should say. At that time, he was definitely guided...

SHRI BHUPESH GUPTA : Honourably ?
Never. You are using the word 'honourably'...

(Interruptions)

SHRI NAWAL KISHORE : The Home Minister was then definitely guided more by political opportunism than by national interest. The conditions prevailing today,

1 p. m.

though largely the creation off this very Government and its hesitant, soft and vacillating policies, are simply alarming.

Pakistan is arresting our people off and on. Some time back two boys were arrested and we could do nothing. I feel that we have no effective law to retaliate.

Sir, the issue of Bangla Desh is getting more and more difficult, and it is due to the soft

policies of the Government. More than 6 million war evacuees have come into our country. Our border posts and villages are being shelled by the Pakistan army. There are intrusions into our border. Chinese infiltrators and Pakistani spies are also entering at one place or the other and there is danger of espionage on a bigger scale. ...

SHRI DAHYABHAI V. PATEL : Right into the Cabinet.

SHRI NAWAL KISHORE : That I won't say.

SHRI DAHYABHAI V. PATEL : Don't you know it ?

SHRI BHUPESH GUPTA: You have quoted Sardar Patel. His son should also be listened to.

SHRI NAWAL KISHORE : I also listen to you when you speak. All this may lead to some kind of confrontation with Pakistan, inspite of the best efforts of the Government to avoid it. In West Bengal the Chief Minister has said—it is in today's papers—that it is almost emergency and law and order is breaking down.

There are parties in the country who have no faith in Parliamentary democracy but are using it only as an instrument to wreck the Constitution and destroy democracy itself. They want chaos and disorder in the country. The C. P. (M.L.) is openly professing violence, subversion and propagating the cult of bullets, and organizing Liberation army to march on the pattern of the Red Army's March in China.

Colleges and Universities are becoming the hotbeds of extremists. Mao is being declared as our President, and pictures and posters of Mao are being displayed. Libraries are being put to fire. Statues and pictures of national leaders are being defaced and destroyed. Indian literature is being burnt and so are the villages and houses of innocent people. Every day we read in papers that innocent people, professors, traders, businessmen, Assembly candidates, students and even Policemen are being murdered. Arms and ammunition are being snatched and collected. Even some friends who are going to the eastern

borders are going more for getting arms than for sympathy to the suffering people.

Then there are communal forces, Muslim League and others, working in the country to disrupt the national and emotional unity. The hoarders and black-marketeers are also having their heyday under the official patronage of the Ruling class. Sir, if democracy and human values are to survive, all anti-social and violent activities have to be put down with an iron hand, and for this some such Bill is essential in order to put reasonable restrictions on the liberties of the few to protect the rights and liberties of the peace-loving many.

Sir, all this situation has not developed in a day or two. It began much earlier in 1967 when the United Front was in power in West Bengal. Sir, it might be remembered that in 1967 the Ministers of the United Front Government organized, encouraged and even participated in strikes, 'bandh' and 'gheraos'. Then there was the unfortunate incident of Ravindra Sarovar. There was the arrest of Administrator in the Ordnance factory in Cossipore. The Deputy Chief-cum-Home Minister demanded the withdrawal of C.R.P. Even the Chief Minister, Mr. Ajoy Mukherjee, had to go on a public fast. He was assaulted and assailed in the presence of the Members in the precincts of the Assembly. Not only this, the Chief Minister Mr. Mukherjee even alleged that one party in West Bengal was conniving with China—with a foreign country : probably the name of China was not there....

SHRI DAHYABHAI V. PATEL: What did the Governor do ?

SHRI NAWAL KISHORE: The Governor and Government did not act firmly and they did practically nothing in the matter. The centre only hobbled with forces of violence and subversion in the name of progressivism and socio-economic problems. It did not even have the courage and the guts to ban the Naxalites and their organisation. It has not been done even now. The result was that the conditions worsened and now seem to be getting out of control.

[THE VICE-CHAIRMAN (SHRI A. D. MANI) in the Chair]

The split of the Congress gave these forces an additional opportunity to strengthen them-

[Shri Nawal Kishore]

selves under the official patronage of the Government by simply extending their support to it as it was reduced to a hopeless minority then. Even in this gap of eighteen months there were the other laws that could be made use of, for example, the Foreigners Act, the Officials Secrets Act, the Indian Penal Code, Sections 107, 117 and 151 of the Criminal Procedure Code and then the P.D. Act, which was available for use in all the States except the States of Gujarat, Punjab and Assam. But, Sir, this Government took no firm action and thus allowed the condition to deteriorate every day. So it is not the inadequacy of laws but the lack of firmness and determination on the part of the Government that has been responsible for the present sorry state of affairs. Sir, I may express the position of the Government in a cauplet.

इस गवर्नमेंट की हालत यह है :

ऐ चमन वालों चमन में यूँ निभाना गुजारा
चाहिये ।

बागवां भी खुश रहे राजी रहे सैयाद भी ।

इनका काम भी हो जाय, भूपेश गुप्त जी
भी खुश हो जाय और काम इनका चलता
रहे ।

श्री महावीर त्यागी : भूपेश गुप्त सैयाद
हैं ।

SHRI NAWAL KISHORE : It is better to be late than never and I am glad that the Government has after all realised its mistake and also the fact that it was in bad company, and it has now come before this House to rectify its past mistakes, blunders and bung-lings. So, Sir, on this day when this Bill has been brought to meet the present crisis and chaos with a heavy heart and a distressed mind I stand behind it and support it, in the interest of the country.

SHRI BHUPESH GUPTA : On a point of order, Sir. The hon. Member is deliberately misleading us by saying that he is standing with a heavy heart. I question that. There- J fore, Sir, he may be put to a medical examination before he continues.

THE VICE-CHAIRMAN (SHRI A. D. MANI) :
This is no point of order.

SHRI NAWAL KISHORE : Mr. Bhupesh Gupta knows nothing about heart. He is a barren bachelor.

There was one very genuine complaint from my friends Mr. Bhupesh Gupta and others that the Opposition had not been consulted. Though state of emergency has not yet been declared but the speech of the hon. Home Minister of State indicated that something nearing an emergency is developing in this country. If it is so, then the emergency is not the monopoly or concern exclusively of the ruling party. It is the concern of the entire nation, of the entire people, of every citizen, every man and woman of this country. As such it would have been better for the Government to have consulted the Opposition Leaders on this important issue and if not all, at least C. P. I., D. M. K. and Muslim League and still more my friend Mr. Bhupesh Gupta, the erstwhile unofficial adviser to the Prime Minister and the ruling party, because he has been enjoying that privileged position and honour of being an adviser to the Prime Minister and her party since the split in the Congress. Any way, Sir, this sort of by passing the Opposition would not lead to a healthy political atmosphere.

I can understand Sir, the opposition of Mr. Rajnarain, and some other friends, but I am amused at the crocodile tears and bewailings of Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Even my tears have not melted your heart. It is becoming heavier and heavier.

SHRI NAWAL KISHORE: I concede that Mr. Bhupesh Gupta* has got every ground to feel injured because from his erstwhile elevated position of an unofficial adviser he is being demoted every day and cut down to his proper size and put in right place. Mr. Bhupesh Gupta wants to have the best of both the worlds. He wants opposition in the House and honeymoon outside the House. He cooperates and votes with the Government when it is convenient to him and his party. He fights elections jointly and forms the Government in Kerala on the support of the ruling

party and permits them to form a Government in West Bengal on his party's support. It is the limit of political hypocrisy, adventurism and opportunism. In 1942...

THE VICE-CHAIRMAN (SHRI A. D. MANI) : Your time is up now.

SHRI NAWAL KISHORE : I will not take more than three minutes. So I will not mention 1942 but I can not forget what had happened in 1942 and how Mr. Bhupesh Gupta and his party stabbed us and the country in the back by conniving and collaborating with the ruling British imperialists. So what I want to tell Mr. Bhupesh Gupta is, that if he is really sincere and honest in his protestations. I would like him to withdraw his support from the West Bengal Government and discard the support of the ruling Congress party in Kerala. Otherwise he cannot befool the people by shedding tears and shouting at the Government here and hobnobbing with them outside.

SHRI BHUPESH GUPTA : Sir, so much he has written about me—it is a written speech. May I request that the written speech be laid on the Table of the House ? Or it should be forfeited by...

SHRI S. D. MISRA : It is all points only ; he is not reading.

THE VICE-CHAIRMAN (SHRI A. D. MANI) : Please conclude now.

SHRI NAWAL KISHORE : Three minutes more, Sir.

Genuine apprehensions have been expressed that this Bill would be utilised against political opponents and parties. Yes, it can be. And even the Minister has not denied it but rather accepted vaguely that the possibility was there. The Bill gives so vast and sweeping powers to the Government that if it decides to function in an irresponsible and unbridled way, it can, instead of safeguarding and strengthening democracy, democratic values and human freedoms, destroy them all and usher in dictatorship and fascism in the country. But in view of the still bigger dangers—internal and external—threatening the very integrity, security and even to some extent the freedom of the nation, I feel that this risk of its being

misused is worth taking and I am prepared to take it.

One word more, Sir. There are some amendments and I would request Pantji to see them and think sympathetically over them. I insist that the life of the Bill must be fixed. Some time limit of its operation must be fixed say, two years. In the end I hope that Mr. Pant will assure the House that this Bill would be used very sparingly and in extreme cases, and only against those who indulge in violent and subversive activities and not against political adversaries to suppress political opinion and opposition. If this is done, then we shall will equal determination and firmness oppose this Act and fight against it. Sir, with these observations I extend my support to the Bill but would not like it to become a permanent statute.

AN HON. MEMBER : Sir, shall we rise for lunch ?

THE VICE-CHAIRMAN (SHRI A. D. MANI) : There is no lunch hour.

SHRI BHUPESH GUPTA : I think, after the speech you have been fed up.

SHRI N. K. KRISHNAN (Kerala) : Mr. Vice-Chairman, Sir, I am opposing this Bill for three reasons. I am opposing it because it is obnoxious and anti-democratic in principle. I am opposing it because it will not cure the diseases which you say are meant to be cured by it. I am opposing it finally because the massive powers that are going to be given under this Bill to the bureaucracy in this country, knowing the bureaucracy as we know and as some of you also know, are going to be used not against the enemies of the people, not against anti-national elements,—not against blackmarketeers, smugglers, hoarders or corrupt people but against political workers, against trade union workers, against strikers, against democratic and trade union movements. You went to the country and won the election on the slogan of "Gharibi Hatao". People voted for you on that slogan. They voted for you because of big expectations. Having won this slogan, people expected that the first thing you would do would be to solve the problem of privy purses and the privileges of Princes. You have not done that. People expected that you will come out immediately and make radical

[Shri N. K. Krishnan]

changes in the Constitution. You have not done that. People expected that you will immediately pass an Ordinance for reopening all the closed mills and factories in this country rendering production going properly. You have not done that. People expected action against tax evaders, against monopolists. People expected action for radical land reforms. It is not these that you have done till now, but you come out and re-introduce the obnoxious principle of preventive detention which you did not dare to introduce one year back, which you were forced to withdraw one year back. The reasons given are : emergency, refugees, foreigners, spies and, of course, Naxa-lite violence. Look at the provisions, the most Draconian provisions which no democratic Government in the world has ever passed even in a war period. The provisions mention the defence of India and India's relations with foreign powers. What is the justification for power that is being given to the District Magistrate and the Police Commissioner to adjudge on the activities of political parties and individuals on the question of the relations of India with foreign powers ? Many of you know very well what the orientation of most of the bureaucracy is. They are pro-West in orientation. Many of you know it yourselves and yet these powers are being given to them. Today the news has come that a third ship is going from the USA to Pakistan with American arms. This is gross treachery of the American imperialists and if political parties get up and denounce this treachery, in the name of Bangla Desh some petty District Magistrate, some petty Police Commissioner can haul them up and detain them. Again there is mention of the security of the State, the maintenance of public order, maintenance of supplies and services essential to the community. Has a single mill owner or capitalist been arrested during the last twenty years, who has locked out the factories, in the interests of the maintenance of the supplies and services essential to the community ? Have you arrested any millowner, any capitalist, who has closed down factories in West Bengal or in Kerala and who is continuing the closure for month and month together ? You have not done that. The only thing that is intended in the name of maintenance of supplies and services essential to the community and which you have done from our experience during the last twenty

years is that trade union workers are going to be hauled up. political workers who are leading in a strike, who are engaged in leading strikes, are going to be hauled up. That is our whole experience. Powers are being given for this to the bureaucracy. We are told : "you have got Advisory Boards." Somebody has talked here about the impartiality of the judiciary and the principles of eternal justice. I can understand Mr. Manubhai Shah talking this, but many on your side should not forget that it was this Supreme Court that struck down the bank nationalisation law, that struck down the Privy Purses Ordinance which forced you to go in for general elections. Do not forget that. Do not now try to tell us that such fudges and ex-Judges are the best defenders of people's interests and our individual freedom. Now, Sir, the hon. Minister has given us many assurances. Yes, I know that some of the assurances coming from that side are well meant. But we have had assurances like this for years now. Ever since Rajaji was Home Minister I remember every Home minister has given these assurances every time this obnoxious measure is introduced before us. But what has been the practice? The proof of the pudding is in the eating. We have had this experience of preventive detention for years under Chinese aggression first, than under the Indo-Pakistan war again. Who were arrested ? Was a single speculator arrested ? Was a single hoarder or corrupt police official or smuggler or black-marketer or capitalist who resorted to illegal lock-out, arrested under these provisions during these twenty years ? No. You know that very well. During these twenty years those who have been arrested under these sections by the bureaucracy have precisely been political workers, trade union workers. We know that from our experience. Now we are told there is emergency situation, Bangla Desh, communalism may raise its head and so on. Mr. Vice-Chairman, I would like to quote to you what a Lok Sabha Member of their own party spoke recently on the basis of his experience in Rajasthan. Let me read it out :

It is difficult to extend wholehearted support to this measure as it is likely to cause harassment to the people in my constituency.. The people who had been entrus-

ted with the task of enforcing this law were already harassing those people in Rajasthan day in and day out. It was common knowledge that a large number of police authorities were rabidly communal. They were in league with anti-national elements and Government wanted to arm these very people with such powers and expected them to safeguard the security of the nation and to keep a watch on people.

That has been our experience of arming the local bureaucracy with all these powers, and now you are telling us that they are necessary to catch anti-communal elements, and here is one Lok Sabha Member of your own party telling you from his experience in the constituency what is happening there.

Therefore, Mr. Vice-Chairman, let us not delude ourselves with these arguments. Experience has amply proved that such powers in the hands of the bureaucracy—and many of you have experienced it, I know that—such sweeping, draconian powers in the hands of the bureaucracy have been used all these twenty years, and naturally will be used not against anti-national elements, not against the reactionary vested interest, but against political workers, against trade union workers. That is why we are opposing this Bill

Now take the example of West Bengal, Mr. Vice-Chairman. Once again the proof of the pudding is in the eating. This kind of provision for detention has been there in West Bengal for the last six months. People here have waxed eloquent about Naxalism, about Mao's photographs being pisted about chaos in the universities, and so on. For six months to cure this disease you have been applying this medicine in West Bengal, the medicine of preventive detention, and after six months' experience the Chief Minister, Shri Ajoy Mukherjee, had to come out and say one week back that the situation had gone out of control, had gone out of control after six months of your medicine which now you are asking us to apply through out India. Therefore, we have seen all this applied in practice. It is not a question of theory. That is why we are opposing this Bill based on the principle of preventive detention together with powers given to the bureaucracy and this farce of Advisory Boards with no real powers, consisting of ex-Judges whose ties with the vested interests, we know very well in this

country and some of you also have known during the last two years. That is why we say that these powers are going to be used not really against people who endanger the security of this country but against political workers, against trade union workers. Mr. Vice-Chairman, Sir, we know that the economic situation in this country remains bad. We know what the impact of the last Budget going to be. Prices are going to rise. We know the impact of the unemployment situation. Already the big monopolists are talking of a ban on strikes. They are talking of industrial truce. And in this atmosphere the people of this country, after their tremendous awakening during the last elections are not going to keep quiet. They will certainly give you some time to fulfil their expectations. But if within that time you do not move in the right direction, they are not going to keep quiet. They are going to protest, they are going to struggle against your policies. And I submit that the provisions of this Bill are intended to suppress their struggles, to suppress their rising movement,

Mr. Vice-Chairman, Sir, I would like to say this. The Government talks of Bangla Desh. I have to tell them that the people of this country are more conscious of the problem of Bangla Desh than the Indian Government. They are ahead of you in the matter of Bangla Desh. They do not want sermons from you on Bangla Desh and on the need for patriotism. There has been the biggest national upsurge of patriotism in this country—irrespective of parties—sweeping the whole country on the question of Bangla Desh. Rely on them to deal with the question of spies and security ; rely on the awakening of the masses to deal with this question. If you unite the people and rely on their united democratic movement, that is the surest safeguard to catch the spies, to catch the anti-national elements, to catch the traitors not to give draconian powers to the bureaucracy of which we have had experience, of which some of you have also had experience. I can give you an example from Kerala where some of the Naxalites who escaped from jail were caught by the common people and handed over to the police. That is the result of the awakening of the masses. After the recent elections, after this big upsurge in Bangla Desh, you have a good opportunity ; in this country you have a tremendous mass awakening. Instead of utilising that and instead of carrying it forward, you are going back to the old, discredited

[Shri N. K. Krishnan]

policies of certain other parties and gentlemen who are now trekking back into your party today. Mr. Manubhai Shah's speech today was significant, was symptomatic. I wish some of you had drawn the proper warning about where you are going from his speech.

Therefore, Mr. Vice-Chairman, Sir, we are opposing this Bill. If you want any provisions, the Foreigners Act can be suitably amended to deal with the question of foreigners. On the question of spies, the Official Secrets Act can be suitably amended. The IPC can be suitably amended. The Criminal Procedure Code can be suitably amended. Instead of doing all this you have brought in this **Bill**. And with our experience of the last 20 years, we know against whom this Bill will be used. That is why we are opposing this Bill. Amendments have been given by some of my friends. Are you prepared to translate your assurances into those amendments, that this Bill will not be used against the trade union movement, against the legitimate movement of the working class and the peasantry and the toiling masses? Will you accept those amendments? And who will carry them out even if you accept them? That is why I appeal to the good sense of some of you also to see that everything that you have fought for during the last two years, you are yourselves wiping out now. Do not laugh too much when the gentlemen from the other side said that with a heavy heart they are supporting this Bill. Together you will sink; they are so heavy in their hearts that they would come to sink you also.

AN HON. MEMBER : And drown you.

SHRI N. K. KRISHNAN : And that is why, Mr. Vice-Chairman, I am opposing this Bill tooth and nail.

श्री जी० बरबोरा (आसाम) : उपसभाध्यक्ष महोदय, मेंटिनेंस आफ इंटर्नल सिक्योरिटी बिल का हम विरोध करते हैं क्योंकि सरकार के हाथ में हम ज्यादा पावर देना नहीं चाहते। अभी अभी चुनाव में इनको मैसिव मेंडेट मिल चुका है। लोक सभा में और राज्य सभा में आज की परिस्थिति में यह सरकार गिरेगी, ऐसी कोई उम्मीद नहीं है। जहाँ-जहाँ और पार्टियों की सरकारें थीं चाहे वह उत्तर प्रदेश

की हो, बिहार की हो, मैसूर की हो या गुजरात की हो, उनको भी हर किस्म का तरीका अख्तियार कर के इन्होंने गिराया।

देश में जो कानून हैं उनमें देशद्रोहियों को रोकने के लिये, समाज विरोधी तत्वों को रोकने की काफी व्यवस्था है। ज्यादा विशेषाधिकार सरकार के हाथ में होने से उसका गलत ढंग से इस्तेमाल होता है। मैं खुद उसका शिकार एक दफा हो चुका हूँ। ऐसे भी बहुत से राजनैतिक कार्यकर्त्ता, ट्रेड यूनियन कार्यकर्त्ता, किसान आन्दोलनों के नेता हो सकते हैं जिन को इसके तहत गिरफ्तार किया जा सकता है। बंगला देश के सवाल को लेकर के, समाज विरोधी तत्वों के सवाल को लेकर के सरकार यह विशेषाधिकार अपने हाथ में ले रही है लेकिन इनका इस्तेमाल राजनैतिक विरोधियों के खिलाफ किया जायगा। चुनाव के पहले समाजवाद की बात उठाई गई, लोगों को हर किस्म के प्रलोभन दिये गये और चुनाव के बाद नये-नये टैक्स लोगों के ऊपर लगाये गये, हर किस्म के जुल्म हो रहे हैं, इससे जनता, किसान, मजदूर आज आन्दोलन के रास्ते पर हैं और इस तरह नकली समाजवादियों में और असली समाजवादियों में इस देश के अंदर लड़ाई लड़नी पड़ेगी। उस समय यदि ऐसे विशेषाधिकार इस सरकार के हाथ में होंगे तो इन का इस्तेमाल कर के मजदूरों के आंदोलन को दबाया जायगा, किसानों के आंदोलन को दबाया जायगा। इसी लिए मैं इस का विरोध करता हूँ।

अभी-अभी कृष्णन साहब ने ब्योरोक्रेसी की बात कही। सी० पी० आई० के लोग इतने हद तक उतरे इस से मुझे खुशी है लेकिन अभी भी उन का प्रभाव शासक कांग्रेस पर नहीं होता है। मैं यह बताना चाहता हूँ कि सिर्फ ब्योरोक्रेसी ही ऐसे अधिकारों का दुरुपयोग नहीं करती है बल्कि कांग्रेस के जो बड़े-बड़े नेता हैं यह भी करते हैं। हमारे आसाम में जब स्वायत्त आंदोलन चल रहा था नौजवानों

की तरफ से सोशलिस्ट पार्टी की तरफ से, और उस से जब डिब्रूगढ़ शहर में कुछ गड़-बड़ी मची तो आप देखिये कि वहाँ पर क्या होता है। वहाँ का कलेक्टर उसी दिन वहाँ कुर्सी पर आ कर बैठता था और उस को जिले के बारे में जानकारी नहीं थी। फिर हुआ यह कि कांग्रेस के एम० पी० और डिस्ट्रिक्ट के कांग्रेस प्रेसीडेंट्स ने उस को घेर लिया और उसको बताया कि यह बरबोरा और कम्युनिस्ट पार्टी के लोग मिल कर के तहलका मचा रहे हैं शहर में और इस लिये इनको डी० आई० आर० में गिरफ्तार करो। तब हमारे यहाँ डी० आई० आर० लागू था।

हमारे आसाम में काफी मुसलमान लोग हैं। उन मुसलमानों के बीच में से श्री फखरुद्दीन अली अहमद और श्री मोइनुल हक चौधरी को पहले प्रांत का नेता बनाया गया और अब केन्द्र का नेता बनाया गया है। लेकिन बाकी लाखों मुसलमानों पर डी० आई० आर० के तहत बहुत जुल्म हुये। वहाँ जो मुसलमान पुलिस वालों को पैसा देता है उससे वे कुछ नहीं बोलते हैं। लेकिन जो पैसा नहीं देता है उसको पाकिस्तान का एजेंट बता कर पकड़ लिया जाता है। यह कानून बन जाने के बाद यह और होगा।

इसके अलावा जहाँ मजदूर आन्दोलन होते हैं वहाँ मालिकों का साथ देने के लिये और मजदूर आन्दोलनों को दबाने के लिये इस का इस्तेमाल किया जायगा। इस तरह का नक्शा बनाया जायगा जिस से किसी भी मजदूर आन्दोलन के नेता को वे जेल में डाल देंगे।

इसलिए आज की परिस्थिति में मजदूर होकर इस सरकार को यह बिल लाना पड़ा है। और यह हम लोगों को तय करना है कि यह विशेष अधिकार हम लोगों को इस सरकार के हाथ में नहीं देना है क्योंकि आजकल इन लोगों की पोल खुल रही है। समाजवाद के नाम से इन्होंने अपना प्रचार चलाया है। आज दिल्ली शहर में ही कितने लोगों की समझ

में आ रहा है कि उन्होंने हम को धोखा दिया है। 10 मार्च को जब चुनाव के नतीजे निकले तो हमने टैक्सी ड्राइवर्स से और छोटे-छोटे दूकानदारों से पूछा कि आप लोगों ने किस को वोट दिया। उन्होंने बतलाया कि हम ने तो इंदिरा गांधी को वोट दिया। कांग्रेस का उम्मीदवार कौन है उस का नाम वे लोग नहीं जानते थे। लेकिन उस दिन वे सोचते थे कि वैंकों का राष्ट्रीयकरण हुआ है। शायद दिल्ली के दस हजार टैक्सी ड्राइवर्स को अपनी टैक्सी खरीदने के लिए सरकार से पैसा मिलेगा। आज वह नहीं मिल पा रहा है। आज पेट्रोल की कीमतें बढ़ीं और दूसरी चीजों के दाम बढ़ रहे हैं। आज हम चुनाव के तीन महीने बाद ही देखते हैं कि दिल्ली में स्कूटर वाले काला झंडा लगाये घूम रहे हैं और इस तरह से हम ने देखा है कि गत तीन महीने के अंदर जो मैनडेट इन्दिरा जी को मिला था वह गलत साबित हो चुका है और इस से हम लोगों को सबक लेना चाहिए। अभी-अभी सिहल में जो कुछ हुआ है उसे आप देखें। आप जानते हैं कि वहाँ एक साल पहले श्रीमती बंदारनायके को भी ऐसा ही एक मासिब, मैनडेट मिला था। वहाँ भी उन्होंने सोशलिज्म का नारा खड़ा किया था और वहाँ के किसानों और मजदूरों को भी उम्मीद थी कि उन को कुछ मिलेगा। लेकिन एक साल के अंदर-अंदर श्री लंका में वहाँ के नौजवानों के सामने सारा परदा साफ हो गया और उन्होंने अपनी लड़ाई जारी की। वह लड़ाई सही हो या गलत हो, लेकिन लंका की एक करोड़ 25 लाख जो जनसंख्या है उस में दस लाख के करीब जो बेकार के हैं और जिन्होंने बहुत उम्मीद के साथ मिसेज बंदारनायके का साथ दिया था वही उन के विरोध में खड़े हो गये और उन्होंने एक दिन में ढाई सौ पुलिस चौकियों पर अपना कब्जा कर लिया और जो वहाँ इन्दिरा गांधी की कांग्रेस सरकार है जो गरीबों की बात करती है, जो सोशलिज्म की बात करती है उस ने वहाँ के उन नौजवानों को दबाने के लिए हेलीकोप्टर भेजे, वहाँ उन को दबाने के लिए उस ने फीज भेजी।

[श्री जी० बरबोरा]

आसाम की बात, मेघालय की बात कल हमारे श्री के० सी० पंत जी के भाषण में मैं ने सुनी। मैं भी आसाम का रहने वाला हूँ। पंत जी ने कहा था कि वहाँ कुछ आसामी और बंगाली सेंटिमेंट है, मेघालय में कुछ ट्राइबल सेंटिमेंट है और उस को भी रोकने के लिए कुछ विशेष अधिकार सरकार के पास होना चाहिए। यह सही है कि यह सेंटिमेंट वहाँ है, लेकिन यह सेंटिमेंट वहाँ क्यों है। आप रोज बयान देते हैं कि ये रिफ्यूजी जो आ रहे हैं वहाँ नहीं रहेंगे। यह चले जायेंगे। लेकिन रिफ्यूजीज को हम देखते हैं कि उन को यहाँ हिन्दुस्तान में रहना ही पड़ेगा। आज हिन्दुस्तान में 60 लाख रिफ्यूजीज आ चुके हैं। वे आसाम में हैं, पश्चिमी बंगाल में हैं, त्रिपुरा में हैं, मेघालय में हैं और उन के कारण वहाँ की पापुलेशन में एक बड़ा असंतोष पैदा हो गया है। क्यों नहीं उन लोगों को चारों ओर देश में बांट दिया जाता? यह सही है कि वहाँ असमी और बंगाली के सवाल को लेकर, ट्राइबल और असमी के सवाल को ले कर कुछ सेंटिमेंट है, लेकिन अभी दो दिन पहले श्री अजय मुकर्जी का बयान निकला था कि पश्चिम बंगाल के लोगों में और इन रिफ्यूजीज में कुछ विटरनेस आ चुकी है। अगर वहाँ जल्दी ही इन रिफ्यूजीज के सवाल को हल नहीं किया गया तो वह ठीक नहीं होगा। इस लिए प्रान्तीयता के विचारों को दबाने के लिए सरकार को कोई विशेष अधिकार दिये जाने चाहिए इस बात को मैं सही नहीं समझता। आसाम में कुछ ऐसे विचार उठ खड़े हुए थे लेकिन आसाम सरकार ने उनको रोका। आसाम सरकार से मुझे कोई प्रेम नहीं है, लेकिन पहले आसामी और बंगाली का जो कोई झगड़ा था, पहले वहाँ राजस्थानियों के साथ जो झगड़ा था, इस बार वैसे कोई झगड़ा नहीं होने पाया। तो विशेष अधिकार से ही काम नहीं बनता है। काम करने के लिए तो तबियत होनी चाहिए अफसरों में और गलत चीजों को रोकने की तमन्ना हो तभी जा कर किसी चीज को रोका जा सकता है। विशेष अधिकार जो इस

SHRI THILLAI VILIALAN (Tamil Nadu) : Mr.

बिल में है यह बहुत खराब चीज है। आज का दिन सदन के इतिहास में एक काला दिन है और इस को याद रखना चाहिए क्योंकि ऐसा बिल आज सदन में रखा गया है। इस बिल का मैं विरोध करता हूँ और मैं चाहता हूँ और आग्रह करता हूँ सारे सदन से कि वह एक आवाज से इस बिल का विरोध करे।

Vice-Chairman, before I start my speech to oppose this Bill I express my congratulations to you on your being elected as Vice-Chairman today.

THE VICE-CHAIRMAN (SHRI A. D. MANI) : Thank you.

SHRI THILLAI VILLALAN : Sir, I rise to oppose this heartless Bill brought by this Government mindless of the consequences, the drastic consequences. I oppose this Bill since it is the blackest of all black Bills, the most lawless of all lawless Bills, the most heartless of all heartless Bills, this Bill which is based on the Presidential Order of May 7, 1971. This is old wine in a new bottle. This is the old P. D. Act in a new attractive attire which is called the Maintenance of Internal Security Bill. This Bill attempts to give powers to this Government to detain a person without trial or charge for one year. This is the second edition of the old P. D. Act. We wanted our Constitution to be effective and our democracy real. Therefore, we refused to give further life to the P. D. Act and it lapsed. There must be checks and ballances in a democracy. But we cannot understand the reason or the necessity of bringing this bulldozer Bill when there are so many ordinary criminal laws for fulfilling the very same purpose. The higher human right in the whole world wherever democracy is adopted as the system of administration is die right of not being detained without trial or charge. This is the basis of the Magna Carta of every democratic country. This is the pivotal point. All democratic movements are revolving round this point. Then is this the way to prevent a man from acting in any manner prejudicial to the defence of India, to the relations of our country with foreign powers, or-to the security of India or the maintenance of public order or the mainte-

nance of supplies and services essential to the community ? What happened to our Penal Code and Criminal Procedure Code ? What happened to the Criminal Law (Amendment) Act ? What happened to our Essential Commodities Act and other allied Acts ? Are they dead and gone ? Why do you want to swell the bundle of our Statute Books furthermore with this draconian law which is rejected by the people ? After taking away the civil liberties by way of maintaining public order, after making us blind, what is the use of offering pictures to see ? This is a deceptive method of accumulating unwanted powers by the Government in the name of internal security and public order which will annihilate the rights of democratic citizens of the country. We have got innumerable agencies to do the job of keeping internal security and public order in the country. If this is not their job, what are all these branches like the CID, CIB, Industrial Security Force, Territorial Army, Research and Analysis Wing, etc. going to do in the country ? What is the use of adding weapon after weapon when the person holding them is very weak ? We can ask in a *puranic* way : When *vajrajudham* is there, why do you want *brahmashtram* ? In our parts there is a proverb : What is the use of having a number of knives-jrwa/-when the farmer does not know how to harvest ? So when the Government is not able to maintain internal security and public order with the existing laws of the land, what is the use of having this black law also in its hands ?

Now, much has, been said about the situation in West Bengal and also about the problem of Bangla Desh and refugees have been dragged in this connection. I would like to ask the government : "Why can't you make a legislation for a specific purpose, for a specific State and for a specific time ?" In this Bill there is no mention of any time limit. That means the government is endeavouring to make these powers perennial and perpetual.

We were not able to make the position better in West Bengal when we were having the P. D. Act in force. How can we do it now with this replica of the same old Act ? This is not to say that the government is greedy of more punitive powers. We had the bitter experience of gross misuse of P. D. Act in the past. We cannot forget that the power has been abused by the Congress Government in

our State against innocent workers of our Party. This has been used against journalists in our State. Why, Sir, under the P. D. Act the hon. Shri Karunanidhi, the present Chief Minister of Tamil Nadu was arrested at Madras and kept in a lonely jail in Palayamkottai which is far away in a remotest corner in our State when Shri Bhaktavatsalam was the Chief Minister in 1965 during the language agitation in our State. The ruling Party is boosting up its unprecedented strength in the Parliament. But this will not add to its credit. There is no guarantee or safeguard saying that this Act will not be used against the Opposition Parties in the country. It is unthinkable in the twentieth century of a democratic government denying *habeas corpus*. It cannot be curtailed in any event.

If the government is very particular to deal with enemy agents who will come along with the innocent refugees, let it be stated plainly and have a legislation in whatever manner you want and include whatever powers you require. But where is the necessity for this black Bill for the whole of the country ? The government speaks often of unity in the country when our enemy, namely, Pakistan is becoming an imminent menace in the border area of West Bengal. But when the whole opposition is against this Bill, why should there be adamancy in bringing this Bill ? I would request the hon. Home Minister to reconsider his decision and withdraw the Bill forthwith. The words 'massive mandate' are repeatedly quoted in both the Houses. I would like to ask the government : "Is it to take away the civil liberties of the citizens of this country ?" It has been stated that an emergency situation will come to our country and there will then be necessity for promulgating emergency situation in certain parts of the country. If that will be the future situation, there is no urgency in bringing this Bill, when the whole Opposition does not want it. In an emergency, to remove the whole difficulties now experienced by the government, we can invoke the emergency provisions of the Constitution. That way we can rectify the situation. Therefore, I should like to say that the situation or circumstances quoted do not warrant this black Bill to be added to the Statute Book of our country. This is not a massive mandate; this is only mass massacre of civil liberties of common man in the country. You are not doing 'garibi hatao'. You are doing the

[Shri Thillai Villalan]

'guaranteed rights hatao' of the people under the Constitution of this country. Is the massive mandate of the people to preserve their rights or to do mass massacre of their rights by bringing this black Bill ? Therefore, I oppose this Bill.

THE VICE-CHAIRMAN (SHRI A. D. MANI) : Shri Niren Ghosh. Please remember that your Party has already taken 40 minutes. Your leader spoke yesterday.

SHRI NIREN GHOSH ; Sir, I rise in total opposition to this Bill.

Sir, I put it before the House that I have never heard a more hypocritical speech than the one delivered by Shri K. C. Pant yesterday. Of course, hypocrisy has been the banner of the ruling party, the Congress (R) Party, all these years, all these long years, during which our poverty has increased, our country has been brought to the brink of ruin. Sir, the British imperialists brought the Rowlatt Act and it led to the Jallianwala Bagh massacre. I do not know if they take the people of India for granted. I hope that is not to be. Let the ruling party not forget the experience of 1967, 1968 and 1959. This period may again come and teach them a lesson which they do not want.

Now, Sir, the ruling Congress has become the inheritor of the British imperialist tradition of repression. The cap of repression, the repressive machinery, well fits the ruling Congress. That is their banner, but not the banner of the Indian people. They have talked about the massive mandate. It was asked by Shri Bhupesh Gupta as to where the mandate was for the people. Did you put this issue before the people ? Was any referendum taken on this issue ? This is a measure of repression. No, it was not done. You fought shy of the issue. Had you included it in your election manifesto ? I put it before the House, Sir.

SHRI BIPINPAL DAS (Assam) : Sir, I want to point out one thing.

THE VICE-CHAIRMAN (SHRI A. D. MANI) : Let him go on. His time is limited.

SHRI BIPINPAL DAS j Sir, the manifesto clearly says that and it has given a clear man. date to put down the forces of violence and

disorder so that all our citizens can live in peace and harmony.

SHRI NIREN GHOSH : I will come to that.

(Interruptions)

SHRI DAHYABHAI V. PATEL : It is not law and order. It concerns everybody. Ordinary criminal laws are there.

THE VICE-CHAIRMAN (SHRI A. D. MANI) : Mr. Ghosh, please go on.

SHRI NIREN GHOSH : I will come to that later on with more details. So, Sir, this mandate, with 43 % of the votes, they can never carry out the mandate. Have you got -----

SHRI BIPINPAL DAS : What was your percentage ?

SHRI NIREN GHOSH : I will come to that. We have been pleading for proportional representation. You are opposing it. Why ? We are not afraid of that opposition. You are a minority government and you are a minority people and the ruling Congress will never become the majority party in the years to come. They have never become so in the past and they will never become so in the future also. So, with a minority mandate you want to repress the entire people, the opposition parties and the democratic movement. That is the limit of the hypocrisy of your party.

Now, Sir, there are already many black and repressive laws on the statute book. They are : The Industrial Security Force Act, the Central Reserve Police Act, the Prevention of Unlawful Activities Act, the Bengal Terrorists Suppression Act of 1932 of the much-hated John Anderson, and, then, the Prevention of Violent Activities Act for Bengal and now, this Bill. The question arises : Why can't the Ruling Party, which proposes to speak in the name of democracy but acts in the most undemocratic manner, govern the country without a series of black Act ? It has been enforced since 1952. Mr. Manubhai Shah said that because we did it then, it must be put on the Statute book for ever. Then also we are hypocritically told that it will not be used against the political and democratic

cadres and the democratic mass movement. But it has been said by many speakers on the floor of the House that this is the specific purpose for which the P. D. Act was repeatedly brought.

Why is this so? This is so because the faithful servants of the monopolists and the landlords are afraid of the masses, afraid of the people; that if ever the people see light and try to re-shape the destiny of India there must be repressive laws on the Statute book so that the people can never organize themselves and cannot carry on a democratic struggle. That is precisely the purpose for which it was used. And these monopolists' and landlords' servants have again brought this Bill before this House. They are afraid what will happen if certain people of the States, if not all over India, take to the path of democracy and try to bring about a fundamental, social transformation. They think that this would pose a danger to the rule of the monopolists and landlords, that is, the Congress. So they think that they must suppress as Hitler did in Germany. Almost like that. Now these series of steps that have been taken by them are a sort of constitutional terror dictatorship in India by some Fascist methods. They want to install a constitutional, police terror dictatorship in India. That is what the Bill is aimed at.

Now, Sir, I remember one thing, which I may also relate to the House. In 1958 the so-called Liberation struggle was waged by the Congress Party in Kerala against the Communist-led Ministry there.

2 P. M.

Then Dr. B. C. Roy was the Chief Minister of West Bengal. He told our sub-party-leader, "Well, arrest all these fellows under the P. D. Act and get done with the movement", as he used to do in West Bengal in regard to various mass democratic movements. Repeatedly it has been used. So he said, "Why not use it?" Though we have run certain Governments in Kerala and West Bengal—we have been a party to a Government in Kerala twice and also in West Bengal twice—we have not detained a single political person under the P. D. Act, not a single one, and it will be evident, if the Ministry looks over the matters in their files, they will find what they have done.

SHRI BIPINPAL DAS : Is it not a fact that you arrested 1300 people ?

SHRI NIREN GHOSH : All *goondas*, not a single person belonging to a political party. There are the Congress M. Ps. from West Bengal and let them name a single Congress person who was detained by us. Not a single Congress person.

SHRI MAHAVIR TYAGI : It is because Congressmen are men of character.

SHRI MAHITOSH PURAKAVASTHA (Assam) : You do not believe in detention; believe in extermination.

SHRI NIREN GHOSH : You will hear from me on that and it will not be very pleasing to you.

SHRI M. R. VENKATARAMAN : That is why they are in a hurry to pass this law.

SHRI R. S. DOOGAR (West Bengal) : You said that nobody was detained ?

SHRI NIREN GHOSH : I said that not a single person belonging to a political party was detained by our Government :

SHRI R. S. DOOGAR : AH right. But how many were killed ? That is the question.

SHRI NIREN GHOSH : I will tell you who was killing whom.

SHRI R. S. DOOGAR : It is a long story.

SHRI P. C. MITRA (Bihar) : 300 were killed.

SHRI NIREN GHOSH : I will come to that. We believe in democracy. So we have never used this Act. It was available to us in Kerala or West Bengal. We participated in those Governments but we never used this Act against any political person—that is a categorical statement—but you have been doing so for twenty long years.

Now I will come to the question raised by my friend Mr. Purakayastha and also my friend Mr. Doogar. West Bengal is being used repeatedly by speakers who support this Bill as a whipping boy to justify this Bill. I do say that this Bill is directed against the democrats all over India and also immediately against the people of West Bengal, the entire people of West Bengal. It is directed against the State of West Bengal. Let there be no mistake

[Shri Niren Ghosh J

about it. Let not Government think that we have not understood that. It is directed against all democrats, ali democratic movements, but immediately and primarily, here and now it is already being directed against the entire State of West Bengal, against the 4£ crores of people there. Already more than 300 of our fellows are under detention in West Bengal. Our responsible Party members District Committee Members, Local Committee Secretary have already been detained.

AN HON. MEMBER : On criminal charges-SHRI

NIREN GHOSH : No.

THE VICE-CHAIRMAN (SHRI A. D. MANI) : Please conclude.

SHRI NIREN GHOSH : Mr. Vice-Chairman, I am trying to make out a case. I will make out a case and I will request you to kindly allow me to do that.

THE VICE-CHAIRMAN (SHRI A. D. MANI) : I will give you some more time to do that.

SHRI NIREN GHOSH : Now, Sir, yesterday our Prime Minister has said in Lok Sabha that violence will be put down with a heavy hand. I say, if violence is to be put down, Prime Minister has to be put down herself. She has to come under this category.

श्री शीलमद्र याजी (बिहार) : छोटा मुंह बड़ी बात बोलता है ।

SHRI NIREN GHOSH : Seriously, let there be no joke about it. I accuse the Ruling Congress Party for having adopted the politics of murders and extermination in West Bengal to behead the democratic movement there. I am making that charge and I will substantiate it by facts of Parties.

[MR. DEPUTY CHAIRMAN in the Chair]

During the U. F. Government, there have been no political individual murders in the city in Calcutta and the Greater Calcutta area—not a single. These things started with the imposition of the Presidential Rule within two or three months and you want to know

I what steps they took. The Central Government and the Prime Minister took over the affairs of West Bengal in her hands and President's Rule was imposed. They adopted this political line of extermination of the political opponents. It is this Central Government. I say, there is research and analysis being done in the Ministry of Home Affairs. There are certain cells in the Home Ministry. They do not think that democratically they can ever win West Bengal. So they have adopted these tactics as a matter of policy. They exterminated 5 to 6 trade union leaders, student leaders, youth leaders and they have made it as a matter of policy. That is what they are doing for the last two years. We are called 'Naxali-tes', but do you know that 80 to 90 per cent of them are Congress Naxalites ? I told you that it was the Congress Party who killed Tushar Kanti Ghosh. I told you that it was again a faction of that Congress which murdered Nepal Da and that clearly came out in the local press also in Anand Bazar Patrika. Against the persons who were brought to book warrants have been issued. They could not arrest them. They belong to your camp. All your Congress leaders are having armoured goonda gangs. That is what you are doing and with the help of the police you are doing that.

SHRI MAHITOSH PURAKAYASTHA : Are you speaking in self-defence ?

SHRI NIREN GHOSH : So, they have decided that even plainclothed policemen under some pretext or another should finish away some of the democratic candidates.

SHRI K. C. PANT : May I, ask Mr. Niren Ghosh if he is prepared to condemn every single person who commits a political murder, no matter to which party he belongs ?

SHRI NIREN GHOSH : We are against individual political murders. Our party is never for that.

SHRI K. C. PANT: Will you condemn it.

SHRI PITAMBER DAS (Uttar Pradesh) : He speaks of mass political murders.

SHRI NIREN GHOSH : In the Bill there are loopholes because you have decided upon

this. I have given specific names. (*Time bell rings*) How do the operations take place there? It is fantastic how in Jorabagan, Shampukur, Baranagar and other places—I can name ten or thirteen in the Greater Calcutta area—for the last one year these operations are being conducted. These armoured gangs nourished and led by the Congress Party under the patronage of certain police officials and administrative officials have systematically attacked certain areas, areas comprising 2,000 or 3,000 or 4,000 people. If the attack is continued and word is sent to the police and they contact the police, they say: "No, no. We do not know of anything taking place there." If they can continue the raid for one hour and kill a certain person, then it is okay. The police do not interfere. They say: "We do not know whether a raid has taken place in that area." But if in the area the people who have been attacked succeed in repulsing them, if they have succeeded in defending themselves, then the police comes. There is a protective cordon against these armoured gangs which attack these people. More than that they say they are the so-called Naxalites. The local people drove them away from a certain place. The police came in jeeps with them, drove away the local people and forced...

SHRI P. C. MITRA : You are not talking of the present day conditions. You are talking of the days when Mr. Jyoti Basu was the Home Minister.

SHRI NIREN GHOSH : I am talking about the present day. Come with me and I shall show you the locality. I will take you to the people. Send there an all-party parliamentary delegation. Let them go place by place and locality by locality with thousands of people. They will tell you the tale of what is happening there.

MR. DEPUTY CHAIRMAN : Please conclude now.

SHRI NIREN GHOSH : That is how the operation is being conducted there. The systematic annihilation of political opponents has become the policy of the ruling party. Their calculation is like this. The high cadres of the democratic movement, CPM or any other party, have got to be killed on an average every day, so that after five years I

5,000 are liquidated. Then, there is this Bill. Take another 3,000 into jail. Then another four thousand or five thousand are made to run for their life. Hundreds are arrested. People of those localities are brutally interrogated. That is the policy of extermination that is pursued by the Home Ministry. In this way 15,000 of the active cadre will be exterminated. How can the democratic trade unions, kisan sabhas, student unions, etc., how can they exist? There is panic. I can say that over an area 10 to 15 lakhs of people of our party have been driven out by the Congress through this method. Any known supporter, if he lives there, he is immediately driven out. They come with the help of the police. Not only that, 90 policemen have been killed. In this even a section of the policemen is involved. Those who are under orders to implement this policy which has been systematically pursued from the Centre ...

MR. DEPUTY CHAIRMAN : Please conclude.

SHRI NIREN GHOSH : They do not know about those things. If they come to know, it would be embarrassing. They liquidate in this way under the cover of Naxalism. Even policemen have been liquidated. Almost 90 policemen have been liquidated during Congress rule. During UF rule only one policeman was murdered.

SHRI K. C. PANT : Do you realise the implication of what you are saying? When you were in Government only one policeman was killed. When you are outside Government, so many are murdered.

SHRI NIREN GHOSH : You yourselves have engineered the murder. We have not. Therein lies the difference. You have adopted the politics of murder and violence in order to liquidate political opponents.

SHRI AKBAR ALI KHAN : When we say that we should all agree against violence, your party does not agree.

SHRI NIREN GHOSH : That is the policy of your Government. That is why I say if violence is to be put down, the heavy hand should fall on the Prime Minister because she is leading the Home Ministry. If Mr. Chavan had been there...

MR. DEPUTY CHAIRMAN : Will you please sit down ? Mr. Pant.

SHRI NIREN GHOSH : I will continue.

MR. DEPUTY CHAIRMAN : You have already taken thirty minutes.

SHRI NIREN GHOSH: I would not like to be treated like this. Generally I take a very rational view but on this controversial Bill I am not ready yet. . .

MR. DEPUTY CHAIRMAN : Actually we have decided to call the hon. Minister at 2 o'clock. It is already fifteen minutes more. Apart from that Mr. Niren Ghosh has already taken thirty minutes.

SHRI MONORANJAN ROY (West Bengal) : Propaganda is going on throughout India. . .
(Interruption)

MR. DEPUTY CHAIRMAN: From this side only two Members have spoken. From your side so many have spoken.

SHRI NIREN GHOSH : Do I say anything out of place ?

MR. DEPUTY CHAIRMAN : It was agreed yesterday that every Member will speak for fifteen minutes. I have allowed Mr. Niren Ghosh instead of fifteen minutes thirty minutes. He has spoken for thirty minutes.

SHRI MONORANJAN ROY : It is a question of life and death for us.

MR. DEPUTY CHAIRMAN : It is a question of life and death for the whole nation. He has already spoken for thirty minutes.

SHRI MONORANJAN ROY : He must be given more time.

SHRI M. R. VENKATARAMAN : Please give him a little more time. Then he can wind up. Then Mr. Pant may reply.

MR. DEPUTY CHAIRMAN : All right. Five minutes more.

KUMARI SHANTA VASISHT (Delhi) : I should be given time for this. I have given my name three days back. I have not yet been called. I should be given some time.

MR. DEPUTY CHAIRMAN : You will be given time in the Third Reading.

KUMARI SHANTA VASISHT : I would like to speak now, not in the Third Reading.

SHRI NIREN GHOSH : What I was going to say was this. There is a story that has appeared in a local paper of West Bengal about the Police Commissioner, Mr. Ranjit Gupta. I want to relate that story to the House. It is this that he was directed from a very high quarter, I do not know whether in New Delhi or Calcutta, that you try to implicate the CPM in the murder of Nepal Roy. He said, "I have done many things for you, have brought up many court charges. I have done those operations. But in this matter it is beyond my capacity, even though evidence can be manufactured in order to involve them". So, what was the result ? He was chucked out ; his job as Police Commissioner was gone because he did not obey. That is the story that has appeared in the paper.

Sir, I may also refer to two persons, Gulam Yazdani and Syed Badrudduja. It appears that there is a bye-election pending. He is going to be a candidate there. They know that perhaps he will win.

SHRI MONORANJAN ROY: He will win.

SHRI NIREN GHOSH : He is the only Muslim leader who fought against the division of the country. He is 74 years old. And how, it is said that he is a Pakistani spy. He was the only Muslim leader of standing in undivided West Bengal. He stood against the division of the country and fought that the country should remain one. And now, at the age of 74, he is put behind prison bars. What is the political vendetta ? I have heard from firsthand information knowing person in New Delhi. He was asked to do something. He refused it. So, the political vendetta has gone to this extent that the Preventive Detention Act is utilised to detain him.

About Gulam Yazdani, he has never been a communal person throughout his life. When this West Bengal Democratic Coalition came, Mr. Vijoy Singh Nahar, the PCC. Chief and the Deputy Chief Minister, said, "We will bring him before the court." They could not do it. After a few days, they said, "No. He will not be brought before the court," because they know it is fully impossible. When the Muslim League supports the Government they

say that they stand for the so-called Muslim interests. What will they answer to the Muslim masses? They are participating in that democratic coalition, they are supporting the coalition. Will you not have to answer for them? You will have to, whatever you do here?

Sir, yesterday, Mr. Bhupesh Gupta made an appeal to us. I will reciprocate his sentiments, and I make a sincere and serious appeal to the Forward Bloc, the PSP and the RSP who is participating in the Kerala Ministry as the CPI does that even now the Central Government can be taught a lesson. If non-Congress democratic Ministries are formed in Kerala and West Bengal which can be done if the CPI takes the initiative, then these parties can fight back this measure. Really, other States also are there—Tamil Nadu has come. He has already expressed his opinion in this regard. Then this black Bill can be fought. By any standard the Congress is not going to gain a majority in Kerala or in West Bengal on its own. These are leftist States. These will remain leftist. In Tamil Nadu there is no question. They did not fight a single Assembly seat. So, in all sincerity I make an appeal to withdraw this black measure...*(Interruption)* *(Time-bell rings.)* We shall carry the struggle further. *(Interruption.)* We shall form democratic Governments everywhere. I hope they will consider my appeal with all possible seriousness.

MR. DEPUTY CHAIRMAN : That is enough, Mr. Niren Ghosh.

SHRI NIREN GHOSH : I take this opportunity to make an appeal to all the world, to all the socialist countries, through the socialist press media, because they have a duty by the democratic movement in each country, every where in the world, to voice against this oppressive measure; they should not allow it to be put on the Statute Book. They would be doing a great disservice to the democratic movement if they do not raise their voice. India is the second biggest country in the world with 55 crores of population. Any action here has a great bearing on the destinies of the whole world..

MR. DEPUTY CHAIRMAN : Sit down, please.

SHRI NIREN GHOSH : Only one point more.

MR. DEPUTY CHAIRMAN : You said five minutes. You have already taken six or seven minutes. Now sit down, please. Do not take up any new point. Wind up now.

SHRI NIREN GHOSH : It is being said that it is necessary to enable the arrest of Pakistani spies. It has been argued by Shri K. C. Pant whether we should not arrest people with arms coming from the other side of the border. On the one hand, we demand recognition for Bangla Desh so that our country can function as a rear base, on the other if the Mukti Foj people somehow escape to this side of the border, will you arrest them and detain them?

SHRI A. P. CHATTERJEE : They are doing that.

SHRI NIREN GHOSH : Now a report has appeared in the press that Mukti Foj arms have been confiscated. Yes, that is the purpose. You want to detain the Awami League or non-Awami League people, those who want to sacrifice their life in the case of the freedom struggle of Bangla Desh _____

MR. DEPUTY CHAIRMAN : Please conclude now.

SHRI NIREN GHOSH : There 7J crores have risen like one man. You can rest assured that these millions of refugees can fish out Pakistani spies and they can be dealt with under the ordinary law of the land...

MR. DEPUTY CHAIRMAN : Please conclude now.

SHRI NIREN GHOSH : .. This question of law and order is purely a bogey raised in order to push through this heinous Fascist measure in collusion with goondas, primarily of West Bengal. So, Sir, I warn the country. I have heard that Shrimati Indira Gandhi has told Members of her Party...

(Interruption)

MR. DEPUTY CHAIRMAN : Do not start a new point.

SHRI NIREN GHOSH : .. Suppose your party cannot contain the democratic movement in West Bengal, that small part of India, would you isolate it and crush it, as Shrimati Indira Gandhi said? That is what they say. Therefore, the whole thing is directed against West

[Shri Niren Ghosh] Bengal today. Tomorrow it will be the turn of Kerala, then Tamil Nadu and so on. That is the real *raison d'etre* of this Bill.

MR. DEPUTY CHAIRMAN : Mr. Pant.

SHRI K. C. PANT : Mr. Deputy Chairman, Sir...

SHRI NIREN GHOSH : So, if you carry on...

MR. DEPUTY CHAIRMAN : You have already taken 35 minutes. I have called Mr. Pant now.

SHRI NIREN GHOSH : It is a measure directed primarily against the freedom struggle of Bangla Desh. They want to contain whoever they consider undesirable. They want to put down even the freedom fighters. This is directed against the Indian democratic movement. It is directed against the people of India. It is a Fascist measure, a heinous measure, directed against the soul and spirit of the Constitution...

MR. DEPUTY CHAIRMAN : I have called Mr. Pant.

SHRI NIREN GHOSH : We will fight this Bill to the bitter end. We will carry this fight to the people. We will see to it that the Congress is isolated. *(Interruptions.)* This is a sacred task of the Opposition. Together they will undertake this task so that 1967 is repeated and 1969 is repeated all over the country.

(Interruptions)

MR. DEPUTY CHAIRMAN : Please sit down.

SHRI NIREN GHOSH : The people will rise up for their democratic rights and liberties in the whole of India. Thank you.

SHRI K. C. PANT : Sir,...

SHRI RAJNARAIN (Uttar Pradesh) : Point of order.

SHRI CHITTA BASU : Sir, there are other Members who also want to speak.

श्री राजनारायण : श्रीमन्, हमारा व्यवस्था का सवाल यह है कि आपने हर दलों को कितना-कितना समय बांटा है। हमारे दल से

केवल पंद्रह मिनट बोले हैं और इसीलिये मैं मुजफ्फर नगर से, सामान अपना फाटक पर छोड़ कर चला आ रहा हूँ।

श्री उपसभापति : तय हुआ था कि हर पार्टी से एक ही सदस्य बोलेगा। समय के लिये कुछ नहीं हुआ था। तय हुआ था कि हर पार्टी से आज एक आदमी बोलेगा।

श्री राजनारायण : एक दल का एक सदस्य केवल पांच मिनट ही बोले। और इसलिये ही हमारे दल के श्री गोलप बरबोरा कम बोले कि हम आने वाले थे। तो दूसरे को तो मौका मिलना चाहिये।

SHRI A. P. CHATTERJEE : Sir, I rise on a point of order. You have just now said that you gave opportunity to every political party. Here is Mr. Suhrid Mullick Choudhury who belongs to an important political party of West Bengal. You have not asked him to speak.

(Interruptions)

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS AND IN THE MINISTRY OF SHIPPING AND TRANSPORT

विभाग तथा नौवहन और परिवहन मंत्रालय में राज्य मंत्री (SHRI OM MEHTA) : Sir, it was decided that the Minister would be called at 2 p. M.

SHRI A. P. CHATTERJEE : Why should the Chair be so anxious to get this black Bill passed ?

MR. DEPUTY CHAIRMAN : I am not anxious to get this Bill passed. I am only trying to implement the agreement that was arrived at between the different party leaders. Yesterday the party leaders, including your party leader, agreed that every party will get one opportunity to speak and...

SHRI A. P. CHATTERJEE : But you have not called Mr. Suhrid Mullick Choudhury.

MR. DEPUTY CHAIRMAN : All the small parties come in the category of "Others".

Therefore, it was agreed that I would call the Minister at 2 P. M. It is now already 2-30 p. M. We have taken half-an-hour more. Therefore, Mr. Pant will continue his speech now.

(Interruptions)

SHRI SUHRID MULLICK CHOU-DHURY (West Bengal) : Sir, as a protest I walk out.

At this stage, 'he hon. Member left the House.

KUMARI SHANTA VASISHT : Sir, I had also given my name.

(Interruptions)

MR. DEPUTY CHAIRMAN : All right, please sit down.

SHRI A. P. CHATTERJEE : Why is the Minister standing g ? You ask him also to sit down.

MR. DEPUTY CHAIRMAN : I had called him. That is why he is standing. Now, please sit down, Mr. Chatterjee.

SHRI A. P. CHATTERJEE : What about my point of order ?

MR. DEPUTY CHAIRMAN : There is no point of order. I rule it out.

SHRI A. P. CHATTERJEE : My point of order relates to the procedure to be followed in the House. Sir, you referred to the agreement and said that the agreement was to the effect that all political parties...

MR. DEPUTY CHAIRMAN : Not all political parties, but political parties which are recognised parties here. They are Congress, Congress-O, Jan Sangh, Swatantra, CPI, CPM, SSP and DMK. The smaller parties are grouped as "Others". This is the procedure followed.

(Interruptions)

SHRI A. P. CHATTERJEE : Sir, why is this rushing through ?

MR. DEPUTY CHAIRMAN : There is no question of rushing it through. Instead of six hours, we have taken 18 hours. Where is the question of rushing it through ? *(Inter-*

ruptions) Mr. Venkataraman, did you not agree to it yesterday ?

(Interruptions)

SHRI A. P. CHATTERJEE : Sir, you have called Mr. Venkataraman. And even then the Minister is standing. What does he mean to say ?

MR. DEPUTY CHAIRMAN : Please sit down.

MR. A. P. CHATTERJEE : I am sitting now. Why does not he ?

MR. DEPUTY CHAIRMAN : Mr. Pant, please sit down for a minute. I have called Mr. Venkataraman.

SHRI M. R. VENKATARAMAN : Yesterday we came to an understanding about all parties being represented by speakers. I think today there are demands by one or two Members. And we must also try to accommodate them even if it means taking a little more time. Six o'clock we all agreed to go up to the day before yesterday. Now it so happens that there are just two or three Members left who are demanding to speak. Of course, we all agreed and in spite of that agreement we can sit a little longer. So my appeal to you is give them some limited time. I appeal to Mr. Pant also to accommodate these Members.

MR. DEPUTY CHAIRMAN : All right, I will give you five minutes, Miss Shanta Vasisht. . .

(Interruptions)

श्री राजनारायण : श्रीमन्, मैं इसी के लिये दौड़ा आ रहा हूँ। आज श्री राजबहादुर की जो दावत है 6 बजे उसे हम फोरगो करते हैं। आप जल्दी कर रहे हैं इसको पास करवाने में क्योंकि आपकी लार टपक रही है। हम तो उस दावत को फोरगो कर रहे हैं। जो सरकार इस तरह का बेहूदा और जनतंत्र के विरोध में कानून पास कराने के लिये जल्दी करे, उस मंत्रों की दावत में हम नहीं जाएंगे। शर्म नहीं आती। इसीलिये मैं कहता हूँ कि श्री राजबहादुर ने जो 6 बजे दावत दी है, उस दावत का सब लोग बहिष्कार करें। यह कौन सा तरीका है—यहाँ लड़ो, वहाँ दावत करो। कोई

[श्री राजनारायण]

तरीका है यह कि 6 बजे दावत खाने के लिये इस तरह से एक रेखा खींच दी जाये . . .

श्री अर्जुन अरोड़ा : यह दावत नहीं अदावत है ।

श्री राजनारायण : जो सरकार इस तरह का अह्मदादा, जनतंत्र-विरोधी, गला-घोटू आर्डिनेन्स पास कराए, उसके मंत्री की दावत खाना महापाप है, जनता के साथ विश्वासघात है । बंगला देश में भूपेश गुप्त को क्यों नहीं भिजवा देते ? यहां दावत क्यों देते हैं । मैं समझ पा रहा था यह छः बजे छः बजे क्या हो रहा है ? अभी समझ में आया कि श्री राजबहादुर ने तमाम एम० पी० लोगों को बुलाया है 6 बजे दावत खाने के लिये । देखिये हम करीब 100 मील दूर से भागते चले आ रहे हैं । हमको ढाई बजे कहा था, ढाई बजने से ठीक 10 मिनट पहले हम आ गये कि हमको बोलने के लिये समय मिलेगा । हमारी पार्टी के दो सदस्य बोले हैं, अभी 15 मिनट बाकी पड़े हैं ।

श्री उपसभापति : बिल्कुल नहीं । टाइम हो गया है ।

श्री राजनारायण : देखिए, समय है । मान लीजिए कोई पार्टी आपस में बांट ले । गोलप जी ने कहा 15 मिनट बोलेंगे . . .

श्री उपसभापति : अब आगे नहीं चलेगा ।

श्री राजनारायण : नहीं चलेगा तो क्यों तकलीफ करें ? आराम करें ।

श्री उपसभापति : मैं थर्ड रीडिंग स्टेज में बुला सकता हूँ ।

श्री राजनारायण : देखिए, अनावश्यक तनाव पैदा कर रहे हैं । आपसे कर्बद्ध प्रार्थना है कि सद्बुद्धि से चलें, संसदीय परम्परा के अनुगामी बनें ।

SHRI K. C. PANT : I have listened with

great attention to all the speeches that have been made in the course of the first reading of this Bill . . .

SHRI CHITTA BASU : What is it ? An appeal was made to you that you should allow one or two more Members.

SHRI K. G. PANT : The second and third readings are yet to come, and some honourable friends, who wanted to speak on this Bill but have not had a chance to do so during the first reading, will, I am sure, get a chance during the second and third readings, particularly during the third reading. So I would request honourable Members who have patiently listened to this long debate to have some more patience and to give us the benefit of their views during the third reading. I hope that they will all give us the benefit of their views and we will take advantage of their views. I have already had a chance to speak on the Resolution. In the course of my speech on the Resolution I touched on various aspects some of which necessarily are common for this Bill. And therefore, I do not want to repeat myself at all . . .

श्री राजनारायण : श्रीमन्, यह रिप्लाई हो रहा है—क्या हो रहा है ? यानी, पन्त जी क्या प्रथम वाचन का जवाब दे रहे हैं यह हम लोगों ने जो प्वाइन्ट उठाया है उसका उत्तर दे रहे हैं ।

श्री उपसभापति : बाद में पता हो जाएगा आपको ।

श्री राजनारायण : व्यवस्था तो आपको देनी है, नहीं तो हमको वहां बैठा दीजिए ।

श्री उपसभापति : मैंने तो आप से रिक्वेस्ट किया है . . .

श्री राजनारायण : मैं आप से रिक्वेस्ट कर रहा हूँ कि आप कुछ और लोगों को बोलने के लिये समय दे दीजिए । मैं चेयरमैन साहब से रिक्वेस्ट कर रहा हूँ, ये चेयरमैन साहब बहादुर, आप कृपा करके दस, पांच मिनट का समय और लोगों को बोलने के लिये दे दीजिये ।

आप तो दावत खाने पर उतारू है और इसी लिए 6 बजे की डेडलाइन कर दी है। राजबहादुर जी के वहां दावत की वजह से आपने 6 बजे की रेखा खींच दी है।

(Interruptions)

श्री उपसभापति : दावत किसी को खाना नहीं है।

श्री राजनारायण : यहां पर तुम काला कानून लाओ, बंगला देश को मान्यता न दो।

THE MINISTER OF PARLIAMENTARY AFFAIRS, AND SHIPPING AND TRANSPORT/ संसदीय काय, तथा नौबहन और परिवहन मंत्री (श्री राजबहादुर) : मैंने कोई दावत नहीं दी है। वह तो स्वागत है और दावत नहीं है।

(Interruptions)

श्री राजनारायण : हम स्वागत का इंकार करते हैं।

(Interruptions)

श्री राजबहादुर : मैं श्री राजनारायण जी की संस्कृति और सभ्यता को जानता हूँ।

श्री राजनारायण : यहां पर संस्कृति और सभ्यता की बात करते हो और फिर जनता का गला घोटते हो, जनता का खून चसते हो और बंगला देश को मान्यता नहीं देते हो। (Interruptions) यहां संसद् के सदस्यों का स्वागत करते हो और इस तरह से अपने काले कारनामों को छिपाने की कोशिश करते हो। क्या यही सभ्यता और संस्कृति है तुम्हारी ?

श्री उपसभापति : राजनारायण जी, आप बैठ जाइये।

श्री राजनारायण : संसद् में उसको नहीं जाना चाहिये जो भयवश बोले। जो भयवश बोलता है वह किलविषी और दबू होता है। संसद् में अपनी सही भावनाओं को प्रकट करना चाहिये। (Interruptions) किस तरह से महाराष्ट्र में एक कांग्रेसी ने धन का खुला प्रदर्शन किया, क्या इस बारे में तुमको शर्म नहीं आती है।

श्री उपसभापति : आप बैठ जाइये।

श्री राजनारायण : मिश्रा जी, तुम भी तो कुछ बोलो।

श्री एस० डी० मिश्र : श्री राजनारायण जी कह रहे हैं कि हम नहीं बोल रहे हैं। तो मैं यह निवेदन करना चाहता हूँ कि हमने कुछ निश्चय किया था कि इस बिल पर अब ज्यादा लोग नहीं बोलेंगे। इस तरह का निश्चय कल हमने यहां पर और बाहर चेम्बर में भी किया था जिसमें करीब करीब सभी दल के लोग मौजूद थे।

श्री राजनारायण : हम नहीं थे।

श्री एस० डी० मिश्र : तो मैं यह कह रहा था कि कल कुछ बातें हुईं और उसमें यह तय हुआ कि दो बजे मिनिस्टर रिप्लाय करेंगे। यह भी हुआ था एक एक दल के लोगों को 15 मिनट का समय जरूर देंगे। उस समय यह भी तय हुआ था कि चूंकि हमारी पार्टी अपोजीशन में सबसे बड़ी पार्टी है इसलिये उसके दो आदमियों को बोलने के लिये समय दिया जायेगा। हमने इस बात पर जोर नहीं दिया कि हमारे दोनों आदमियों को बोलने के लिये समय दिया जाय। श्री राजनारायण जी ने भी यह कहा था कि हम थर्ड रीडिंग में नहीं बोलेंगे।

श्री राजनारायण : हमने नहीं कहा।

श्री एस० डी० मिश्र : आपने कहा था और श्री भूपेश गुप्त ने कहा था कि हम कुछ बोलेंगे और राजनारायण जी ने कहा . . .

श्री राजनारायण : हम कोई वादा नहीं करते हैं।

श्री एस० डी० मिश्र : ऐसी सूरत में मेरा आप से केवल एक ही निवेदन है कि आप टाइम को बढ़ा दीजिए। 6 बजे की जगह 6½ कर दीजिये और इस तरह से दो तीन आदमों दस मिनट बोल लेंगे।

श्री उपसभापति : तीसरी रीडिंग में बोल सकते हैं।

श्री एस० डी० मिश्र : आप आधा घंटे का समय और बढ़ा दीजिए।

श्री उपसभापति : हम आपको बात मानते हैं और इस सम्बन्ध में कोई न कोई रास्ता निकाल लिया जायेगा ताकि दो तीन आदमी और बोल सकें।

श्री राजनारायण : श्री मिश्र विरोधी पार्टी के सबसे बड़े दल में हैं और वे उस दल के उप नेता भी हैं। लेकिन मैं आपको यह बतला देना चाहता हूँ कि हमारी आदत असत्य बोलने की नहीं है। हम वही बात कहते हैं जो हमने वादा किया हो। मुझे कतई याद नहीं है कि मैंने इस तरह का वादा किया है। मैं इस तरह की बात अपनी जवान से नहीं कह सकता हूँ। इतना मैं जरूर कह सकता हूँ कि मैं देखूंगा, क्या होगा और मैं कोई वचन नहीं दे सकता हूँ। अगर श्री मिश्र जी यह कहते हैं कि हमने उन्हें कोई वचन दिया है तो हम उनको बात मानने के लिये तैयार हैं। लेकिन मैं यह बात देना चाहता हूँ कि हम थर्ड रीडिंग में एक घंटा बोलेंगे और कोई माई का लाल हमें नहीं रोक सकता है।

श्री उपसभापति : थर्ड रीडिंग में दो तीन आदमी ही बोलेंगे।

श्री एस० डी० मिश्र : उपसभापति जी, मैं यह जानना चाहता हूँ कि क्या आप कल भी बैठने के लिये तैयार हैं।

अनेक माननीय सदस्य : नहीं, नहीं।

श्री एस० डी० मिश्र : खैर, आप थर्ड रीडिंग में मौका दें, लेकिन उसमें मुझे लगता है कि विलम्ब होगा। इसलिये अच्छा यह है कि आप उनको अभी मौका दें।

श्री राजनारायण : मैं आपके वचन का आदर कर रहा हूँ, लेकिन मेरा कोई ऐसा वचन नहीं था।

श्री उपसभापति : 6 बजे इसके ऊपर वोटिंग होगी।

श्री राजनारायण : एक एक क्लाज पर भी तो वोटिंग होगी।

श्री उपसभापति : छः बजे वोटिंग करने का वादा हुआ है।

श्री राजनारायण : श्री राज बहादुर जी का स्वागत समारोह होगा और ...

(Interruptions)

श्री उपसभापति : उसका कोई सवाल नहीं है।

श्री राज बहादुर : हमारे स्वागत समारोह का जहां तक सम्बन्ध है वह एक सोशल फंक्शन है और उसका कोई महत्व नहीं है। हाउस का कार्य सर्वप्रमुख है और यह स्वागत समारोह सैकेंड्री है। स्वागत समारोह में अगर आप हमें इज्जत देंगे तो उसके लिये मैं आपका अनुगृहीत हूंगा। लेकिन हाउस का कार्य जो है वह सर्वप्रमुख है और उसको आप जब तक चलाना चाहिये तब तक चलाइये।

श्री राजनारायण : राज बहादुर जी ने ठीक कहा कि हमारे लिये स्वागत समारोह का महत्व कोई है नहीं। इसीलिये मैंने उनसे पहले ही निवेदन किया था कि वह पैसा बचा करके बंगला देश की लड़ाई के लिये भेज दिया जाय। मगर लोगों की लार टपक रही है तो हम क्या करें।

MR. DUPUTY CHAIRMAN: All right. Mr. Pant.

SHRI A. P. CHATTERJEE : Sir, let there be voting at any time ...[Interruptions]... But let the two or three Members, as suggested by Shri Misra, also speak. Sir, Mr. Chowdhury and Kumari Shanta Vasisht wanted to speak and let them speak. What is there, Sir ? Let the voting take place at whatever time you want.

MR. DEPUTY CHAIRMAN : What do you want to say, Mr. Mehta.

(Interruptions)

SHRI OM MEHTA : Sir, he has already spoken.

MR. DEPUTY CHAIRMAN : Mr. Chatt-erjee, we will allow both Mr. Chowdhury and Miss Vasisht. I can assure you that.

श्री महावीर त्यागी : श्रीमन्, हमने भी अमेंडमेंट का नोटिस दिया है और हम पहली रीडिंग में नहीं बोले इसलिये कि हम अपने अमेंडमेंट पर बोलना चाहते थे। तो जो मेरा अमेंडमेंट है उस पर मैं बोल नहीं सकता।

श्री गणेशी लाल चौधरी (उत्तर प्रदेश) : हमने भी अमेंडमेंट दिया है, इसलिये क्या हमको भी अवसर दिया जायगा या नहीं।

MR. DEPUTY CHAIRMAN : All right. Now, Mr. Pant.

SHRI K. C. PANT: Sir, I realise that there are strong differences of opinion among some parties on this measure. I realise that some friends opposite are opposing it tooth and nail. But, Sir, it is usual in a democracy that when there are such strong differences—there are often such strong differences—we listen to each other with patience and we listen to each other, if possible, with a certain amount of courtesy, if possible, with generosity, and try to understand each other's point of view and then, we abide by the decision of the House. Only thus can democracy function and it can be so only when a certain amount of mutual respect informs the proceedings of the House and when we do not doubt each other's motives.

Sir, even filibustering has certain limits, has certain restraints, under which it can take place in our democratic system. So, Sir, I hope that the high level of the debate which we have witnessed, in these concluding portions also the same high level will be maintained.

Sir, I shall certainly try to maintain a nonpartisan level as I had tried to do earlier also. Sir, the sentiments that have been expressed are very often impressive in their sincerity. I heard Dr. Alva very closely and the sincerity of his sentiments was quite apparent. I also heard other speakers; I do not want to name them all. They expressed their own

points of view, and I have no doubt about their sincerity. I was impressed by some of the other speeches of Mr. Manubhai Shah, Mr. Akbar AH Khan and Mr. Nawal Kishore and other friends. And to those who criticized also we owe a debt of gratitude.

Sir, this, as I said, is a national question, and we have to treat it as such. I am glad to say that all parties did treat it as such in 1969. I referred the other day to the fact that in 1969 when the Preventive Detention Act was coming to an end, then all the State Governments in the country wanted its continuance. Sir, we in Parliament must realise that the State Governments have to maintain law and order. It is not enough for us to watch. On the contrary, if the State Governments feel the need for certain provisions, certain laws, on the statute book—and which they, for the reasons that I mentioned yesterday cannot get—we also are here to help them to maintain law and order. We should not only blame them that they are not maintaining law and order. In 1969, I said, all the State Governments...

SHRI A. P. CHATTERJEE : Not all the State Governments... *(Interruptions)*. I will bring a privilege motion against him.

MR. DEPUTY CHAIRMAN : He has clarified the position yesterday also, and you need not take any offence. . .

(Interruptions)

SHRI A. P. CHATTERJEE : I am going to bring a privilege motion against him. He is misleading the House.

MR. DEPUTY CHAIRMAN: Yesterday also he explained and clarified... *(Interruptions)*

SHRI A. P. CHATTERJEE : He cannot repeat this thing... *(Interruptions)*. It was not correct. Even then he is repeating this. Sir, on a point of order.

SHRI K. C. PANT : If at any stage...

(Interruptions)

SHRI A. P. CHATTERJEE : My point of order is this. Yesterday when he told us that all the State Governments asked for the continuance of the Prevention Detention Act, we

[Shri A. P. Chatterjee]

pointed out to him that it is not so. And he also agreed—of course, with half voice—and said, "Yes, at least one State Government, the State of West Bengal, first wanted it but later they did not want it". That is on record. He said that later on they all agreed. West Bengal first did not want it. And even then this Minister—I do not know how to designate him—will insist on telling this falsehood that all the State Governments wanted the continuance of the Prevention Detention Act. It is misleading the House. I am asking a ruling on this -----

(Interruptions)

MR. DEPUTY CHAIRMAN: He has already informed the House....

SHRI A. P. CHATTERJEE : Why should he repeat it ?....

(Interruptions)

MR. DEPUTY CHAIRMAN : Please sit down....

(Interruptions)

श्री राजनारायण : प्वाइंट आफ आर्डर । मैं आप से एक व्यवस्था जानना चाहता हूँ कि, पंत जी जरा बैठ जायें, बाद की बात सही मानी जाती है या पहले की ? जो भारतीय सभ्यता और संस्कृति का नाम लेते हैं मैं उन को एक मुनि की वाणी सुनाता हूँ ।

श्री उपसभापति : प्वाइंट आफ आर्डर बताइये, मुनि की वाणी की जरूरत नहीं है ।

श्री राजनारायण : यथा धर्म मुनि नाम प्रमाण/ यानी मुनि की जो आखिर की वाणी हो वही प्रमाणित मानी जाती है । राज्य सरकार जो आखिर में निर्णय करती है वह प्रमाणित है या पहले जो निर्णय करती है वह प्रमाणित होगा ? आप कृपा कर सदन को गुमराह करने की कोशिश न करें । जहाँ तक वेस्ट बंगाल की बात है उन्होंने कहा कि हाँ, हम नहीं चाहते और जहाँ दूसरे सूबों की सरकारें चाहती हैं वे चाहें तो करा लें ।

SHRI K. C. PANT : Sir, I speak always on the basis of the information with me. If at any time....

SHRI A. P. CHATTERJEE : It may be wrong information.

SHRI K. C. PANT : If at any time I make any wrong statement and my friends point it out, I shall check it, and if I find that it is wrong, I shall be the first to come before this House and apologise to the House. But this is no way. He must allow me to continue.

SHRI A. P. CHATTERJEE : Why did you not take the precaution to find out whether it was correct or not ? We pointed it out to him yesterday. Twenty-four hours have gone by since. What steps he has taken to find out whether we are right or he is correct ?

SHRI K. C. PANT : Do you think he can bully me like this ? I think it must be clear . . .

SHRI A. P. CHATTERJEE : I am raising a question of privilege under Rule 187 of the Rules of Procedure and Conduct of Business against the hon. Minister. May I read out Rule 187 ? It says : "Subject to the provisions of these rules, a member may, with the consent of the Chairman, raise a question involving a breach of privilege either of a member, or of the Council or of a committee thereof." My privilege motion against the hon. Minister is this that he is deliberately misleading the House by saying a thing which is not correct.

MR. DEPUTY CHAIRMAN : I do not think there is any question of privilege. It is a question of interpretation.

SHRI NIREN GHOSH : He is deliberately misleading the House . . .

SHRI K. C. PANT : As I said yesterday, Sir, the U.F. Government did ask for the continuance of the measure. (Interruptions) Then you won't listen to me. That is the trouble with him. He should have enough confidence in himself. If after listening to me he feels agitated, he may get up. But he does have so much confidence in himself, nor the patience to listen to me. I think he should know by now that he cannot bully me ; that should be clear to him. I said yesterday and I repeat it today on the basis of the information with me that the UF Government did ask for the continuance of the measure but later on they changed their mind. This is what I said

yesterday and this is what I repeat today. The Kerala Government, I had said, wanted it for a restricted purpose, namely, for essential services and supplies.

श्री राजनारायण : कहा क्या जायगा ? उन्होंने कबूल किया या नहीं कबूल किया, स्वीकार किया या अस्वीकार किया । यह कहने की जरूरत क्या कि पहले उन्होंने माना बाद में इन्कारा । सरकार कहेगी क्या ? क्या यह कहेगी कि सभी राज्यों ने माना कि इसको पास करो ।

श्री उपसभापति : आप बैठिये ।

श्री राजनारायण : हम क्यों बैठे । मैं आप से अर्ज कर रहा हूँ कि आप समझदारी के साथ इस सवाल का उत्तर दें कि क्या सरकार को कहना पड़ेगा ? क्या सरकार कहेगी कि सभी राज्यों ने इसको कबूल किया ? या नहीं ।

श्री उपसभापति : उन्होंने सारी बातें बता दी हैं । आप अपना मतलब निकाल सकते हैं ।

श्री राजनारायण : सारी बातें जो बताईं उनसे आपने क्या समझा ? कोई संसदीय प्रथा है ।

श्री उपसभापति : आप बैठिये ।

श्री राजनारायण : यह कोई संसदीय प्रथा है या मजाक बना रखा है आपने ।

श्री उपसभापति : अच्छा, आप बैठिये ।

SHRI BHUPESH GUPTA : Repeatedly it has been said that the United Front Government of West Bengal suggested the retention of the detention law and then withdrew. I would like to know on what basis does the Government say or the hon. Minister say that the West Bengal Government's initial advice was in favour of the continuance of the Preventive Detention Act. On what basis ?

SHRI K. C. PANT : Let me give both of them some facts. The UF Government in West Bengal in 1967 found it necessary to invoke the provisions of the then available law and between June and October 1967 over 1300

persons were detained. Of these 751 persons were ordered to be detained by the UF Government for acting in a manner against the maintenance of public order, 333 in the interests of the maintenance of essential supplies and services. Now what is this protest about ? These are facts.

SHRI BHUPESH GUPTA : On a point of order. He may give any version of what happened in West Bengal. He said the West Bengal Government wanted initially the preventive Detention Act to be renewed. Now, Sir, my question is how do they come to this conclusion. On what basis does he say that the West Bengal Government wanted it ? Have they received any communication to that effect from the West Bengal Government ?

3 P. M.

If so, what is the nature of the communication ? Was any Cabinet decision sent to them ? We are also partners of the West Bengal Government, as my friend observed, but to my knowledge the West Bengal Cabinet never took a decision in support of the continuance of the P. D. Act. I question it. Let him rebut my statement by giving proper, relevant and pointed evidence.

SHRI K. C. PANT : I can only hope to give him the information I have, whether he is satisfied or not. I cannot ensure....

SHRI NIREN GHOSH ; On a point of order.

MR. DEPUTY CHAIRMAN : He is re-plying to the point of order of Mr. Bhupesh Gupta.

SHRI NIREN GHOSH : Is he replying to it or are you replying to it ? (*Interruptions*)

SHRI K. C. PANT : The limited point I was making was that when the States are charged with law and order it is the duty of the Centre to go to their help ; that was a limited point. Regardless of the party affiliations of the Governments in the States at that time, most of them—I think I have said all earlier—if my friend is satisfied—later they changed their mind, as I have said. In between they used the measure. (*Interruptions*)

SHRI NIREN GHOSH: I am on a point of order.

SHRI K. C. PANT: I appeal to Mr. Ghosh to leave it here ; let me pass on to the next point.

SHRI NIREN GHOSH: My point of order is this : When we disputed it, on what basis can he say that they asked for continuance of the P. D. Act ? The hon. Minister says that 1,300 persons were detained between 1967 and 1969.

SHRI A. P. CHATTERJEE: Only in 1967.

SHRI NIREN GHOSH : Only in 1967 or whatever it is. The question of the continuance of the P. D. Act came in 1969 only. That P. D. Act might have been used before that. Will the hon. Minister also make it clear—I have said it earlier in my speech—whether out of the 1,300 persons there was a single political person or a person belonging to the Congress party or any anti-social elements ? What is it ? By linking that question to this question he is trying to mislead the House— totally trying to mislead the House. How does it come under that ? This thing has been going on for a pretty long time.

MR. DEPUTY CHAIRMAN : All right ; please sit down.

SHRI NIREN GHOSH : It is time that you pulled him up ; he should make the position clear.

SHRI A. P. CHATTERJEE : Sir, I am raising a question of privilege—with your permission.

MR. DEPUTY CHAIRMAN : Not now ; of course not. You have to give notice and then take permission.

SHRI RAJNARAIN : No, no, no; not that way.

SHRI A. P. CHATTERJEE : Rule 188. . .

SHRI PITAMBER DAS : Sir, since it is a matter of procedure I would like to submit that _____

{Interruptions}

MR. DEPUTY CHAIRMAN: Order please.

I

SHRI A. P. CHATTERJEE: What I am saying is this.

MR. DEPUTY CHAIRMAN : Please sit down now.

SHRI A. P. CHATTERJEE : I am raising this question.

MR. DEPUTY CHAIRMAN : I am not allowing you to raise it.

SHRI A. P. CHATTERJEE : I am raising it.

MR. DEPUTY CHAIRMAN : I am not allowing it.

SHRI A. P. CHATTERJEE : It does not matter very much. You must listen to my question of privilege.

MR. DEPUTY CHAIRMAN: You have already said it.

SHRI A. P. CHATTERJEE : No, no ; I have not said it. Let me state it and then only the question will arise.

My question of privilege is this : The Minister, Mr. K. C. Pant has, yesterday, deliberately misled the House by saying that all the State Governments wanted continuance of the P. D. Act, including the United Front Government of West Bengal. He has again said this today. Ultimately it is admitted from his own statement that the Government of West Bengal did not communicate to him any intention that the PD Act should continue. In spite of that he has been telling this thing yesterday and today. This is deliberately misleading the House. Therefore, I am asking you for consent, so that this question may be raised on the floor of the House immediately.

MR. DEPUTY CHAIRMAN : All right. He has given all the facts and he has given his own interpretation of those facts. His interpretation may be different and your interpretation may be different. He has placed all the facts before you.

SHRI BHUPESH GUPTA: You will kindly listen. I am not raising any privilege issue.

He said—kindly note the words—the West Bengal Government wanted initially the Act to be renewed. The issue was, the question

put to the State Government was : Do you want the renewal of the Act or not ? According to him initially the West Bengal Government said 'Yes', but only demanded what is the proof of it. Was any communication sent by the West Bengal Government to the Centre ? It is a simple question. If there is no such thing in evidence, such a wild statement should not have been made by him, all the more so when I am saying that we were a party to the Government at that time. Now, the question arises in November, 1969. Meanwhile the election in West Bengal had taken place. The United Front Government came into existence. To the best of my knowledge I know that all the United Front parties were committed to the non-renewal of the PD Act. What is there for him to show that the West Bengal Government or anyone thereof made a request of that kind?

SHRI RAJNATHAN : On a point of order...

SHRI K. G. PANT : At this stage I do not want to say anything. I will find out the exact nature of the communication, etc.

SHRI BHUPESH GUPTA : No, Sir, I have great admiration for Mr. Pant's parliamentary ability, but I regret to say....

SHRI K. C. PANT : Will you give me one second ?

SHRI BHUPESH GUPTA : He would not have made this statement _____

SHRI K. C. PANT : To the best of my recollection, there was a letter from Mr. Jyoti Basu, but since you are insisting on the particular letter, date, etc. I am trying to get it. Now, I am trying to get it.

SHRI BHUPESH GUPTA : Who wrote this letter ?

SHRI K. C. PANT : Mr. Jyoti Basu, as far as my memory goes. (*Interruptions*). I will have to consider it. It is a communication from the State Government. We should be careful in this. There are certain conventions on communications between the Centre and the States. We should not create a precedent which is not a good precedent. Even in the heat of the debate one should be careful about this matter.

SHRI BHUPESH GUPTA : You have made a very serious statement that the West Bengal Government has written it. It is for you to give the date of the letter.

SHRI K. C. PANT : It is not as if my friends do not know it. It was discussed. Publicly it came out. There was a debate and so on and so forth. So many times this thing has been gone into. This is not for the first time. Now, Sir, it seems....

SHRI A. P. CHATTERJEE : What about my question of privilege ? It is a solemn question of privilege raised on the floor of the House.

MR. DEPUTY CHAIRMAN : I have already said that Mr. Pant has given the facts. He has put his interpretation. You want to put another interpretation. It is a question of interpretation of facts. So far as the facts are concerned, I do not think he has misled the House. There is one question raised by Mr. Bhupesh Gupta, about a factual information. Mr. Pant said that he would just try to find out what is the factual position.

SHRI ARJUN ARORA : The Minister has obliged Mr. Bhupesh Gupta by mentioning Mr. Jyoti Basu. Mr. Bhupesh Gupta is very happy but Mr. Chatterjee is very sorry.

SHRI BHUPESH GUPTA : My hon. friend, Mr. Arjun Arora, is trying to be humorous.

श्री राजनारायण : श्रीमन्, जरा हम को हिन्दी की कापी दिलवा दीजिये ताकि अंग्रेजी न पढ़नी पड़े। मैं आपसे बहुत ही अदब के साथ अर्ज कर रहा हूँ कि नियमों का शुद्ध भाष्य होना चाहिये। अशुद्ध भाष्य करके इस सदन का समय अनावश्यक ढंग पर नष्ट किया जा रहा है। जो मामला एक मिनट में सुलझ सकता है उस मामले को दो घंटे में सुलझाया जाता है...

(*Interruptions*)

श्री उपसभापति : प्वाइंट आफ आर्डर तो हो गया। आपको क्या कहना है।

श्री राजनारायण : रूल 190 यह कहता है कि किसी भी समय विशेषाधिकार अवहेलना

[श्री राजनारायण]

का प्रश्न प्रस्तुत किया जा सकता है। यह सही है कि श्रीमन् की अनुमति हर प्रश्न पर लागू होती है। मगर आप अनुमति कैसे देंगे। क्या बिहमज्जिकल वे में देंगे या साधु वे में देंगे। इसलिये मैं आपसे निवेदन कर रहा हूँ कि सदन के अन्दर लोगों की मांग हो रही है। और बार बार यह कहना कि हम अनुमति नहीं देते यह साधु परम्परा का निषेध है।

श्री उपसभापति : जो रूल है उनके मुताबिक होना चाहिये।

श्री राजनारायण : रूल की बात मैं पीछे करूँगा। जो असंसदीय परम्परा हो चुकी है, मैं यह कहना चाहता हूँ कि श्री त्रिलोकी सिंह जी जो . . .

(Interruptions)

SHRI SRIMAN PRAFULLA GOSWAMI (Assam) : Can he advise you ? He is advising in the point of order. Have you appointed him as adviser ?

श्री उपसभापति : राजनारायण जी, एक मिनट आपने कहा और आप . . .

श्री राजनारायण : मैं नया प्वाइंट प्रिविलेज का निकाल रहा हूँ आप सुनिये तो सही।

(Interruptions)

श्री उपसभापति : प्रिविलेज का कौन सा इश्यू है। पहले जो प्वाइंट है उस पर बोलिये और उसके बाद प्रिविलेज का इश्यू उठा सकते हैं।

श्री राजनारायण : श्री खोबरागड़े डिप्टी चैयरमैन हैं, वे अपनी भाषा में बोलेंगे और हम अपनी भाषा में बोलेंगे।

SHRI SRIMAN PRAFULLA GOSWAMI : They are misleading the House. They are wasting the time of the House. Privilege motion should be against him.

श्री राजनारायण : मैं यह जानना चाहता हूँ कि सदन में असत्य बोलना और सत्य पर पर्दा डालना, यह . . .

श्री उपसभापति : कौन सा असत्य है, यह बोलिये।

श्री राजनारायण : माननीय मंत्री श्री के० सी० पन्त मामूली आदमी नहीं हैं। श्री गोविन्द बल्लभ पन्त के समय से जो पुरानी चीज चली आ रही है श्री उससे इनको ज्यादा जानकारी हो गई है। कल भी श्री के० सी० पन्त ने कहा कि तमाम राज्यों ने अनुमति दी थी और कल भी उस पर प्रोटेस्ट किया गया। आज फिर श्री के० सी० पन्त जी ने कहा कि तमाम राज्यों ने अनुमति दी। उन्होंने यह भी कहा कि पश्चिम बंगाल ने पहले अनुमति दी, लेकिन बाद में उसको बदल दिया। इस प्रकार वे जान-बूझ कर सदन को गुमराह कर रहे हैं ताकि सदन के तमाम सम्मानित सदस्य और दुनिया यह जाने कि भारतीय गणतंत्र के प्रत्येक राज्य ने प्रिवेंटिव डिटेंशन को कायम रखने की अनुमति दे दी थी। यह बिल्कुल सत्य के विपरीत है। मान लीजिए भूपेश जी . . .

श्री उपसभापति : राजनारायण जी, बैठिये।

श्री राजनारायण : हमतो पश्चिम बंगाल की बात नहीं जानते, लेकिन . . .

(Interruption)

MR. DEPUTY CHAIRMAN : There is no point of order. Sit down, please.

श्री राजनारायण : ऐसा कह कर आप खुद सदन में डिस्टर्बर्ड पैदा कर रहे हैं।

श्री उपसभापति : मैंने कह दिया कि आप बैठिये।

श्री राजनारायण : आप न सुनते हैं और न समझते हैं और केवल कह देते हैं कि बैठिये। काजल की कोठरी में कैसहूँ सवातो जाय . . .

SHRI K. C. PANT : It seems to me that some hon. friends are not really interested in listening to me at this stage. I was doing my best . . .

श्री राजनारायण : मैं जब तक पन्त जी बोलेंगे सदन से बाहर रहूंगा। कम से कम चेयरमैन व्यवस्था देना तो सीखें।

श्री उपसभापति : राजनारायण जी, आप चाहें तो आज पूरा दिन बाहर रहें, वह ज्यादा अच्छा रहेगा।

श्री राजनारायण : यह देखें (*Interruption*)
चेयरमैन खुद कहता है कि राजनारायण जी, आप सदन-त्याग दें तो बड़ा अच्छा है। मैं चाहता हूँ कि यह रेकार्ड हो (*Interruption*)
और उनको कंडम किया जाय (*Interruption*)
चेयरमैन को नहीं चाहिये कि वह इस तरह की बात करें।

(*Interruption*)

श्री उपसभापति : आप को बैठना हो तो बैठें और जाना हो तो जायें।

सरदार रघुवीर सिंह पंजहजारी (पंजाब) :
इनको नेम कर दीजिए। सारा झंझट खत्म हो।

श्री राजनारायण : और इस व्यवस्था के विरोध में मैं इस समय जब तक पन्त जी बोलेंगे तब तक बाहर रहूंगा।

SHRI K. C. PANT : In deference to the wishes and sentiments of the Members of this House, I always make it a point to listen carefully to what they say and try to clarify any doubts that remain. It is only in an effort to do that I was trying to lay the various points and various aspects of this matter before the House.

But, Sir, if some Members do not want to listen to me, then I have no wish to continue to deal with various points that have been raised. I could even sit down at this stage. I have already said that I had to say. It is only in deference to their wishes that I am standing here and I think I owe it to them and to the House to put these things before the House.

Yesterday, some mention was made of the fact that Shri Syed Badrudduja could not

meet Shri Sanyal who went to him as His lawyer. I looked into this and I find that it is true that Shri Sanyal went and he could not meet him.

AN HON. MEMBER : Why ?

SHRI K. C. PANT: We took up this matter and we now understand that this mistake has been corrected and that now Shri Badrudduja has been permitted to avail of legal assistance.

Sir, a reference is made to some Congress Minister, among the persons, being involved in this matter. Now, Sir, Shri Badrudduja and another name were mentioned in the House. There are five other persons arrested. There is nothing communal in this. One of them is, I believe, a Sikh, some are Hindus and some Muslims. There is no communal bias at all in these arrests. That is one point that I want to make very clear. And the second is that no Congress Minister is involved in this. That also I want to make clear.

Now, Sir, there was a question as to why a legal detenu may not be represented by a legal practitioner before a court. The whole point is that the Constitution also lays down the provision in article 22 (1) and (2) that the legal practitioner is allowed before the court. Here it is deliberately not allowed and the reason is that here many secret sources of information are also involved and we do not want to reveal the sources of all those informations.

Sir, I want to touch briefly on perhaps the main point that has been made by some of my hon. friends, and that there is no need for a permanent legislation and that the duration of the proposed legislation should be limited to two or three years. Sir, whether a legislation is permanent or temporary, it does not in any way affect the plenary powers of the Legislature to repeal or modify the legislation at any time.

SHRI BHUPESH GUPTA : How will it . . .

SHRI K. C. PANT : The so-called permanent legislation does not restrict the sovereign powers of Parliament. Parliament can repeal a permanent legislation at any time. A temporary legislation is generally designed to deal with a specific temporary problem. Sir, with the experience in the last 21 years can we say with any degree of

[Shri K. C. Pant]

intellectual honesty that the problems posed by internal and external forces of subversion, espionage and infiltration and the problems posed by the politics of violence and murder will disappear within two or three years ?

SHRI SUNDAR SINGH BHANDARI (Rajasthan) : Why not make a law of treason ?

SHRI K. C. PANT : We are studying it. It is before the Law Commission. God willing, should we and our nation be indeed so fortunate, what would prevent, Sir, the Parliament from repealing the measure ? We have fondly believed during all these years that the dark forces of subversion and violence will be tamed and that special laws would not be necessary more than for a year or two. It is time now to recognise that the battle against these dark forces will not be over in a year or two.

Sir, the law on the subject was first enacted in 1950 and it continued on the Statute Book till 1970. In 20 long years, in the years immediately after independence, the law was found necessary without a break. Tyagiji cannot disown those years just as I cannot disown him even now. And what happened, Sir, when the law lapsed in December 1969? 1970 and the last few months of 1971 witnessed the mass gruesome murders, a spurt in the activities of Naxalites and other extremists unparalleled during the last 22 years. When the Preventive Detention Act lapsed in 1969, who took advantage of the situation ? We should not forget the facts of history so lightly.

Sir, the real argument in favour of a temporary legislation is that it enables Parliament to assess the need for the continuance of the legislation at regular intervals. We are ourselves most anxious that there should be such a regular periodical assessment of the working of the law. We intend to present every year a statistical review of the working of the law. Further, we would also like to assure the House that every two years, and that is Shri Tyagi's period, we will bring forward suitable business to enable Parliament to undertake a review of the working of the legislation. Thus, Parliament will have every opportunity to scrutinise the working of the law. Even annual discussions need not be

ruled out. Any Member can bring forward a motion to discuss the statistical review presented to Parliament. We would ourselves welcome such Parliamentary discussions because we always profit by such discussions. Nor would I rule out the possibility of amending this measure, should such amendment become necessary in the light of further experience of its working and of other circumstances that might come to prevail. Parliament is always sovereign and supreme. When we are considering the ways and means of restoring the unfettered rights of Parliament to amend even the Constitution or parts of the Constitution, why should we be disturbed by the absence of a time limit for this Bill ? If circumstances require, Parliament can always have a second look.

Sir, in considering this measure, it would be useful to take note of the advantages of a uniform Central law on the subject. Shri Shyam Lai Yadav had already referred to some of advantages of a uniform Central law. Without repeating his arguments, I would like to mention two additional aspects. In the first place, in the absence of a Central law, nothing would stand in the way of any State undertakings its own legislation to enable detention of persons without any limits on the maximum duration of such detention. It is only when the maximum duration is prescribed by a law made by Parliament that uniformity in the matter of maximum duration would be possible for the whole of the country. Therefore, if you want to regulate detention, then Parliament passing a law helps to regulate that detention in the States also, not *vice versa*.

SHRI A. D. MANI : That can be modified by the States also.

SHRI K. C. PANT : No. When Parliament passes a law, when that become operative even in the States.

Secondly, in the absence of a law made by Parliament in pursuance of Entry 3 of the Concurrent List, the Central Government will not be in a position to intervene in respect of any matter relating to preventive detention. Clause 14 of the Bill confers on the Central Government the executive power to revoke or modify any order of detention made either

by the State Government or any officer subordinate to the State Government. This is the biggest safeguard, which a Central law alone can provide and which Parliament as well as the Central Government can invoke to correct any mistake if it should occur.

SHRI BHUPESH GUPTA : We have had the experience of the Defence of India Rules.

SHRI K. C. PANT : These are advantages which should not be lightly set aside. Sir, I would like to mention—I mentioned it the other day also—that we have accepted an amendment in the other House which will now oblige the State Governments to send us all the information within 7 days. Therefore, we will be aware of detention by the States ; within 7 days the information will come to us. I am only relating it to clause 14 so that if there is any misuse, the Members of this House can also bring such cases of misuse to our notice. We can look into them. We will have all the facts with us. We will have the power to revoke any case of detention in which misuse is established. So, I am only pointing out that we have that power also.

Sir, this is not a party matter, again I repeat. This is a question relating to the democratic values and to the unity and freedom of the country and its security.

SHRI NIREN GHOSH: No, absolutely not.

SHRI K. C. PANT : My definition of democracy has never agreed with Mr. Niren Ghosh's definition.

SHRI NIREN GHOSH : Of course.

SHRI K. C. PANT : I appeal to each and every Member to rise above partisan considerations and support this measure. Sir, the internal and external dangers threatening the country do not permit one to take an indulgent view of things. The greatest weakness from which all good democrats suffer is an ostrichlike belief that because they believe in certain values of freedom and democracy, they can underestimate the danger to democracy from those to whom democracy is only a dispensable stepping stone for bringing into existence an essentially totalitarian system. Let us not forget the numerous recent instances and also the older instances when democracy was slaughtered

due to the lack of vigilance on the part of its real supporters and also due to the relative ease with which its ostensible supporters, as you saw in the debate, could make use of the democratic rights and procedures to pave the way for dictatorship. Whether the challenge is from without or from within, we shall have to be prepared to fight for the freedom of the country and the democratic values which we hold dear. We can never think in terms of annihilation of our opponents.

SHRI NIREN GHOSH; That is what exactly you want to do.

SHRI K. C. PANT: That is the point that has gone home. We are proud of the tolerance of our system and of the latitude that a democratic State gives even to its enemies. But we are equally confident of the faith of our people in the democratic system. I agree with Shri Goray that it would ultimately be the faith and the courage of the common man and of our people which would isolate the foes of democracy. But I will remind Shri Goray of the strong feelings with which he spoke a few months ago about the danger from Naxalites in this very House, and in another committee meeting. Our faith in democracy and in our people cannot become an excuse for not taking unpleasant action. He himself appreciated it very clearly at that time. When the democratic system is sought to be undermined, we are duty-bound to come to this Parliament to seek necessary legal sanctions with all appropriate safeguards. No doubt, our party has a large majority in the Lok Sabha to-day. But we cannot forget that when the Government badly needed a measure like this, it could not get it passed. Many States which needed a detention measure like this have not been able to get it passed because of their political difficulties. I would appeal to this House that in a matter like this, it would be our national duty to put the measure on the statute book beyond the temporary fluctuations of political fortunes. The Parliament can always modify it from time to time should the circumstances so permit.

So, I would not like to take more time of the House. I am confident that the House would consider carefully the reasons why this Bill has become necessary and proffer its support. There comes a time in the history of a nation when tasks undoubtedly unpleasant

[Shri K. C. Pant] have to be undertaken in the larger interests of the country. This is not a time to give preference to narrow loyalties. This is not a time to permit oneself the luxury of tilting at imaginary windmills when the integrity and security of the country is involved. There can be no justification for evading harder options. While one can concede the scope for a second look at a later stage, when there are no clouds on the horizon, to do anything that would seem to detract from the will and determination to stand united against all possible threats and all possible contingencies at this juncture would do incalculable harm to the interests of the country.

Sir, I wish to reassure once again that the powers made available by this Bill would be used with care. I may assure Shri Nawal Kishore that it would not be used against legitimate political activity or political dissent. It is certainly not our policy that persons who ought to be prosecuted for substantive offences under law should be facilely detained. At the same time, it would be grave folly to deny at this juncture the need and justification for preventive action in the interests of the country. It would be even worse to allow partisan political compulsions to outweigh what are undeniably the interests of the nation as a whole. And worst of all would be the attempt to plead in the name of democracy the cause of the very forces that seek to destroy democracy. Sir, I am sure Members of this august House would weigh this matter in a cool and reasoned manner and give their support to this Bill.

MR. DEPUTY CHAIRMAN : I am now putting to vote the motion moved by Mr. Niren Ghosh.

The question is :

"That the Bill to provide for detention cases for the purpose of maintenance of internal security and matters connected therewith, as passed by the Lok Sabha, be referred to a Select Committee of the Rajya Sabha consisting of ten Members, namely :

1. Shri Bhupesh Gupta
2. Dr. Z. A. Ahmad
3. Shri Balachandra Menon
4. Shri S. G. Sardesai

5. Shri N. K. Krishnan
6. Shri M. P. Venkataraman
7. Shri Niren Ghosh
8. Shri A. P. Chatterjee
9. Shri Sasankasekhar Sanyal
10. Shri K. P. Subramania Menon

with instructions to report by the last day of the first week of the Seventyseventh Session of the Rajya Sabha."

The House divided.

MR. DEPUTY CHAIRMAN : Ayes—69;
Noes—108.

AYES—69

Ahmad, Dr. Z. A. Alva, Dr. K. Nagappa
Angre, Shri S. C. Appan, Shri G. A.
Barbora, Shri Golap Basu, Shri Chitta
Bhadram, Shri M. V. Bhagwat Dayal,
Shri Bhandari, Shri Sundar Singh
Bindumati Devi, Shrimati Brar, Sardar
Narindar Singh Chatterjee, Shri A. P.
Chaudhary, Shri Ganeshi Lai Choudhury,
Shri Suhrid Mullick Deo, Shri Bira
Kesari Deosharan, Shri Vijay Bhushan
Doogar, Shri R. S. Ganguly, Shri Shalil
Kumar Ghosh, Shri Niren Gupta, Shri
Balkrishna Gupta, Shri Bhupesh Kaul,
Shri B. K. Krishnan, Shri N. K.
Kumaran, Shri S. Mahanti, Shri B. K.
Mallikarjunudu, Shri K. P. Mandal, Shri
B. N. Mathur, Shri Jagdish Prasad
Menon, Shri K. P. Subramania

Misra, Shri Lokanath
 Misra, Shri S. D.
 Mohammad, Cha Idhary A.
 Muniswamy, Shri N. R.
 Murthy, Shri B. P. Nagaraja
 Nair, Shri G. Gopinathan
 Narayanappa, Shri Sanda
 Nawal Kishore, Shri
 Panda, Shri K. C.
 Pande, Shri C. D.
 Patel, Shri Dahyabhai V.
 Patel, Shri Devdatt Kumar Kikabhai
 Patel, Shri Sundar Mani
 Pattanayak, Shri B C.
 Pitamber Das, Shri
 Prasad, Shri Bhola
 Prem Manohar Shri
 Pushpaben Janardanrai Mehta, Shrimati
 Rajnarain, Shri
 Reddy, Shri N. Sri Rama
 Reddy, Shri J. C. Nagi
 Roy, Shri Kalyan
 Roy, Shri Monoranjan
 Ruthnaswamy, Shri M.
 Sahai, Shri Ram
 Sanyal, Shri Sasankajekhar
 Shanta Vasisht, Kuraari
 Shejwalkar, Shri N. K.
 Sherkhan, Shri
 Singh, Raja Shanka Pratap
 Singh, Shri T. N.
 Suraj Prasad, Shri
 Tohra, Sardar Gurcharan Singh
 Tripathi, Shri H. V.
 Tyagi, Shri Mahavir
 Varma, Shri Man Singh
 Varma, Shri Niranjana
 Vasavada, Shri S. R.
 Venkataraman, Shri M. R.
 Villalana, Shri ThiJlai

NOES—108

Ahmad, Shri Syed Alva, Shri
 Joachim Amla, Shri Tirath
 Ram

Anandam, Shri M,
 Ansari, Shri Abdul Qaiyum
 Ansari, Shri Hayatullah
 Arora, Shri Arjun
 Arya, Shri Kumbha Ram
 Bachchan, Dr. H. R.
 Baharul Islam, Shri
 Bhatt, Shri Nand Kishore
 Chandra Shekhar, Shri
 Chatopadhyaya, Dr. Debiprasad
 Ghaudhary, Shri N. P.
 Das, Shri Balram
 Das, Shri Bipinpal
 Dass, Shri Mahabir
 Desai, Shri Suresh J.
 Dikshit, Shri Umashankar
 Gadgil, Shri Vithal Narhar
 Gautam, Shri Mohan Lai
 Goswami, Shri Sriman Prafulla
 Gujral, Shri I. K.
 Hasan, Prof. Saiyid Nurul
 Iyer, Shri N. Ramakrisbna
 Jain, Shri Dharam Chand
 Jaipuria, Shri Sitaram
 Jairamdas Daulatram, Shri
 Joshi, Shri Umashanker
 Kalyan Chand, Shri
 Kaul, Shri M. N.
 Kemparaj, Shri B. T.
 Khaitan, Shri R. P.
 Khan, Shri Akbar AH
 Khan, Prof. Rashecduddin
 Kollur, Shri M. L.
 Krishan Kant, Shri
 Kulkarni, Shri A. G.
 Kulkarni, Shri B. T.
 Madani, Shri M. Asad
 Mahida, Shri U. N.
 Mangladevi Talwar, Dr. (Mrs.)
 Mani, Shri A. D.
 Maragatham Chandrasekhar, Shrimati
 Mehta, Shri Om
 Mishra, Shri L. N.
 Mitra, Shri P. C.
 Mohamod Usman, Shri
 Mohideen, Shri S. A. Khaja

Mukherjee, Shri Pranab Kumar
 Musafir, Shri Gurmukh Singh
 Nagpure, Shri V. T.
 Nandini Satpathy, Shrimati
 Narayan, Shri M. D.
 Narayani Devi Manaklal Varma Shrimati
 Neki Ram, Shri
 Panda, Shri Brahmananda
 Panjhazari, Sardar Raghbir Singh
 Parthasarathy, Shri R. T.
 Patil, Shri G. R.
 Patil, Shri P. S.
 Poddar, Shri R. K.
 Pratibha Singh, Shrimati
 Punnaiah, Shri Kota
 Purabi Mukhopadhyay, Shrimati
 Purakayastha, Shri Mahitosh
 Raju, Shri V. B.
 Ramaswamy, Shri K. S.
 Reddy, Shri K. V. Raghunatha
 Reddy, Shri M. Srinivasa
 Reddy, Shri Mulka Govinda
 Roshan Lai, Shri
 Saha, Shri Surajmal
 Salig Ram, Dr.
 Samuel, Shri M. H.
 Sangma, Shri E. M.
 Sarojini Krishnarao Babar, Dr. Kumari
 Savnekar, Shri B. S.
 Schamnad, Shri Hamid Ali
 Sen, Dr. Triguna
 Shah, Shri Manubhai
 Shervani, Shri M. R.
 Shukia, Shri Chakrapani
 Shyamkumari Devi, Shrimati
 Singh, Shri Bhupinder
 Singh, Shri Bindeshwari Prasad Singh
 Singh, Shri Dalpat
 Singh, Shri Dilkishore Prasad Singh
 Singh, Shri Jogendra
 Singh, Shri Shiv Swaroop
 Singh, Shri Sultan
 Singh, Shri Triloki
 Sinha, Shri Awadheshwar Prasad
 Sinha, Shri Rajendra Pratap

Sisodia, Shri Swaisingh Sukhdev
 Prasad, Shri Sur, Shri M. M. Tilak,
 Shri J. S. Tiwary, Pt. Bhawaniprasad
 Untoo, Shri Gulam Nabi Usha
 Barthakur, Shrimati Venigalla
 Satyanarayana, Shri Vero, Shri M.
 Vidyawati Chaturvedi, Shrimati Vimal
 Punjab Deshmukh, Shrimati Yadav, Shri
 Shyam Lai Yajee, Shri Sheel Bhadra
 Yashoda Reddy, Shrimati *The motion was
 negated.*

SOME HON. MEMBERS : Shame, shame.

SHRI BHUPESH GUPTA: I want to say that it is clear that the Government does not have the majority of the Members behind it in this House—only 110 out of 240 Members. It is therefore, clear that in regard to a matter affecting Fundamental Rights, they do not have positive votes on their side. Therefore, we are at least correct in saying that Rajya Sabha majority does not support this measure.

MR. DEPUTY CHAIRMAN : Now I will put the main motion. The question is :

"That the Bill to provide for detention in certain cases for the purposes of maintenance of internal security and 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. There are two amendments to Clause 2.

Clause 2—Definitions SHRI

BHUPESH GUPTA : Sir, I move:

"That at page 1, for lines 8 to 13, the following be substituted, namely :

(a) 'appropriate Government means the Prime Minister in the case of the Central

Government and the Chief Minister in the case of a State Government.';"

SHRI K. P. SUBRAMANIA MENON: Sir, I move :

"That at page 1, lines 11-12, the words 'or by an officer subordinate to a State Government' be deleted." *The questions were proposed.*

MR. DEPUTY CHAIRMAN: Kindly make brief observations because I have to put your amendments to the vote of the House.

SHRI BHUPESH GUPTA: Does not matter. Government should be ashamed because after the elections, they did not pass the Constitution (Amendment) Bill and they did not pass any other measure. Now they are seeking to pass this Bill when they did not have, even now after the mobilisation of the Congress Party, including the BKD support, a majority. That really shows how the Government is behaving in this matter. I think it is important that the country should note the fact that the preventive detention law is being passed in the Rajya Sabha when at least the Congress is not in a position to show a majority of the votes in this House. Never it happened in the case of P. D. Act. I have been here for the last 20 years. I have never seen the P. D. Act being passed in this manner. I do not know whether Pandit Jawaharlal Nehru would have accepted this decision based on the minority of the votes of this House. Sir, I say this thing, because this fact should be really kept in mind. Now, Sir, my amendment is simply this that the Bill should not extend to the whole of the country. Sir, I can tell you that we are making these amendments to register our protest and opposition on every point, against every single clause. Even if all the amendments are accepted, I shall still vote against it and there is no question of compromise on this. I want to make these amendments and I hope my other friends will do so only to expose the evil intentions, the *malapdes*, of Government.

Sir, they say that the Bill is needed for the border region, for the refugee problem, etc. Why then do you want to extend it to the whole of the country? Is there any border problem in Kanya kumari? Is there any refugee problem in Kerala? Is there any refugee problem in Andhra Pradesh? It is on

the border? Therefore, Sir, this is only a kind of contrivance to win some points and to mislead the public. Now, Sir, as he has spoken, it is very clear that they want this Bill for political purposes and they want this Bill in order to arm the bureaucracy of the Central Government, sometimes even to override the States and to force the State Governments to implement this measure.

Sir, I say this thing on another ground also. The hon. Minister, you would have noticed, repeatedly said that some of the States may not be in a position to pass this law and hence they are helping them. What does it mean? It means that even when the States would not like to apply the PD Act or pass such a measure, the Central Government, having been armed with this measure, would be in a position to tell the States to implement this measure. If the States refuse to implement this measure, they would be in position, under our Constitution, under Article 256, to give directions to the States to implement it. If the States refuse to carry out the directions, the direction of implementing this measure or of detaining a trade union worker or a peasant worker or a student worker or a political opponent, the Central Government places itself under the authority of this law in a position when it can even introduce President's Rule in the States and take over the administration of the States on the ground that there has been a break-down of the Constitution. Sir, this sinister motive should be kept in view. It is not with a view to helping the State. In fact, it is a violation of the autonomy of the States. Suppose a State does not want the PD Act; suppose a State does not pass this measure. What gives you the authority and the right to pass a measure of this kind and compel the State to fall in line with you and use such preventive measures?

Sir, I say, this is a serious matter. On the one hand we are discussing the question of wider powers for the States and on the other hand, we have measures which clearly and admittedly are intended to cripple the powers of the State. On the one hand, we hear the Prime Minister telling that we should have a practical approach with regard to the Centre State relations questions; on the other hand, we find the Minister of her Department telling us that we should have this power in Parlia-

[Shri Bhupesh Gupta]

ment so that even when the States do not pass such measures, we shall step in with the authority of this law. Therefore, Sir, I demand that my amendment be considered. Again, Sir, I have said in my amendment that it shall not extend beyond ten miles beyond the border. Why should it be? The hon. Minister was trying to make out as if the measure is brought forward in order to deal with the refugee influx. It is utter nonsense. I know they are going to use it against the political opponents; I know they are going to use it against the trade union, movement; I know they are going to use it against the peasant movement and the peasant struggle and the other things. What is our experience of the DIR for six years? It was passed in this House and the other House in order to help the Government, as they said, to fight or defend the country against foreign aggression. What happened? We found, some workers were arrested in Howrah under the PD Act. We found that political leaders and workers and many non-Congress men were arrested, even though they were wholly with the Government in the matter of national defence, at the time of the aggression that took place. We found that Dr. Ram Manohar Lohia and others were arrested.

Therefore, Sir, this is a sinister conspiracy on the part of the Government. It is a matter of shame.

Sir, the P. D. Act was never passed for more than three years. They renewed it, but they never made it permanent. Shri Jawaharlal Nehru never did it. Even Sardar Vallabh Bhai Patel did not want the P. D. Act to be put on the statute book for more than three years. Here we have this Government which is putting it on the same footing as the Indian Penal Code, as a permanent, the blackest, sinister law, to disgrace the Parliamentary history and also to disgrace the State policy of our country. He says that the Parliament can annul anything. That we know. That was the position also in 1952 when the Parliament first adopted the P. D. Act. Mr. Jawaharlal Nehru did not come and tell us at that time that let us make it permanent. On the contrary he gave an assurance that the life of the P. D. Act would not be more than three years, although was to be renewed time and again.

Now, Sir, I have brought this amendment only to expose this Government. This Government believes in double talk. This Government believes in double book-keeping. When it was in trouble, it did not hesitate to do anything. But when it has got majority in the Lok Sabha.... (*Interruptions*). Is it not political corruption you are indulging in with the help of the defectors?

(*Interruptions*)

MR. DEPUTY CHAIRMAN : Please conclude now.

SHRI BHUPESH GUPTA : You are passing this measure with the help of some members from this side—Cong(O)... (*Interruptions*) Here, you see, Sir, the defection is from Cong (O)...

(*Interruptions*)

MR. DEPUTY CHAIRMAN : Please conclude now.

SHRI BHUPESH GUPTA : Mr. Manu-bhai Shah has not been taken for the purpose of amending the Constitution, to abolish the privy purses of the Princes. He has been taken there to use his vote so that such measures could be passed. Shame on the Government! Defection is being used by Shrimati Indira Gandhi and the Government to pass such measures in opposition to us who in the critical days stood by the Government and helped it.

(*Interruptions*)

Now, I will come to the other amendment...

MR. DEPUTY CHAIRMAN : There is one amendment in your name. Mr. Menon.

SHRI K. P. SUBRAMANIA MENON : Mr. Deputy Chairman, Sir, the idea of my amendment is to prevent subordinate officers from issuing any order under this Act. As you know, Sir, if the State Government or the Central Government happens or wants to detain anybody under this Act then the State Government or the Central Government themselves should issue the order, and not the District Magistrate or the Additional District Magistrate or Commissioner of Police, because even if these officers issue the orders it is understood that this is on the instructions of

the State Government. But very often some of the State Governments get away from the responsibility for such orders and they put the responsibility on the subordinate officers. So, in order to prevent such thing, and if the Government is honest enough to arrest somebody, then they must themselves issue the order. Therefore, I am moving this amendment so that there is no chance of the misuse of this power. I am moving this amendment in order to alleviate the grievances under the Act, and also to prevent misuse, as far as possible, of the order. Therefore I hope that the Government will accept this amendment.

SHRI K. C. PANT : As for misuse there are other provisions. And this particular provision or a similar provision has been in the P. D. Act since 1950. Because the District Officers are directly in charge of law and order and administration in the districts, therefore they have been vested with these powers. Sir, the speech of Shri Bhupesh Gupta left me a little confused. He spoke on an amendment to Clause I, and we are considering Clause 2. He did not speak on his amendment to Clause 2 but I will answer him. He has given an amendment which says that only the Chief Minister or the Prime Minister should be regarded as the appropriate Government. This is obviously not feasible; it is not feasible that the entire machinery should not function and only the Prime Minister and the Chief Ministers should function in this matter. This is not a practical proposition.

MR. DEPUTY CHAIRMAN : The question is :

11. "That at page 1, for lines 8 to 13, the following be substituted, namely :

'(a) 'appropriate Government' means the Prime Minister in the case of the Central Government and the Chief Minister in the case of a State Government'."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

12. "That at page 1, lines 11-12, the words 'or by an officer subordinate to a State Government' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That Clause 2 stand part of the Bill." *The motion was adopted.*

Clause 2 was added to the Bill.

Clause 3—Power to make order detaining certain persons

SHRI BHUPESH GUPTA : Sir, I move :

13. "That at page 2, line 1, for the words 'The Central Government or the State Government may',—the words 'the Prime Minister or the Chief Minister',—be substituted."

17. "That at page 2, line 2, for the brackets and words '(including a foreigner)' the brackets and words '(including a person who is not a citizen of India)' be substituted."

21. "That at page 2, line 6, the words 'or the security of India' be deleted."

23. "That at page 2, lines 7 to 10 be deleted."

30. "That at page 2, for lines 21-22, the following be substituted, namely :

'may, if satisfied, report to be the Prime Minister or the Chief Minister, as the case may be'."

31. "That at page 2, for lines 23 to 29, the following be substituted namely :

'(3) When any report is made under this section, the Prime Minister or the Chief Minister may, on the basis of such report, order an investigation into the allegations by a committee of the two Houses of Parliament or the State Legislature, as the case may be, with a view to ascertaining whether any action is called for and if the findings of the committee favour the detention of the person concerned, order his detention but only for reasons of the security of India'."

SHRI LAL K. ADVANI (Delhi) : Sir, I move :

14. "That at page 2, for lines 1 to 13, the following be substituted, namely :

'3. The Central Government or the State Government may, if satisfied with respect to any foreigner that with a view to—

[Shri Lai K Advani]

(a) preventing him from acting in any manner prejudicial to —

(i) the defence of India, the relations of India with foreign powers, or the security of India, or

(ii) the security of the State or the maintenance of public order, or

(iii) the maintenance of supplies and services essential to the community, or

(b) regulating his continued presence in India or with a view to making arrangements for his expulsion from India."

SHRI K. P. SUBRAMANIA MENON : Sir, I move :

16. "That at page 2, line 2, after the word 'satisfied' the words 'on the basis of facts available to the Central or State Governments' be inserted".

18. "That at page 2, lines 5-6, the words 'the relations of India with foreign powers' be deleted".

27. "That at page 2, lines 16 to 22, be deleted."

SHRI M. V. BHADRAM (Andhra Pradesh): Sir, I move :

19. "That at page 2,—

(i) for lines 5 to 10, the following be substituted, namely :

'(i) the defence of India or the security of India, or

(ii) the security of the State, or.'

(ii) for lines 16 to 34, the following be substituted namely :

'(2) The Government may, if satisfied as provided in sub-section (1) exercise the power conferred by the said sub-section.' and

(iii) in line 35, the words 'or approved' be deleted."

29. "That at page 2, for lines 16 to 22, the following be substituted, namely :

'(2) The Central Government or the State Government may, is satisfied as provided I

in sub-section (1), exercise the power conferred by the said sub-section in consultation with the leaders of the opposition parties in Parliament or the State Legislature concerned as the case may be'."

32. "That at page 2, line 28, for the words 'twelve days' the words 'five days' be substituted".

SHRI SALIL KUMAR GANGULI (West Bengal) : Sir, I move :

15. "That at page 2, line 2, after the words 'if satisfied' the words 'on reasonable grounds' be inserted."

SHRI CHITTA BASU (West Bengal) : Sir, I move :

20. "That at page 2,—

(i) lines 7-8, the words 'or the maintenance of public order' be deleted ;

(ii) for lines 17 to 19, the following be substituted, namely :

'Chief Secretary and Home Secretary'."

SHRI JAGDISH PRASAD MATHUR : Sir, I move :

24. "That at page 2, lines 9 and 10 be deleted."

33. "That at page 3, after line 2, the following provisos be inserted ; namely :

'Provided that no action under this Act shall be taken against any political worker or Trade Union worker who is a member of a recognised political party unless the party or the Union of which he is a member is declared illegal only on the ground that his acts or omissions are mainly directed against the Government or the ruling party :

Provided further that the Central Government and the State Governments shall see that operation of the provisions of this Act does not result in hampering genuine political and Trade Union activities'."

SHRI SHYAM LAL YADAV (Uttar Pradesh) : Sir, I move :

102. "That at page 2, lines 18 and 19 be deleted."

SHRI LAL K. ADVANI: Sir, I move :

22. "That at page 2, lines 7-8, the words 'or the maintenance of public order' be deleted."

28. "That at page 2, for lines 17 to 20, the following be substituted, namely : '(a) Chief Secretary, (b) Home Secretary,'"

SHRI GANESHI LAL CHOUDHARY : Sir, I move :

25. "That at page 2, after line 10, the following be inserted, namely :

'(iv) the abolition of untouchability, or'."

The questions were proposed.

SHRI LAL K. ADVANI : Sir, Government has taken the stand that this particular legislation has been re-pierced mainly because of the Bangla Desh situation and the stress has been that so many foreigners have been coming in for purposes not conducive to national interests and it is in order to restrain them that this statute is being invoked. Sir, I pointed out yesterday that we already have laws which can be invoked to advantage by the Government if it wants to. The Foreigners Act is one of them and I have pointed out that under the Foreigners Act the Government has the authority to imprison or detain any foreigner who does not act in a manner required by the Government.

I was expecting the Minister to reply to this point. He has yet to reply. I think that when I move this amendment No. 14 which, if it is really necessary to regulate the movement of foreigners, it should suffice. Actually the Government would have done better if, instead of bringing this Preventive Detention Act, they had made an amendment in the Foreigners' Act, if they deemed it necessary, in order to see that the foreigners can be detained or imprisoned if they acted in a way prejudicial to national security. Since they have not done so, I have sought to substitute the present sub-clause (1) of clause 3 by the following sub-clause :

"The Central Government or the State Government may, if satisfied with respect to any foreigner that with a view to,—

(a) preventing him from acting in any manner prejudicial to :

(i) the defence of India, the relations of India with foreign powers, or the security of India or

(ii) the security of the State or the maintenance of public order, or

(iii) the maintenance of supplies and services essential to the community, or (b) regulating his continued presence in India or with a view to making arrangements for his expulsion from India." I think the purpose of the Act would be completely served if this amendment is accepted. I would like the Minister to give a clarification as to why the Foreigners' Act has not been amended for this purpose. Why should the amendment not be made in the Foreigners' Act, if it is necessary ?

Sir, I think, all the specific phrases used in sub-clause (1) of clause 3, if they are to be used for the Indian nationals, then the possibility of the executive misusing them is very great. Therefore, I would like that sub-clause (1) of clause 3 be confined only to the defence of India or the security of India. If for that purpose this sort of statute is necessary, I may be willing to agree with it, but not if it is with respect to the relations of India with foreign powers, or the maintenance of public order or the maintenance of supplies and services essential to the community. I think, if this is to remain, then when I criticise China, when I criticise Pakistan, I am likely to be hauled up for a day. Because, after all, China and Pakistan both are technically friendly countries or countries with whom the moment I criticise them I am likely to be hauled up. In fact, I would say that yesterday in this House, many members made very angry and bitter speeches against the United States. Of course, some of our friends show considerable passion when the question of the United States comes up, but when it is the question of Russia or Soviet countries, Mr. Bhupesh Gupta flares up. Well, that is another matter. But if this phrase is to remain, then the speeches like those made yesterday in this House if made outside the House, the speakers are likely to be hauled up under the Preventive Detention Law. Therefore, I am in favour of deletion of this clause except those pertaining to the defence of India or the security of India.

4 p. m.

SHRI SALIL KUMAR GANGULY: Sir, I want to speak on my amendment No. 15. Since this Bill is going to be passed I want the words "on reasonable grounds" to be added. Otherwise, it would be subject to the satisfaction of the executive. So, to put some safeguards against executive highhandedness, I want this amendment to be made. The Central Government or the State Government may, on reasonable grounds, detain a person. I do not think there will be any objection to the inclusion of the words "on reasonable grounds". I do not think the House will oppose it.

SHRI K. P. SUBRAMANIA MENON : I would like to speak on amendments Nos. 16, 18 and 27. My amendment No. 16 is that after the word "satisfied" the words "on the basis of facts available to the Central or State Governments" be added. The idea is that it should not be based purely on their subjective satisfaction. It should be based on facts. Very often the misuse of these Acts is based on the subjective understanding of the person concerned or his personal idiosyncracies. In order to prevent that, satisfaction based on facts should be the criterion for taking any action under this Bill. Therefore, I am moving this.

Then, I come to amendment No. 18. As you know, nowadays, foreign policy is not a hush-hush business within the chanceries of foreign countries or the Governments of different States. It is a public affair in which the public are interested. The public are mobilised by different political parties in favour of a foreign power or against it. Therefore, it is necessary that this particular action of mobilising against any particular foreign power or any criticism, etc. should not be an occasion for it to be used against such people. As you know, recently in the American press a lot of material has come out which has damaged the image of the USA in a number of countries and a number of countries, in turn, have protested to the USA for having been misled by them. Now, if this kind of Act was there in the USA, perhaps all those persons would have been prosecuted for that. The relation of India with foreign powers is not a matter to be decided by the Government alone. The public in this country, political

parties and political workers have got a say and they have got a right to influence Government's foreign policy. This involves criticism of the Government as well as criticism of foreign powers and that, therefore, should not be made an offence under any circumstances. In another one, the intention is the same, as I said, earlier, to preclude subordinate officers from exercising any power under this Act.

SHRI M. V. BHADRAM: Mr. Deputy Chairman, in clause 3, sub-clause (1) (a) (i) says the relations of India with foreign powers. It means all the CPI members, CPM members.

SHRI SALIL KUMAR GANGULY : Only CPM.

SHRI M. V. BHADRAM : If anybody says it includes Shri Arjun Arora, if he takes up any anti-American or anti-imperialist attitude he is going to be detained along with us.

SHRI ARJUN ARORA : In that case I will get some rest.

SHRI M. V. BHADRAM : Secondly, maintenance of public order. Not only that, the Bangla Desh issue is there. Our Muslim League friends must beware that they will be the first people who will be booked and put in jail if they speak against Bangla Desh. Similarly in keeping with our traditions if we exhibit anti-imperialist slogans or demonstrate against America or Britain, naturally we will be covered by this Act. About maintenance of public order, during the recent elections the Indian mass has woken up to such an extent that it will not sleep again. Naturally the assurances the promises, the pledges that were given to the Indian people, "*garibi hatao*", all have to be fulfilled. That "*garibi*" has woken up and will not keep quiet till these assurances are implemented. The Prime Minister is sure that she is not going to implement them in the near future. So this is to suppress, attack those people who have woken up during the election; she wants to suppress those people.

Thirdly, maintenance of supplies and services essential to the community. If the railway worker wants more wages or better service conditions and if we do not give him and if he goes on strike, he is covered under this thing. If a coalmine worker wants better wages, he is al

held up. The motor transport worker is also held up. Similarly all the working class struggle will come under this Act. In addition to the Essential Service Maintenance Act which is already in existence this is one more Act. Similarly, the peasant who supplies sugarcane to the factory, if he does not get proper price for his cane and if he refuses to supply cane to the factory, he is also covered. So, it means against the working class movement, against the peasant movement this Act is going to be applied. Yesterday Mr. Pant was saying, "do not speak from your experience". That is what he was saying to Dr. Ahmad. What else can he speak from? I may tell him one simple fact. In 1962 under the P. D. Act I was one of those arrested as being pro-Chinese. They knew me very well, but I was a prisoner in the hands of the police and the bureaucracy, and they released me after three months. Now he says the power is given to review. Every order that is passed by the subordinate officers or the State Government comes to us within seven days and it is reviewed. What is the material he has with him? The material is supplied by the police. What else will be the material? Therefore, Pant will be a prisoner in the hands of the police and the bureaucracy whom he cannot override; he has to go by what the record says. Therefore my amendment says, "Defence of India or the security of India or the security of the State." The other things should be deleted. It should be confined only to the security and defence of India, and the security of the State.

About my amendment No. 29, suppose I quarrel with the District Magistrate or the Police Superintendent, they will write all sorts of nonsense against me. That was what happened to me in 1961. Therefore, there is no force in what the Minister says. The Police Commissioners in Hyderabad or Calcutta or Bombay, even they are entitled to detain anybody. We are going towards semifascism. So the police are empowered with all powers. There are Sections 161, 107 and 112 of the Criminal Procedure Code. And without any trial you can keep them in jail. Therefore, I commend to the House to accept my amendment.

SHRI CHITTA BASU : Sir, my amendment is No. 20. The very title of the Bill says 'The Maintenance of Internal Security Bill,

1971.' And the Government of India, I think is very much concerned about, and primarily concerned about, the security and defence of this country. And on this score I have got nothing to quarrel about with the Government. Rather, we would strengthen any measure if the Government seriously wishes to take such a measure. But what about this thing? "...the relations of India with foreign powers," You want to strengthen your internal security. But you meddle in foreign relations. I do not know why. Foreign relation is a different field, it is a different subject about which my predecessors, many of them, have described. Sir, I think that Mr. Sheel Bhadra Yajee is very much for quitting from the Commonwealth. Now the United Kingdom is a friendly country. But if you say something against the United Kingdom and agitate all over the country about quitting from the Commonwealth of Nations...

श्री शीलभद्र याजी : बात यह है कि ...

श्री उपसभापति : याजी जी, इंटरप्ट न करिये, स्मूथली चलने दीजिए।

श्री शीलभद्र याजी : जब चाइना के साथ, पाकिस्तान के साथ या ब्रिटेन के साथ लड़ाई होगी और आप उनके साथ हो जायेंगे, आप उनके एजेंट होंगे, तब आपको पकड़ कर रख देंगे।

SHRI CHITTA BASU : I cannot understand what he says. The trouble is this. Now even a legitimate movement on the basis of a national demand can be brought under the mischief of this Act.

SHRI SHEEL BHADRA YAJEE : You are wrong.

SHRI CHITTA BASU : I do not know how I can be wrong. Sir, the wording of the Bill is sufficiently clear. Therefore, if you build up a movement, an agitation, on the basis of a national demand, you are likely to be hauled up by this provision of the Bill. Sir, yesterday I made it very clear that the intention of the Government is not to strengthen the defence and security of the country, it is to crush the democratic movement of this country. Had it not been so, then the question of the Mainten-

[Shri Chitta Basu]

ance of Public Order Act might not have at aU been brought in ; the question of law about the maintenance of supplies of essential commodities might not have been at all brought in. It might have been wholly restricted to the defence and security of the country.

As has been pointed out by many, we have got separate Acts. We have also the Essential Services Maintenance Act. These have been in vogue in almost all the cases where the Government wants to break the strike of the striking people. It has been there in UP, it has been resorted to in M aharashtra, it has been done in West Bengal and in almost all the States. If the Government wants to break a strike, if it wants to punish a striking worker, it invokes the provisions of these Acts. When these Acts were already available with the Government, why unnecessarily the Government includes that provision ? I say the real and only intention of the Government is to curb the democratic movement of our country. The democratic movement of our country is likely to grow in depth and in dimension because the Government has got no radical policy to implement the so-called massive mandate they have received from the people. If they have got massive mandate to be implemented, then there would be other measures like the proposal which they are referring to. Therefore, the real and only intention is to curb the political opponents, to curb the growth and development of the democratic movement of our country. This Bill does not contain that thing.

MR. DEPUTY CHAIRMAN: Please conclude.

SHRI CHITTA BASU : Again, I would like to draw the attention ...

MR. DEPUTY CHAIRMAN : You have to speak on only one amendment.

SHRI CHITTA BASU : I am speaking on clause 3. Now, any of the following officers have been authorised :

- (a) district magistrates,
- (b) additional district magistrates specially empowered in this behalf by the State Government,
- (c) the Commissioner of Police for Bombay, Calcutta, Madras or Hyderabad.

They may, if satisfied as provided in subclauses (ii) and (iii) of clause (a) of sub-section (1), exercise the power. They can detain any person of our country. Sir, I was also a detenu under this kind of preventive detention several times. I still remember the order of detention issued not by the District Magistrate, but the order was issued by the Chief Secretary or the Home Secretary of the State. Not that I am enamoured of the Chief Secretary or the Home Secretary of the State Government. I feel that they are more responsible in the sense that they are to work out the decision of the Cabinet itself. That creates some kind of deterrent effect. Presently a district magistrate, additional district magistrates or the Commissioners of Police can detain, if they are satisfied, any person under the provision of this Act. My amendment says that instead of the district magistrate, additional district magistrate etc., if you at all want to detain, the Chief Secretary or the Home Secretary of the State may be substituted so that there may be some sort of guarantee that this Act cannot be applied indiscriminately by some officer of a lower rank if he is satisfied as provided in sub-section (1).. .

MR. DEPUTY CHAIRMAN : Mr. Mathur.

श्री जगदीश प्रसाद माथुर : मेरे तीन संशोधन हैं, एक तो रिलेशन आफ इंडिया विद फारेन पावर्स । उपसभापति महोदय, अभी जब श्री मनुभाई शाह बोल रहे थे तो उन्होंने रूस का कुछ जिक्र किया कि वहाँ पर भी इस तरह की व्यवस्थाएँ हैं । तो इस पर श्री भूपेश गुप्त को नाराजी हुई । मुझे तो ऐसा लगता है कहीं श्री भूपेश गुप्त की सरकार पावर में आ जाए तो मनुभाई शाह सीधे जेल के अन्दर चले जाएंगे ।

श्री शीलमद्र याजी : आप अपनी पवर्हि कीजिए । हम देश की सुरक्षा के लिए जेल जाने को तैयार हैं ।

श्री जगदीश प्रसाद माथुर : उपसभापति महोदय, हमारे दल को तो इस कानून के पास

हो जाने से बहुत डर है क्योंकि जब कभी भी हमने प्रदर्शन किए हैं तो राष्ट्रीय सुरक्षा और राष्ट्रीय हित की दृष्टि से। जब पाकिस्तान ने हमारे हवाई जहाज को जबरन रोका था तब हमने प्रदर्शन किए, जब पाकिस्तान ने बंगला देश पर आक्रमण किया तब प्रदर्शन किए, रूस ने जब पाकिस्तान को हथियार सप्लाई किए तब प्रदर्शन किये। पाकिस्तान द्वारा हमारे हवाई जहाज को जलाने के बाद हमने उनके विमानों को रोकने की मांग के लिए प्रदर्शन किए, लंका देश ने जब हमारे द्वीप में गतिविधियां शुरू कीं तब भी हमने प्रदर्शन किए। हमारे हिन्दुस्तान की सरकार का तो कोई दुश्मन नहीं है, सारी दुनियां के राष्ट्र उसके दोस्त हैं, वह कैसे किसी का विरोध करेंगे? जहां तक हमारे दल का सम्बन्ध है, जहां कहीं हमारी राष्ट्रीय सुरक्षा का प्रश्न आता है, जहां देश की हानि होती दिखायी देती है, हमने विरोध किया है और करेंगे। तो क्या हमको जेल-खाने में भेज दिया जाएगा? अगर मेंटेन्स आफ इंटरनल सिक्योरिटी के अन्तर्गत हम फारेन कन्ट्रीज के साथ रिलेशंस जोड़ देंगे, तो इसमें अधिकारों का दुरुपयोग होगा। इसीलिए मैंने ये शब्द रखे हैं और जो शब्द धारा में लिखे गये हैं उनकी कोई आवश्यकता नहीं है और मैं आशा करता हूँ कि मंत्री जी मेरे संशोधन को स्वीकार करेंगे।

दूसरा संशोधन यह है कि जो इसमें इसेंशियल सम्बन्धी बात रखी गई है, वह समझ में नहीं आती है क्योंकि आज जीवन का हर विभाग के साथ सम्बन्ध रहता है और किस सर्विस को इसेंशियल कहा जाय, यह कोई नहीं कह सकता है। अगर सरकारी कर्मचारी हड़ताल करते हैं तो उनकी सर्विस को इसेंशियल घोषित कर दिया जाता है। अगर सरकार आज यह बतला दे कि अमुक अमुक सेवाएं इसेंशियल होंगी फिर तो यह बात मानी जा सकती है। अगर किसी सेवा हड़ताल का नोटिस दिया और हड़ताल कर दी तो सरकार तुरन्त घोषणा कर देती है कि यह सर्विस इसेंशियल है और उसके बाद घर पकड़ शुरू हो जाती है। सरकार को

इस सम्बन्ध में पहिले से ही कोई लिस्ट बना लेनी चाहिये कि फलां फलां सर्विस इसेंशियल मानी जायेगी। अगर वह इस तरह की कोई बात करती है तो यह चीज समझ में आ सकती है। अगर भंगी कल हड़ताल कर देते हैं और सरकार उसको इसेंशियल सेवा घोषित कर देती है और कहती है कि इससे तो हैजा फैलने का डर पैदा हो गया है, म्युनिसिपल भंगियों की जो सर्विस है वह तो इसेंशियल है। अगर भंगी 10 बजे हड़ताल करते हैं तो उनकी सर्विस को इसेंशियल घोषित कर दिया जाता है और 11 बजे उनके आदमियों की घर पकड़ शुरू हो जाती है। तो यह जो बात है वह उचित नहीं है और सरकार को इसेंशियल सर्विस के बारे में पहिले से ही लिस्ट बना लेनी चाहिये।

तीसरा जो मेरा संशोधन है वह इस प्रकार से है :

"Provided that no action under this Act shall be taken against any political worker or Trade Union worker who is a member of a recognised political party unless the party or the Union of which he is a member is declared illegal only on the ground that his acts or omissions are mainly directed against the Government or the ruling party :

Provided further that the Central Government and the State Government shall see that operation of the provisions of this Act does not result in hampering genuine political and Trade Union activities.

श्रीमन्, मुझे डर है कि इस विधेयक के पास हो जाने के बाद सरकार जो भी मर्जी में आये काम करेगी। मैं आपको इस सम्बन्ध में उदाहरण देना चाहता हूँ। 1962 में जब चीन ने हिन्दुस्तान के ऊपर आक्रमण किया था तो भारतीय जनसंघ के चौटी से लेकर नीचे तक जितने भी कार्यकर्ता थे वे सरकार की मदद में लग गये थे। लेकिन हमारे अजमेर के जनसंघ के मंत्री चूँकि उनका वहाँ के कलेक्टर के साथ झगड़ा था, कलेक्टर म्युनिसिपल

[श्री जगदीश प्रसाद माथुर]

एडमिनिस्ट्रेटर भी थे तो उन्होंने अपनी दुश्मनी निकालने के लिए उन्हें उस समय डिफेंस आफ इण्डिया ऐक्ट के मातहत गिरफ्तार कर लिया था। क्योंकि कलेक्टर को यह ताकत थी कि वह किसी भी आदमी को इस ऐक्ट के मातहत गिरफ्तार कर सकता है। आपने इस सम्बन्ध में डिस्ट्रिक्ट मैजिस्ट्रेट को पावर दे रखी है। जब भारतीय जनसंघ के कार्यकर्ता चीन हमले के समय सरकार की हर तरफ से सहायता कर रहे थे, चूंकि कलेक्टर म्युनिसिपैलिटी का एडमिनिस्ट्रेटर भी था और उसका जनसंघ के मन्त्री के साथ झगडा था इसलिए उसने बदला लेने के हेतु उन्हें गिरफ्तार कर लिया। इनका केवल इतना ही कसूर था कि इन्होंने पब्लिक मीटिंग में कलेक्टर के खिलाफ भाषण दिया कि वे भ्रष्टाचारी हैं। इसके जवाब में कलेक्टर यह कहता है कि इस भाषण में जनता में रोष पैदा हो गया है, अशान्ति पैदा हो जायेगी, इसलिए उन्हें गिरफ्तार कर लिया जाता है।

इस प्रकार से अधिकारी पोलिटिकल वर्कर्स के विरुद्ध इस ऐक्ट का दुरुपयोग करेंगे और उन्हें जनता की सेवा करने से वंचित कर देंगे। तो मैं चाहता हूं कि इस प्रकार के अधिकार इन अधिकारियों को न दिये जायें ताकि वे पोलिटिकल वर्कर्स के खिलाफ उसका दुरुपयोग न कर सकें।

मैं आपके सामने एक दूसरा उदाहरण देना चाहता हूं जिससे यह साबित हो जाता है कि किस प्रकार से जिला अधिकारी इस ऐक्ट का दुरुपयोग करते हैं तथा उन्हें डिफेंस आफ इण्डिया ऐक्ट के मातहत गिरफ्तार कर लेते हैं।

आसाम में डिब्रूगढ़ में हमारे जो जनसंघ के मन्त्री है उन्होंने वहां के पुलिस कमिश्नर के खिलाफ डिस्ट्रिक्ट मैजिस्ट्रेट से शिकायत की कि चीनी आक्रमण के समय यह अधिकारी ठीक ढंग से काम नहीं कर रहा है और इनका यहां से तबादला कर दिया जाय तथा उसके खिलाफ ऐक्शन लिया जाय। जब हमारे आसाम में

डिब्रूगढ़ के जनसंघ के मन्त्री ने पुलिस कमिश्नर के खिलाफ शिकायत की तो उन्हें जेल में डाल दिया गया। मैंने मंत्री जी के सामने दो उदाहरण रखे हैं कि किस तरह से पोलिटिकल वर्कर्स के काम में जिला अधिकारी इस ऐक्ट के होते हुए उसका दुरुपयोग करते हैं जिससे उनके कार्य में हैम्पर होता है। पंत जी यहां पर कहते हैं कि पोलिटिकल वर्कर और ट्रेड यूनियन के कर्मचारियों के खिलाफ यह कानून लागू नहीं किया जायेगा लेकिन किस तरह से उनके जो नीचे के अधिकारी हैं वह उसका प्रयोग करते हैं, यह मैंने उनके सामने दो उदाहरण देकर साबित कर दिया है। इसलिए मैं चाहता हूं कि इस बिल में यह व्यवस्था हो जाय कि कोई भी सरकारी अधिकारी पोलिटिकल वर्कर, ट्रेड यूनियन के खिलाफ कार्यवाही नहीं कर सकेगा जब तक कि वह पोलिटिकल पार्टी और कानूनी करार न दे दी जाय। इसके साथ ही सरकार अधिकारियों को भी यह आदेश देगी कि वे इस ऐक्ट का पोलिटिकल पार्टियों के खिलाफ इस्तेमाल नहीं करेंगे।

मुझे आशा है कि माननीय मन्त्री जी मेरे संशोधन को स्वीकार करेंगे।

श्री गनेशी लाल चौधरी : उपसभापति महोदय, मेरा एक बहुत छोटा सा प्रस्ताव है। माननीय मंत्री जी ने इस विधेयक की धारा 3 में यह प्रावधान किया है कि :

3. (1) यदि केन्द्रीय सरकार या राज्य सरकार का—

(क) किसी व्यक्ति के (जिसके अन्तर्गत विदेशी भी हैं) सम्बन्ध में समाधान हो जाए कि उसे—

(i) भारत की रक्षा, भारत के विदेशी सरकारों से संबंध या भारत की सुरक्षा पर, अथवा

(ii) राज्य की सुरक्षा या लोक व्यवस्था बनाए रखने पर, अथवा

(iii) समुदाय के लिए आवश्यक प्रदाय और सेवाएं बनाए रखने पर ...”

ये तीन चीजें जहां दी हैं उसके बाद मैं माननीय मंत्री जी से यह कहूंगा कि वे चौथी भी जोड़ दें :

“अथवा

(iv) अस्पृश्यता के उत्सादन पर”

उपसभापति महोदय, आप जानते हैं कि हमारा संशोधन बहुत महत्वपूर्ण है। देश में इमर्जेन्सी आती है, थोड़े दिन रहती है और चली जाती है। लेकिन देश में आज से नहीं अनादि काल से हरिजनों के वास्ते इमर्जेन्सी है। मन्त्री जी जानते हैं कि उनके साथ कैसा व्यवहार होता है। 23 वर्ष हो गये जबकि आपने कांस्टिट्यूशन के द्वारा यह शपथ ली थी, यह प्रतिज्ञा की थी कि हम हरिजनों को एक नियमित समय में ऊपर लायेंगे, बराबरी का दर्जा देंगे। आज कांस्टिट्यूशन में यह निहित है कि हम सरकारी नौकरियों में एक सर्टेन परसेंटेज उनको देंगे। आज कांस्टिट्यूशन में यह निहित है कि हम देश के हरिजनों को, देश के गरीबों को ऊपर उठायेंगे और उनकी आर्थिक अवस्था सुधारेंगे। लेकिन आज भी हरिजन, जहां था वहीं पर मौजूद है। इससे बड़ा कांस्टिट्यूशन का और उल्लंघन क्या हो सकता है। इस लिये मैं चाहता हूं कि हरिजनों के सम्बन्ध में जो कांस्टिट्यूशन की धाराओं का उल्लंघन करे उसको इस बिल के तहत दंडित किया जाय।

मैं दूसरी बात आपसे यह कहना चाहता हूं कि आज देश का जो गरीब है, आज देश का जो हरिजन है वह वैसे ही आपके जाबता फौजदारी की धारा 107, 117, 109, 147 और 148 से पीड़ित है। जहां भी गांव में

किसी ने देखा कि यह हरिजन काम करने के लिये हमारे यहां नहीं आ रहा है, और हरिजन हमारा कहना नहीं मानता, फौरन उसको धारा 107 और 117 के अंतर्गत थानेदार से मिल कर बंधवा दिया जाता है। हमें डर है कि कहीं इस बिल का उपयोग हरिजन भाइयों पर न किया जाय। इसलिये मैं माननीय मंत्री जी से यह आश्वासन चाहता हूं कि अगर कहीं हरिजन सर्वण लोगों का काम करना नहीं चाहें तो उनके विरुद्ध इसका उपयोग नहीं किया जायेगा। गांव में रहने वाला जो पुलिस आफिसर है हमेशा सर्वणों से मिलकर के गांव वाले हरिजनों को जेल के सीखचों में बन्द करवा देते हैं।

अभी दो, तीन दिन की बात है। मैंने अखबारों में पढ़ा कि बुलंदशहर में लोग ...

श्री उपसभापति : यह सब बताने की जरूरत नहीं है।

श्री गनेशी लाल चौधरी : जरूरी है इसी लिए बता रहा हूं, इस बिल को लाने के पहले वे जान लें। बुलंदशहर के लोग प्राइम मिनिस्टर के दरवाजे पर धरना दे रहे थे। उन की डिमांड थी कि आजादी के 23 वर्ष के बाद भी उन लोगों को एक मकान से एक रोटी खाने को मिलती है। माननीय मंत्री जी सुन लें कि वह भंगी बुलंदशहर से आये थे और अगर वे सर्वणों के वहां काम करने नहीं जाते तो उनके गांव के गांव तबाह कर दिये जाते हैं। माननीय मंत्री जी इस तरफ देखें कि क्योंकि यह होम मिनिस्टर हैं, वह देश के गृह मन्त्री हैं, उनकी यह जिम्मेदारी हो जाती है कि ये बुलंदशहर के उन हरिजनों की रक्षा करें। हमारी प्रधान मंत्री जी पहले तो हरिजनों से बराबर मिलती थीं लेकिन इस बार दस दिनों के बाद उनकी उन हरिजनों से मुलाकात हुई और उसके पहले उनके दरवाजे से एक फ्लांग दूर उनको हटा दिया गया, उसके बाद उन गरीबों से, उन भंगियों से जो

[श्री गनेशी लाल चौधरी]

उनकी मुलाकात हुई, जो उनको बातचीत हुई वह एक मामूली सी बात हुई। तो मैं इन शब्दों के साथ यह कहना चाहता हूँ कि मेरा संशोधन बड़ा महत्वपूर्ण है। अगर कांस्टिट्यूशन की मर्यादा को आप रखना चाहते हैं, अगर कांस्टिट्यूशन की धाराओं को आप रखना चाहते हैं तो मेरे संशोधन को आप इस बिल में अवश्य स्थान दें।

श्री श्याम लाल यादव : उपसभापति महोदय, क्लॉज 3 में जो व्यवस्था की गयी है उसका जो सब-क्लॉज 2 है वह मैं समझता हूँ कि उसके विपरीत पड़ता है। क्लॉज 3 के (1) में तो व्यवस्था की गयी कि केन्द्र और राज्य सरकार किन्हीं परिस्थितियों में आदेश जारी कर सकते हैं लेकिन सब-क्लॉज (2) में यह अधिकार डिस्ट्रिक्ट मैजिस्ट्रेट, एडोशनल डी० एम० और कमिश्नर आफ पोलिस को दिया गया कि वह सेक्योरिटी आफ दि स्टेट या मेन्टेनेंस आफ पब्लिक आर्डर या मेन्टेनेंस आफ सप्लाय और सर्विसेज इंसेशियल टु दि कम्युनिटी के लिए जरूरी समझें तो यह आदेश जारी कर सकते हैं। मेरा निवेदन यह है कि यह जो तीन व्यक्ति हैं उनमें डी० एम० और एडोशनल डी० एम० कभी-कभी ऐसे अधिकारी हो जाते हैं जो बहुत कम दिन सर्विस में रहते हैं और जिनको प्रशासन का अनुभव नहीं होता और डिस्ट्रिक्ट मैजिस्ट्रेट और पुलिस कमिश्नर का प्रशासन के सम्बन्ध में मतभेद होता रहता है जैसा आशंका कई सदस्यों ने यहाँ व्यक्त की है। मेरा सुझाव यह था अगर इन्हीं दो ग्राउन्ड्स पर आदेश दिया जाना है तो सेंट्रल गवर्नमेंट या स्टेट गवर्नमेंट अगर आदेश देती है तो उसका मतलब यह है कि कैबिनेट ही वह फैसला लेगी। तो किसी व्यक्ति को डिटेन करने का आदेश एक तरफ तो केन्द्र और प्रदेश की कैबिनेट पास करे और उन्हीं ग्राउन्ड्स पर एक आदमी को डिटेन करने का आदेश एडोशनल डिस्ट्रिक्ट मैजिस्ट्रेट या वहाँ का

SHRI S. G. SARDESAI (Maharashtra) : Mr,

कमिश्नर पुलिस पास करे, तो मैं समझता हूँ कि इस तरह का अधिकार एक तरफ कैबिनेट को और दूसरी तरफ पुलिस के साधारण कर्मचारी को हो तो उससे जो व्यक्ति प्रभावित होंगे उनमें एक और दूसरे में विभेद पैदा होगा और उनके साथ न्याय नहीं हो सकता। इस लिए अगर यहाँ पर यह देना जरूरी है स्टेट गवर्नमेंट के नीचे किसी व्यक्ति को तो ज्यादा से ज्यादा डिविजनल कमिश्नर को यह अधिकार दिया जा सकता है क्योंकि वह अधिकारी ऐसे हैं कि जो अपनी सर्विस के बहुत लम्बे अरसे के बाद डिविजनल कमिश्नर होते हैं और वे दूसरे कार्यों में और प्रशासनिक मामलों में अधिक हस्तक्षेप नहीं करते हैं और जनता के साथ उनका कोई संघर्ष नहीं रहता और इसलिए विशेष परिस्थितियों में वे इस प्रकार के आदेश दे सकते हैं और इसलिए यह अमेंडमेंट या जो इस क्लॉज को हटा कर माना जाय।

Deputy Chairman, my amendment is No. 26 in the consolidated list which was given today. I do not need to read it. My amendment is extremely simple. I would like the hon. Minister to clarify one point. The assurance which has been given on behalf of the Government is that this Act will not be used against the movement of workers, peasants or other democratic sections of the people for their legitimate demands. I am very serious about it. I do not want to take the time of the House. But I do want to mention one thing. Ever since Preventive Detention Bills have been moved in Parliament during the last 20-21 years, I remember—without being in any way satirical—that the illustrious Home Ministers who have preceded this Home Minister, since Independence, had all given this assurance. If I remember correctly, Sardar Patel gave that assurance; if I remember correctly Shri Rajagopalachari gave that assurance when such a Bill was there and I should like to point out to the Minister that his father Govind Ballabh Pant also gave that assurance, namely, that this particular Act will not be used against trade union activities, against workers' activities and against any democratic movement. My point is extremely,

simple. I do not want to repeat all the incidents which have been given. In actual practice, in actual life, it has been so used against the democratic movements which is a fact, which this Government, I hope, will not continue.

MR. DEPUTY CHAIRMAN: Please conclude now.

SHRI S. G. SARDESAI: Sir, not for a few weeks, but for the eight or ten months I had been detainee and the then Chief Minister of Maharashtra said that he is absolutely a political person and there is no question whatsoever of his release. My question is this: If, in all seriousness, this assurance is given, what prevents this Government from putting that assurance in the Act itself? I hope my question will be given a straight reply. If it is a question of juridical formulation, I am prepared to have any lawyer to formulate it. I am not a lawyer and I do not claim that all the words which are used here are legal words. But, so far as the assurance is concerned, it is a very serious assurance, it is a grave assurance, and I would call it a sacred assurance. Now, if such an assurance has been given once, twice, thrice, four times or five times, by the very illustrious Home Ministers of this Government, why can't you then find a lawyer who can modify it and put it properly? You mean it and I do not question your motive. I am only dealing with the point that in actual practice it has been violated.

MR. DEPUTY CHAIRMAN: Please conclude now.

SHRI S. G. SARDESAI: Sir, I would request the Government itself to get that formulation done if they think that this amendment is not good. Let them formulate it. Since they mean the assurance in all seriousness, I would call on the Government to put it inside the Act itself and not leave it to the assurances of the Home Minister. Thank you, Sir.

SHRI BHUPESH GUPTA: Sir, . . .

MR. DEPUTY CHAIRMAN: He has already spoken on your behalf.

SHRI BHUPESH GUPTA: No, Sir. He spoken on his amendment which is a good amendment. My amendment is entirely a different one and in addition to what they say in the same amendment.

Sir, I want to change the structure of Clause 3 altogether. First of all, Sir, one amendment is wrongly typed. That is No. 46. It relates to Clause 3 (1) (a). I exclude the citizen of India from domain of the Act. Now, this has been typed wrongly. It appears as follows:

"That at page 2, line 2, for the brackets and (including a foreigner) the brackets and words "(including a person who is not a citizen of India)" be substituted."

This is wrong and this should read as—

"A person who is not a citizen of India", and no more brackets and other things, that is to say, only the foreigners will be affected by this Act and no citizen of India will be affected. This is my first amendment. Why I do say so? Because the Prime Minister herself has been telling the country that so many spies are coming across the border.

SHRI P. C. MITRA: Spies need not be foreigners; they can be Indians also.

SHRI BHUPESH GUPTA: I know you do not read the Prime Minister's speeches. You are all faithful people. So, why should you read them?

SHRI SHEEL BHADRA YAJEE: Some of them are Indians also.

SHRI BHUPESH GUPTA: I know, Sir, my friend, Shri Yajee, is an incorrigible devotee at the temple of the Goddess, Indira Gandhi, and therefore, we need not say anything.

MR. DEPUTY CHAIRMAN: All right, please, Do not interrupt.

SHRI BHUPESH GUPTA: Then, evidently, Sir, I am committing a sin and you shall excuse me.

Sir I want the citizen of India to be excluded. You may say that some spies may be coming from Pakistan, and they are not citizens of India. But the fact that you will not accept it would expose you. It is all demagoguery. Sir, what happened at the time of Indo-Pakistan War? Muslims were arrested in hundreds in Maharashtra. Comrade Sardesai took it up with the then Home Minister

[Shri Bhupesh Gupta]

to get the Muslims released who had been arrested on suspicion that they were Pakistani agents and so on. I remember that a note was given to me in Maharashtra, which I took to the Home Minister to plead for the release of a number of people of the minority community who were arrested in hundreds. In West Bengal, 900 people were arrested. Some belonged to the minority community in Bihar and Uttar Pradesh. The moment any trouble starts with India and Pakistan, the Muslims are dubbed by the bureaucrats. And there are many communal minded bureaucrats there.

I may tell you, Mr. Deputy Chairman, that when Mr. Profulla Sen was the Minister of the Congress Government in West Bengal, I went to see him . . . (*Time belt rings*) Don't ring the bell. Hear the story. A Congress member, a Muslim, had been put in jail. I asked him, "Why have you put this gentleman in jail. He belongs to your party. Even now he belongs to your party. He had been in freedom struggle for many years." Do you know what Mr. Profulla Sen told me ? He told me, "My police has sent a report against him. Even if he is my party man, and even if he has been in the freedom struggle, I cannot take a risk. I must put him in jail" It appears that the police had some grievance against him and he was detained. Such things happen. I know what will happen to the minority community. Even those members of the minority community, those who are supporting this measure, will be the first victims in the event of any serious development between the two countries. Many of them will be put under detention. I have no doubt about it. This is not the way to unite the nation. This is not the way to maintain communal harmony.

Therefore, this amendment of mine should be accepted. My second amendment . . .

MR. DEPUTY CHAIRMAN : You have spoken about your first amendment so far ?

SHRI BHUPESH GUPTA : Yes, one amendment. Have you not read the Bill ? How can you follow ?

MR. DEPUTY CHAIRMAN : Please be brief.

SHRI BHUPESH GUPTA: My second amendment is that the words "or the security of India" be deleted. Since "defence of India" you have put, the words "security of India" are redundant. For "defence of India" we are all in favour. But "security of India."— I know—has been interpreted by some bureaucrats to mean any thing. And, therefore, I want this thing to be deleted. "Security of India" need not be threatened. Some of the officials in your Government are threatening the security of India by committing internal subversion. It is a very wide expression. The legal connotation is very serious. "Security of the State", therefore, is entirely wrong. Why do you bring "security of the State" here ? Some of the people in public sector undertakings—bureaucrats—are committing subversion. They are endangering the internal security from that angle by weakening our democratic system and economy.

Then, Sir, the words "maintenance of public order" have been borrowed. Why ? We have enough law. These are the most vicious provisions. 'Security of the State' means security of the Government, security of the Ministers and security of the Magistrate. Any Magistrate can say : "This man is creating trouble in my district. For the security of the State I am putting him under detention." That kind of interpretation has been given. It is a very wide expression.

Sir, "the maintenance of public order" means any thing. Any procession can be dealt with, any demonstration can be dealt with under this clause and any person can be put under preventive detention. . That is the meaning of "maintenance of public order". Any procession is public order. The Magistrate can say that it is a violation of public order or it affects public order. Now, these powers you are taking.

"Maintenance of essential supplies and services essential to the community" can be interpreted in any way. It can mean a strike in an oil refinery, strikes in certain other concerns, a legitimate strike of the workers in any engineering industry, and so on. For example, today the Congress has given a call for 'Bandh' in Calcutta. That can also be brought under

this provision on the ground that it interferes with the maintenance of essential supplies of power in Calcutta. Now it depends on who is in and how he proposes to use it. It depends on who is in charge, who is the Police Commissioner, who is the Magistrate or what type of Government is in power. Now why are you giving such powers to them? On the whole this is harsher than even the old Preventive Detention Act, certainly not only in respect of its duration. Now this is one part of the scheme. Now another scheme; let the Prime Minister take the responsibility in the case of the Centre and the Chief Minister take the responsibility in the case of a State for passing a detention order—my other amendment relates to that. Why should it be left to the District Magistrates and the Commissioners? I say the Prime Minister and the Chief Minister because I want to make them responsible for it. They are giving guarantees here and so let them pass the orders. Let the Prime Minister pass the order instead of trying to pass on the powers to any District Magistrate and police official to arrest people at will. If she wants to put people in detention without trial, let her run a Department here and deal with the question herself. In the case of the Centre let the Prime Minister pass the order. She may think that the law will be properly used, but there is the possibility of using it for the deprivation of the liberty of the people. It is not a joke; attack on the freedom of a person is not a joke. Let it be done, when it is to be done by them, at the highest level, in the case of the Centre by the Prime Minister, and in the case of a State by the Chief Minister. These people get away after giving facilities assurances here. Pandit Govind Ballabh Pant and Pandit Jawaharlal Nehru gave assurances here. Assurances mean nothing. I have seen Jawaharlal Nehru's assurances. He may be your leader. I have heard Jawaharlal Nehru's assurance given in this House that the law would not be misused. But he could not do anything. Nor did he have any time to read the memoranda submitted on this account. When Jawaharlal Nehru's assurances meant nothing, am I to believe that the assurances of these people will mean anything for us? Nothing of the kind. Therefore I say, if there is to be a law like this, you take the responsibility for its proper use. Then, Sir, the last amendment in this series is this:

"When any report is made under this

section, the Prime Minister or the Chief Minister, on the basis of such report, order an investigation into the allegations by a committee of the two Houses of Parliament or the State Legislature, as the case may be, with a view to ascertaining whether any action is called for and if the findings of the committee favour the detention of the person concerned, order his detention but only for reasons of the security of India."

Now this is how I have put it, and you make it like that. All right, the Prime Minister is getting the allegations, in which case let the Prime Minister appoint a committee of the two Houses of Parliament. Let this matter be placed before them, and then let her decide on the basis of their recommendations and suggestions as to what should be done, either order that the person be detained, or decide that their recommendation should be ignored. Let the reports come from the local authorities, whether Commissioner of Police or District Magistrate, in the case of the Centre. Let the same principle be followed in the case of a State. I say this thing because then my friends can be associated with the operation of this law. Now they have become all very faithful voting for the Congress. Mr. Om Mehta has given a Whip, and I know how many of you have read the Bill—I have my doubts. Get up and say how many of you have read the Bill. You have not even read the Bill.

MR. DEPUTY CHAIRMAN: Please finish now.

SHRI BHUPESH GUPTA: Many of you there, I can say most of you, have not read it. Can you say how many clauses are there? Can Mr. Sheel Bhadra Yajee get up and say how many clauses are there?

MR. DEPUTY CHAIRMAN: Please sit down.

SHRI BHUPESH GUPTA: I am very sorry for a man like Mr. Chandra Shekhar. I cannot, for the life of me, believe that a person like Mr. Chandra Shekhar could support such a Bill. After all, his heart is not in his tongue—I know. They are supporting it just because the Government has brought it.

The Congress leaders should not think that they have only their image. Shrimati Indira

[Shri Bhupesh Gupta]

Gandhi should not think only her image matters. The image of the people, the image of the masses. By this measure she is attacking the opposition. By this measure she is defiling the name of many a Congressmen who fought the elections really with a democratic spirit and who like democratic things to be upheld and carried forward.

Shri K. C. Pant can make very excellent extempore speeches. But I noticed that he was reading out the reply written by a bureaucrat in a familiar language. I could see the idiom ; I can understand which official has written that kind of a speech ; he read it—a bureaucratic speech.

MR. DEPUTY CHAIRMAN : All right ; enough.

SHRI BHUPESH GUPTA : I would ask Mr. Chandra Shekhar "Kindly fight this authoritarian stand in the Government". You are righting mini steel plants and many other things. Fight these things also : these are authoritarian trends. They are to be fought and I hope some of our friends there will certainly fight.

Sir, I move all these amendments.

SHRI K. C. PANT : As for the grounds of preventive detention. I would like to mention that in the Constitution itself, in the Seventh Schedule, List I—Union List, entry No. 9 is as follows :

"Preventive detention for reasons connected with Defence, Foreign Affairs, or the security of India ; persons subjected to such detention."

And then, in List III—Concurrent List, entry 3 reads as follows :

"Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community ; persons subjected to such detention."

Therefore, it is in accordance with the provisions of the Constitution itself that the grounds of preventive detention have been

provided in this Bill. As these provisions have been there on the Statute Book since 1950 and they have stood the test of time as well as judicial scrutiny. I do not think that this is an occasion on which I need say more.

Now Mr. Advani referred to the Foreigners Act. Yesterday also he referred to it. It was only during the emergency that a provision was added to the Foreigners Act enabling detention of foreigners, and this is no longer available.. . (*Interruption*)... It is on the Statute Book but it is not operative.

SHRI SUNDAR SINGH BHANDARI :
Can it be operative only in an emergency ?

SHRI K. C. PANT : That is what I have explained. You can read the record.

SHRI SUNDAR SINGH BHANDARI :
You should say it categorically.

SHRI K. C. PANT : I have stated it very categorically. It was there during the emergency.

SHRI SUNDAR SINGH BHANDARI : Can you not use it otherwise ?

SHRI K. C. PANT : It was only during the emergency that the provision was added to the Foreigners Act enabling detention of foreigners but that provision was operative only when the Proclamation of Emergency was in force ; it is no longer available. A foreigner cannot be detained except under this Ordinance or the Bill.

SHRI SUNDAR SINGH BHANDARI : No, Sir...

SHRI K. C. PANT : Except under the Ordinance or the Bill...

SHRI SUNDAR SINGH BHANDARI : My whole question was, is there any bar that it cannot be used ?

SHRI K. C. PANT : I have great respect for my hon. friend, but I have stated the fact. If he has something else to say, he can certainly do so later on. This is my information. I am not a lawyer like him, if he is a lawyer. Because Mr. Advani asked me specifically today

to give him the information I have given it. What is the use if going on like this? He cannot argue with me. This is not a court. I have given him the information that I have.

Now, Sir, amendment No. 44 of Mr. Advani cannot be accepted. He wants to confine all these provisions only to foreigners. I have already replied why they are necessary otherwise. I know this is a large country with patriotic elements, but one cannot rule out the fact that there are some elements and a few individuals who do act against the security of the State. There are some spies, etc. I do not think he would like me to exclude them from the purview of this Bill.

About relations with foreign powers several Members have spoken. I want to explain that we use this provision very sparingly. There has been only one occasion in the past twenty years when this has been used. My hon. friends in this House and all over the country have been saying so many things against various foreign countries in an attempt to influence the Government, as Mr. Menon said, but this provision has never been used against anyone on that ground. It was only when the Head of a State visited this country and there was occasion to use this it was used. Otherwise, it was not used and in future also it will be used most sparingly.

SHRI CHITTA BASU : Then, have this provision at all?

SHRI K. C. PANT : It has been used once.

SHRI LAL ADVANI : I would like to understand from you the positive rationale of this. Why at all is it necessary?

SHRI K. C. PANT : At this stage he wants to understand the rationale of the Bill.

I listened to Mr. Bhadram and Mr. Sardesai. I only say one thing. I have said it earlier. It is a serious assurance that this will not be used against legitimate trade union activities or legitimate political activities. Regarding the amendment suggested by Mr. Sardesai, if he reads it carefully, he will find that it does not ensure that the means used for achieving

certain ends are also peaceful. Apart from that —

SHRI S. G. SARDESAI : I agree to the word 'peaceful'.

SHRI K. C. PANT: Against legitimate trade union and political activities, as I said earlier also, this will not be used.

SHRI S. G. SARDESAI : Why cannot it be put in the law?

SHRI K. C. PANT : No. I could not. I have tried to explain for the last two days exactly why it cannot be done.

SHRI S. G. SARDESAI : I has not been explained.

SHRI K. C. PANT : It is provided in the Bill what are the grounds. Two safeguards are provided. He wants me to go through the whole process once again at this stage. Then he said : You will only get the version of the State Government when you consider the case of detenu. That is not so. We will get the version of the detenu also. We will see his side of the case also. So, the Centre can consider both the detenu's side of the case and the State Government's version.

SHRI M. V. BHADRAM : You always rely only on the police.

SHRI K. C. PANT: Then, Sir, Shri Ganeshi Lai Chaudhary—I do know his sentiments—asked whether action would be taken under this for the eradication of untouchability. Parliament is not competent to legislate in this manner.

Now, Sir, Shri Jagdish Prasad Mathur referred to his amendment and in this case also the intention is similar to that of Mr. Sardesai, to which I have already replied. 5 p. m.

Mr. Bhadram referred to the maintenance of services and supplies essential to the life of the community. This is one provision which even the Government of Kerala wanted to continue in 1969 because they thought....

SHRI BALACHANDRA MENON: We have made it clear to the Kerala Government.

SHRI K. C. PANT : They thought they would use it against antisocial elements such as blackmarketers, hoarders, etc. Other State Governments have found this useful against blackmarketers: hoarders, and so on. I do not think on serious consideration my hon. friend would like to take out this particular provision.

I think I have more or less covered all the points. About Mr. Bhupesh Gupta's amendment, whatever his intentions he explained them. The wording of his amendment is different. As it is worded he read it out, within brackets, and so on. The amendment seeks to achieve the same object as the clause. Therefore, it will make no difference at all. Therefore, I do not accept this amendment either.

SHRI BHUPESH GUPTA : My amendment will be "who is not a citizen of India". If you accept my amendment, the Bill will be applicable only to those...

SHRI K. G. PANT: As his original amendment reads it replaces "foreigners" by the words "who is not a citizen of India". That makes no difference.

SHRI BHUPESH GUPTA: Instead of "with respect to any person (including a foreigner)" all I say is "with respect to any person (including a person who is not a citizen of India)". It is different.

SHRI K. C. PANT : He says "including a foreigner" is to be replaced by "a person who is not a citizen of India". That makes no difference in meaning.

SHRI BHUPESH GUPTA: You have not understood it.

SHRI K. G. PANT: I have understood his explanation. His explanation was that it should not apply to anybody but a foreigner. Regardless of the wording of the amendment his intention cannot come on the Statute Book. Nevertheless I have explained even that point.

Shri Bhupesh Gupta wants to take the "security of India" out of the purview of the Bill. I need hardly comment on that. This is one of the objectives of the Bill, He wants to take out "public order". I have gone to great length to explain why public order is directly

connected with the security of the State and security of the country. At such a stage of the consideration of the Bill I need hardly say anything more. As for his suggestion that the Prime Minister or the Chief Minister should alone pass orders, I have already referred to that. Regarding his other suggestion about investigation by a Committee of the two Houses of Parliament and State Legislature, I must say this is unheard of.

SHRI BHUPESH GUPTA : You have just now heard.

SHRI K. C. PANT : Therefore, I am sorry I cannot accept any of the amendments.

MR. DEPUTY CHAIRMAN : The question is :

13. "That at page 2, line 1, for the words 'The Central Government or the State Government may,—' the words 'the Prime Minister or the Chief Minister may,—' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

17. "That at page 2; line 2, for the brackets and words '(including a foreigner)' the brackets and words '(including a person who is not a citizen of India)' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

21. "That at page 2, line 6, the words 'or the security of India.' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

23. "That at page 2, lines 7 to 10 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

30. "That at page 2, for lines 21-22, the following be substituted, namely :—

'may, if satisfied, report to the Prime Minister or the Chief Minister, as the case may be'.

77K motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

31. "That at page 2, for lines 23 to 29, the following be substituted, namely :—

'(3) When any report is made under this section, the Prime Minister or the Chief Minister may, on the basis of such report, order an investigation into the allegations by a committee of the two Houses of Parliament or the State Legislature, as the case maybe, with a view to ascertaining whether any action is called for and if the findings of the committee favour the detention of the person concerned, order his detention but only for reasons of the security of India."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

14. "That at page 2, for lines 1 to 13, the following be substituted, namely :—

'3. The Central Government or the State Government may, if satisfied with respect to any foreigner -hat with a view to,—

(a) preventing him from acting in any manner prejudicial to—

(i) the defence of India, the relations of India with foreign powers, or the security of India, or

(ii) the security of the State or the maintenance of public order, or

(iii) the maintenance of supplies and services essential to the community, or

(b) regulating his continued presence in India or with a view to making arrangements for his expulsion from India." *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

22. "That at page 2, lines 7-8, the words 'or the maintenance of public order' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

28. "That at page 2, for lines 17 to 20, the following be substituted, namely :—

- (a) Chief Secretary,
- (b) Home Secretary,"

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

15. "That at page 2, line 2, after the words 'if satisfied; the words 'on reasonable grounds; be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

16. "That at page 2, line 2. after the word 'satisfied; the words 'on the basis of facts available to the Central or State Governments; be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

27. "That at page 2, lines 16 to 22, be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

18. "That at page 2, lines 5-6, the words 'the relations of India with foreign powers,' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

19. "That at page 2,—

(i) for lines 5 to 10, the following be substituted, namely :

'(i) the defence of India or the security of India, or

(ii) the security of the State, or'

(ii) for lines 16 to 34, the following be substituted, namely :

'(2) The Government may, if satisfied, as provided in sub-section (1) exercise the power conferred by the said sub-section.'; and

(iii) in line 35, the words 'or approved' be deleted." *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

20. "That at page 2,—

(i) lines 7-8, the words 'or the maintenance of public order' be deleted ;

(ii) for lines 17 to 19, the following be substituted, namely :

'Chief Secretary and Home Secretary.'" *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

24. "That at page 2, lines 9 and 10 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

25. "That at page 2, after line 10, the following be inserted, namely :

'(iv) the abolition of untouchability,' or"

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

29. "That at page 2, for lines 16 to 22, the following be substituted, namely :

'(2) The Central Government or the State Government may, if satisfied as provided in sub-section (1), exercise the power conferred by the said sub-section in consultation with the leaders of the opposition parties in Parliament or the State Legislature concerned as the case may be'."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

32. "That at page 2, line 28, for the words 'twelve days' the words 'five days' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

33. "That at page 3, after line 2 the following proviso be inserted, namely :

'Provided that no action under this Act J

shall be taken against any political worker or Trade Union worker who is a member of a recognised political party unless the party or the Union of which he is a member is declared illegal only on the ground that his acts or omission are mainly directed against the Government or the ruling party ;

Provided further that the Central Government and the State Governments shall see that operation of the provisions of this Act does not result in hampering genuine political and Trade Union activities'."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

102. "That at page 2, lines 18 and 19 be deleted."

The motion was 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.

Clause 4 was added to the Bill.

Clause 5—Power to regulate place and conditions of detention

SHRI BHUPESH GUPTA : Sir, I beg to move :

34. "That at page 3, line 6 after words 'Every person' the words 'who is not a citizen of India' be inserted."

SHRI K. P. SUBRAMANIA MENON : Sir, I beg to move :

35. "That at page 3, after line 7, the following be inserted, namely :

'(a) to be detained in similar conditions as governed the detention of Regulation 3 prisoners under the Defence of India Act of 1918; and'."

SHRI M. V. BHADRAM : Sir, I beg to move :

36. "That at page 3, for lines 8 to 11 the

following be substituted, namely :

'(a) to be de ained in such place and under such condition which are applicable to special class >f political prisoners without lock-up in cells : and'."

37. i"That at page 3 lines 9-10, the words 'discipline and punishment for breaches of discipline' be delet 1."

39. "That at psge 3, line 13, for the words 'whether within fie same stage or in another State'the words 'i i the same State' be substituted."

40. "That at p:ge 3, lines 15 to 17 be deleted."

SHRI CHITTA BASU : Sir, I beg to move :

38. "That at page 3, lines 10-11, for the words 'as the apprc priate Government may, be general or special order' specify' the words 'as may be prescribe i by such rules, as may be made under the provisions of this Act' be substituted."

SHRI JAGDISH PRASAD MATHUR : Sir, I beg to move :

41. "That at pagr 3, line 17, after the words 'other State' tl e words 'and the Central Government' be inserted."

The questions were proposed.

SHRI BHUPESH GUPTA : Sir, I do not wish to say very much because again this amendment wants to lake Indian citizens out of the purview of th;s provision and says that it should be applicable only in the case of a foreigner who is not a citizen of India. Now, I say this thing for the simple reason that I would not like this Act to be at all applicable to any Indian citizens. Other laws are there. If any foreigner is doing espionage or other spy work, he can be detained. Nothing more than that.

[THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) in th< Chair]

The main point why I am stressing it again and again is to imp "ess upon the House the implications of t. Now, Sir, in the past we have seen how at the time of the 1955

Indo-Pakistan war the citizens of our country belonging to the minority community were harassed. Some were detained without trial. And if this remains in the present form, the same thing is going to happen. I strike a note of warning again. Our relations with Pakistan may not improve, they may deteriorate. Now, if such wide powers are kept in this form, what will happen to these people. Many people belonging to the minority community including even those who are supporting the ruling Congress Party may be affected. I do not wish to say more on this amendment because I shall reserve some energy for some other occasion.

SHRI NIREN GHOSH : Sir, I want to speak.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : No, no. Only the Mover.

SHRI NIREN GHOSH : My name stands there.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : Yes.

SHRI NIREN GHOSH: Sitting in the Chair, you continue to frame rules *ad hoc*.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : I wanted to give a chance to the first name.

SHRI NIREN GHOSH : Now you are in order.

SHRI BHUPESH GUPTA : Will you forget—when you are in the Chair you are an exalted person, when there you are a corrupted person.

SHRI NIREN GHOSH : The purpose of this amendment is this. Mr. Pant has definitely said that—a hypocritical remark—that this will not be used against political parties. We know for certain that political persons are going to be detained. That is precisely the purpose of this Bill. The Government is determined to carry a vendetta against their political opponents. For example when I, along with many of us, was detained in 1964, we did not even the minimum of privileges that should accrue to a prisoner, a detained person. We had to go on a hunger strike and •we had to give a threat of a hunger strike so

[Shri Niren Ghosh]

that something was provided in the winter. That is the position. We were treated like condemned criminals inside the jail.

Sir, I understand that the Home Ministry people do not know what is a Regulation 3 Prisoner. Many of the old freedom fighters were detained by the British and kept under Regulation 3 Prisoner. Shri Subhas Bose was kept as Regulation 3 Prisoner in the Mandalay Jail. So Regulation 3 enjoins certain privileges in the matters of grants to his family, allowing a receiver set, books etc. and without a lock-up. It describes how and in what manner a prisoner has to be detained. It is a sort of status. They used to be called State prisoners. Now when politicals are detained under this black lawless law, they are made to suffer like condemned criminals. They are given vindictive treatment inside the jail. So I want to alter that a bit so that they can live inside the jail as a human beings. So I have moved that the detenus should be given the same privileges and should be treated in the same manner as the regulation 3 Prisoners used to be when they were detained by the British. So I think this is an appropriate amendment and it should be accepted by the Government.

SHRI BALACHANDRA MENON : My amendment says :

"That at page 3, for lines 8 to 11, the following be substituted, namely :

'(a) to be detained in such place and under such conditions which are applicable to special class of political prisoners without lock-up in cells ; and'."

Here there is no conviction. You do not know if the man will be let off. Since you are detaining him he must be treated as a special kind of prisoner. When he is treated as a special kind of prisoner he must have certain facilities. He must get books. He must get better kind of food. His family will have to be maintained because you are taking away a man straight and on suspicion you are putting him in Jail. When that is so, the State must own responsibility to that family whose bread winner is removed. The State is responsible to the individual and his family for a year or two. When that is so he must get his papers so that he knows what is happening inside the country

and outside. That is why I say he should be treated as a special prisoner. He should not be treated as an ordinary prisoner and he should not be given punishment meant for breaking ordinary laws. A prisoner after a year naturally gets worked up. You must also understand their psychology. If bad food is given, he gets angry. The Warden comes, says it is breach of rules and beats him up. Not only that, the worst scum of society, the Convict Warders, come and beat you up. Several times I have been beaten up like that. I, therefore, appeal to you to understand how a prisoner feel. He is removed ; he has not committed any crime. On mere suspicion you cannot just allow this scum of society to deal with him like that. Therefore, there should be no punishment. That is number one. Secondly, his family should be looked after. And thirdly, he should have all the facilities that he generally enjoys when he is outside, irrespective of the status which he has outside. He might be a poor beedi worker, but he has got a right to be treated as special class prisoner if he is detained under this Act. This is all that I want to say.

SHRI CHITTA BASU : Sir, I am speaking on my amendment No. 38 and also on my amendment No. 44. What I propose in my first amendment is that there should be a rulemaking provision under this Act, because several State Governments are also authorised to detain persons arrested under the provisions of this Act and there are different systems in different States with regard to the political prisoners or other kinds of prisoners. For instance, in West Bengal there are certain privileges or benefits or amenities which are being enjoyed by the political prisoners. But those privileges or amenities or benefits are not provided for prisoners in other States. This is also my experience. Therefore, whatever the conditions under which you propose, to detain persons arrested under this Act, you should have some uniform rules all over the country because the detention is being made under the provisions of an Act of Parliamentary. So, the intention of my amendment is that there should be a rule-making provision in the Act under which rules can be framed in relation to the conditions of the detainees.

My second very important amendment says :

"No person in respect of whom a detention order has been made shall lose his job under any employer on account of absence from his place of duty notwithstanding provisions thereof in the Service Rule of the employee concerned."

Sir, there are standing orders for the employees. The workers of industrial units are governed by standing orders. There are provisions in the standing orders that if a particular worker or employee absents himself for a period not permissible under the standing order rules, his services will be dispensed with. Suppose, an employee has been arrested under the provisions of this Act. He cannot present himself or report himself for duty in the factory or in the office where he works. Under the rules of the standing order, he loses his job because he cannot present himself for duty. Sir, there are several very important trade union workers who were detained under the Preventive Detention Act and also lost their jobs. There is no relief for them. In this connection, I also want to mention a particular ruling of the Supreme Court in the case of Jafar Imam v. Poit Commissioner, Calcutta. The Supreme Court judges commented: "You cannot rob the liberty of a man and also his means of livelihood. This is against the principle of natural justice." Therefore, if this kind of an amendment is not accepted, then the employee who is arrested and whose services are dispensed with, has got no relief. And there is also a very important comment made by a Supreme Court Judge that you cannot deprive him of his liberty and at the same time you cannot deprive him of his means of livelihood. Therefore, my small and very innocent amendment should be accepted by the Government. I also propose that since there is no provision for the maintenance and other kinds of amenities for the detenus, in this Bill a provision should also be made for a certain amount of reasonable allowances for the detenus, and I have moved that—

"Every person in respect of whom a detention order has been made shall be eligible to reasonable allowance for the maintenance of his family and the education of his children."

I think this is in pursuance of the spirit of the assurances given by the honourable Minister, so this should be accepted. The Government

should accept this very simple and innocent amendment if they have no intention unnecessarily injuring anybody as they claim.

श्री जगदीश प्रसाद माथुर : उपसभाध्यक्ष महोदय, अपने संशोधन में मैं केन्द्रीय सरकार को कुछ अधिकार देना चाहता हूँ। इस संबंध में तीन प्रकार की स्थितियाँ पैदा हो सकती हैं कि अगर केन्द्रीय सरकार ने किसी को गिरफ्तार किया तो उसको कहाँ रखा जाय। अगर संबंधित राज्य सरकार उसको रखने से इंकार करती है, तो क्या होगा। आपको पता है कि 1965 की लड़ाई में पाँच, छः हजार लोगों को उन्होंने पकड़ रखा था। उस स्थिति में प्रान्तीय सरकार अगर इंकार कर दे तो क्या स्थिति पैदा होगी और दूसरे प्रान्तीय सरकार ने किसी को गिरफ्तार किया और उसको सजा देना चाहती है, वह तो आप जानते हैं कि जेल में लोग आंदोलन करते हैं, भूख हड़ताल करते हैं, इसलिए कि वहाँ की व्यवस्था ठीक हो और ऐसे आदमी के हड़ताल करने पर प्रान्तीय सरकार ने यह देखा कि यह आदमी गड़बड़ करता है या उसके रहने के कारण वहाँ के कैदियों में अव्यवस्था हो सकती है, तो वह उत्तर प्रदेश में गिरफ्तार किये हुए व्यक्ति को मद्रास भेज देगी और मद्रास में गिरफ्तार किये हुए व्यक्ति को वह आसाम भेज देगी। अब प्रश्न यह है कि जेलों में जगह कम है या किसी और कारण से दो प्रान्तीय सरकारें आपस में मिल गयीं और मद्रास में गिरफ्तार किये हुए व्यक्ति को उन्होंने काश्मीर भेज दिया या आसाम भेज दिया और काश्मीर में गिरफ्तार व्यक्ति को मद्रास भेज दिया, तो दो प्रान्तीय सरकारें मिल कर अदला-बदली कर सकती हैं महज इसलिए कि अमुक व्यक्ति ने भूख हड़ताल की है, जेल में अपने अधिकारों को प्राप्त करने के लिए। तो केन्द्रीय सरकार इसमें नहीं आती है और एक प्रान्त से दूसरे प्रान्त में ऐसा गिरफ्तार किया हुआ व्यक्ति भेजा जा सकता है। लेकिन एक स्थिति और आ सकती है कि अगर किसी प्रांत में ऐसे गिरफ्तार लोगों की संख्या ज्यादा हो जाय और वह प्रान्त उन

[श्री जगदीश प्रसाद माथुर]

की व्यवस्था न कर सकता हो उस स्थिति में अगर वह प्रान्त दूसरी जगह उन को भेजना चाहता है और अपने देश में संघात्मक शासन न होने के कारण प्रदेशों में पार्टी की सरकार हो और किसी प्रान्त में विभिन्न सरकारें होंगी, किसी प्रान्त में किसी किसी की, और इसलिए किसी प्रान्त में कम्युनिस्ट पार्टी से संबंधित लोगों को गिरफ्तार अगर किया गया है तो कोई दूसरी प्रान्तीय सरकार उन के लिए कह सकती है कि उन को हम अपनी जेलों में नहीं रखते। तो अगर कोई दूसरी प्रान्तीय सरकार इन्कार करती है तो एने ही कई प्रान्तीय सरकारें हो सकती हैं कि जिन के द्वारा भेजे गये, गिरफ्तार किये गये व्यक्तियों को दूसरी प्रान्तीय सरकारें लेने को तैयार नहीं होंगी। उस स्थिति में प्रान्तीय सरकारों का क्या कार्य होगा और केन्द्र की सरकार केन्द्र की सरकार के नाते उस को क्या व्यवस्था कर सकती है। तो रूल बनाते समय इस दृष्टि से कोई विचार होगा ऐसा मुझे लगता नहीं, और यह भी संभावना नहीं है कि इस धारा के अंतर्गत कोई रूल बना दे। इस लिए मैं इस संबंध में केन्द्रीय सरकार से चाहता हूँ कि वह स्वयं कोई व्यवस्था करे कि ऐसी परिस्थिति पैदा होने पर कौन सी व्यवस्था होगी अन्यथा इस धारा के लागू रहने के कारण विषम परिस्थिति हो सकती है।

SHRI K. C. PANT : Sir, I will take a few minutes. So far as Shri Bhupesh Gupta's amendment goes, for all detenus government should have the power to regulate the place and conditions of detention and therefore I cannot accept his amendment.

Regarding the amendment moved by Shri Niren Ghosh we have been trying to find out from this morning whether there is a Defence of India Act of 1818 and we have not been able to find it. His amendment refers to this Act. I have not been able to locate this Act.

श्री पीताम्बर दास : यह वह कानून है जिसमें गांधी जी को पकड़ा था ब्रिटिश गवर्नमेंट ने एक बार।

The question regarding the place and conditions

श्री के० सी० पन्त : यह कानून तो कोई नहीं है जो उन्होंने लिखा है।

of detention was left to be decided according to circumstances of each case by the detaining authority. This was the position even earlier during the last 20 years. This is a reasonable arrangement and has worked satisfactorily in the past.

There was some reference by Shri Chitta Basu and probably by Shri Bhadram also to the fact that we should give some allowance and we should not unnecessarily injure the detenus. We do not unnecessarily injure anybody in this country,

AN HON. MEMBER : Really ?

SHRI K. G. PANT : Yes, really. In the past also it has been the practice to grant such allowances on an *ex-gratia* basis in all deserving cases and we intended to continue that practice. We also suggest to the State Government that the suggestions made in this House should be borne in mind while dealing with such cases.

Then, Shri Chitta Basu tried to appropriate the amendment of Shri D. L. Sen Gupta. Since Shri Sen Gupta is not here, I think it is not necessary for me to reply to what he said.

Finally, regarding Shri Mathur's amendment, we do not think that the requirement of Central Government's consent in this connection is necessary. Therefore I cannot accept any of these amendments.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : The question is :

34. "That at page 3, line 6, after the words 'Every person' the words 'who is not a citizen of India' be inserted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : The question is :

35. "That at page 3, after line 7, the following be inserted, namely : —

(a) to be detained in similar conditions as

governed by the detention of Regulation 3 prisoners under the Defence of India Act of 1818; and." *The motion was negatived.*

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is :

26. "That at page 3, for lines 8 to 11, the following be substituted, namely :

(a) to be detained in such place and under such conditions which are applicable to special class of political prisoners without lock-up in cells and." *The motion was negatived.*

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is :

37. "That at page 3, lines 9-10, the words 'discipline and punishment for breaches of discipline' be deleted."

The motion was negatived.

श्री राजनारायण : श्रीमन्, प्वाइंट आफ आर्डर। हमारा व्यवस्था का सवाल है। आप कहते हैं कि जो पक्ष में हों वह "हां" कहें तो जो "होअ" कहे उसको भी मानेंगे और आप कहते हैं कि जो विपक्ष में हों वह "नो" कहें लेकिन जो "भो" कहें तो क्या वह भी माना जायगा। तो जितनी ऐसी वायसेज हों उनको आप निकाल दीजिये तब वोटिंग को लीजिए। बताइये यह सदन है। सदन मूड में नहीं है, आप छुट्टी कीजिये।

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The whole House has enjoyed it. That is a compliment to you.

The question is :

39. "That at page 3, line 13, for the words 'whether within the same State or in another State' the words 'in the same State' be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is :

40. "That at page 3, lines 15 to 17 be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is :

38. "That at page 3, lines 10-11, for the words 'as the appropriate Government may, by general or special order, specify' the words 'as may be prescribed by such rules, as may be made under the provisions of this Act' be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is :

41. "That at page 3, line 17, after the words 'other 'State' the words 'and the Central Government' be inserted."

The motion was negatived.

SHRI NIREN GHOSH: Suppose they delegate the entire voting to Shri Neki Ram.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is :

"That clause 5 stand part of the Bill." *The motion was adopted. Clause 5 was added to the Bill.*

New Clause 5A SHRI M. V.

BHADRAM: Sir, I move :

42. "That at page 3, after line 17, the following new clause be inserted, namely :

'5A. Every person in respect of whom a detention order has been made shall be eligible to reasonable allowance for the maintenance of his family and the education of his children.' "

SHRI NAWAL KISHORE: Sir, I move :

43. "That at page 3, after line 17, the following new clause be inserted, namely :

'5A Every person in respect of whom a detention order has been made shall be eligible to reasonable allowance to be fixed by Government for the maintenance of the family and dependents of the detenu, which shall include the education of his children.' "

SHRI CHITTA BASU : Sir, I move :

44. "That at page 3, after line 17, the following new clause be inserted, namely :

'5A. (1) No person in respect of whom a detention order has been made shall lose his job under any employer on account of absence from his place of duty notwithstanding provisions thereof in the service Rule of the employee concerned.

(2) Every person in respect of whom a detention order has been made shall be eligible to reasonable allowance for the maintenance of his family and the education of his children."

The questions were proposed

श्री नवल किशोर (उत्तर प्रदेश): उपसभाध्यक्ष जी, यह जो संशोधन मैंने दिया है यह ह्यूमेनिटेरियन प्राउन्ड पर दिया है। जब सरकार किसी व्यक्ति को पकड़ेगी तो उसके बीबी बच्चों के लिए कोई व्यवस्था नहीं की गई है। इसलिए मैं चाहूंगा, जिनको आप पकड़ें, कम से कम ऐसे हार्ड केसेज में जहां कि एक ही आदमी कमाने वाला है और वह पकड़ा गया है तो उसके बीबी बच्चे भूले न मरें और बच्चों की तालीम का नुकसान न हो, इसके लिए मेन्टेनेन्स अलाउन्स की व्यवस्था होनी चाहिए। कोई नयी बात यह नहीं है क्योंकि आप देखेंगे शेख अब्दुल्ला नजर बन्द हुए, और लोग भी हुए, उनके लिए भी अलाउन्स दिया गया, अन्डर डी० आई० आर० ऐसे केसेज हुए जिनमें लोगों को मेन्टेनेन्स अलाउन्स मिला है...

श्री नेकी राम (हरियाणा) : अरे, वह तो उनके लिए है जो आजादी की लड़ाई में जेल गए हैं। यह तो काले कारनामे करने वालों के लिए बिल है।

श्री नवल किशोर : आप चुप रहें।

श्री अर्जुन अरोड़ा : नवल किशोर जी ठीक कह रहे हैं। शेख अब्दुल्ला को 1200 रुपये महीने इसलिए मिल रहे हैं कि वे जम्मू और काश्मीर नहीं जा सकते, बाकी हिन्दुस्तान में घूम सकते हैं।

श्री नवल किशोर : उन्होंने ठीक कहा, मैं उनको धन्यवाद देता हूँ।

श्री अर्जुन अरोड़ा : रोज धन्यवाद दिया कीजिए।

श्री नवल किशोर : उन्होंने मेरी बात को और भी ज्यादा मजबूत किया। तो मेरी मन्शा यह है कि उसके बच्चों की तालीम का नुकसान न हो उसके घर वालों को भूखा न मरना पड़े। मुझे उम्मीद है श्री के० सी० पन्त इसको उदारता के साथ स्वीकार करेंगे।

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : Yes, Mr. Minister.

SHRI K. C. PANT : Sir, actually I have already referred to this aspect of the matter and I have anticipated some of the sentiments of my hon. friend.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : The question is :

42. "That at page 3, after line 17, the following new clause be inserted, namely :

'5A. Every person in respect of whom a detention order has been made shall be eligible to reasonable allowance for the maintenance of his family and the education of his children."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : The question is :

43. "That at page 3, after line 17, the following new clause be inserted, namely :

'5A. Every person in respect of whom a detention order has been made shall be eligible to reasonable allowance to be fixed by the Government for the maintenance of the family and dependents of the detenu which shall include the education of his children."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) : The question is :

44. "That at page 3, after line 17, the

following new clause be inserted, namely :

'5A. (1) No person in respect of whom a detention order has been made shall lose his job under any employer on account of absence from his place of duty notwithstanding provisions thereof in the service Rule of the employee concerned.

(2) Every person in respect of whom a detention order has been made shall be eligible to reasonable allowance for the maintenance of his family and the education of his children.'

The motion was negatived.

Clause 6—Detention orders not be invalid or inoperative on certain grounds

SHRI K. P. SUBRAMANIA MENON: Sir, I move :

45. "That at page 3, line 18, for the words 'No detention order' the words 'A detention order' be substituted."

SHRI JAGDISH PRASAD MATHUR : Sir, I move :

46. "That at page 3, for lines 18 to 24, the following be substituted, namely :

'6. No detention order shall be valid and operative unless it is made with respect to a person who is a *bona fide* resident of the State which makes the detention order."

SHRI M. V. BHADRAM : Sir, I move :

47. "That at page 3, lines 20 to 22 be deleted."

The questions were proposed.

[MR. DEPUTY CHAIRMAN *in the Chair*]

MR. DEPUTY CHAIRMAN : Mr. Menon. Clause 6.

SHRI K. P. SUBRAMANIA MENON : The clause as it stands is a very dangerous clause. It means that any person can be arrested anywhere in this country by an order of any other authority in the country from the Central Government to the State Governments. I think that this is an unprecedented thing and this should be opposed.

Now, as you know Sir, we know the inten-

tion of the Government behind this clause. There are Opposition parties in this country and certain State Governments may not carry out the orders of the Central Government in certain parts of the country. And it is to circumvent such thing that this new clause has been added.

I, therefore, think that this is a very dangerous precedent being created.

Apart from that, the Central Government thus can authorise any State Government in India to arrest any person anywhere else in India.

Therefore, this clause should not be there, and should be opposed.

श्री जगदीश प्रसाद माथुर : मेरे संशोधन की भावना श्री मेनन के संशोधन के साथ मिलती है। अगर यह धारा जिस प्रकार से यह विधेयक में रखी गई है उस तरह से पास हो जाय तो इससे देश में बय़ोस पैदा हो जायेगा। इस प्रकार की स्थिति पैदा हो जायेगी कि कोई दूसरे प्रान्त में नहीं जा सकेगा, किसी दूसरे प्रान्त में भाषण नहीं कर सकेगा। अगर केरल के मुख्य मंत्री उत्तर प्रदेश में कोई भाषण दें तो उत्तर प्रदेश की सरकार उनके खिलाफ कार्यवाही कर सकती है या फिर उत्तर प्रदेश की सरकार यहाँ पर बैठे ही किसी भी व्यक्ति को या श्री मेनन को गिरफ्तार कर सकती है। इस विधेयक के पास होने के बाद कोई भी प्रान्त ऐसा नहीं होगा जो किसी भी व्यक्ति को जब चाहे गिरफ्तार कर ले। अगर पन्त जी की गतिविधियों को देखकर कोई प्रान्तीय सरकार उन्हें गिरफ्तार करना चाहती है तो उन्हें वह इस धारा के अन्तर्गत गिरफ्तार कर सकती है और इसके लिए कोई ज्यूरिसडिक्शन नहीं है, कोई प्रतिबन्ध नहीं है। इस तरह से इस देश में एक प्रकार से एक ऐसी स्थिति आ जायेगी कि अन्धे के रूप में हम जिस तरह से प्रान्तीय सरकारों को अधिकार दे रहे हैं वह उसका जब चाहे दुरुपयोग कर सकती है और जिसको चाहे कभी भी गिरफ्तार कर सकती हैं और इसके लिए उन पर कोई भी प्रतिबन्ध नहीं है। मजिस्ट्रेट या कोई पुलिस

[श्री जगदीश प्रसाद मथुर]

कमिश्नर किसी दूसरे प्रान्त के आदमी को या अपने प्रान्त के ही आदमी को जब चाहे गिरफ्तार कर सकता है और इसके लिए उसके ऊपर कोई प्रतिबन्ध नहीं है। इसलिए मेरी समझ में नहीं आता है कि इस धारा के पास होने के बाद देश में जो स्थिति पैदा हो जायेगी, उसके ऊपर मंत्री जी ने विचार किया या नहीं ? अगर पन्त जो किसी मार्क्सवादी सरकार के प्रान्त में गये, श्री चटर्जी के प्रान्त में गये, तो उनके खिलाफ वारेन्ट भेजकर उन्हें गिरफ्तार किया जा सकता है और इस पर कोई भी रोक नहीं है। इसलिए मैं निवेदन करना चाहता हूँ कि इस स्थिति पर पन्त जी को गम्भीरता पूर्वक विचार करना चाहिये और जिस तरह से इस धारा में शब्द लिखे गये हैं उससे सारे देश में गड़बड़ी पैदा हो सकती है। इसलिए मैं चाहता हूँ कि जल्दबाजी में कोई भी काम न किया जाय। श्री ओम् मेहता चाहते हैं कि यह बिल 6 बजे पास हो जाय। इस प्रकार की धारा से देश में जो स्थिति पैदा हो सकती है उसके ऊपर उन्होंने नहीं सोचा है। इसलिए मैं चाहता हूँ कि सदन इस बारे में गम्भीरता से विचार करे कि इस धारा के पास हो जाने से देश में किस तरह की गड़बड़ी पैदा हो सकती है। इसलिए मैं समझता हूँ कि श्री पंत जी इस बिल की इस धारा की गम्भीरता पर विचार करेंगे।

SHRI BALACHANDRA MENON: Sir, this clause must go. Suppose I participate in action, or a struggle, a just struggle; it might be the struggle of the workers or the peasants, and the land is occupied. Then I must be arrested. This is a democratic movement which you have to build up. This movement has to be built up with our masses in action. I can participate in it and go back. This Government does not want to do anything; it does not want to bring forward land legislation and does not want to accept the rights of the workers. If I participate in this struggle, how can you arrest me? That cannot be allowed. In that case nothing can be done in this country. It will be a very dangerous thing and

therefore I say that the whole Clause must go.

श्री श्याम लाल यादव : उपसभापति महोदय, क्रिमिनल जुरिसपुरुडेंस का यह सिद्धांत है कि यदि कहने पर अपराध हो तो किसी अधिकारी को यह अधिकार प्राप्त होता है कि वह ज़ाब्त फौजदारी के अधीन कार्यवाही करे अथवा वह व्यक्ति जहाँ पर निवास करता है वहीं पर यह कार्यवाही हो सकती है। इन दोनों का जो एक मूलभूत आधार है उसके विपरीत यहाँ पर प्रावधान किया जा रहा है। तो जो भावनाएँ मेरे दोस्तों ने प्रकट की हैं मैं समझता हूँ कि वे सही हैं कि यहाँ पर आप संबन्धित अधिकारी को यह अधिकार दे रहे हैं कि वह दूसरे राज्य में रहने वाले व्यक्ति के खिलाफ, जो व्यक्ति उसके अधिकार क्षेत्र के बाहर रहता है उसके खिलाफ आदेश कर सकता है और उसे डिटेन भी कर सकता है। मैं समझता हूँ कि ये दोनों ही बातें जो क्रिमिनल जुरिसपुरुडेंस का सिद्धांत है उसके विरुद्ध हैं। इस लिये इस धारा को निकाल देना चाहिये।

SHRI K. C. PANT : Let us understand clearly, Sir, what the result of accepting this amendment would be. It would mean that, even if there is justification to detain a person, even if the officers who are empowered to detain him, are satisfied that they can do so, he will get immunity from such detention just because he is not a resident of that State. Now, Sir, when we are dealing with spies, when we are dealing with anti-social elements like *goondas*, blackmarketers, hoarders, etc., is it proper to leave a loophole in the Bill under which they can claim immunity just on the ground of their not belonging to that State, or not being a resident of that State? I do not think this can be the intention of my hon. friend. So I do not think the amendment can be accepted.

MR. DEPUTY CHAIRMAN: The question is :

45. "That at page 3, line 18, for the words '*No detention order' the words 'A detention order' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

46. "That page 3, for line 18 to 2 i, the following be substituted, namely :—

'6. No detention order shall be valid and operative unless it is made with respect to a person who is a *bona fide* resident of the State which makes the detention order.'" *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

47. "That at page 3, lines 20 to 22, be deleted." *The motion was negatived.*

MR. DEPUTY CHAIRMAN: The question is :

"That Clause 6 stand part of the Bill." *The motion was ad'pted. Clause 6 was added to the Bill.*

Clause 7—Powers in relation to absconding persons

SHRI M. V. BHADRAM : Sir, I move :

49. "That at page 3, lines 25-26, the words and brackets 'or an officer specified in subsection (2) of Section: 3' be deleted."

50. "That at page 3, line 29, the words 'or officer' be deleted."

51. "That at page 3, line 34, the words 'and his property' be deleted."

77K questions were proposed.

SHRI BALACHANDRA MENON: Sir, I am a co-sponsor of amendments Nos. 49, 50 and 51. I am speaking about the confiscation of property. You say you are taking me away because you have got a suspicion. Why should my family suffer ? Why it should suffer, I do not know. It is only suspicion; nothing more than that. You take me away and you also say that my property will be confiscated. It means that my children and my wife will have to go to the streets. That cannot be, and it is bad. If it is a question of crime having been committed, I can understand that, not otherwise. This is something that for my sin my children must suffer. I might have a political

understanding. I am prepared to take the maximum risk. My children may have that understanding which may be even against me. It is all this property with which they manage to live and that should not be lost. They must live. The sins of the parents should not visit upon the children. Therefore, I say, this should not be there and no property should be touched. Whatever little a political worker might have should not be lost just because he has some political conviction. It is a dangerous thing. Therefore, it should not be there.

SHRI K. C. PANT : Sir, I had never suspected this attachment to property mentioned by my hon. friend, but if it is there, if that attachment is there and deters him from getting into certain situations, which brings him within the purview of this Act, it cannot be helped. I cannot accept the amendment.

MR. DEPUTY CHAIRMAN : The question is :

49. "That at page 3, lines 25-26, the words and brackets 'or an officer specified in subsection (2) of Section 3' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

50. "That at page 3, line 29, the words 'or officer' be deleted."

The motion was negatived

MR. DEPUTY CHAIRMAN : The question is :

51. "That at page 3, line 34, the words 'and his property' be deleted." *The motion was 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—Ground of order of detention to be disclosed to persons affected by the order

SHRI BHUPESH GUPTA : Sir, I move : 52. "That at page 4,—

(i) line 11, for the words 'five days'the

[Shri Bhupesh Gupta]

words 'twenty-four hours' be substituted.

(ii) line 12. for the words 'fifteen days' the words 'three days' be substituted."

SHRI SAUL KUMAR GANGULY : Sir, I move :

53. "That at page 4. line 13, after the words 'communicated to him' the word 'all' be inserted."

SHRI CHITTA BASU : Sir, I move :

"54. That at page 4, lines 14-15, for the words 'shall afford him the earliest opportunity of making a representation against the order to the appropriate Government' the words 'shall produce him before a Court' be substituted."

SHRI JAGDISH PRASAD MATHUR : Sir, I move :

55. "That at page 4, lines 16 and 17 be deleted."

SHRI BALACHANDRA MENON : Sir, I move :

56. "That at page 4, for lines 16 and 17, the following be substituted, namely :—

'(2) It shall be the duty of the authority to disclose the facts, which were the basis of the order of detention."

The questions were proposed.

SHRI OM MEHTA : Sir, I would like to draw your attention to one thing. Yesterday, it was decided that we will finish this Bill by 6 0' Clock.

SHRI JAGDISH PRASAD MATHUR : We can sit tomorrow also.

MR. DEPUTY CHAIRMAN : NO, no. We have to finish today.

SHRI A. P. CHATTERJEE: It may be continued till the next Session. Now, since the Ordinance has been approved, what is the hurry about it ?

SHRI BHUPESH GUPTA : Where a person is detained in pursuance of a detention order, the authority making the order shall, as

soon as may be, but ordinarily not later than five days. Here I wanted 24 hours and in exceptional circumstances etc. I wanted 24 hours. If you have arrested a person, it means that you have got the material in your possession, otherwise you could not arrest him. Then why should there be delay ? Within 24 hours material should be placed. Five days have been provided for here so that they can concoct something. What happens is, I can tell you, they arrest a person, put him under detention and then they utilise these days to cook up some charges against him. I think, this should not be there. Therefore, it should be done within 24 hours—that is what I want to press

And, Sir, in sub-clause (2), it is mentioned : "Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose." We have said that in respect of the facts—say Pakistan—you may not reveal the facts to some extent although, I may not agree to this even, but why should you not reveal your facts in so far as they are concerned ? They should be open to examination. You may keep the source to yourself. I know that you will not like to leak out the source. Such kind of people you are using for detention without trial. I know very well that in some places the Congress leaders get other people arrested just for satisfying their personal vendetta. It happens like that. Everybody knows it. It was discussed in this House and I think you were here at that time. Some Chief Minister or Home Minister got somebody arrested because he would not marry his daughter. He was a Maharashtra Minister. Such things happen. The man was arrested and detained without trial. All kinds of charge-sheets were given, but the real reason was that the Minister concerned was very much interested that the two families should come together through a matrimonial alliance. The boy liked the girl maybe, but the marriage did not take place. The other party did not agree. Some such things are happening in this country.

SHRI ARJUN ARORA : Was it the Minister's boy or daughter ? You must complete it.

SHRI BHUPESH GUPTA : I do not know. Mr. Niren Ghosh, you are a bachelor. Do not aspire to marry, because you will be getting into trouble.

SHRI LOKANATH MISRA (Orissa) : It is Mr. Arjun Arora who interrupted you.

SHRI A. P. CHATTERJEE : Mr. Bhupesh Gupta is a bachelor who aspires to marry a Minister.

SHRI ARJUN ARORA: He is himself a bachelor and quite an eligible bachelor.

SHRI BHUPESH GUPTA : I think Mr. Arjun Arora is an illegitimately married man.

SHRI ARJUN ARORA: I am a very happily married man and I wish you also had that sort of happy ties.

SHRI BHUPESH GUPTA: I am very happy to hear that Mr. Arjun Arora is a happily married man, but I only pity his wife.

SHRI ARJUN ARORA : I will admire the girl who marries you.

SHRI PITAMBER DAS : It is not only an interruption from Mr. Arjun Arora, but it is even a stimulation.

SHRI BHUPESH GUPTA : The word 'stimulation' is very inappropriate in this context. This is all what I say. As far as the source is concerned, you can keep it. I know that the Ministers of this Government spy on each other. Everybody knows it. Congressmen spy on each other. Everybody knows it. Source you may not like to divulge. Mr. Dixit is laughing, but he agrees with me that they spy on each other. So, I say do not divulge the source, but divulge the facts. You have arrested a person on the basis of some facts. Let the facts be tested. This relates to the domain of evidence. Every evidence should be subject to test and verification. Unless you give the facts, how can I verify? Now, Sir, it is said that in the public interest it will not be given. What do you mean by public interest? Having arrested the man violating democratic norms you say that you will not reveal the facts in the public interest. It is adding insult to injury. Therefore, I say that 'his amendment should be accepted.

SHRI SALIL KUMAR GANGULY : My amendments Nos. 53 and 55 are on similar lines to those of Shri Bhupesh Gupta. I also want the word "all" to be inserted before the words "the grounds on which the order has

been made". All the grounds should be disclosed. And I want clause 8(2) should be deleted which permits the authorities to withhold certain facts which they consider to be against the public interest to disclose. He may be arrested on certain allegations. He may be given only certain facts. He can answer only those facts. Those perhaps would not be sufficient but certain additional facts might be placed before the Advisory Board. But only to refer to the report of the Advisory Board ex-parte is very wrong. A person who is detained should be given all the grounds because after all he is in detention, he cannot communicate with others and not much harm can come. If he is really guilty he must know his guilt. Therefore, there is no question of withholding facts. The facts should not be withheld. That I think is very wrong. Therefore, I am proposing these amendments that the word "all" should be inserted before the words "the grounds on which the order has been made", and that sub-clause (2) should be deleted. After all there should be fair play, and merely by putting a cock and bull story into the file which is to be shown only to the members of the Advisory Board and not to the detenu fair play cannot be obtained. That is why I propose these amendments.

SHRI CHITTA BASU: In this clause the detenu has only been provided with an opportunity of making a representation against the order to the appropriate Government. I am on principle opposed to detention without trial. Therefore, my simple amendment has been instead of offering him an opportunity of representation to the appropriate Government he should have an opportunity of being produced in the court. He should be produced before the court. I think it needs no argument.

MR. DEPUTY CHAIRMAN : You are right.

SHRI CHITTA BASU : Why I want him to be produced before the court? You may laugh and smile, but the whole principle is this. You have got a semblance of democracy. You are providing certain opportunity for the detained person to make a representation to the appropriate Government. But what right have you to do this? I want my case to be represented before the court so that my case can be properly argued, people can know how far I am guilty of those charges that have been

[Shri Chitta Basu]

made against me. There should be all facilities given to an accused as is given in the court. Unless that is done, Sir, this is nothing but annihilation of the basic democratic ideas of our country. Therefore, I think instead of offering that limited opportunity he should be produced before the court as soon as possible.

SHRI NIREN GHOSH: When he is arrested by Mr. K. C. Pant, he will certainly be produced before the court.

श्री जगदीश प्रसाद माथुर : उपसभापति महोदय, धारा 8 के भाग (1) में गिरफ्तार किए गए व्यक्ति को जो कुछ सरकारी सुविधा देने को लिखा है, दूसरे भाग को लिखकर उस को समाप्त कर दिया है—एक हाथ से दिया दूसरे हाथ से उसको वापस ले लिया, केवल यही सारी धारा की मन्दा है। इससे तो अच्छा होता अगर माननीय मंत्री जी इस धारा को लिखते ही नहीं। जिन परिस्थितियों में किसी व्यक्ति को इस ऐक्ट के अन्तर्गत गिरफ्तार किया जाएगा उसके ऊपर कोई न कोई गम्भीर आरोप होंगे। धारा 8 (I) में लिख दिया कि उसके खिलाफ आरोप दिए जाएंगे और उसके बाद दूसरे भाग में यह लिख दिया कि वह पब्लिक इन्टरेस्ट में डिसक्लोज नहीं होंगे। तो यह लिखने की आवश्यकता क्यों पड़ी, यह मेरी समझ में नहीं आया। यह पब्लिक इन्टरेस्ट कौन डिसाइड करेगा क्योंकि गिरफ्तारी करने वाला सरकारी मजिस्ट्रेट होगा, एस० पी० होगा और उसकी इच्छा के अनुसार पब्लिक

6 P. M.
इन्टरेस्ट माना जाएगा। पब्लिक इन्टरेस्ट कहीं भी डिफाइन नहीं हो सकता है। अगर आप उसको अवसर देना चाहते हैं तो आप उसको किस तरह से बतला सकते हैं क्योंकि आप के पास एडवाइजरी बोर्ड अपनी नहीं है, अदालत नहीं है, जितनी सारी कार्यवाही वहां पर होगी वह पब्लिक में आने वाली नहीं है। ऐसी स्थिति आप ने पैदा कर दी है कि पब्लिक इन्टरेस्ट में कुछ नहीं बतलाया जायेगा कि उस आदमी के ऊपर क्या क्या आरोप लगाये गये

SHRI SHEEL BHADRA YAJEE : Sir, it is हैं। इस तरह से उस आदमी को आरोपों की जानकारी, फैक्ट्स बिल्कुल भी मिलने वाले नहीं हैं। कोई भी कलैक्टर, मजिस्ट्रेट या एस० पी० नहीं चाहेगा कि वह जिस आदमी को गिरफ्तार करता है उसके खिलाफ आरोप बतलाये जब कि वह पब्लिक इन्टरेस्ट में उसको गिरफ्तार करता है। एडवाइजरी बोर्ड भी उस का अपराध बतलाने वाला नहीं है। ऐसी हालत में वह व्यक्ति अपना दृष्टिकोण नहीं रख सकता है। आप जिस चीज को एक हाथ से दे रहे हैं उसी चीज को दूसरे हाथ से ले रहे हैं, यह उचित मालूम नहीं देता है उसे कम से कम यह तो बतलाया जाना चाहिये कि उसके ऊपर आरोप क्या हैं और उसे इस सम्बन्ध में सफाई देने का मौका दिया जाना चाहिये।

already six.

MR. DEPUTY CHAIRMAN: Mr. Bhadram.

SHRI M. V. BHADRAM : Sir, this is an obnoxious clause. The principle which we have accepted is that nobody should be condemned without being heard. Here the people will be condemned without being given all the facts of the case for which he is detained. Sir, if an accused is charge sheeted in a court of law, all the facts relating to the case must be contained in the charge-sheet. Otherwise if all the material is not there charge-sheet may not be taken into consideration even by the court. But here in the name of public interest, who is to decide the public interest? The police officer or the district magistrate or the additional district magistrate is to decide what is public interest? To give you one instance of personal experience...

MR. DEPUTY CHAIRMAN : You need not give that.

SHRI M. V. BHADRAM : In 1962, we had rivalry between ourselves and the INTUC. On the basis of statement of the INTUC, I was arrested and put in detention in 1962. If all the facts are not brought before you, how can you rebut the charges. If the facts are concealed from the detenu and not placed

before the Advisory Board, he will not have any access to them. This is unfair, this is uncivilised.

AN HON. MEMBER : It is barbarous.

SHRI M. V. BHADRAM : Not only barbarous. By third-degree methods they want to detain people. So this should be replaced. It should be the duty of the authorities to disclose the facts before they pass the order of detention.

SHRI K. C. PANT : So far as Shri Bhupesh Gupta's amendment goes, it is not always possible to furnish the grounds of detention to the detenu within 24 hours as he has suggested. It is not administratively always possible. Therefore this cannot be accepted. Sir, Shri Ganguli has said that all grounds should be communicated to the detenu. It is in the interest of the detaining authority to communicate all the necessary grounds to the detenu because these grounds are then communicated also to the Advisory Board and if they want to convince the Advisory Board, they will give all the necessary grounds. This is in their own interest. One can leave it to them.

So far as Shri Bhupesh Gupta's second amendment is concerned, about sources of information, I would like to point out that article 22(5) says :

"When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made " etc.

"(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose."

Therefore it is really in accordance with the provisions of the Constitution. Sir, if this Bill can be used for matrimonial purposes, I would be glad to lend it for that use. It will bring greater harmony and peace to this House if some of our bachelors could be married.

So far as Mr. Chitta Basu's amendment goes...

SHRI ARJUN ARORA: He is also a bachelor.

SHRI K. G. PANT : I can lend the provisions of this Bill to him also for this good purpose.

SHRI BHUPESH GUPTA: My fear is you will use it to prevent a divorce when it is called for.

SHRI PITAMBER DAS : Why do you exclude widowers ?

SHRI K. C. PANT : I never know widowers so anxious. About the other amendment to which Mr. Chitta Basu referred, may I point out that revealing of facts to the detenues in certain cases may further jeopardise the security of the country, and this is a fact which they will readily admit.

MR. DEPUTY CHAIRMAN : The question is :

52. "That at page 4,—

(i) line 11, for the words 'five days' the words 'twenty-four hours' be substituted.

(ii) line 12, for the words 'fifteen days' the words 'three days' be substituted." *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

53. "That at page 4, line 13, after the words 'communicated to him' the word 'all' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

54. "That at page 4, lines 14-15, for the words 'shall afford him the earliest opportunity of making a representation against the order to the appropriate Government' the words 'shall produce him before a Court' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

55. "That at page 4, lines 16 and 17 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

56. "That at page 4, for lines 16 and 17, the following be substituted, namely :

'(2) It shall be the duty of the authority to disclose the facts, which were the basis of the order of detention.'" *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

57. "That clause 8 stand part of the Bill." *The motion was adopted.*

Clause 8 was added to the Bill.

Clause 9—Constitution of Advisory Boards

SHRI M. V. BHADRAM : Sir, I move :

58. "That at page 4, for clause 9, the following be substituted, namely :

'9. The Central Government and each State Government shall constitute one or more Advisory Boards consisting of five representatives of political parties as members and, a Judge of a High Court as its Chairman.'"

[The amendment also stood in the names of Sarvashri Balachandra Menon, Kalyan Roy, Bhola Prasad and S. Kumarari]

SHRI JAGDISH PRASAD MATHUR : Sir, I move :

60. "That at page 4, lines 21-22, the words 'or have been, or are qualified to be appointed as,' be deleted."

The amendment also stood in the name of Shri Shyam Lai Tadav

SHRI LAL K. ADVANI : Sir, I move :

61. That at page 4, line 22, the words, 'or are qualified to be appointed as,' be deleted."

SHRI BHUPESH GUPTA : Sir, I move :

62. "That at page 4, line 22, after the words 'High Court' the words 'and not less than three members from the Opposition in each of the two Houses of Parliament, and in the case of a State three members from the Opposition in the State Assembly concerned, but excluding in either case the members belonging to those

parties which supported this Bill when it was considered by the Houses of Parliament.' be inserted."

[The amendment also stood in the name of Dr. Z- A. Ahmad]

SHRI K. P. SUBRAMANIA MENON : Sir, I move :

63. "That at page 4, line 24, after the words 'may be' the words 'subject to the approval by Parliament and the Legislative Assembly of the State concerned,' be inserted."

[The amendment also stood in the name of Shri Niren Ghosh]

SHRI JAGDISH PRASAD MATHUR : Sir, I move :

64. "That at page 4, line 26, the words, 'or has been/ be deleted'."

The questions were proposed.

SHRI BALACHANDRA MENON : Sir, by my amendment I want to give a little respectability to this black Act. Even now it can be done at least to give respectability to some of you. What I am saying is you have Advisory Boards with a Judge as the Presiding Officer. They will go through it. And what will be the Advisory Board ? The Advisory Board will consist of political members so that they can know whether there is real danger because they can know the whole thing. After all, they are political parties which send representatives to make law here. When that is so, you can take the House into confidence and Mr. Pant will have greater respectability. Let such committees be formed which will advise the Government.

SHRI AKBAR ALI KHAN: All political parties ?

SHRI BALACHANDRA MENON : All political parties which have a certain representative character at least in Parliament and Assemblies. I do not want parties which have declared war on society to come here. I want only such parties which are now recognised. Let them have their representatives. Let such committees come. Let there be a Judge as its president. Then we will have some democracy even in this black Act.

श्री जगदीश प्रताप माथुर : उपसभापति महोदय, सलाहकार बोर्ड जिनका सरकार गठन करना चाहती है उनमें जिन लोगों की नियुक्ति की जायगी उसमें मेरी समझ में नहीं आता कि उन्होंने यह बात कैसे लिखी कि 'आर क्वालिफाइड टु बी अप्वाइंटेड एज जजेज आफ दि हाई कोर्ट' इसके माने कि दो प्रकार के लोग जो आज हाईकोर्ट में जजेज को हैसियत में काम कर रहे हैं या जज बनने की योग्यता रखते हैं उनकी नियुक्ति की जा सकती है। अगर जजेज की नियुक्ति की बात हो तो शायद किसी को भी आपत्ति न हो, लेकिन जो लोग रिटायर हो चुके हैं उनको लेना उचित नहीं है। रिटायर होने वाले जजेज के सामने उनके सेवा से निवृत्त होने के बाद उनको कहीं लिया जाय यह एक प्रलोभन रहता है। या तो उनकी किसी कमीशन में नियुक्ति की जाती है या किसी बोर्ड में। उपाध्यक्ष महोदय, इस कारण से वे सरकार के विपक्ष में निर्णय करना नहीं चाहते ऐसा आप को लगेगा जैसा कि जस्टिस शाह ने सरकार के विरुद्ध निर्णय दे दिया तो सरकार की उन पर कोप दृष्टि है इस तरह का आभास हमको मिला। यह भी उन्होंने कहा कि जिनको जज अप्वाइंट होने की योग्यता हो वह रखे जा सकते हैं। कोई दस साल की स्टैंडिंग का वकील है तो उसकी नियुक्ति की जा सकती है। तो सरकार के पक्ष के जितने वकील होंगे जो भी कांग्रेसी विचार धारा के वकील होंगे जो हाई कोर्ट के जज बन सकते हैं उनको एडवाइजरी बोर्ड का सदस्य बनाया जा सकता है। हमने देखा है कि कई प्रकार की संस्थायें हैं, कई ऐसे बोर्ड और कमीशन्स हैं जिनमें सत्ताधारी दल के लोगों को अप्वाइंट किया जाता है। आप ने इसके अन्दर कहां रोक रखी है कानून में या रूल्स में कि सरकारी पक्ष के उस वकील को जो सरकारी पार्टी का सदस्य है और वकालत करते करते इस योग्य हो गया है कि हाईकोर्ट का जज नियुक्त किया जा सकता है इसमें नहीं रखा जायेगा। पंत जी या प्रान्तीय सरकारें इस बोर्ड में किसी भी दल के लोगों को ला सकती हैं, वे

अपनी पार्टी के लोगों को बोर्ड में रखेंगी। इसमें कौन सी बंदिश है? पंत जी ने उत्तर देते हुए कोई उदाहरण दिया है? एक भी उदाहरण देश में ऐसा हुआ है? आप ने जो रास्ता निकाला है, बताया है अगर उस रास्ते का उपयोग कोई प्रान्तीय सरकार करना चाहे तो आप का उसके ऊपर क्या प्रतिबन्ध है और इस प्रकार की दलगत राजनीति के रहते हुए अगर इस प्रकार की नियुक्तियां बोर्ड में होंगी और गिरफ्तार होकर आने वाला व्यक्ति अगर राजनीतिक पार्टी का आदमी है तो क्या उसके सम्बन्ध में निष्पक्ष निर्णय हो सकेगा? यह संभव नहीं होगा और इसलिए बोर्ड में नियुक्त किये जाने वाले व्यक्ति सेवा से रिटायर हो गये हैं उनको आप अप्वाइंट मत करिये या जो हाईकोर्ट के जज की योग्यता रखते हों उन को आप अप्वाइंट करिये इस प्रकार का मेरा संशोधन है और यही मेरी राय है और लोगों को सही न्याय मिले प्रजातांत्रिक दृष्टि से इसलिए माननीय मंत्री जी मेरे संशोधन को स्वीकार करेंगे।

श्री लाल आडवाणी : उपसभापति जी, वास्तव में आदर्श स्थिति तो वही है जो मेरे मित्र श्री माथुर जी ने कही है और अगर उन का संशोधन स्वीकार किया गया तो शायद मेरे संशोधन की आवश्यकता ही नहीं पड़ेगी, किन्तु मुझे लगता है कि सरकार को कुछ संदेह है कि आज जो जजेज हैं उनकी संख्या इतनी पर्याप्त नहीं है कि वह इस प्रकार के एडवाइजरी बोर्ड्स में रह सकें और अगर सरकार ने उनको एडवाइजरी बोर्ड्स में रखा तो कोर्ट्स का जो नामल काम है वह सफर करेगा, उसको क्षति पहुंचने का भय था। जो निवृत्ति प्राप्त जजेज हैं, रिटायर्ड जजेज हैं, उनको इसमें लेना होगा। मेरे संशोधन के अनुसार आप रिटायर्ड जजेज को इंकलूड कर सकते हैं, प्रेजेंट जजेज को भी इंकलूड कर सकते हैं, लेकिन जो तीसरा वर्ग है कि जो आज के इस स्टैट्यूट में है अर्थात् दोज हू आर क्वालीफाइड टु बी अप्वाइंटेड एज हाईकोर्ट जजेज, इसको रखना सर्वथा अनुचित है। क्यों कि उनके द्वारा पक्षपात होगा। सरकार अपने

[श्री लाल आडवाणी]

पक्ष के समर्थक जो वकील हैं उनकी नियुक्ति करेगी। जिस वकील की दस साल की अवधि हो गयी होगी उसको एडवाइजरी बोर्ड में बहुरखेगी और इस तरह से एक गलत रास्ता और एक गलत परम्परा बन जायगी। इसलिए मेरा आग्रह है कि इसको संशोधित किया जाय और दि बर्ड्स 'आर क्वालीफाइड टु बी अप्वाइंटेड एज' विलोपित किये जायं।

MR. DEPUTY CHAIRMAN: Do you want to add anything, Mr. Bhupesh Gupta ?

SHRI BHUPESH GUPTA: Yes. My amendment relates to the composition of the Advisory Boards. The present provision is that only judges or persons who are qualified to be judges are eligible for membership of the Advisory Board. I want in addition to the judges, "not less than three members from the Opposition in each of the two Houses of Parliament, and in the case of a State, three members from the Opposition in the State Assembly concerned, but excluding in either case the members belonging to those parties which supported this Bill when it was considered by the Houses of Parliament." Now, why have I suggested this? You have an Advisory Board. You have some fancy for judges. You will appoint the judges. Obviously you will make your own selection. You will have such judges, I know, in whom you have faith and who may take a very rigid and conservative view to suit your interests. So one side is guaranteed. Your side is guaranteed. It need not be represented any more. Now, vigilance is the most important aspect of it. That vigilance can be exercised only by those who have opposed this Bill. I would not like even my friends from that side to be on the Board because they have supported the Bill. Now also they will be supporting it. Therefore, out of all of us, I say, that is, out of the SSP, the GPI, the CPM, the DMK, the Forward Bloc, the PSP...

SHRI ARJUN ARORA : The Jan Sangh. SHRI BHUPESH GUPTA :... yes, the Jan Sangh, the Swatantra Party because they have opposed the Bill, you take three and you take three from the Lok Sabha, and only then the Advisory Board will be worth its name ; otherwise, this Advisory Board is a great hoax, a big bluff. Materials are not given, and judges,

some of them after retirement or otherwise placed, come there and they believe what the police tell them. This is the position. Now, this is no natural justice at all. My friend, Mr. Pant, was telling us that that was the business of natural justice. Where is it ? Nothing of the kind. Therefore, I am making this kind of a suggestion ; other suggestions have also been made. I say these should be accepted. But I know they will not be accepted. That also I know. But I think it should be known that if a Board of this kind is at all to function in a worthy manner, it certainly must have a different representation from those who are very strictly against a measure of this kind and who shall exercise vigilance in defence of the liberties of the people. That is why I have made this suggestion.

SHRI K. P. SUBRAMANIA MENON :

My amendment is very simple, Sir. The fact is that these Advisory Bodies, packed by the 'yes-men' of the ruling party, are not likely to be impartial bodies which will give a correct judgement on the issues at stake. And even with judges or ex-judges our experience in this country has been that they are unabashed lackeys of the ruling party, are unashamed brazen-faced apologists of the monopolists and the landlords. You do not expect any kind of justice from this sort of people. And that is why I say these Advisory Boards, when they are set up, should have the approval of Parliament. Not that Parliament can change the names proposed by the ruling party. After all, the ruling party has got a majority and it will carry it. But then, that occasion can be used to expose the nature of Advisory Bodies every time they are constituted. Therefore, I am moving my amendment.

SHRI K. G. PANT : I must point out that the constitution of the Advisory Board is again in accordance with the Constitutional provision. Article 22, sub-clause 4 (a) says :

"An Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court.. ."

Therefore, we are following that. On Shri Bhupesh Gupta's point, I am glad that he has found new friends in the Swatantra Party and the Jan Sangh. He is prepared to have an Advisory Committee. This new commonness of approach, I hope, will persist.

SHRI BHUPESH GUPTA : On a point of order. I have said I free from the Opposition belonging to the parties which have not supported this measure. Why do you necessarily think that...

SHRI K. C. PANT : It is commonness.

SHRI BHUPESH GUPTA : It may be CPI, CPM and Rajarain.

SHRI K. C. PANT : Therefore, CPM has commonness of approach with the Swatantra Party. That is what I say.

श्री पीताम्बर दास : श्रीमन्, माननीय मंत्री महोदय को इस बात की खुशी नहीं है कि हमारे साथ दोस्ती हो गई। उन्हें अफसोस इस बात का है कि उनके साथ की दोस्ती छूट गई।

SHRI BHUPESH GUPTA: In the last seven days you have been going from door to door canvassing support.

SHRI OM MEHTA : No.

SHRI BHUPESH GUPTA: Shri Om Mehta says 'no'. Let this matter go to the Privileges Committee I shall prove before the Privileges Committee that "the Congress Party has been begging the Swatantra Party and the Jan Sangh.

SHRI K. C. PANT : The appointment of Advisory Board is an executive function and therefore Shri Menon's amendment cannot be accepted.

MR. DEPUTY CHAIRMAN : The question is :

58. "That at page 4, for clause 9, the following be substituted, namely :

"9. The Central Government and each State Government shall constitute one or more Advisory Boards consisting of five representatives of political parties as members and a Judge of a High Court as its Chairman." *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

60. "That at page 4, lines 21-22, the words 'or have been, or are qualified to be appointed as,' be deleted." *The motion was negatived-*

MR. DEPUTY CHAIRMAN : The question is :

64. "That at page 4, line 26, the words, 'or has been,' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

61. "That at page 4, line 22, the words, 'or are qualified to be appointed as/ be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

62. "That at page 4, line 22, after the words 'High Court' the words 'and not less than three members from the Opposition in each of the two Houses of Parliament, and in the case of a State three members from the Opposition in the State Assembly concerned, but excluding in either case the members belonging to those parties which supported this Bill when it was considered by the Houses of Parliament,' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

63. "That at page 4, line 24, after the words 'may be' the words 'subject to the approval by Parliament and the Legislative Assembly of the State concerned,' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

"That clause 9 stand part of the Bill." *The motion was adopted.*

Clause 9 was added to the Bill.

Clause 10 Reference to Advisory Boards

SHRI BHUPESH GUPTA : Sir, I move :

65. "That at page 4, line 33, for the words 'thirty days' the words 'three days' be substituted."

The question was proposed.

SHRI BHUPESH GUPTA : Why should a man be kept in detention for 30 days as provided in this clause ? Why should there be so much delay ? It should be done within three days instead of thirty days. Suppose he is released. Who is responsible for his detention ? If they have materials in their possession, three days are enough.

SHRI K. C. PANT : The time provided is quite reasonable and therefore I cannot accept the amendment.

MR. DEPUTY CHAIRMAN : The question is :

"That at page 4, line 33, for the words 'thirty days' the words 'three days' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :
"That clause 10 stand part of the Bill."

77ie motion was adopted. Clause 10 was added to the Bill.

Clause 11—Procedure of Advisory Boards

SHRI BALACHANDRA MENON : Sir, I move :

66. "That at pages 4-5, for Clause 11, the following be substituted, namely :

'II. The Advisory Board shall hear the detenue in person authorised by him in that behalf or any legal practitioner and call for witnesses and papers, if required'."

70. "That at page 4, line 45, for the word 'ten' the word 'four' be substituted.

SHRI CHITTA BASU : Sir, I move :

67. "That at pages 4 and 5, for clause 11, the following clause be substituted, namely :

'11. The Advisory Board shall hear the detenue in person or his lawyer or any other representative authorised by him for the purpose and shall have authority to record any evidence, both oral and documentary, as he may deem fit, to ensure justice to the detenue concerned and for the purpose shall have all the powers of a Civil Court under the Civil Procedure Code'."

69. "That at page 4, line 45, for the word 'ten' the word 'ix' be substituted."

SHRI JAGDISH PRASAD MATHUR : Sir, I move :

71. "That at page 4, lines 45-46, for the words 'ten weeks' the word3 'fifteen days' be substituted."

75. "That at page 5, lines 7 to 12 be deleted."

SHRI BHUPESH GUPTA : Sir, I move ;

72. "That at page 4, after line 46, the following sub-clause be inserted, namely :

*(1A) Any person so detained shall have the right to test any document or witness'."

73. "That at page5, line 6, after the word 'Board' the words 'but no opinion in favour of detention shall be deemed valid unless such opinion is an unanimous one be inserted."

SHRI M. V. BHADRAM : Sir, I move :

74. "That at page 5, lines 7 and 8, for the brackets, figure and words '(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any the brackets, figure and words '(4) Any persson against whom a detention order has been made shall be entitled to appear by any legal practitioner in any/ be substituted."

The questions were proposed.

SHRI BALACHANDRA MENON : Sir, I have got only just one word to say on my amendments. The detenue must be heard. Papers cannot speak for him. He should be heard in person. If he is one who cannot represent his case, he should be allowed his advocate or somebody whom he authorises. That is all I want, Sir.

Another thing I want to say is about this. Within ten weeks from the date of detention the report will be submitted. What is this ? Seventy days ? I must know what is against me. It must be within four weeks. Sir, it is a very simple suggestion. I must know what is against me. I must have the papers within four weeks. And, the other thing is that I

must be heard personally. At least this thing must be done. These are all small things, Sir.

MR. DEPUTY CHAIRMAN : Mr. Chitta Basu.

SHRI CHITTA BASU : Sir, it is all the more simpler and simpler than his. Sir, I want that the Advisory Board should have all the powers of the civil court under the Civil Procedure Code, because, Sir, the courts' power under the CPG includes the power to summon anybody or any document in the custody of anybody *suo motu*. Unless this power is given to the Board, the investigation will be seriously jeopardized and therefore, if the hon. Minister's claim is correct that he also wants to give some chance for the detained person to make representation to the Advisory Board, then the Advisory Board under the present set-up or in the present capacity cannot recognise the allegations against him unless it has got the powers of the court. Therefore, my simple suggestion is that the Advisory Board should have the powers of the Court so that it can look into the matters in relation thereto and can really function for the purpose it is intended for.

MR. DEPUTY CHAIRMAN : Mr. Mathur.

श्री जगदीश प्रसाद भाथुर : पंत जी जब इस विषयक के सम्बन्ध में चर्चा का जवाब दे रहे थे तो उन्होंने कहा था कि जिस व्यक्ति को गिरफ्तार किया जायेगा उसे कानूनी सलाह लेने के लिए वकील मिलने की किसी प्रकार की असुविधा नहीं होने दी जायेगी। वकील से वह व्यक्ति मिल सकता है, उससे सलाह ले सकता है, लेकिन जैसा मेनन साहब ने कहा कि हर एक व्यक्ति पढ़ा लिखा हो और बोर्ड के सामने स्वयं अपना केस रखे, तो यह बात सम्भव नहीं हो सकती है। सभी प्रकार के लोगों को गिरफ्तार किया जा सकता है। आप जिस व्यक्ति को गिरफ्तार करते हैं तो उसको चार्ज-शीटें देंगे और चार्जशीट मिलने के बाद वह जवाब देना चाहेगा। उस वक्त उसको वकील मिलना चाहिये ताकि वह वकील से सलाह ले सके और वह उसके मामले को प्लीड कर सके। आप ने इसमें यह छूट दे दी है कि कोई भी

व्यक्ति बोर्ड के सामने अपना केस प्लीड कर सकता है, लेकिन जिस व्यक्ति में इस तरह की क्षमता नहीं है, ऐसी योग्यता नहीं है कि वह अपना केस स्वयं प्लीड कर सके तो ऐसी हालत में उसको वकील की सुविधा मिलनी चाहिये। आपने इस बात के लिए उसको सुविधा नहीं दी है कि वह अपना केस बोर्ड के सामने प्लीड करने के लिए वकील का सहारा ले सके। आपने व्यक्तिगत रूप से तो उसको अपना केस प्लीड करने की छूट दे दी है। लेकिन वकील की सहायता लेने की सुविधा नहीं दी है।

एक तरफ तो आप कहते हैं कि उसको कानूनी सलाह लेने के लिए किसी प्रकार की असुविधा नहीं होने दी जायेगी और दूसरी तरफ आप उसको अपना केस प्लीड करने के लिए वकील की सुविधा देना नहीं चाहते। आप यह नहीं चाहते हैं कि वह चार्जशीट का जवाब दे सके और चार्जशीट के सम्बन्ध में वकील की मदद ले सके। आप उसके वकील को बोर्ड के सामने खड़े होने की इजाजत नहीं देना चाहते हैं और आप समझते हैं कि वहां पर जो कुछ भी कार्यवाही होगी वह सब गुप्त होगी और इसी कारण आप वकील की सुविधा कहां पर नहीं देना चाहते हैं। इसलिए मैं यह निवेदन करना चाहता हूँ कि आज इस धारा को यहां पर हटा दें।

MR. DEPUTY CHAIRMAN: All right. Mr. Pant.

SHRI BHUPESH GUPTA : What about me, Sir ? My amendment says that any person so detained shall have the right to test any document. That opportunity be given. Without testing the documents no one can establish it, especially when forged documents are placed and also without cross-examining the witnesses truth cannot be brought out when perjurers are brought in secretly to help them.

Now, Sir, in the other amendment there is a mistake in typing. It reads as "no opinion in favour of detenu...." It should read as "no opinion in favour of detention...." (*Interruption*) I am told the correction has

[Shri Bhupesh Gupta J

been made. Now, three members will be on the Board, according to your provision. Let the opinion be unanimous. No person should be detained without trial even in the rigorous condition unless the opinion is unanimous. Suppose one member is against, then on the basis of the majority opinion, a person should not be detained. Therefore, I suggest that this may be made unanimous, so that, as far as possible, within the framework every precaution is taken and no injustice is done even in the administration of such a horrid law. That's why I made this suggestion.

MR. DEPUTY CHAIRMAN : Mr. Pant.

SHRI K. C. PANT : Once again, I refer to Article 22 of the Constitution. Article 22 (1) says :

"No person who is arrested shall be detained in custody without being informed as soon as may-be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice."

And clause 22 (3) says :

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

(»)

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

Therefore, Sir, this is deliberately provided for in the Constitution.

Sir, it cannot be made a court of law. Shri Chitta Basu understands that.

Shri Balachandra Menon and Shri Bhadram have spoken. I may tell them here that it has provided for 10 weeks. If you see Art, 22 (4), you will see that a period of three month has been provided. So we are very well within the limit prescribe by the Constitution.

Shri Mathur thinks that the confidential character of this report will be maintained even if we accept this amendment. That is not so. If he reads it very carefully, he will see that the confidential character cannot be maintained because he has suggested the abolition of the entire clause.

Shri Bhupesh Gupta suggested that any

person so detained shall have the right to test any document or witness. This is totally in contravention of the procedure of the Advisory Boards and cannot therefore be accepted.

Shri Bhupesh Gupta then referred to the fact that the decision of the Board should unanimous. Even the decisions of the courts in any matter—be it the Supreme Court or a High Court—are taken on majority basis. This is a reasonable basis to adopt, Sir.

MR. DEPUTY CHAIRMAN : The question is :

66. "That at pages 4-5, for clause 11, the following be substituted :

'11. The Advisory Board shall hear the detinue in person or any person authorised by him in that behalf or any legal practitioner and call for witnesses and papers, if required.'" *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

70. "That at page 4, line 45, for the word 'ten' the word 'four' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

"67. That at pages 4 and 5, for clause 11, the following clause be substituted, namely :

'11. The Advisory Board shall hear the detinue in person or his lawyer or any other representative authorised by him for the purpose and shall have authority to record any evidence, both oral and documentary, as he may deem fit, to ensure justice to the detinue concerned and for the purpose shall have all the powers of a Civil Court under the Civil Procedure Code.'" *-The motion was negatived.*

MR. DEPUTY CHAIRMAN : The ques-tion is :

69. "That at page 4, line 45, for the word 'ten' the word 'six' be substituted."

MR. DEPUTY CHAIRMAN : The question is :

71. "That at page 4, lines 46-46, for the words 'ten weeks' the words 'fifteen days' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

75. "That at page 5, lines 7 to 12 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

72. "That at page 4, after line 46, the following sub-clause be inserted, namely :

'(1A) Any person so detained shall have the right to testify in any document or witness'."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

73. "That at page 5, line 6, after the word 'Board' the word: 'but no opinion in favour of detention shall be deemed valid unless such opinion is an unanimous one be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That at page 5, lines 7 and 8, for the brackets, figure and words '(4) Nothing in this section shall entitle any person against whom a detention order has been made appear by any legal practitioner in, any' the brackets, figure and words '(4) Any person against whom a detention order has been made shall be entitled to appear by any legal practitioner in any' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That clause 11 stand part of the Bill. *The motion was adopted. Clause 11 was added to the Bill*

Clause 12—Action upto the report of Advisory Board

MR. DEPUTY CHAIRMAN : There are two amendments

SHRI JAGDISH PRASAD MATHUR: Sir, I move :

77. "That at page 5, after line 20, the following be inserted, namely :

'(3) In case the detention of a person is confirmed by the appropriate Government under sub-section (1) the person concerned may prefer an appeal to the Supreme Court within thirty days after such confirmation'."

SHRI BHUPESH GUPTA : Sir, I move :

(78) "That at page 5, after line 20, the following be inserted, namely :

'(3) In the event of the opinion of the Advisory Board being against detention the person or persons responsible for the arrest and initial detention shall be liable to pay to a fine of rupees five thousand'." *The questions were proposed.*

श्री जगदीश प्रसाद माथुर : अपने देश में किसी भी व्यक्ति को गिरफ्तार होने के बाद आप ने व्यवस्था दी कि एडवाइजरी बोर्ड उस को न्याय देगा, लेकिन मेरा निवेदन है कि जहाँ हाई कोर्ट के जजेज या उनके समकक्ष योग्यता वाले व्यक्ति किसी व्यक्ति के खिलाफ कोई चार्जशीट लगाते हैं, उनको आरोपित करते हैं, और कहते हैं कि उसको गिरफ्तार किया जाना चाहिए तो क्या हम एक मौका अपने देश के सर्वोच्च न्यायालय में उसको अपील करने का नहीं देंगे। हमारे माननीय पंत जी ने हवाला दिया है अपने संविधान का। उसके सम्बन्ध में कोई निर्णय करने का अधिकार सर्वोच्च न्यायालय को है कि संविधान में कोई संशोधन ठीक है या नहीं। सर्वोच्च न्यायालय में राष्ट्रपति महोदय भी किसी प्रश्न को राय लेने के लिए भेज सकते हैं। तो जहाँ ऐसी व्यवस्था है वहाँ एक व्यक्ति जिसके खिलाफ इस विधेयक के द्वारा हम आरोप लगाते हैं, उसको सजा देते हैं उसको हम सर्वोच्च न्यायालय में अपील करने का अधिकार देते हैं या नहीं। मेरी राय है कि कम से कम एक स्थान होना चाहिए किसी व्यक्ति को न्याय मिलने का और इसलिए मैंने यह संशोधन रखा है कि जिस व्यक्ति के खिलाफ

[श्री जगदीश प्रसाद माथुर]
एडवाइजरी बोर्ड उसको डिटेन करने की राय दे
उसको सर्वोच्च न्यायालय में अपील करने का
अधिकार मिलना चाहिए ।

SHRI BHUPESH GUPTA : Sir, my amendment is a safeguard and also a deterrent. What happens to a case where the Advisory Board finds that the arrest was unjustified and releases that person ? Therefore, Sir, I say that in the event of the opinion of Advisory Board being against detention, the person or persons responsible for the arrest and initial detention shall be liable to pay a fine of rupees five thousand. I "should also like to have added whipping but I omitted it perhaps because it would not be liked by others. Therefore I have said that there should be at least the liability to pay a fine of five thousand rupees. A deterrent of this kind is needed. Otherwise, at least for some days you can keep a person in detention irrespective of what the Advisory Board is going to do, and that one month can be used for the purpose of keeping the person in detention. Now what is the remedy in such a situation Sir ? I have been deprived of my liberty. I cannot go in for malicious prosecution against the person responsible for my arrest. Government will not do it because Government is a guilty party. Then, there must be some provision that such persons who carried out such arrests and detention, which cannot even be sustained before an Advisory Board of this kind, they should be liable to some penal action. Therefore, I say let them pay a fine of five thousand rupees at least, not more. I say "person or persons." It may not be only the police officers who are responsible for the arrest and detention which cannot be sustained before the Advisory Board. I should like some Chief Ministers and other Ministers to be fined, the Home Ministers and others to be fined. Now Shrimati Indira Gandhi is the head of the Central Government in Delhi. Suppose in Delhi some arrest and detention has taken place, and it is found by the Advisory Board that the arrest and detention was unjustified, then Shrimati Indira Gandhi must be made to pay the fine of five thousands rupees. What is wrong in it ? Similarly the Chief Ministers. Now, Sir, I have given this amendment to stress one point that the aggrieved party has no remedy whatsoever has no remedy of compensation of any type, I and no deterrent also, because the bureaucracy is being armed to operate as they like and get |

away with it. It is not a matter of what the Advisory Board would do after a month but initially, for a period of thirty days they can detain a person. Therefore, Sir, I have made my suggestions. I know what will be the fate of my amendment. Anyhow I have moved my amendment.

SHRI K. C. PANT : Firstly about Shri Mathur's amendment. The suggested provision is unnecessary because a detainee can go to the Supreme Court. The Supreme Court's jurisdiction is not totally barred and he can go to that court, and the court can see whether the grounds of detention communicated to the detainee are sufficient, are not vague and are not irrelevant. So far as Shri Bhupesh Gupta's amendment goes, I did not quite follow what he said. Perhaps he said that the person aggrieved by the action cannot go to the court. Why can't he go to the court ?

SHRI BHUPESH GUPTA : I have not said so. I said that he cannot go for malicious prosecution. I can understand the writ petition. Suppose you have detained me for some days and then released me. In such a case I cannot go on a writ petition ; neither can I prosecute you for the malicious legal action against me. Therefore I have made the suggestion for a fine of five thousand rupees for unjustified arrest and detention, and it will act as a deterrent.

SHRI K. C. PANT; On the ground that the action taken is *mala fide* he can go to the court for remedy. He can go to the court for that. Therefore, this would cover even persons who have acted in good faith and they would also have to pay the fine. This would be highly unjust and I cannot accept it.

MR. DEPUTY CHAIRMAN : The question is :

77. "That at page 5, after line 20, the following be inserted, namely :

"(3) In case the detention of a person is confirmed by the appropriate Government under sub-section (1) the person concerned may prefer an appeal to the Supreme Court within thirty days after such confirmation." *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

78. "That at page 5, after line 20, the following be inserted, namely :

"(3) In the event of the opinion of the Advisory Board being against detention the person or persons responsible for the arrest and initial deention shall be liable to pay a fine of rupee, five thousand." *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

"That clause 12 stand part of the Bill."

The motion was adobted.

Clause 12 was added to the Bill.

Clause 13—Maximum period of detention

SHRI CHITTA BASU : Sir, I move :

79. "That at page 5, line 23, for the word 'twelve' the word 'six' be substituted."

SHRI K. P. SUBRAMANIA MENON : Sir, I move :

80. "That at page 5, line 23, for the words 'twelve months' he words 'three months' be substituted."

83. That at page 5,—

"(i) line 23, for the words 'twelve-months' the words 'six months' be substituted ; and

(ii) line 23. after the words 'date of detention' words 'after the expiry of this period the detained person shall be released' be inserted.'

SHRI M. V. B IADRAM : Sir, I move :

81. "That at page 5, line 23 for the word 'months' the word 'days' be substituted."

SHRI RAJNARAIN : Sir, I move :

82. "That at page 5, line 23, for the words 'twelve months' the words 'twenty-four hours' be substituted.

SHRI JAGDISH PRASAD MATHUR : Sir, I move :

84. "That at page 5, for the existing proviso the following provisos be substituted, namely :

•Provided th tt every case shall be revie-

wed by the Advisory Board after a period of six months from the date of confirmation:

Provided further that the procedure for the review preceedings shall be the same as provided in section 11 of this Act." *The questions were proposed.*

SHRI MAHAVIR TYAGI : Sir, are you taking up clause 13? I just want to seek a clarification about it before the amendments are moved. According to the Constitution :

"Parliament may by law prescribe—

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer, than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4) ;

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention."

So, Parliament is required to fix the maximum period for which the detention can take place. Now, the first part of it fixes the period :

"The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention "

Further it adds :

"Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time.

Now Government also extend the period. If it can be extended then it means that Parliament has not fixed the maximum either.

SHRI DAHYABHAI V. PATEL: What is there to prevent modifying it with these Ministers ?

SHRI MAHAVIR TYAGI : Parliament is required to fix the maximum.

MR. DEPUTY CHAIRMAN: Mr. Pant, do you want to say anything ?

SHRI MAHAVIR TYAGI : Sir, on a point of order.

MR. DEPUTY CHAIRMAN : What is your point of order ?

SHRI MAHAVIR TYAGI : My point of order is that it is not consistent with the requirement of the Constitution and, therefore, it cannot be permitted.

MR. DEPUTY CHAIRMAN : Why ?

SHRI MAHAVIR TYAGI : Because the Constitution lays down that Parliament may by law prescribe. . . that is in (a) and (b). The maximum prescribed should be according to (b) :

"(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention ;

According to this, clause 13 is wrong because clause 13 of the Bill says :

"The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention :"

Now, this proviso down below makes the fixation of the period vague because it says :

"Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time."

So, can they add two more years or any time ? The maximum period to be fixed by Parliament is 12 months. It is only a proposal. Suppose we agree to that proposal, it would be vague.

MR. DEPUTY CHAIRMAN: I do not think so. The Constitution empowers Parliament to make laws. This is a provision regarding the Advisory Board.

SHRI NIREN GHOSH : The maximum is fixed.

SHRI LAL K. ADVANI : The proviso in this particular clause in a way negates the original clause.

SHRI MAHAVIR TYAGI : What is the meaning of maximum ?

SHRI K. C. PANT : This is in accordance with the provisions of the Constitution and the maximum is being clearly laid down in this clause. It has come before you. The interpretation of this lies in the courts. It is not for Parliament to interpret it. This is before you and is in accordance with the provisions of the Constitution.

SHRI MAHAVIR TYAGI : I want to know how could that be ? It is an authority given by the Constitution to Parliament to fix a maximum period of detention and Parliament fixes twelve months as the maximum. How does this proviso come in ? It will change that period.

SHRI K. C. PANT : It is very simple. Modification is possible to reduce the period, but this is the maximum which is in accordance with the constitutional provision.

MR. DEPUTY CHAIRMAN : The Constitution has prescribed no maximum limit. Parliament can have any limit, I think.

SHRI MAHAVIR TYAGI: Parliament may prescribe a maximum, but it cannot be vague.

MR. DEPUTY CHAIRMAN : Parliament can make any law prescribing the maximum, 12 months, 18 months or 24 months.

SHRI PITAMBER DAS : One thing has to be understood clearly. The wordings of the clause are : 'to revoke or modify the detention order at an earlier time.' It is not 'for an earlier period'. If the power had been 'to modify the detention order for an earlier period,' that could be possible, but it is modification 'at an earlier time.' The Government can modify it for fifteen months, not necessarily reduce it.

MR. DEPUTY CHAIRMAN : There is a clear provision for the maximum which is put in the law itself. I think it cannot be modified to exceed that limit.

SHRI PITAMBER DAS: Nothing shall affect the power to make...

MR. DEPUTY CHAIRMAN: Clause 13 of the Bill clearly says that it will be only for twelve months.

SHRI PITAMBER DAS : But the proviso says something else.

MR. DEPUTY CHAIRMAN : Clause 13 is very clear and it is twelve months.

श्री राजनारायण : कहां लिखा हुआ है, बिलकुल गलत बोल रहे हैं। मौडिफिकेशन का मतलब घटाना भी है, बढ़ाना भी है। कोई अकल है कि नहीं कि मौडिफिकेशन में घटाना भी है, बढ़ाना भी है...

श्री उपसभापति : सपोज कीजिए...

श्री राजनारायण : सपोज सपोज नहीं चलेगा ली में।

MR. DEPUTY CHAIRMAN : Please listen. A person detained under this Bill cannot be detained for a period longer than twelve months.

श्री राजनारायण : श्रीमन्, मैं कह रहा हूँ कि एक सिम्पल सवान है ज्युरिस्पूडेंस का, कि मौडिफिकेशन में घटाना बढ़ाना दोनों आता है। अगर नहीं मालूम, तो एटार्ने-जनरल को बुलाइए। स्थगित कीजिए कंसिडरेशन।

SHRI MAHAVIR TVAGI : The maximum is being fixed. Twelve months is the maximum. This must be without any proviso. The proviso could be the maximum is so much and it can be reduced. I cannot understand a proviso of that nature where the maximum limit can be exceeded. That is wrong.

SHRI PITAMBER DAS : Otherwise the words should have been very simple words. "Modify the detention order at any earlier time"—it only prescribes the time of modification.

SHRI RAJNARAIN : It can only modify at an earlier period _____

SHRI DAHYABHAI V. PATEL : You know what caused the French revolution Voltaire and Rousseau.

SHRI K. C. PANT : Sir, what you have 'd is quite correct. This is subject to the iximum provided in this clause. I have

consulted the Law Ministry also. Otherwise it would be against the constitutional provision. Under the law it is quite clear. What you have said is the correct thing. It can be reduced, it cannot be increased.

MR. DEPUTY CHAIRMAN : If you accept the proviso, then the original clause has no meaning.

SHRI K. C. PANT : It is subject to the maximum only. It can only be modified by reduction subject to the maximum. That is the only meaning of it.

श्री जगदीश प्रसाद माथुर : इस सम्बन्ध में एटार्नी जनरल को यहाँ पर आना चाहिये और ला डिपार्टमेंट की बात को नहीं माना जाना चाहिये।

SHRI BHUPESH GUPTA : I do not share Shri Pitamber Das's interpretation. I tell you why. Let us be clear. I share your sentiment because I am opposed to the whole clause : "The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention." That is the fixed ceiling detention for twelve months. Therefore, it is a ceiling. Now the proviso cannot in any way overstep the ceiling.

SHRI MAHAVIR TYAGI : It says "Pro-vided that nothing contained in this section"...

SHRI BHUPESH GUPTA : I am coming to it. "Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time". Two things you have to keep in mind. One is it says "Provided that nothing contained in this section" etc. Suppose it was not there. Then the power of modification would not have been there. Power of modification is given in spite of the fact that you have a ceiling, that you have ordered the detention for twelve months. What is why it is said "Provided that nothing contained in this section" and so on. You have the power to modify. Now the question is, does modification here mean extension of the period of twelve months ?

SHRI PITAMBER DAS : Both ways.

SHRI BHUPESH GUPTA: No. You cannot, because twelve months is the limit. You are modifying it. You are not passing a new order. You are modifying the order. That order can be for no more than twelve months. It is twelve months. You cannot make it thirteen months. That is not modification of the order.

SHRI MAHAVIR TYAGI: Immediately after that, there is sub-clause (2) which says that the revocation or modification of the order shall not bar the making of a fresh detention order.

SHRI BHUPESH GUPTA: That is a different matter. That you have done. Two propositions are there. Detention order for 12 months. It cannot be modified to make it 13 months. It would be over stepping. The proviso to the clause cannot over-ride the clause. That is why I say.

MR. DEPUTY CHAIRMAN: It is very clear.

SHRI MAHAVIR TYAGI: You can have it for 12 months once, 12 months again and 12 months again. The time need not be more than 12 months.

MR. DEPUTY CHAIRMAN: Once the order is passed it can only be for a maximum period of 12 months. Even if it is modified, it cannot exceed the time-limit prescribed under the Act; that is, 12 months.

श्री राजनारायण : श्रीमन्, मैं बहुत अदब के साथ आपसे कहना चाहता हूँ कि आपका इंटरप्रेटेशन या पन्त जी का इंटरप्रेटेशन यहाँ पर कुछ काम नहीं करेगा। इस माडिफिकेशन में बढ़ाना और घटाना दोनों शामिल हैं। जहाँ पर कानूनी प्वाइंट आये वहाँ पर हड़भोंग से काम नहीं चलेगा। (Interruptions) पहले आप हमारे प्वाइंट का उत्तर दीजिये। इसमें यह है :

"The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention."

फर्दर पढ़िये :

"Provided that nothing contained in this Section..."

अगर ये न लिखा होता तो जो अर्थ आप लगा रहे हैं वह अर्थ निकाला जा सकता था :

"Provided that nothing contained in this section shall affect the power of the appropriate..."

अगर यह वर्ड्स न रहते :

"Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time".

श्री अकबर अली खान : कम कर सकती है।

श्री राजनारायण : मुझे तो यह मालूम था कि आप लंदन में पढ़े हुए बैरिस्टर हैं, लेकिन आप तो किसी छोटी कचहरी के वकील की तरह बात कर रहे हैं। श्रीमन्, माडिफिकेशन में बढ़ाना भी शामिल है और कम करना भी शामिल है। कोई यहाँ पर अथारिटी से यह नहीं कह सकता है कि माडिफिकेशन में एक्सटेंशन शामिल नहीं है।

श्री उपसभापति : ठीक है, अब आप बैठिये।

Mr. Advani.

SHRI BHUPESH GUPTA: Answer this.

MR. DEPUTY CHAIRMAN: I have called Mr. Advani, please.

SHRI BHUPESH GUPTA: I put a question to you. Suppose I say...

MR. DEPUTY CHAIRMAN: It is 7.00 P.

SHRI BHUPESH GUPTA: "The maximum salary of Shri Rajnarain shall be Rs. 5000 provided that at any time before the payer of the salary it can be modified"—you can reduce it, but you cannot increase it.

श्री राजनारायण : श्रीमन्, मेरा यह निवेदन है . . .

श्री उपसभापति : आप बैठिये ।

श्री राजनारायण : थोड़ी कृपा कीजिये ।

श्री उपसभापति : आपका प्वाइंट क्लियर हो गया, आप बैठिये ।

SHRI LAL K. ADVANI : I am really surprised that Mr. Bhupesh Gupta is rushing to defend Mr. Pant Sir, it is the compulsion of a lingering habit that he has rushed to the rescue of the Treasury Benches. But so far as the drafting of this particular clause is concerned, obviously, it is erroneous ; obviously, it contravenes the article of the Constitution which requires that the maximum limit should

be prescribed. What has been done is while 7 p. M.

in the first portion maximum has been laid down, the proviso virtually negates the first part. The first part says :

"The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention."

I would like to explain that so far as the appropriate government authority to revoke or modify or reduce the detention order is concerned, that is not affected by this first portion. But the moment we say that :

"Provided that nothing contained in this section shall affect the power of the appropriate Government to revoke or modify the detention order at any earlier time."

we give to the government authority. . .

SHRI K. C. PANT : On a point of order, Sir, it is for Parliament to make law and it is for the courts to interpret those laws. If the majority of the Members of this House are in favour of this particular clause, it will come on the Statute Book. If some body is dissatisfied he can go to the courts and challenge. It will then be for the courts to interpret the law or to strike it down. But it is certainly not our function here to interpret. After con-

sulting our experts I have given you the interpretation. Now it is for this House either to accept it or to reject this clause. I do not think an endless argument can resolve it.

MR. DEPUTY CHAIRMAN: We have heard enough, please.

SHRI PITAMBAR DAS : The Home Minister says that he has satisfied himself after consulting the experts. And you say that it is for the Parliament to legislate. Then the Parliament will naturally try to satisfy itself whether the interpretation is correct or not. Therefore, I want the Attorney-General to be called so that we can satisfy ourselves after discussing it with him.

MR. DEPUTY CHAIRMAN: It is a simple matter of interpretation. It is not a difficult matter where we should call the Attorney-General or the Advocate-General.

SHRI MONORANJAN ROY : I want to make a note on your point of order. We are not going to accept the Bill for being passed by the House because it is defective in itself and it may be defective in its application.

MR. DEPUTY CHAIRMAN : In a minute I will explain.

श्री पीताम्बर दास : यह मामला तो बहुत सीधा सादा है। इसके मायने बिलकुल साफ दिखायी देते हैं। इस कानूनी पेचीदगी को समझने के लिए भी वह तैयार नहीं होते। अगर यही रवैया है कि वह कानूनी पेचीदगी को भी समझने को तैयार नहीं हैं तो हमारा सदन में बैठना बेकार है। हम सदन का त्याग करते हैं।

श्री उपसभापति : पीताम्बर दास जी, जरा सुन तो लीजिए। मैं आपको बतलाता हूँ। आप एक बार बैठें तो। मैं बतला रहा हूँ।

You will please understand the scheme of clause 13. The first part of clause 13 prescribes the maximum period of detention and the second part says that if the authority wants that the period should be reduced and the person should be made free earlier, then the period prescribed by the law or the period that has been fixed can be reduced . . .

(Interruption by Shri S. G. Sardesai)

[Mr. Deputy Chairman]

Please listen. Why do you not listen ? And that power has been given by this clause to the Government or the appropriate authority. If they want to reduce the period of detention they can do so under this proviso. Clause 13, provides for the maximum period. There are two words. The first is "revoke". If the order is revoked completely, perhaps they may be some different implications and perhaps the order cannot be revoked. So, if the Government wants to reduce the period, it has to modify the order to reduce the period of detention. So, when the maximum time-limit is fixed, it will not be increased beyond 12 months.

SHRI S. G. SARDESAI : Then let them use the word "reduce" instead of "modify".

SHRI PITAMBER DAS : In that case, you are left with only two choices. Either the word "modify" has to be changed to "reduce" or the word "time" has to be changed to "period".

SHRI MAHAVIR TYAGI: Sir, what you say seems to be in a way reasonable. But my submission is that the maximum period has to be fixed because the Constitution says that "Parliament may by law prescribe...."

MR. DEPUTY CHAIRMAN : In the first part it has been laid down.

SHRI MAHAVIR TYAGI : Sir, this is a point of order. The maximum period has to be fixed. But it does not mean that every detenu will go up to the last limit of the maximum period. It can be a smaller period ; it can be one month or two months or three months.

MR. DEPUTY CHAIRMAN : It can be one day also.

SHRI MAHAVIR TYAGI : That is what I say. But the proviso makes it difficult. It says, "Provided that nothing contained in this section-----" It means that in spite of the maximum having been fixed, it can be changed again.

MR. DEPUTY CHAIRMAN : I think that is not the correct interpretation.

SHRI MAHAVIR TYAGI : You see, the words are "Provided that nothing contained in this section...." It is not for the purpose of reducing the period. Here you want to cross the maximum limit. Therefore, you bring in these words "Provided that nothing contained in this section...."

MR. DEPUTY CHAIRMAN : I think it is not a correct interpretation.

SHRI NAWAL KISHORE : Sir, just one point.

MR. DEPUTY CHAIRMAN: We have heard enough, I think. Let us put the clause to vote.

(Interruptions)

SHRI MAHAVIR TYAGI: We cannot pass a law like that. Even a school boy would not do it.

श्री लाल आडवाणी : मंत्री महोदय ने जो अभी कहा उसका अर्थ यह है कि भले ही इसमें दोष है लेकिन यह जो दोष है उसको निकालने का दायित्व जजों पर छोड़ो, कोर्ट पर छोड़ो लेकिन मेरा निवेदन है कि हम ही क्यों न फैसला करें।

SHRI K. C. PANT : This is again a matter of interpretation.

श्री लाल आडवाणी : वह आपने कहा है लेकिन मेरा निवेदन यह है कि गवर्नमेंट इसको प्रेस्टिज का प्वाइंट न बनाये। गवर्नमेंट का आर्डिनेस इस हाउस ने एप्रूव कर लिया है, यह एक्ट एग्जिस्टेंस में है तो अगर आप कुछ समय के लिये रुक जायें तो कठिनाई नहीं आने वाली है और अगर इस शब्द "माडिफाई" के स्थान पर "रिड्यूस" करेंगे तो इसका भाव क्लीयर हो जायगा। आज जो इसमें प्राविजो है वह हमारे कांस्टीट्यूशनल प्राविजन के खिलाफ है।

श्री नवल किशोर : उपसभापति महोदय, मुझे बहुत थोड़ी सी बात कहनी है। पन्त जी ने दो बातें कहीं, एक तो उन्होंने यह कहा कि

उनके जो कानूनी एक्सपर्ट हैं उनसे यह पूछ लिया है कि इस "माडिफिकेशन" के माने यह हैं कि सजा कम की जा सकती है। यह बात तो उनकी कुछ हद तक मेरी समझ में आ सकती है। लेकिन उन्होंने यह भी कहा कि पार्लियामेंट कानून बनाती है और इस कानून का इंटरप्रिटेशन का अधिकार कोर्ट को है। तो इस बारे में मेरा कहना यह है कि, श्रीमन् मैं यह जानना चाहता हूँ कि क्या पार्लियामेंट कांस्टीट्यूशन के किसी स्पेसिफाइड प्राविजन के खिलाफ कानून बना सकती है? मेरी राय में नहीं बना सकती है। इसलिये यह आवश्यक है कि जो भी कानून सरकार बनाये वह विधान के किसी भी अनुच्छेद के विरोध में न हो। तो प्र्वाइन्ट यह है, इस समय डिस्प्यूट में है। ल्यागी जी का कहना था कि यह प्राविजन को वायोलेट करता है, आप यह कहिए वायोलेट नहीं करता है, आपने कहा हम कानून बनाते हैं, लेकिन आपकी कानून बनाने की ताकत सीमित है। आपको प्राविजन अंडरू द कांस्टीट्यूशन बनाना पड़ेगा।

SHRI CHANDRA SHEKHAR (Uttar Pradesh) : Mr. Deputy Chairman, may I say a word? I am surprised at the suggestions made by the otherside. And my friend, Mr. Nawal Kishore, said that the Minister should have said that it is not running against the provisions of the Constitution. It is true that Parliament has got the right to frame laws. But Parliament frames laws through a certain process. If you think that this Clause is defective, it was your duty to be vigilant and bring an amendment to this Clause at the appropriate stage. Being wiser after the event is not proper, and in this way no parliamentary institution can function. There are certain processes laid down for amending a Bill. And, as Mr. Pant said, it is a question of interpretation. People can give hundreds of interpretations. And if you and the Treasury Benches do not agree with one another, the only course open is to go to a court of law and get the authorised version or interpretation of that particular Clause. Instead of being vigilant at the earlier stage while moving amendments you are making all sorts of suggestions now. You were not careful about this Clause at that stage. I do not

know, Mr. Deputy Chairman, under what provision they can move an amendment now and how they can delay the passage of this Bill through this irregular process. If they are experts on parliamentary procedure, I think, they should not create hindrance without any valid reason.

SHRI BHUPESH GUPTA : I think Mr. Chandra Shekhar is entirely wrong.

MR. DEPUTY CHAIRMAN : It is a matter of interpretation. And, as pointed out by Mr. Chandra Shekhar,.... (Interruption)

श्री राजनारायण : आप एटार्नी जनरल को बुलाइए, उसको इंटरप्रिटेशन करने दीजिए।

MR. DEPUTY CHAIRMAN : According to me the interpretation is very clear, it is quite clear, no person can be detained at a time for more than twelve months. That interpretation is quite clear. Even as pointed out by Mr. Pant and Mr. Chandra Shekhar sup. posing a particular phrase can be interpreted in a number of ways, it is not for Parliament to consider....

SHRI BHUPESH GUPTA : It is for Parliament to consider.

MR. DEPUTY CHAIRMAN : If Parliament can agree, then you can remove that thing. So far as I am concerned, I think the interpretation is very clear. It is evidently clear.

SHRI BHUPESH GUPTA : You are mistaken. Normally what happens is when we raise a point of constitutionality of an Act,....

MR. DEPUTY CHAIRMAN : Why do you want to prolong it?

SHRI BHUPESH GUPTA : You have not understood the point and I am trying to impress upon you. When we in Parliament while legislating raise a point about the constitutionality of a provision in a Bill, the normal practice is, as far as the constitutional issue is concerned, whether the law is *intra vires* or *ultra vires* the Constitution, let the court decide it. We do not decide it because it is left to the Supreme Court to interpret the law....

SHRI CHANDRA SHEKHAR : Why did you not move an amendment ? What is all this?

MR. DEPUTY CHAIRMAN : I think we have had enough discussion on this Clause....

SHRI BHUPESH GUPTA : You leave it to the Supreme Court. Under our Constitution the Supreme Court is given the jurisdiction to judge whether a particular law passed by Parliament is in accordance with the Constitution. We do not, therefore, go there. Here no constitutional question is involved. Here the question involved is whether this means that. The only thing we are concerned with is the intention, whether the words of the Bill, whether the words of the text of the Bill, convey the intention. Here it is absolutely relevant for us to decide whether what we intend is conveyed by the particular word that we have used. That is to say, it is not a matter of interpretation. It is a matter of formulation, it is a matter of language, whether you use the proper language to convey your idea. Now, some people say you did not understand anything. When you said that it was Constitutional, you are wrong. We are not questioning the constitutionality of this. All that we are concerned is to use the correct word. It is a question of finding the correct word....
(Interruptions)

MR. DEPUTY CHAIRMAN : This is the most appropriate word....

(Interruptions)

SHRI BHUPESH GUPTA : When you want to say 'man* you cannot say 'woman'. First of all, you have to make up your mind what to say...
(Interruptions) Please do not misdirect. It is not a question of Constitutional interpretation. I think the Chair should be a little more careful in making utterances. It has nothing to do with the Constitution and it has nothing to do with the Supreme Court. We have sovereign power to see that the word used correctly brings out the intention of Parliament.

SHRI A. P. CHATTERJEE : May I submit that the question of interpretation can only arise when a word has possibly two meanings and when it is in doubt as to what meaning will be imputed to it ? Then only the question of interpretation arises. Now look at the word

'modify' in the proviso. It may mean either make it more or make it less. Therefore, as soon as you leave it to the appropriate government, the detention may be made more or less. Then it is impossible to contend that it is a question of interpretation. The government can do it under the proviso. Therefore by the use of this word you are extending the detention period. The question of interpretation can arise only when it has two meanings. The word 'modify' has only one dictionary meaning. Either you make it more or less.

MR. DEPUTY CHAIRMAN : The question is :

79. "That at page 5, line 23, for the word 'twelve' the word 'six' be substituted."

The motion was negatived.

(Interruptions)

SOME HON. MEMBERS: No discussion ?

MR. DEPUTY CHAIRMAN : I have put Amendment No. 79 to vote. Now I will allow Shri Bhadram and Shri Menon to speak on their Amendments. But they are not here. Shri Mathur.

श्री जगदीश प्रसाद माथुर : श्रीमन्, यह जो प्रोवाइजो है, जिसके बारे में बड़ा विवाद है और जिसके बारे में मैंने अपना संशोधन दिया है, अगर उसको मान लिया जाता है तो इस समय जो सारी कानूनी दिक्कतें आ रही हैं वे मिट जायेंगी । मैंने अपने संशोधन में यह कहा है :

"Provided that every case shall be reviewed by the Advisory Board after a period of six months from the date of confirmation :

Provided further that the procedure for the review proceedings shall be the same as provided in section 11 of this Act.

मेरा कहने का मतलब यह है कि सरकार जो अधिकार रिव्यू करने के सम्बन्ध में कहती है, उस प्रकार के अधिकार सरकार को नहीं दिये जाने चाहियें क्योंकि पिछले दफा सरकार

ने इस प्रकार के अधिकारियों का दुरुपयोग किया है और दो तीन आदमियों को इसके अन्तर्गत गिरफ्तार किया है। जहाँ तक मुझे याद है केरल में उस समय सी० पी० एम० नहीं था और श्री नम्बूदरीपाद को गिरफ्तार नहीं किया गया था। श्री भूपेश गुप्त के पार्टी के जितने लोग थे उन्हें गिरफ्तार नहीं किया गया था और बाकी किसी भी कम्युनिस्ट पार्टी यानी सी० पी० एम० के लोगों को रिहा नहीं किया गया था। श्री नम्बूदरीपाद को गिरफ्तार करने के दो तीन दिन बाद श्री भूपेश गुप्त के यह कहने के बाद कि वे न तो राइटिस्ट हैं, न लफ्टिस्ट हैं बल्कि वे तो सेन्ट्रिस्ट हैं रिहा कर दिया गया। उन्हें इसलिये रिहा किया गया क्योंकि श्री भूपेश गुप्त को यह सम्भावना थी कि वे उनकी पार्टी में आ जायेंगे और श्री भूपेश गुप्त के दबाव के ही कारण उनका केस रिव्यू किया गया। तो श्री नम्बूदरीपाद जो कि पूरी तरह से कम्युनिस्ट (एम) थे, जिन्हें और व्यक्तियों के साथ गिरफ्तार किया गया था तो ऐसी कौनसी सम्भावना पैदा हो गई थी जिसके कारण उनको छोड़ दिया गया और उसका केस क्यों रिव्यू किया गया। सरकार के पास इस प्रकार के अधिकार कि जब उसकी मर्जी में आये किसी के केस को रिव्यू कर दे और किसी के केस को रिव्यू न करे, इस प्रकार के अधिकार सरकार को नहीं दिये जाने चाहिए। क्योंकि उस समय चीन का आक्रमण हुआ था और वह सरकार श्री भूपेश गुप्त को अपने साथ रखना चाहती थी, उसके प्रभाव में आ गई थी और यही वजह है कि श्री नम्बूदरीपाद को रिहा करना पड़ा। मैं समझता हूँ कि इस प्रकार के अधिकार सरकार को देना उचित नहीं होगा। इस प्रकार के पावस किसी प्रान्तीय सरकार या केन्द्रीय सरकार को देना ठीक नहीं होगा। इस सम्बन्ध में मैंने जो संशोधन दिया है, उसे स्वीकार किया जाना चाहिये और इस संबंध में जो कानूनी दिक्कतें आ रही हैं वे दिक्कतें हट जायेंगी तथा सारा काम न्याय संगत होगा।

SHRI BHUPESH GUPTA : Sir, I want to speak. First of all, my friend of the Jana Sangh has committed a great error in his statement. The GPM was formed in 1964 and Mr. Namboodripad was arrested in 1962. How could I get the CPM leader released in 1962?....

SHRI JAGDISH PRASAD MATHUR: Why was he released ?

SHRI BHUPESH GUPTA: Therefore, Sir, he is confusing the issue. It is a fact, Sir, that Shri Namboodripad was arrested and I had met the Prime Minister, Shri Jawaharlal Nehru, and pressed for his release as a member of our party, as my colleague, and ultimately he was released. There was no such party as the CPM at that time.

MR. DEPUTY CHAIRMAN : All right. Now, amendment No. 83, in the name of Shri Subramania Menon.

श्री राजनारायण : हमारे 82 का क्या हुआ।

श्री उपसभापति : आपको भी बोलना है।

श्री राजनारायण : अगर श्रीमन्, आप हमको नहीं बोलने देना चाहते हैं। तो हम नहीं बोलेंगे। देखिये, हमारे मन में एक बात आई कि इस विधेयक को पास होने से कैसे रोका जाय। हमने यह गलती की कि इसको हमने अंग्रेजी में लिख दिया :

“What I can do to check the Bill ?”

उसका उत्तर लिखते हैं श्री नीरेन घोष :

“Rush at the Treasury Bench, catch hold of Pant and take him outside the House and we will follow you”.

श्री नवल किशोर जी यह लिखते हैं।

“Shri Rajnarain alone can do it”.

श्री महावीर जी यह लिखते हैं :

“I would like to support Shri Rajnarain”.

अब आप ही बतलाइये कि हम क्या करें। अगर आप चाहते हैं कि हम न बोलें, तो ठीक है हम नहीं बोलेंगे और पन्त जी से निवेदन करेंगे :

[श्री राजनारायण]

(श्री राजनारायण श्री के० सी० पन्त के पास पहुंच गये।)

"चलो भाई पन्त जी, हम तुम चले और कोई न बोले।"

SHRI A. P. CHATTERJEE: Sir, I will also follow him.

SHRI K. C. PANT: Sir, I am prepared to accept that offer. But I am not a Member of this House and Shri Mirdha will do it.

श्री राजनारायण : (अपने स्थान पर पहुंच कर) आपके कहने का मतलब यह है कि आप चले चलेंगे तो आप इस सदन के सदस्य हैं नहीं, इसलिये उससे कोई अन्तर होगा नहीं, लेकिन हम तो इस सदन के सदस्य हैं और हमारे जाने से एक चोट कम हो जायेगा।

तो मैंने जो पहले पढ़ा वह इसलिये पढ़ा कि अपोजीशन के लोगों की फीलिंग को आप मुनें। यह जन-तंत्रीय मनोवृत्ति का प्रदर्शन है। अगर किसी कार्य से जनतंत्रीय प्रतिष्ठा तनिक भी कुंठित होती है तो होना यह चाहिये कि पन्त जी या जो भी हो उसका गला पकड़ कर बाहर ले जाते और कहते कि ऐसा बेहूदा विधेयक यहां पर क्यों लाया गया है। इससे नागरिक स्वतंत्रता की हत्या हो रही है, जनतंत्र की हत्या हो रही है, मानवता कुंठित हो रही है और इसका जो इंटरप्रिडेशन हो रहा है...

श्री उपसभापति : अब आप बैठिये।

श्री राजनारायण : श्रीमन्, मैं आपसे बहुत ही परेशान हो गया हूं। कम से कम इसीलिए मैंने बार बार यहां कहा है कि कैसे लोगों को प्रेसाइडिंग अफसर बनना चाहिये। मैं लोगों से बार बार कहा करता हूं कि कम से कम श्री पुरुषोत्तम दास टंडन की रूलिंग को पढ़ लिया करो। हमारा अमेंडमेंट साधु है, छोटा सा है, नन्हा सा है। क्योंकि इसलिये संविधान को देखा जाय। श्री के० सी० पन्त ने संविधान पढ़ा और मैं चाहता हूं कि वह थोड़ा

सा मेरी बुद्धि से संविधान का भाष्य करें। हमने प्रस्ताव रखा है कि जहां 12 मास है उस 12 मास की जगह 24 घंटा रख दिया जाय, यानी 12 महीने तक उनको अवरोधित न किया जाय, उनको अवरोधित किया जाय केवल 24 घंटे के लिये। और यह संशोधन हमने संविधान के मुताबिक रखा है, क्योंकि संविधान में एक व्यवस्था है कि कोई भी व्यक्ति जो बन्दी किया गया है ऐसे बंदीकरण के कारणों से यथा शीघ्रअवगत कराये गये बिना हवालात में निरुद्ध नहीं किया जायेगा और न अपनी रुचि के विधि व्यवसायी से परामर्श करने तथा प्रतिरक्षा कराने के अधिकार से वंचित रखा जायेगा। मैं चाहता हूं कि श्री के० सी० पन्त इसकी बारीकी को देखें क्योंकि संविधान के 22 के पहले का जो खंड (1) है वह कहता है कि उसको शीघ्रातिशीघ्र गिरफ्तारी के कारणों से अवगत कराया जायगा और फिर यह कहता है कि अपने इच्छित वकील के जरिये वह अपनी पैरवी कराने से वंचित नहीं किया जायेगा।

श्री के० सी० पन्त : तीन को भी पढ़ लीजिये।

श्री राजनारायण : यह 22 का एक है। मैं पन्त जी को यह बताना चाहता हूं कि यहां सर्वोच्च न्यायालय नहीं है। इस प्वाइंट पर बहस करके हम लोग सुप्रीम कोर्ट से छूट कर आये हैं। हमारा प्वाइंट यही है। तो 22 का (1) तो यह रहा और 22 का (2) है कि प्रत्येक व्यक्ति जो बंदी किया गया है और हवालात में निरुद्ध किया गया है, बंदीकरण के स्थान से दंडाधिकारी के न्यायालय तक यात्रा के लिये आवश्यक समय को छोड़ कर ऐसे बंदीकरण से 24 घंटे की कालावधि में निकटतम दंडाधिकारी के समक्ष पेश किया जायगा। तो 24 घंटे की एक लिमिट हो गयी कि जहां गिरफ्तारी हो वहां से ले जाने तक के समय को छोड़ कर 24 घंटे के अन्दर किसी दंडाधिकारी

के सामने प्रस्तुत किया जाय। तो 24 घंटे तक आप किसी को डिटेन कर सकते हैं। 24 घंटे की अवधि है इसमें, इसलिये हमने कहा कि 24 घंटे रखो। वह कहते हैं कि तीन को पढ़ लो। उन्होंने (3) में कहा है कि किसी प्रिवेंटिव डिटेन्शन या निवारक निरोध पर यह लागू नहीं होगा। मैं पंत जी से यह जानना चाहता हूँ कि उनके जो कानूनी सलाहकार हैं उनसे वे पूछें कि 107 निरोधक है या नहीं...

श्री उपसभापति : राजनारायण जी, ...

श्री राजनारायण : राजनारायण अपने कर्तव्य को समझता है। आप भी सुनिये। 107 निरोधक है या नहीं, 109 निरोधक है या नहीं, 117 निरोधक है या नहीं, 151 निरोधक है या नहीं। 151 में आप बिना किसी कारण को बताये किसी व्यक्ति को गिरफ्तार कर लेते हैं। 107 लगा सकते हैं, लेकिन 107, 151, 109, 117 पर यह 22 अनुच्छेद लागू होगा या नहीं। इसी तरह से यह प्रिवेंटिव डिटेन्शन क्या है? यह है आंतरिक सुरक्षा बनाये रखने का विधेयक। जिस तरह से आंतरिक सुरक्षा बनाये रखने का विधेयक है उसी तरह से 107 है, उसी तरह से 117 है, उसी तरह से 151 है, उसी तरह से 109 है। तो जब 107, 109, 117 और 151 पर अनुच्छेद 22 लागू होता है तो इस आंतरिक सुरक्षा विधेयक पर क्यों नहीं लागू होगा? यह इस पर भी लागू होगा और मैं यह बता देना चाहता हूँ कि इसी प्वाइंट पर मैं सुप्रीम कोर्ट से इस को नल एंड वायड करा लाऊंगा। मगर इस बीच में यह जो सरकार है, इस के जो अफसर हैं वे कितने नागरिकों को उन के नागरिक अधिकारों से वंचित कर देंगे। इस लिए मैं चाहता हूँ कि साधुबुद्धि से इस का अध्ययन होना चाहिए, भावुकता में, जल्दी में कोई ऐसा कदम नहीं उठाना चाहिए जो कि अपने देश के नागरिक के नागरिक अधिकार और उस की व्यक्तिगत स्वतंत्रता का अपहरण करने वाला सिद्ध हो। मैं पंत जी से और

हमारे यहाँ पर जो बुजुर्ग साथी बैठे हुये हैं, दीक्षित जी—नेता सदन, उनसे कहूंगा कि वह इसको समझें।

श्री उपसभापति : आप अमेंडमेंट के बारे में बोल चुके। अब आप बैठिये।

श्री राजनारायण : तो इतना कह कर मैं बैठ रहा हूँ कि मैं चाहता हूँ कि पंत जी इसके बारे में समझें, इसकी गम्भीरता को समझें क्योंकि यह विधेयक पूर्णरूपेण अवैध है, गैर-कानूनी है, संविधान के विपरीत है इसलिये इस विधेयक को पास करना और पास कराना संसद् को साधु बुद्धि का द्योतक नहीं होगा, यह असाधु बुद्धि का द्योतक होगा।

MR. DEPUTY CHAIRMAN: Do you want to reply to this?

SHRI K. C. PANT: No need, Sir.

MR. DEPUTY CHAIRMAN: The question is:

79. "That at page 5, line 23, for the word 'twelve' the word 'six' be substituted."¹

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

80. "That at page 5, line 23, for the words 'twelve months' the words 'three months' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

81. "That at page 5, line 23, for the word 'months' the word 'days' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

82. "That at page 5, line 23, for the words 'twelve months' the words 'twenty-four hours' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :

83. "That at page 5,—

(ii) line 23, for the words 'twelve months' the words 'six months' be substituted ; and

(ii) line 23, after the words 'date of detention' the words 'after the expiry this period the detained person shall be released' be inserted." *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

84. "That at page 5, for the existing proviso the following provisos be substituted, namely:

'Provided that every case shall be reviewed by the Advisory Board after a period of six months from the date of confirmation ;

Provided further that the procedure for the review proceedings shall be the same as provided in section 11 of this Act'."

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.*

Clame 14—Revocation of detention orders

SHRI K. P. SUBRAMANIA MENON : Sir, I move :

"That at page 5, lines 35 to 39 be dele-

85. "That at page 5, lines 35 to 39 be deleted."

86. "That at page 5,—

(i) line 35, the word 'not' be deleted ;

(ii) line 37, for the words 'in any case where*' the words 'until and unless' be substituted."

SHRI M. V. BHADRAM : Sir, I move ;

87. "That at page 5,—

(i) in line 35, for the words 'or expiry' be deleted ; and

(ii) in line 37-38, the words 'or expiry' be deleted."

SHRI JAGDISB PRASAD MATHUR : Sir, I move :

88. "That at page 5, after line 39, the following proviso be inserted, namely :

'Provided that in case the Central Government or a State Government wants to make a fresh detention order after the revocation or expiry of a previous detention order it shall have to take permission from the Advisory Board to do, so'."

The questions were put and the motions were negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That Clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Clause 15—Temporary release of persons detained

SHRI K. P. SUBRAMANIA MENON : Sir, I move :

89. "That at page 6, line 10, for the words 'two years' the words 'one year' be substituted." *The question was put and the motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

"That Clause 15 stand part of the Bill." *The motion was adopted. Clause 15 was added to the Bill.*

Clause 16—Protection of action taken in good faith

SHRI SALIL KUMAR GANGULY : Sir, I move :

91. "That at page 6, for clause 16, the following be substituted, namely :

'16. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act'."

SHRI K. R. SUBRAMANIA MENON : Sir, I move :

92. "That at page 6, for Clause 16, the following be substituted, namely !

'16. Any person aggrieved by any action taken under this Act by the Central or the State Government or any agent or officer of the Central or State Government may sue the concerned authority for any action taken in bad faith or on subjective or other ulterior motives and the Central or the State Government or the agent or officer concerned shall be liable on being proved to have acted *mala fide* or in bad faith, to pay compensation and, such other forms of redressal to the aggrieved person'."

SHRI BHUPESH GUPTA : Sir, I move :

93. "That at page 6, line 19, after the words 'this act' the words 'and also in pursuance of a resolution passed by the two Houses of Parliament or the State Legislature, as the case may be' be inserted."

SHRI M. V. BHADRAM : Sir, I move :

94. "That at page 6, after line 19, the following proviso be inserted, namely :

'Provided that any misuse of power vested in any officer under the provisions of this Act shall be punishable with imprisonment for a period not exceeding six months'."

The questions were proposed.

SHRI K. P. SUBRAMANIA MENON : The simple matter is here is a piece of legislation which is all-embracing and which is Draconian in nature. Now, for a *mala fide* action under this Act there is no way of redress. As you know, Sir, the Indian jurisprudence under the colonial regime has generally not given any protection to the citizen against arbitrary action by the executive. In all the foreign countries, where the jurisprudence is in existence—may be in England or in the U. S. A.—the private citizen has a right to the Government or to a Government official for any *mala fide* action. But here in this country we have continued to have the old system of jurisprudence, denying the citizens any right, to have redressal against arbitrary or *mala fide* action by officials. But this is a singular case here which is a piece of very drastic legislation and if the citizen is aggrieved, he has absolutely no way of redressal. I am, therefore, ad-

ding this new clause to the Bill and I hope that the Government will accept.

SHRI BALACHANDRA MENON: I would like to say a few words about amendment No. 94. I want that any misuse of power vested in any officer under the provisions of this Act should be punishable. What I am saying is that he should be punished. My liberty is taken away. My independence has been lost and I have been kept under illegal detention and afterwards you say that it was done in good faith. It is bad faith. You must have complete case before you if you want to arrest me. If you do not have and if you arrest me and if it is proved that you have arrested me on the charges that you had a suspicion only and you have no case, then you will have to get at least imprisonment. There is no good faith in it. It is all bad faith.

SHRI K. C. PANT : I was glad to find that the hon. Member has drawn attention to civil liberty from the United States Constitution. Sir, so far as we are concerned here, I can only say that in case some officer is found to abuse the power which is vested in him, then suitable action will be taken against him. The Government will see to it and I have already said that a man can go to a Court of Law if he suspects any *mala fide* intentions.

MR. DEPUTY CHAIRMAN: The question is:

91. "That at page 6, for clause 16, the following be substituted, namely :

'16. No suit, prosecution or other legal proceeding shall lie against any person, for anything in good faith done or intended to be done in pursuance of this Act'."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

92. "That at page 6, for clause 16, the following be substituted, namely :

'16. Any person aggrieved by any action taken under this Act by the Central or the State Government or any agent or officer of the Central or State Government may use the concerned authority for action taken in bad faith or on subjective or other ulter-

[Mr. Deputy Chairman]

ior motives and the Central or the State Government or the agent or officer concerned shall be liable on being proved to have acted *malafide* or in bad faith, to pay compensation and such other forms of redressal to the aggrieved person." *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

93. "That at page 6, line 19, after the words 'this Act' the words 'and also in pursuance of a resolution passed by the two Houses of Parliament or the State Legislature, as the case may be' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

94. "That at page 6, after line 19, the following proviso be inserted, namely :

'Provided that any misuse of power vested in any officer under the provisions of this Act shall be punishable with imprisonment for a period not exceeding six months.'" *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

"That clause 16 stand part of the Bill."

The motion was adopted.

Clause 16 was added to the BUI.

Clause 17—Duration of detention in certain cases of foreigners

SHRI K. P. SUBRAMANIA MENON : Sir, I move :

95. "That at page 6, for lines 20 to 25, the following be substituted, namely :

'(1) An order of detention in respect of foreigners may be made, if necessary, in any of the following classes of cases or under any of the following circumstances, namely:':"

97. "That at page 7, lines 1 to 18 be deleted."

The questions were put and the motions were negatived

MR. DEPUTY CHAIRMAN : The question is :

"That clause 17 stand part of the Bill." *The motion was adopted Clause 17 was added to the Bill.*

Clause I—Short title and extent

SHRI BHUPESH GUPTA : Sir, I move :

2. "That at page 1, line 3, for the words 'the Maintenance of Internal Security' the words 'the Denial of the Civil Liberties and Democratic Rights' be substituted."

SHRI JAGDISH PRASAD MATHUR : Sir, I move :

3. "That at page 1, lines 5 and 6 be deleted."

SHRI DAHYABHAI V. PATEL : Sir, I move :

4. "That at page 1, for lines 5 and 6 (the following be substituted, namely :

'(2) It shall be applicable only to those specific areas in the country and for specified periods of time where, in the opinion of Parliament, the law and order situation is in jeopardy and the Government makes out a convincing case that the lack of these powers will inhibit the preservation of public order'."

SHRI LAL K. ADVANI : Sir, I move :

6. "That at page 1, lines 5-6, the words 'except the State of Jammu and Kashmir' be deleted,"

SHRI BHUPESH GUPTA : Sir, I move :

7. "That at page 1, lines 5-6, for the words 'to the whole of India except the State of Jammu and Kashmir' the words 'to the border regions of West Bengal, Assam, Tripura and Meghalaya but not to any area extending beyond ten miles from the border' be substituted."

SHRI MAHAVIR TYAGI : Sir, I move :

8. "That at page 1, after line 6, the following be inserted, namely :

'(3) It shall cease to have effect on the expiry of two years from the date of its com-

mencement

Provided that the Central Government may from time to time by notification in the Official Gazette extend the said period of two years by a period not exceeding one year at a time if and so often as a resolution for the issue of such notification is passed by both Houses of Parliament before the expiry of such period."

SHRI BHUPESH GUPTA : Sir, I move :

101. "That at page 1, after line 6, the following proviso be inserted, namely :

"Provided that this Act shall not extend to any State or part thereof if the Government of the State concerned expresses its opposition to the Act."

The questions were proposed.

SHRI BHUPESH GUPTA : Now, it says, the Act may be amended : "The Maintenance of Internal Security Bill, 1971." It is a hypocritical, dishonest type. Therefore, I have given this amendment that it should be read like this. This Act should be called "the Denial of the Civil Liberties and Democratic Rights" Act. I think Mr. K. C. Pant's name should be Mr. K. C. Pant and not Mr. Chandra Shekhar. This is quite clearly an Act for the Denial of the Civil Liberties and Democratic Rights. Why this hypocritical name 'maintenance of internal security' ? I should like to know whose security they are trying to maintain. We stand for the security of the country. We stand for the internal security of our nation. Are they the only people who stand for it ? I should like to know it. Therefore, it is a deception. It is a fraud. It is deception just as they have used the word 'socialism' to deceive the masses, to retain their hold on them. Similarly, they are trying to hoodwink the masses. Are they passing an Act for internal security ? Nothing of the kind. It is the security of the vested interests. It is the security of the blackmarketeers and profiteers against popular movements, popular struggles by the masses, the working-class and others. It is a security in which they can feel safe, instead of going through the democratic processes and carry out radical reforms and other things. That is why, after the elections, this is the first major Bill that we are passing. Remember, this is an Act to attack the democratic way of life and the civil liberties of the masses, not an Act to

nationalise the oil concerns, not an Act to curb the power of monopolists, not an Act to take away the privy purses. Now, we are making this enactment. Therefore, I say this hypocritical posture should be given up. Their real stand should be explained in proper language and they should be grateful to me for the suggestion that I have made.

श्री जगदीश प्रसाद माथुर : उपसभापति जी, मेरा जो संशोधन है, वह इस प्रकार से है :

"It extends to the whole of India except the State of Jammu and Kashmir."

मैं चाहता हूँ कि इसमें से जम्मू काश्मीर शब्द को हटा दिया जाय। मैं यह निवेदन करना चाहता हूँ कि आज देश में कहीं भी इस तरह के कानून की आवश्यकता है, तो वह जम्मू और काश्मीर में है। इस बिल के सम्बन्ध में माननीय मन्त्री जी ने इतनी वकालत की, लेकिन उन्होंने इस बिल को काश्मीर में लागू करने की बात क्यों नहीं कही, जहाँ कि इसकी बहुत सख्त जरूरत है। लेकिन माननीय मन्त्री जी इस कानून को काश्मीर में लागू नहीं करना चाहते हैं। कल वे जब इस विधेयक का जवाब दे रहे थे तो उन्होंने पंजाब, राजस्थान, आसाम और बंगाल की संख्या तो बतलाई, लेकिन लगता है काश्मीर का जो प्रान्त है वह हिन्दुस्तान के अन्दर नहीं है। काश्मीर भी एक सीमावर्ती प्रान्त है और उन्हें उस प्रान्त की संस्था के बारे में भी बतलाना चाहिये था। उन्होंने बंगाल, राजस्थान, आसाम और बंगाल में गिरफ्तारियों और मर्डर के सम्बन्ध में तो संख्या बतलाई, लेकिन जान बूझ कर काश्मीर की संख्या नहीं बतलाई। ऐसा लगता है कि उनके मन के अन्दर इस प्रकार की बदनीयती है, जिसके कारण वे जान बूझ कर काश्मीर के सम्बन्ध में कुछ नहीं बतलाना चाहते हैं। वे कहेंगे कि काश्मीर में इस प्रकार का कानून मौजूद है, उन्होंने इस प्रकार का कानून बना रखा है, जिसके मातहत वे कार्यवाही करते हैं। तो मैं यह निवेदन करना चाहता हूँ कि बंगाल में भी इस तरह का कानून मौजूद है और बंगाल को आप इस कानून के परव्यू में

[श्री जगदीश प्रसाद माथुर]

क्यों लाना चाहते हैं और काश्मीर को क्यों नहीं लाना चाहते हो।

उपसभापति जी, काश्मीर में आज जिस प्रकार की स्थिति है वह सब को अच्छी तरह से मालूम है। वहां पर हमारे हवाई जहाज को उड़ाया जाता है। सेन्ट्रल इन्टेलिजेन्स कार्यवाही करना चाहता था, लेकिन उसको कार्यवाही करने से रोका जाता है। वहां पर जो सरकार है, वह वहां पर इस तरह की कार्यवाहियों को न होने देने के रास्ते में रोड़े अटकाती हैं। आज भाई महावीर ने बतलाया कि शेख अब्दुल्ला को इस कानून के मातहत गिरफ्तार किया जाना चाहिये था, लेकिन उन्हें नहीं किया गया। उन्हें काश्मीर में जाने से रोक दिया जाता है और इस तरह से काम चलने वाला नहीं है।

आज शेख अब्दुल्ला की इस सरकार ने पेशान बढ़ा दी है और वे आज जिस रईसी ढंग से रह रहे हैं वैसा कोई नहीं रहा है। जिस प्रकार वे बातें करते हैं, देशद्रोह की बातें करते हैं, उनके खिलाफ यह सरकार यह कानून लागू करना नहीं चाहती है। इसलिए मैं चाहता हूँ कि यह सरकार उनके ऊपर भी यह कानून लागू करे। अगर इस कानून की इस देश के अन्दर कहीं भी आवश्यकता है तो काश्मीर के अन्दर सब से ज्यादा है। पश्चिम बंगाल से भी ज्यादा बदतर स्थिति काश्मीर की है। अगर यह कहा जाय कि उसमें संविधान की धारा 370 बाधक है तो उस धारा को हटा दिया जाय। इस दृष्टि से हमने बार-बार मांग की है कि अगर आप इसके लिये कानून लायें तो हम उसका समर्थन करेंगे। ऐसा नहीं है कि हमारी कोई व्यवस्था काश्मीर में लागू नहीं होती। हमारी सुप्रीम कोर्ट और यूनियन पब्लिक सर्विस कमिशन वहां पर लागू की गई है। मेरा यह कहना है कि जम्मू और काश्मीर को जान-बूझ कर हमारी सरकार छोड़ना चाहती है और वहां पर देश-द्रोहियों को पनपने देना चाहती है। इसलिये मैं निवेदन करूंगा कि जम्मू और

SHRI DAHYABHAI V. PATELs In moving my

काश्मीर को भी इसमें लिया जाय। जब तक जम्मू और काश्मीर पर यह लागू नहीं होगा तब तक यह बिलकुल लंगड़ा कानून रहेगा।

amendment, I would like the Government to be clear and take the House into confidence. I am sorry they have not. Powers of preventive detention should be given as a matter of emergency, not as a matter of general rule. Government must prove that there is a need of specific powers in certain areas, and if Government proves this, this House will not object to do it. But what happened during the last few years in Bengal? The Central Government was supporting it. What were they doing in Rajasthan during the elections? This has been mentioned in this House more than once. There is no answer. They want lawlessness and they want to blame the opposition for this. Does this commanding or winning a massive majority mean that this country is going to be denied of all democratic rights? When the last clause was being discussed, I said this sounds something like the preachings of Voltaire and Rousseau in France because of which the French revolution came. You remember that. You detain a man. You do not specify the time. Here you specify the time for one year, but you can extend it. When you can extend it again, you can go on extending it to ten years or twenty years till the man dies. This is a very wrong act. This is a very undemocratic act. I do not think we can call ourselves a democratic country if we allow such things to pass.

I am sorry the hon. Minister, Mr. Pant, has something very uncomplimentary to say about my party. I suppose he meant what he said that I am joining hands with the Jan Sangh and the Communist Party. In this House I have supported everything that is correct. I have supported the Congress when they are right. I am not for disorder in this House. You have known that. I have always condemned disorder. I want order and democratic rule in this country. This law is a complete negation of democratic rights of the citizens. This is taking us back to the rule of the French revolution or perhaps they got the inspiration from Mr. Kosygin from whom they take lessons. This Government is enamoured of the Russian way of life. They are copying all the laws

from Russia. This is what Mr. Pant has learnt from there. Therefore, I commend my amendment.

SHRI MAHAVIR TYAGI : Sir, my amendment is to this effect :

"It shall cease to have effect on the expiry of two years from the date of its commencement :

Provided that the Central Government may from time to time by notification in the Official Gazette extend the said period of two years by a period not exceeding one year at a time and so often as a resolution for the issue of such notification is passed by both Houses of Parliament before the expiry of such period.'

Sir, I was in fact in a difficulty, I was puzzled to know from which article of the Constitution this Bill takes its root, from where does it evolve, whether it is based on that article which mentions about 'preventive detention' or is it based on Articles which deal with emergency'. That was difficult for me to follow. If it is from the emergency provisions, then I find that here is article 352 which says—

"(1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect.

(2) A Proclamation issued under clause (1)—

(a) may be revoked by a subsequent Proclamation ;

(b) shall be laid before each House of Parliament ;

(c) shall cease to operate at the expiration of two months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament : "

If it is a case, as mentioned in the Bill, of the maintenance of internal security, if it be in danger, then, of course, it would be guided by article 352 which requires a proclamation. But

if it is just preventive detention, then it will be in accordance with different article, article 22. But whatever it be, I fully appreciate that the country is passing through a crisis now internally as well as from outside. And my fears are that very soon the law and order situation may become a real menace to the very life of the people. Every where there will be killings and shootings. There are already thousands and thousands of fire-arms in the country unlicensed today. They have not been checked. Well, for this purpose, I again want to assure the Government that in the matter of the maintenance of law and order, maintaining peace and security and, of course, defending our democracy and sovereignty, no party division will come in the way. We all stand together for that purpose. Differences on party lines or on policies and principles, etc. may be there, but on such an occasion of national crisis there can be no difference of opinion. Therefore we stand together for this purpose. But the Ministers must also realise their responsibility. It is for the Cabinet to see—while we are prepared to cooperate, why should they be so unaccommodative and arrogant ? Whatever we have suggested is treated as a matter of prestige by you and you go on saying anything that suits you and no heed is paid to what the Opposition says. If that is your attitude, my fears are that you yourself would be leading the country towards dictatorship and lawlessness.

AN HON. MEMBER : That is right.

SHRI MAHAVIR TYAGI : The party is in power which had got such a big majority must be more generous than the smaller parties in the matter of accommodation of and in seeking cooperation from the other parties. It is this aptitude which will make you a success. And I tell you : Despite your persistent attitude, we are still prepared to cooperate for the purpose of maintaining law and order in the country not only by force of law but also by propaganda and by other methods too. Therefore, whenever there was an emergency the whole country stood by the Government. Last time also every one supported the Government. But what is actually required is that you must be a little more accommodative.

I am glad Mr. Pant has put the case in a very brief manner. I must congratulate him for his clarity of thought and the able manner

[Shri Mahavir Tyagi] in which he puts the case before the House. But I must say the sole motive of this amendment of mine, is that such a sort of act should not be on our permanent Statute because it goes against the very concept of democracy and it, looks bad to have such an Act permanently on the Statute Book. We people who are in the Opposition, although we are in a minority no doubt, are responsible for and guardians of the whole population of India because as soon as the majority party takes over power it becomes responsible for Government alone. So today, actually speaking, when we protest against anything we represent the population. You represent the governing power. You represent your services and those who govern, while we represent those who are governed. Therefore, we speak out whenever we feel that the interest of the people is really is in danger. . . (Interruption)

SHRI BHUPESH GUPTA : The Congress Members seem to be very impatient. We have no objection if they go out.

SHRI MAHAVIR TYAGI: Now, whatever little opposition our people have put up before you it is because we feel that after this Act becomes a permanent statute, then no Indian Penal Code or anything would be used. This will be the supreme law everywhere and will be used freely. Therefore, I wanted that this may be only for the period of crisis. For two years we can agree to it, and after two years the Government, by notification, might extend its life by a year after getting resolutions passed in both the Houses. I am glad my friend Hon'ble Minister, has taken a reasonable attitude. He has said that they will put up the case every year before Parliament. They can put the case. But what will it be ; it has not yet been clarified, if a section of Parliament does not want it ? For God's sake, let us know something in what way you will just convince Parliament. It may be extended, no doubt. With their sweeping majority here I do not want to obstruct the passage of this Bill. But I want you to please clarify. There are many other points but I do not have enough time.

MR. DEPUTY CHAIRMAN : It is time, Tyagiji. You are actually speaking on the amendment now.

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is this. Last time I posed the question of murders etc. committed in West Bengal during the President's regime. That question was ultimately replied. But perhaps the press was persuaded to black out the reply. The reply of the Minister was that according to information available for the period from 1st April, 1970 to 15th March, 1971, that means one year, during the President's Rule in West Bengal there were 1,468 cases of murder and 4,573 cases of arson and looting, etc I had also enquired how many persons were punished and what punishment was given to them. The reply was that the total number of persons arrested during the same period were 33,791.

8 P. M.

The number of persons prosecuted was 6,871, and 669 were convicted. The punishment given is not shown. I would only plead with the Government that if you want our sincere co-operation, for God's sake do not bother about your popularity. The Government has to undertake unpleasant tasks and, therefore, it should stand strongly against crime and face the music. Otherwise, there will be killings everywhere. You have not stopped the fire arms coming from foreign countries ; in Assam there are thousands ; in Bengal also they are there. There will be revolts very soon. I am afraid, if you do not alert yourselves and alert your machinery, within six months there will be chaos in the whole country.

श्री नवल किशोर : सिर्फ एक मिनट चाहता हूँ। आखिर में, पंत जी से एक बात कहनी है कि उनको इस बात को ज़िद क्यों है। सिर्फ एक ही बात कही गई है। त्यागी जी ने भी कही, हमने, सबने कही—कि हम आपके बिल का समर्थन करते हैं। आपसे पहले भी दो मंत्रि सरदार पटेल और राजा जी इसी तरह का बिल पार्लियामेंट के सामने ला चुके हैं। मगर कोई बिल ऐसा नहीं था जिसके अन्दर निश्चित रूप से अवधि की सीमा नहीं बांधी गई हो। आज पहली बार यह कोशिश की गई है कि इस बिल को परमानेंटली स्टेट्यूट पर रखा जाए। आज की स्थिति हमेशा नहीं रहेगी और न इस बिल की आवश्यकता रहेगी। मैं समझता हूँ, यह स्वस्थ जनतंत्र परम्परा का प्रतीक नहीं

है। पंत जी से मेरा परम स्नेह है और मैं चाहता हूँ कि कानूनी हिस्ट्री में इस तरह से उनका नाम नहीं आ जाए कि जो काम सरदार पटेल ने नहीं किया, राजा जी ने नहीं किया, उसमें उनका नाम लिखा जाए कि उन्होंने एक ऐसा अनपापुलर और ड्रास्टिक बिल अनिश्चित काल के लिए स्टेट्यूट बुक पर रख दिया। तो इसमें कोई जिद की बात नहीं है। कम से कम वह हमारे इस अमेन्डमेंट को मान लें। हम इस बिल के साथ हैं मगर साथ ही यह चाहते हैं कि इसकी जिन्दगी कहीं न कहीं बांधी जाए।

SHRI K. C. PANT : Sir, I need hardly say anything about Shri Bhupesh Gupta's amendment. In the situation in which the country finds itself, I think there is need for this measure. That is all I can say to him.

To Shri Mathur. I cannot really say anything because he did not speak on his own amendment but hope to speak on Shri Advani's amendment. To Shri Dahyabhai Patel, I would like to say one thing. He is under a misapprehension that the term of detention can be extended endlessly without any reason or cause.

SHRI DAHYABHAI V. PATEL: Every year.

SHRI K. C. PANT : That is not so. It is only on the basis of fresh facts arising after the revocation or the expiry of the old order that the detention can be extended. It is not on the basis of the old facts that the detention can be extended from year to year or month to month. This is an important fact and I wanted to remove the misapprehension.

SHRI DAHYABHAI V. PATEL : We are left unconvinced.

SHRI K. C. PANT: It is very difficult to convince him. Actually prior to 1952, a simple order of fresh detention was possible. Now the provision require; that fresh facts should have arisen to justify a new order of extension. Therefore, in fact, Sardar Patel's measure was stiffer. It has been modified.

Sir, as far as Shri Tyagi's amendment is concerned, I spent a good deal of time, during

my reply to the first reading, in explaining my attitude to this matter. I explained at great length why I thought it was necessary to have a permanent measure of this kind on the statute book at this stage. I explained that in 1970, during the one year when this measure was not on the statute book, naxalite violence and other forms of violence rose in the country. Therefore, I said, when the Centre needed it, it was not there. When the States needed it, it was not there. So, this is a chance when we have to put it on the statute book beyond the temporary fluctuations of politics in the State Assemblies as well as here.

Now, I have gone to the maximum extent possible to appreciate the spirit behind this suggestion.

SHRI BHUPESH GUPTA : Evil spirit.

SHRI K. C. PANT : His suggestion has an evil spirit behind it. I have tried to appreciate that spirit. Sir, I hope that what I have said will provide a kind of safeguard which Tyagiji needs, at least the substance of it, because there will be debates in the House and these debates are the real restraining factor if such a restraining factor is at all required. It is the debate which provides it and there will be occasions for such debate. I hope you will appreciate that we have gone to the extent possible without actually accepting the amendment.

MR. DEPUTY CHAIRMAN: The question is :—

2. "That at page 1, line 3, for the words 'the Maintenance of Internal Security' the words 'the Denial of the Civil Liberties and Democratic Rights' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :—

7. "That at page 1, lines 5 6, for the words 'to the whole of India except the State of Jammu and Kashmir' the words 'to the border regions of West Bengal, Assam, Tripura and Meghalaya but not to any area extending beyond ten miles from the borders' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :—

101. "That at page 1, after line 6, the following proviso be inserted, namely :—

•Provided that this Act shall not extend to any State or part thereof if the Government of the State concerned expresses its opposition to the Act." *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

3. "That at page 1, lines 5 and 6 be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :—

4. "That at page 1, for lines 5 and 6, the following be substituted, namely :—

'(2) It shall be applicable only to these specific areas in the country and for specified periods of time where, in the opinion of Parliament, the law and order situation is in jeopardy and the Government makes out a convincing case that the lack of these powers will inhibit the preservation of public order.'" *The motion was negatived.*

MR. DEPUTY CHAIRMAN : The question is :

6. "That at page 1, lines 5-6, the words 'except the State of Jammu and Kashmir' be deleted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is :—

8. "That at page 1, after line 6, the following be inserted, namely :—

'(3) It shall cease to have effect on the expiry of two years from the date of its commencement: Provided that the Central Government may from time to time by notification in the Official Gazette extend the said period of two years by a period not exceeding one year at a time if and so often as a resolution for the issue of such notification is passed

by both Houses of Parliament before the expiry of such period.'" *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 was added to the Bill.

Long Title

SHRI BHUPESH GUPTA : Sir, I Move :

1. "That at page 1, in the Long Title, for the words 'for the purposes of maintenance of internal security' the words 'for satisfying the lust of the Central Government for despotic powers be substituted."

SHRI K. P. SUBRAMANIA MENON: Sir, I move :

100. "That at page 1, for the existing Long Title, the following be substituted, namely :—

'A Bill to provide for detention in certain cases for the purpose of maintenance of rule of the monopolists and landlords and matters connected therewith.' "

The questions were proposed.

SHRI BHUPESH GUPTA : The short title and the long title. Again the hypocritical order "To provide for detention in certain cases...", then you note this, "... for the purpose of maintenance of internal security and matters connected there with." It should be like "... for satisfying the lust of the Central Government for despotic power." This is what it should be because for the first time in Parliament since the commencement of the Constitution we are having the preventive detention law passed and put permanently on the Statute Book. Even Sardar Patel, when he brought it in the provisional Parliament, brought it for only one year. And it was taken up in 1952. Even in those days our redoubtable Sardar Patel did not think that the preventive detention law should be permanently put on the Statute Book. Since that time twenty years have passed. Now, are we putting the wheel back ? That is what I ask. Here, this Government, claiming to be radical, claiming to be democratic, claiming

to be socialistic, claiming that it has got the mandate of the people for radical reforms and other things, comes forward, utterly shamelessly, brazen-facedly, to demand of Parliament that the preventive detention law must be placed now on a permanent basis on the Statute Book. This is a shameful thing. I hope the country will take noie of it. I hope the preoccupation of the cou ltry with the refugee and other problems will not blind it to the fact of the reversal of what was happening not only that—and of going bick to the period of 1910s and so on in so far as this measure is concerned.

SHRI RAJNARAIN : Do not repeat the arguments.

SHRI S. D. MISRA : You might have noticed one peculiar feature. Sometime back Shri Rajnarain went to over-power Pantji. He could not do it. But Pantji has over-powered Shri Rajnarain by s< nding Shri Krishna Kant and Shri Panda to his side with the result Shri Rajnarain has been made speechless.

SHRI MAHAVIR TYAGI : Sir, the whole House has been detained. Is this preventive detention ? And no tea.

SHRI K. C. PANT : By whom ?

SHRI BHUPESH GUPTA: This is the trouble with my friend Shri Rajnarain. He is always in wrong company and wrong situation.

SHRI NIREN GHOSH: Shri Rajnarain is in hurry. He has to catch the train.

SHRI BHUPESH GUPTA : Sir, this is despotic power that they are taking. I think that government is doing an extremely wrong thing and there is no explanation for it. Therefore, I say we must register our protest. You know that when preventive detention was initially brought up before the Parliament, it was discussed for almost seven days. Now we are disposing of the measure in two days' time. Anyhow, we can only record our condemnation and register our vehement protest. Balraj Madhok used to say: "Jan Sanghisand satelites should unite". Now, I find that Sardar Patel has been outbid in this matter. They have outbid even Sardar Patel. He did not want it as a permanent statute. Now you see which way they are going. I am sure that this is an attempt to consolidate their hold and their

position by using the electoral mandate. That should not be allowed to happen. We certainly in some matters supported them when they were fighting the rightists and rightius were threatening them. But today fortunately the people have negated that threat. Misusing the popular support and exploiting the anti-right sentiments of the people and remaining in power for one year with the support of leftist and democratic parties, we are today given this kind of measure. This is the reward. This is the reward the progressive forces are being given and therefore I register my strong protest against it. This has nothing in common with the mandate of the people ; this has nothing in common with the election pledges and this has nothing in common with the anti-right sentiments of the people. This is a dangerous and cowardly Act. This is fraud on the Constitution of India. This is defilement of Parliamentary institutions. Fundamental Rights chapter, they say, should be amended. Yes, even before the amendment has come to curb the power of monopoly in the Fundamental Rights Chapter, they are enacting this law and putting it on the Statute Book to take away the civil liberties and democratic rights of the citizens of the country. That only shows the pusillanimity of the Government and the class mentality of the capitalist class. Their talk of socialism is utter hypocrisy. All right. One swallow does not make a summer...

SHRI K. P. SUBRAMANIA MENON : Sir, my amendments read thus :

"That for the existing title, the following be substituted, named :

"The Maintenance of the Security of the Rule of Monopolists and Landlords Bill, 1971."

"That at page 1, for the existing long title, the following be substituted, namely :

'A Bill to provide for detention in certain cases for the purpose of maintenance of rule of the monopolists and landlords and matters connected therewith."

Now, Sir, this phrase, "Internal Security Maintenance Bill" is a phrase which covers up so many things. What sort of security have the majority of the people got from this Government ? Does this Bill give any security to the agricultural labour and the poor peasants who are oppressed ? Does the labour get any security ? Has the Preventive

[Shri K. P. Subramania Menon] Detention given any security to the millions of peasants who are thrown out of the lands to the millions of agricultural workers or the millions of Harijans who are oppressed, killed, maimed and beaten up? Have they been provided with any security by the Preventive Detention Act all these 21 years of Congress rule? No, Sir. Have the workers of this country who have been thrown out of employment, who have been exploited, who have been beaten up by the goondas, been given any security by this Act? The capitalists *cr.* down their factories every day and they throw out the workers every day. ... (*Interruptions*) . They misappropriate the Provident Fund money. Rs. 22 crores of this money has been misappropriated by the capitalists in this country. Has any of them been put under preventive detention? The black-marketeers are thriving in this country. You know, Sir, during the time when the emergency was there between 1963 and 1964 and between 1966 and 1967, just in three years, the assets of the Birlas rose from Rs. 287 crores to Rs. 537 crores. This is what it has done for the Birlas. Their security increased whereas the workers lost much in their wages. This is the security provided by this Act. This Bill is meant to provide for the security of the profits and the loot of the landlords and the monopolists in this country. It is not meant to provide any security for the unemployed, for the millions unemployed, who are rotting in the streets, or for the the millions of slum-dwellers who are scorched in the hot sun or frozen in the cold. No; they are not given any security by this Bill. But this Bill is meant to provide security for the rule of the landlords and the monopolists in this country.

Then, Sir, it is said that the refugee problem has created this situation. Who is responsible for this situation? It is their ineptitude, inefficiency, corruption and incompetence and also the lack of guts, which have led to the influx of six million refugees on the soil of this country. And, now they come forward with a Bill to cover up their inefficiency and the people of this country, the workers and the peasant and the political parties have to suffer for their inefficiency. This is what the Bill does. Sir, this is a shame on this country and the earlier we throw out this Government which has brought this Bill forward and throw

out the Party which has brought forward this, the better it is for this country and better for this world. Thank you, Sir.

MR. DEPUTY CHAIRMAN : The question is :

1. "That at page 1, in the long title, for the words 'for the purposes of maintenance of internal security' the words 'for satisfying the lust of the Central Government for despotic powers' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

100. "That at page 1, for the existing long title, the following be substituted namely :

'A Bill to provide for detention in certain cases for the purpose of maintenance of rule of the monopolists and landlords and matters connected therewith'."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

"That the Long Title stand part of the Bill."

The motion was adopted.

The Long Title was added to the Bill.

The Title was added to the Bill.

MR. DEPUTY CHAIRMAN: Yes, Mr. Pant.

SHRI K. C. PANT : Sir, I move :

"That the Bill be passed."

MR. DEPUTY CHAIRMAN : I think we have had enough discussion. Shri Pitamber Das...

SHRI BHUPESH GUPTA: We do not wish to hear any more speeches. I walk out.

{At this stage, the hon. Member left the office.}

شری شیر خان (میسور) : ڈپٹی
چیرمین صاحب . . .

† [श्री शेर खां (मैसूर) : डिप्टी चेरमैन
साहब. . .]

श्री पीताम्बर दास : क्या आप थर्ड रीडिंग पर
बोल रहे हैं।

श्री उपसभापति : श्री शेरखां, आप बैठिये।

شری شیر خان : میں تہرے ریڈنگ
پر نہیں بول رہا ہوں۔ میں ایک دوسری
بات کہہ رہا ہوں۔ میرا کہنا ہے کہ ہم لوگ
11 بجے سے بیٹھے ہیں اور 8 بجے کے
آگے بیٹھے رہے ہیں۔ ابھی تک یہ دستور
رہا ہے کہ اگر 8 بجے کے بعد تک
بیٹھے تو منسٹری کی طرف سے کہانے کا
انتظام کیا گیا ہے۔ تو میں جاننا چاہتا
ہوں کہ کیا انتظام ہے اور اب ہم کب تک
بیٹھیں گے؟

† [श्री शेर खां : मैं थर्ड रीडिंग पर नहीं बोल
रहा हूँ। मैं एक दूसरी बात कह रहा हूँ। मेरा कहना
है कि हम लोग 11 बजे से बैठे हैं और 8 बजे
के आगे बैठ रहे हैं। अभी तक यह दस्तूर रहा है
कि अगर हाउस 8 बजे के बाद तक बैठे तो
मिनिस्ट्री की तरफ से खाने का इन्तजाम किया
गया है। तो मैं जानना चाहता हूँ कि क्या
इन्तजाम है और अब हम कब तक बैठेंगे?]

श्री राजनाथायण : श्रीमन्, जरा सुनिये।
जिस ढंग से इस बिल को पास कराया जा रहा
है, जिस तरीके से जनतंत्र की हत्या की जा
रही है, उसको देखते हुये, यहां पर बोलना
बिल्कुल बेकार सा है। हमारे यहां एक कहावत
है कि भैंस के आगे बोन बजावे भैंस खड़ी
पगुराय। यह कांग्रेस सरकार भैंस है जो आज
पगुराय रही है इसलिये इसके सामने बोन
बजाना व्यर्थ है। इसके विरोध में, जिस ढंग
से जनतंत्र की हत्या हुई, संविधान की हत्या
हुई, नागरिक अधिकारों की हत्या हुई, हम इस
सदन का त्याग करते हैं।

(At this stage, the Hon. Member left the House)

† [] Hindi transliteration.

श्री पीताम्बर दास : आदरणीय उपसभापति
महोदय, जो आन्तरिक सुरक्षा विधेयक पर
बहस हुई उसको मैंने बड़े ध्यान से सुना है।
एक-एक भाषण को मैंने ध्यान से सुना है। इस
सारी बहस को जिस ऊंचे स्तर के ऊपर पन्त
जी ने ले जाने की कोशिश की है वह वास्तव
में सराहनीय है। यह उनकी पैतृक देन है।
यह उनको उत्तराधिकार में मिला है। परन्तु
उसका परिणाम कुछ नहीं हुआ। मेरे साथियों
की तरफ से अकाट्य तर्क दिये गये। आडवाणी
जी बोले हैं, डा० भाई महावीर बोले, डाह्याभाई
पटेल बोले हैं, नीरेन घोष बोले हैं, भूपेश गुप्ता
बोले हैं, अरुण प्रकाश चटर्जी बोले हैं, और भी
कई दलों के साथी लोग बोले हैं। इन लोगों
ने उन कानूनों का हवाला भी दिया है कि
जिनमें इस प्रकार के प्रावधान मौजूद हैं जो
अवांछनीय तत्वों को, अयामाजिक तत्वों को
दवाने के लिये बहुत काफी हैं। परन्तु उन सबके
उत्तर में पन्त जी ने जो भाषण दिया उसमें
वाक्यचानुर्य और भाषणकला तो बहुत देखने
को मिली परन्तु उन दलीलों का कोई ठोस
उत्तर नहीं दिया गया।

ऐसा दिखाई देता है कि यहां निर्णय तर्क
के आधार पर नहीं बल्कि संख्या-बल के ऊपर
होना है। पन्त जी ने यद्यपि बीच-बीच में
आश्वासन देने की कोशिश की है कि इस कानून
का उपयोग राजनैतिक प्रतिद्वन्दियों को कुचलने
के लिये नहीं किया जायगा परन्तु पिछले 25
वर्षों में हमारा अनुभव रहा है कि इस तरीके
के कानूनों का प्रयोग केवल राजनैतिक प्रतिद्व-
न्दियों को ही नहीं बरन् ऐसे लोगों को भी
दवाने के लिये किया गया है जिनका राजनीति
से कोई सम्बन्ध नहीं था, और जिनकी राष्ट्रियता
जिनके देशप्रेम, जिनकी अनुशासन प्रियता,
जिनकी ध्येय-निष्ठता और जिनकी आदर्शवादिता
एवं त्यागशीलता के ऊपर देश में कभी किसी
को सन्देह नहीं रहा। पिछले 25 साल में हमने
देखा है कि सरकार की नीति रही है—

[श्री पीताम्बर दास]

होते हैं सितम जांबाजों पर,
 गैरों पे इनायत होती है।
 इस जुल्म को उनके क्या कहिये,
 कहिये तो शिकायत होती है ॥

श्रीमन्, हम प्रमाणिकता के साथ यह मह-
 सूस करते हैं कि इस स्वेच्छाचारी कानून का
 उपयोग आन्तरिक सुरक्षा के लिये नहीं परन्तु
 ऐसे लोगों को दबाने के लिये किया जायेगा
 जिनसे विचार विभिन्नता सरकार के लोगों
 की है।

(The Jan Sangh Members staged a walkout)

SHRI DAHYABHAI V. PATEL) Sir, we have
 been treated for two days endlessly with speeches. I
 do not know whether there was argument or
 substance or reason. But this is very unusual and
 very unfair. If the Government wanted to carry on
 like this, they should have thought of the time that
 was needed and provided proper time. The Business
 Advisory Committee should have foreseen this and
 should have been advised. What is the use of sitting
 here till 8 30 at night? The Foreign Minister is here
 to make his Statement. What is going to happen to
 his Statement? Then there are two other Bills. Are
 you going to do them 2 Sir, we protest against the
 manner in which this is done. This is not a
 democratic way of doing things. The arguments
 advanced by Mr. Pant were not convincing
 particularly with reference to the points that I raised.
 This Government has been guilty of using force and
 violence even as recently as in the last elections.
 How we support this measure? Therefore, Sir, we
 also leave the House.

(The Swatantra Party Members staged a walkout)

SHRI SUHRID MULLICK CHOTJ-DHURY:
 Sir, I record my protest against this Bill on behalf of
 the Marxist Forward Block and I walkout.

(The hon. Members staged a walkout)

SHRI NIREN GHOSH I This is lawless black
 Bill of the black socialism of the Congress Party in
 power. Sir, this Bill smacks of

fascism. So I feel that the Parliament of India is
 being converted into the Reichstag of Hitler and I
 feel that the police is standing inside this Chamber.
 Under these circumstances our party walks out.
 Down, down, down with this Government of India.
 Down, down, down with this fascism. Down, down,
 down with this black Bill. Shame, shame on this
 black socialism. Down, down, down with the
 Government of India.

*(The Communist Marxist Party Members staged a
 walkout)*

SHRI CHITTA BASU : Sir, I cannot but join
 other friends of us in the matter of expressing my
 deepest resentment against this kind of enactment
 which robs the people of their fundamental rights
 and liberties. It is aimed at curbing the democratic
 movements of our country. Therefore, it is in the
 fitness of things that all freedom-loving democracy-
 loving people should express their condemnation
 and resentment against this kind of enactment now
 going to be made by the Government. I refuse to be
 a party to this kind of legislation.

(The hon. Member staged a walkout)

MR. DEPUTY CHAIRMAN : Kumari Shanta
 Vasisht, do you want to speak ?

KUMARI SHANTA VASISHT : Sir, I do not
 think there is any purpose left in speaking now
 because you have broken the convention of the
 House that the Parties are called and then the
 Independent Members are also called, and then a
 second round and a third round take place. But that
 practice of the past has been done away with today,
 and the convention has been broken. I am very sorry
 about it. I wish you had been more fair and
 objective. This has been my old grievance. There is
 nothing new about it. But the Chair has refused to
 change its attitude. Some power is given to the
 Chair. They run away with it, and there is nothing
 that we can do about it. Some power you give to the
 Government and they run away with power and you
 don't know what to do. Now here is the question of
 giving so much authority and power to the
 Government. I am not against it, but they don't
 always use it properly if a power has to be given. As
 it is, the Government has enough power if they want
 really to maintain law and order, if they want

really to safeguard the security of the country, if they want to project the relations with other countries vis-a-vis India, and so on and so forth. They have ample powers. Have they ever used them? No. They will not bother about who comes into this country, how many foreigners have come, how many hippies have come, how many have gone to Rishikesh and Hardwar, how many foreigners have done what sort of work here. They have infiltrated into your youth. They have infiltrated into your universities. They have gone into the Research Departments. They have gone as consultants and others to your industries. They have gone into your friends and comrades and bureaucrats they have become friends and so on of the your politicians. I do not know where are, what are you thinking or what you want to do. When they have infiltrated so much, I do not know what powers you want, when you are so blind to what is going on inside your country. I have so many examples which I can quote. Here, I forget the name, some years back, a man was flying out of the country so many times.

AN HON. MEMBER : Walcott.

KUMARI SHANTA VASISHT : Walcott
The Government if India woke up too late in the day.

Then you have some of your airports you have started for your Air Force which are all closed to the Indians generally. They are closed even to families of Indian Air Force personnel. But they were kept open on certain ceremonial occasions. I do not know how you are maintaining your secrecy; how you are maintaining your security. Even the family members are not allowed even to enter those areas when they go to leave their people who are in the Air Force. That much security was maintained for family members and others but on certain occasions they were open to foreigners, all the diplomatic corps and all the citizens in the country.

Then there are people who come here, foreigners. They take all the photographs. There is a sign in the plane saying that foreigners cannot take photographs of some of these ranges and areas. But the foreigners take the photographs freely. Not even one per cent of your staff members, not even one per cent of the members of your Government are aware

of the regulation and conditions in force that photographs, etc., should not be taken.

Your secrets are given out everywhere. The slightest amount of work done by the Indian Government is publicised in big headlines with photographs and locations and everything. Nobody needs to go deep into your secret work and so on. They can get everything even from the newspapers. But I would ask whether this Indian Government knew even about the pill boxes which were constructed near the Ravi river across the border of India. How is it our C. I. Ds do not know about it at all? How is it that the Government did not know that this Bangla Desh was developing so widely? How is it they were so ignorant and did not anticipate that there would be a large number of refugees coming in millions and millions here and suddenly they have woken up with this realisation that the refugees have come? How is it the Government had no idea about it that we would be flooded with the refugees and a very serious situation would be created? What is the Government doing about it? After all, they have got tons and tons and tons of rupees which they are wasting on Government works. Why did they not think about such matters? Therefore, I feel that the Government has ample powers which it is not using. When they have need to use power, they do not use it and they want more and more and more power because their clock is turned and their persons are turned. But they want to put patches and patches and patches and the entire fabric gives way under the weight of these patches.

I cannot understand their desire always to have more and more and more authority. I would want them to improve the law and order situation. I would want them to have public safety and so on. But as the world trend today is as also the trend in India, I think public order will continue to be deteriorating. It cannot be improved easily. I think this is the world trend—crime is increasing, law and order situation is deteriorating and it has deteriorated very fast in India also.

And there are many, many, many, many capitalists who shed their tears about the law and order situation. But, more than that, how did you allow the situation to go down so much? When the people have grievances about prices and cost of living the Government

[Kumari Shanta Vasisht]

is totally less bothered about it. They are under the stranglehold of the capitalists and the monopolists—they cannot get away from and they cannot check the prices. They are under the stranglehold of the middlemen. The other day, Mr. Raj Bahadur talked about it when Members were asking questions. He did say that this problem is due to the middlemen. But why does not the Government bother about the middlemen ? Are they just spectators ? Are they helpless ? Are they the sons-in-law of this country that they are not bothered about it ? It is the Government's total inability to the problems of the people. It may talk about socialism and all the rest of it but they are not bothered about it and they have not taken any steps to check the prices and the cost of living.

Indira Gandhi talks about socio-economic problems which people ridicule very much. But the question is, people have an economic problem ; they have unemployment problem and other social problems ; there is the housing problem and so many other things. What is the Government doing ? They cannot even touch the problem unless they touch the vested interests in the country from whose hands they practically eat. They cannot solve these problems. If they cannot solve these problems they cannot go very far and this deteriorating law and order will continue because of these various factors involved in it.

The Government pays lip sympathy to this, but does not do anything about it. So, also, as for as this attitude on the part of the Government is concerned, they want more and *more* powers. I do not know why they do not use the power that they have. They do not. I do not want to go into these various small things. What do you mean by public order ? How are you going to use it for public order ? I am not interested in the various personalities involved in it. Many of them are not even my friends. When a lady Member of Parliament was slapped, you are not bothered about it. If a person like Rajnarainji has a fracture, because at a public meeting, the policemen manhandles him, you are not bothered about it. If some elderly statesmen or politicians are manhandled and hurt by some goondas hired by some Congress people, you are not bothered about it. Law and order is meant for every citizen

in the country, no matter to which party he or she belongs. It should be an article of faith with the Government that equality is practised for everybody. Equal treatment should be given to everybody. How is that some people die in detention ? How is it that some other leaders die in some prison or other, whether it was Mr. Shyamaprasad Mookherjee or somebody else, whether it is Mr. Rajnarain or somebody else, who has got a fracture ?

SOME HON. MEMBERS: He has not died.

KUMARI SHANTA VASISHT : I think you would like the poor man *to* die. I would like you to have sympathy for a human being, not laugh at it. You should be moved by sympathies, if you have anything in common with human beings. If you behave as authoritarian people who do not know the realities, then you cannot go very far. You will go under if this is your attitude. It is your attitude. It is not a matter to be laughed at. If you are hurt I should be just as much concerned as you are. If Rajnarainji is hurt, you should feel as much concerned as he is. You say he is hale and hearty, but why should a Member of Parliament or a very responsible member of a political party be so manhandled at a public meeting that he has a very serious fracture ? It is a point of principle, whether he is 'A', 'B' or 'C', no matter to which party he belongs. We are not concern with it. The principle is that every person should be able to function in safety and security. Is this the way to maintain law and order when such things happen ? Such people are even congratulated by the very 'highups' in your party. You do not condemn the goondas who are misbehaving. This is not the way to conduct political life by encouraging and congratulating those who misbehave in this fashion. They should be discouraged even by their leaders or rather particularly by their leaders. It is very wrong that this sort of thing went on.

Now, they say that supplies should be maintained. According to this Internal Security Bill essential services to the community should be provided. They should be maintained. I agree that essential services should be maintained, but how are you going to do it ? There are very efficient and model States like Maha-

rashtra. When there is a strike by the Shiv Sena, what can you do about it? Even the Government has to take the permission of the Shiv Sena to supply milk to the various milk booths. That means unfortunately—I am not happy about it, I am sorry about it you are working under the authority of the Shiv Sena. You are taking their permission to be able supply milk to the milk booths in the city, that you are not able to function and operate it. That is a very bad thing. I am very sorry about it. How will you maintain these supplies? You will probably ask the Army to take care of it. You will ask the Police to take care of it. You will ask half a dozen MPs to take care of the breakdc vvn in supplies and other essential services and so on. Having this Internal Security Bill also you will resort to the same thing. After the passage of the Bill also you cannot force the people to do what they refuse to do and when they go on strike there is nothing you can do about it. How are you tackling in the last so many years certain strikes of the Central Government employees? We have had it a number of times. What did the Government do? The Government asked often the police people to take care of these things. They asked voluntary people to take care of these things. That is how you have been functioning in the past, and you have no other alternative in future years. So I do not know what you are going to do about it. So also again you have to resort to the army. Though the army is never a fair deal, you want to have internal security. The dissatisfaction that is prevailing among the factory labourers or among the youth who are unemployed or the engineers who are unemployed or the educated unemployed people, that dissatisfaction is rampant in other section of the society also.

(Interruption)

MR. DEPUTY CHAIRMAN : Order, order, please.

KUMARI SHANTA VASISHT : They have no patience to hear us. You do not want to see yourself in the mirror. That is the trouble with the ruling party. You are afraid to see your own face in the mirror. Therefore, your problems are arising partly because of the widespread dissatisfaction among various sections of the people.

Then the other question is whether your

army is taken care of when it goes to various areas. Even near about Bangla Desh if they ask for water, people do not want to give them water. If they want to buy things, they are not given things. Is this how you want to have internal security in the country? *(Interruption)* When other Members are talking and talking double the time, the Members do not protest. I have a right to express my views though it is Third Reading. Time could have been given earlier to me also. The Government is not using the powers that it has and it wants more and more power. I am very much against the Government being given too much power because they use it in a very arbitrary, very arrogant and very very authoritarian fashion. They do not care for even the basic tenets of decency in terms of using their power. Therefore, I am not happy about how they use it. But Mr. Yajee says : *zpjjt g^TTt*

*^*t 3PR 3H7 frir eft %H 3ff<T sft W SffrT*

Thank you.

SHRI B. P. NAGARAJA MURTHY (Mysore) : Mr. Deputy Chairman, I thank you very much for the opportunity you have given me on the last day of the session on the last Bill at the last moment. I fully appreciate and share the sentiments and feelings expressed by the hon. Minister of State when he expressed his grief over the atrocities, butcheries and cold-blooded murders that are being committed everyday in West Bengal. Sir, I was never before in such a predicament as I am today to raise my voice in support of this Bill against my conscience because I am not a believer in conscience voting and I know the consequences of conscience voting which has created havoc in this country. I support this Bill against my conscience for two reasons. I am a disciplined member of a disciplined Congress Party, and the second reason is my party is between the devil and the deep sea. We do not know which to prefer but we have decided to prefer the devil which is this Bill instead of preferring the deep sea which is full of dragons, dragons meaning the anti-social elements and spies and external danger and internal security : all these constitute the deep sea.

Sir, when the party got the mandate from the electorate, they did not anticipate that

f Shri B. P. Nagaraja Murthy] this madness for power of this Government would come with such an anti-democratic Bill as this is. Sir, this Bill reminds me of an episode in the Indian mythology when Lord Sankar blessed Bhasmasura with a boon to burn whoever comes "under his palm. When Bhasmasura got that power, he wanted to burn the boon-giver himself. Then the giver had to run away for shelter and he approached Lord Vishnu who was converted into a fairy to win over this Bhasmasura, and she with all poses of her dance made him come under his own palm and burn himself. So this Bill has become the boon that has been given to Bhasmasura. I am quite sure this boon will burn the very party in the next election when this Bill is used to undermine the democratic principles instead of strengthening and stabilising the democracy. With the words I conclude.

SHRI S. D. MISRA : Sir, the position of my party is very clear by now and we have already decided to support this Bill. Our position has been made clear by my colleague and other colleagues here when we spoke earlier. Now, we are at the last stage of the Bill. We are giving power to this Government though reluctantly, and I will explain why 'reluctantly'. We fear that this might be misused and therefore, at this stage I will raise two or three specific points. I will make a special request to the Minister who assured us that there would be no misuse of the power. In the Bill there is a provision that persons who have the qualifications to be a Judge will be appointed on the Advisory Board. As the Minister must have perceived, there is no restriction put on those that may be appointed. There are some people, politicians and lawyers, good, bad and indifferent. Some people may be appointed out of political expediency. That should be avoided. It does not prevent the Minister from appointing retired Judges. There are 20 or 21 States and two or three such Judges from each State may be available.

Another thing that I want to say is this. Of course, there is a very important reason for not disclosing the grounds of detention. But if the Advisory Board ultimately decides that the person detained should be detained only for two months and if the Government does not tell the grounds of detention, then the Advisory Board cannot help him. So, as far

as possible, unless it is a top secret or a State matter, the grounds on which a person has been detained should be revealed to the person who is likely to be detained.

Lastly, there is an assurance by the Government, and I appreciate the spirit of it because my own party has already moved an amendment. We have voted for it. We want that the Bill should not be on the Statute Book permanently. So we specifically took a stand that it should not be beyond two years. Of course, that was negatived. The Minister has assured us that there will be a periodical review. He has also stated that it may be two years or one year. But I would say, let it be annually and let both Houses of Parliament be seized of the whole matter, the progress or otherwise of the situation. I want only one assurance on this that if Parliament so decides and gives a mandate as to the annulment of the measure or the change of any particular clause, after seeing the progress, then the Government should not stand on prestige and should try to amend that clause so that it satisfies the people and if necessary, withdraw the measure after two years.

That is all that I have to say, Sir.

SHRI K. C. PANT: Sir, we have come to the end of a long, exhaustive and exhausting debate. I realise that all the Members are now very very tired, and it would be unkindness on my part to inflict a long speech on them. Therefore, I should like to confine myself to saying that we are glad that at a time when the country is faced with external and internal danger, this House and the other House have responded to the situation by putting this Bill on the Statute Book which will give the various State Government and the Central Government the power that will be necessary to control the situation in respect of those areas which are specified in this particular Bill.

Sir, I need not repeat all that I have said earlier or the other Members have said, but in a situation where 60 lakhs of refugees have come in, in a situation where violence in the country is growing, in a situation where our basic institutions and values are under attack, vigilans* certainly has to be exercised, and it is in that spirit that we have to take this measure. I hope the presence of this measure on the Statute Book

will strengthen our hands and ultimately I strengthen the security of the country, the freedom and unity.

I am grateful to the parties which have supported this measure. I am sorry that some hon'ble Members opposite have left the House. Some of them made very rabid speeches towards the end. Some of them accused us of trying to help monopolists and what not through this measure. There was no logic or reason in their speeches. I think Mr. Menon, who spoke last, made a very rabid speech. I fail to see what connection his speech had with the measure before us. There was no connection that I can make out. It was the usual gramophone record, and I am only sorry that any speech should have been made at this stage, that after listening to everything we should have been so much off the mark.

Sir, the parties which supported the Bill, if I may mention then, Bangla Congress bring one of them, some people say have voted against. But I do not mind because it must have come in the voting record. But I am grateful to them that they have responded to a critical situation is one would expect a nationalist to respond. I would not like to say anything further at this stage.

Sir, a couple of points have been raised by Mr. Misra just now. About Judges, I pointed out, this was a provision of the Constitution. This has been lifted from the Constitution and the provision in the Bill is exactly the same.

SHRI S. D. MISRA: I do not object to the provision...

SHRI K. C. PANDEY: I heard what you said. We shall watch how the Bill is implemented, how the provisions are implemented. We shall keep an eye on that.

A second thing he said is that the grounds of detention should not be withheld from the detenu. As I said earlier in the course of the debate on the amendment, it is in the interest of the detaining authority to communicate all the necessary grounds of detention. But so far as all the facts go there is a provision in the Constitution and in the Bill that wherever it is not in the public interest to reveal these facts they are not conveyed to the detenu. Secondly, the Government should not stand

on prestige. They should bring forward amendments. I fully agree that the Government does not stand on prestige and if the Government stood on prestige we would not have at this late stage tried to accommodate so many view points and so many ideas as we did, and even in future we will be second to none in our concern for individual liberties and freedom. We cherish democratic values. We are proud of the freedom and democratic values in our country, and this is why there is only the need for vigilance at this stage which made us bring this Bill forward.

Finally, I would like to mention one thing that in relation to what was said earlier about the U. F. Government having asked for the extension of this Bill. There was some amount of heat in this House and my hon'ble friend tried to move a privilege motion against me. Even after my telling him that this was the fact, he tried to move a privilege motion. I do not know what remedy I have against him. But I can state the facts once again and place them on record. On 1st August 1969, the views of all State Government were sought on the continuance of the P. D. Act beyond 31-12-1969. A communication dated the 11th September was received from the Government of West Bengal, from the Joint Secretary of the Home Department, recommending its continuance for a period of three years. On 25th November, however, the state Government informed us that re-examination, they were of the view that the Act should lapse. That is what I said and to this he took objection. I hope he will read the record and take cognizance of the facts.

Sir, I would not like to say anything more. I am very thankful to the Members who have survived this ordeal and are still present in the House.

MR. DEPUTY CHAIRMAN: The question is

"That the Bill be passed."

The motion was adopted.

MOTION RE JOINT COMMITTEE OF HOUSES TO CONSIDER THE QUESTION OF AMENDMENTS TO ELECTION LAW

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS AND IN THE MINISTRY OF