

MR. DEPUTY CHAIRMAN : No, that subject is over now.

(Interruptions)

SHRI S. N. MISHRA : No, please. Please do not try to . . .

(Interruptions)

MR. DEPUTY CHAIRMAN : It is already 1-30 now. The House stands adjourned till 2-30 P.M.

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

The House reassembled after lunch at half-past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

RE REMARKS MADE BY THE PRIME MINISTER IN THE RAJYA SABHA ON THE 20TH AUGUST, 1970—*contd.*

SHRI S. N. MISHRA : Mr. Deputy Chairman, I am sorry to come back to the point which I had raised in the morning.

MR. DEPUTY CHAIRMAN : Why do you want to rake up that question again ?

SHRI S. N. MISHRA : I am only making a brief submission. I am sorry to come back to the point which I had raised this morning. We wanted the chapter to be closed but the remarks made by the Prime Minister have in fact worsened the position. So we reserve the right to raise this point again when she is here because her words have been very hurtful to our sentiments. We have now the full text of her speech. Her speech has not improved the position. Instead of soothing our sentiments, she had said some words which are hurtful to our sentiments.

MR. DEPUTY CHAIRMAN : You have made your point.

THE INDIAN TELEGRAPH (AMENDMENT) BILL, 1970

THE MINISTER OF STATE IN
THE MINISTRY OF INFORMATION
AND BROADCASTING AND IN

THE DEPARTMENT OF COMMUNICATIONS (PROF. SHER SINGH) :
Sir, I beg to move :

“That the Bill further to amend the Indian Telegraph Act, 1885, be taken into consideration.”

Section 5 of the Indian Telegraph Act, 1885 confers powers on the Government on the occurrence of any public emergency or in the interest of public safety to take possession of licensed telegraph and to order interception of messages. The provision of Section 5 infringes the Fundamental Rights contained in article 19(1)(a) of the Constitution. The Law Commission considered section 5 of the Indian Telegraph Act 1885 and took the view that it would be desirable to bring the language of the section in line with the permissible rights of restrictions under article 19(2) of the Constitution, namely, security of the State, public order, incitement to commission of an offence and friendly relations with foreign States. Now the other recommendation of the Law Commission was that sub-section (2) of Section 5 which bars judicial review of any action taken under this section should not be there.

So to achieve these objects, this Bill has been brought before the House and I hope it will now give permission for its consideration.

The Question was proposed.

MR. DEPUTY CHAIRMAN : Mr. Das, are you moving your motion ?

SHRI BANKA BEHARY DAS (Orissa) : If the Minister is going to move the two amendments standing in his name, then I will not move my motion for circulation.

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI OM MEHTA) : It is going before a Select Committee.

SHRI BANKA BEHARY DAS : I am not moving my motion.

SHRI JAGDISH PRASAD MATHUR (Rajasthan) : I move :

“That the Bill further to amend the Indian Telegraph Act, 1885, be referred to a Select Committee of the

Rajya Sabha consisting of the following Members, namely :

1. Shri S. N. Mishra
2. Shri Dahyabhai V. Patel
3. Shri Sundar Singh Bhandari
4. Shri Bipin Singh Gupta
5. Shri Binka Behary Das
6. Shri A. P. Chatterjee
7. Shri M. N. Kaul
8. Shri Chandra Shekhar
9. Shri M. M. Dharia
10. Shri Rajnarain
11. Shri Steel Bhadra Yajee

with instructions to report by the first week of the Seventy-fourth Session of the Rajya Sabha."

SHRI A. G. KULKARNI (Maharashtra) : Sir, I move :

"That the Bill further to amend the Indian Telegraph Act, 1885, be referred to a Select Committee of the Rajya Sabha consisting of 12 members, namely,—

1. Shri Mohamod Usman,
2. Shri M. Srinivasa Reddy,
3. Shri Dev Datt Puri,
4. Shri M. V. Bhadram,
5. Shri Anant Prasad Sharma,
6. Shri Suhrid Mullick Choudhury,
7. Shri Sitaram Singh,
8. Shri Lal K. Advani,
9. Shri Bipinpal Das,
10. Shri Sher Khan,
11. Shri Sanda Narayanappa, and
12. Shri A. G. Kulkarni.

with instructions to report on the last day of the next Session."

The questions were proposed.

MR. DEPUTY CHAIRMAN : Mr. Mathur, you may speak now on your amendment.

SHRI JAGDISH PRASAD MATHUR : I have moved my amendment, Sir, but Shri Lal K. Advani will speak on it on behalf of my party.

6—49 R.S./70

SHRI LAL K. ADVANI (Delhi) : Sir, I rise to support the amendment which has been moved by my colleague, Mr. Mathur, and I would like to elaborate on why I support his amendment. Sir, the Bill, as it was placed before this House at an earlier stage, was considerably different from what it has now become after the amendment that has been given notice of by Mr. Sher Singh. In a way his amendment does meet some of the more serious misgivings of the Members of the House which have been given expression to through various amendments, and even through personal talks and conversations with the other Members. But it is my feeling and apprehension that the fate that befell the Advocates Bill—because there was no reasonable and rational thinking on the whole affair before it was put before the House,—that fate might befall this particular Bill also. I notice that the Press Council has made several recommendations in respect of this Telegraph Bill. But the present Bill does not conform to them. I am happy that press correspondents have been excluded from the purview of this Telegraph Bill. I am happy to that extent. Even though the Press Council did not recommend that, to that extent this Bill has gone beyond the recommendations of the Press Council. (*Interruptions*) If this particular amendment, given notice of by Mr. Sher Singh had not been tabled, I would have appealed to the House to reject the Bill outright (*Interruptions*) because the original Bill in that form was, so to say, a black law, designed as a curb on the freedom of the Press. I see no reason why, normally, after India became independent, an Act of this nature, which had been brought forward by the British Government in the year 1885, merely to strengthen and reinforce their own Government and to protect themselves against the criticism that could be levelled against them from the Press, should not have been repealed altogether.

But this was not done. However, after the enactment of the Constitution in 1950, this Government felt that the Bill as drafted in 1885 may not stand scrutiny before a court of law. In fact if you look at the Statement of Objects and Reasons—I would like to read from the Statement of Objects and Reasons and try to show to the House

[Shri Lal K. Advani]

what purpose the new Bill we are asked to consider was intended to serve. You will find that it says :

"Section 5 of the Indian Telegraph Act, 1885, confers powers on the Government, on the occurrence of any public emergency or in the interest of public safety, to take possession of licensed telegraphs and to order interception of messages. As doubts have been expressed about the validity of this provision, Government, after consulting the Law Commission, consider it necessary to amend sub-section (1) (b) of that section so as to limit the exercise of powers thereunder only in the interests of the sovereignty and integrity of India, the security of the State, public order or friendly relations with foreign States or for preventing incitement to the commission of an offence."

so the objective of the Government becomes very clear. It was merely to bring an existing curb on the freedom of the press within ambit of the law. The Law Commission has advised that the provision as it stands at present is likely to be struck down by the courts of law. A recent occurrence of that nature has been in Orissa where some press telegrams were intercepted. There was a furore and strong objections were made from all Press forums that this sort of arbitrary authority should not be exercised and the Press should have complete freedom of conveying its views. After sensing the feelings of the House from the various amendments given notice of, such as those by my friend, Mr. Banka Behary Das—I myself had given notice of amendments—perhaps it was felt that if a curb of this nature was put before the House the House would not accept it. Therefore Prof. Sher Singh has come forward with an amendment seeking to incorporate a proviso saying that press messages of correspondents accredited to the Government, either Central or the State, shall not be intercepted or detained. As I said at the outset I wholeheartedly welcome this amendment because then the purpose of this Bill becomes different from what has been stated in the Statement of Object and Reasons. In fact, if the Government had given thought right at the outset to this amendment, it would have incorporated this in the Statement of Objects and

Reasons itself and made it known to the people and to Parliament that they want to ensure that this sort of curb on transmission of messages would not apply to accredited press correspondents.

It is another matter that this does not go far enough. There are other sections in the Bill which need to be amended in respect of which even the Press Council has made recommendations. If thought is given to the whole matter and the Indian Telegraph Act as such is considered in its entirety, in its totality, I think not only section 5 but even section 29 about which the Press Council has made specific recommendations would also have to be altered. In fact if both this Telegraph Bill and the Post Office Bill were to be considered from the point of view of the freedom of the Press I am sure the Government will have to come forward with a fresh legislation altogether which will not be in any way a curb on the freedom of the Press. So my humble submission to the Minister and to the Government would be that this Bill must be referred to a Select Committee...

SHRI A. D. MANI (Madhya Pradesh) : Joint Select Committee.

SHRI LAL K. ADVANI : It would be better that this present Bill should be withdrawn altogether and fresh legislation brought forward and that legislation referred to a Joint Select Committee. That would serve the purpose of the situation far better than this present haphazard and ill-digested piece of legislation. There are so many other aspects of this question also. I do not propose to go into each of them. For instance, there is a provision here which says that if there is any message which is likely to affect our friendship with friendly countries such messages could be intercepted. Now this phraseology is so vague and many instances can be cited to show how this innocent-looking phrase can be used to curb the freedom of the Press. China, Pakistan, Soviet Russia are all technically friendly countries.

SHRI KALYAN ROY (West Bengal) : China also ?

SHRI LAL K. ADVANI : Yes, technically it is. May be Chinese hostility is more ; may be Pakistan's hostility is more and may be, Soviet hostility is not so overt and...

MR. DEPUTY CHAIRMAN : Order, order. Let him continue.

SHRI KALYAN ROY : I was only helping to correct his history.

SHRI LAL K. ADVANI : I am certainly not going to take any guidance from you in respect of history, particularly in respect of Soviet Russia.

So my submission was that even that innocent-looking phrase about affecting our relations with friendly countries has been used and can be used to curb the freedom of the Press.

Finally, I would like to say this. My concern about the freedom of the Press is not only because I am a journalist myself but also because ever since last August there have been so many statements, irresponsible statements in this regard, of a 'committed' press, and all that, which go to prove that the country's rulers are of the view that Press freedom should not be as absolute as it is in other democratic countries.

The manner in which Mr. Ayub Khan could justify controlled democracy or guided democracy in Pakistan some of our friends here or colleagues have may be inclined to take the view that Press freedom should also be guided and controlled in order to make it function in what they think are the national interests. I am sure the Press in India has acquitted itself, during the last twenty years, in a most responsible manner and its performance has been a credit to our country. Nevertheless, if you are thinking in any way of augmenting the curbs on the Press or continuing the unwarranted curbs on the Press, as for instance this Indian Telegraph (Amendment) Bill, I am sorry we cannot support it. Therefore, once again, clarifying the position in respect of the amendment moved by Mr. Sher Singh—I welcome it—all I can say is that the amendment is not sufficient enough. The Indian Telegraph Act needs to be considered in its entirety and the other provisions also, to which reference has been made by the Press Laws Enquiry Committee and the Press Council, should be considered. The Government should withdraw the Bill in its present form and bring forward a fresh Bill to cover the whole situation and that Bill should be referred to a Joint Select Committee. That will serve the ends of justice and the freedom of the Press far better than the present Bill.

MR. DEPUTY CHAIRMAN : Mr. Kulkarni.

SHRI BANKA BEHARY DAS : Mr. Deputy Chairman, kindly just hear me. Before Mr. Kulkarni speaks on his amendment...

MR. DEPUTY CHAIRMAN : All the amendments are before the House. You have not moved your amendment.

SHRI BANKA BEHARY DAS : I have a right to oppose it also.

MR. DEPUTY CHAIRMAN : You will get a chance to speak later on.

SHRI BANKA BEHARY DAS : I am just requesting, through you, my friend, Mr. Kulkarni. I will not say that he should not get precedence. After hearing me, if he thinks that he should speak, he can speak. It would be better. If he concedes, I will speak. I will not get precedence, but it would enable him to make up his mind.

SHRI A. G. KULKARNI : Let him speak.

SHRI A. D. MANI : I am also concerned with this Bill.

SHRI BANKA BEHARY DAS : Of course, I went out of my way to request you to allow me to speak first only because I am greatly concerned with this measure for the last one and a half years and I am very happy that at last something has come. At one stage I was requesting all my friends to defeat this amendment which the Government has proposed, but today I am going to request both my friends who have brought this motion for eliciting public opinion and the other friends who have brought forward the motion for reference of the Bill to a Select Committee, not to press them. Though I had my earlier motion for eliciting public opinion, I think the amendment, which has been brought forward by the Minister in a different form, contains the same. I am now going to request both of them that we should not press the motion for eliciting public opinion and the motion for reference of the Bill to a Select Committee. That is why I wanted to get a hearing first.

Mr. Deputy Chairman, you might be remembering that two years back I agitated here in this House about the

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withholding of telegrams in Cuttack, and also sometimes we agitated because some of the telegrams by the U.P. teachers were withheld by the Government, and some of the telegrams from Madras also were withheld. That is why the Press Council took up this matter, and next year they devoted one paragraph to this telegram law. I am not going into it at the moment, but I am going to request my hon. friends here that if it is referred to a Select Committee, the result will be the Select Committee will consider only this clause, because you know that my friend has referred to section 29 of the Telegraph Act about which I am greatly concerned. I raised that question in the National Postal Council because one of the correspondents of the Indian Nation was punished in Jamshedpur for sending a telegram, and that matter comes under section 29. At that time the National Postal Council promised and assured that they would look into the matter. They have not done it up till now; but in no way that matter will be taken if it is referred to a Select Committee, because my hon. friend very well knows that the Select Committee's power is limited. They cannot go into the entire gamut of the Telegraph Act. They can only go into section 5 of the Telegraph Act. If they go into the question of section 5, in no way can they change section 29. I would have agreed with Mr. Advani to refer this matter to the Select Committee or even refer it to the public for eliciting public opinion if the entire Telegraph Act had to be so referred. But we all of us know that the convention and procedure of this Parliament are such they are not to go beyond the scope of the present Bill. That is why I am requesting Mr. Advani and also Mr. Kulkarni not to press this because whatever gains you are going to have because of the concession that the Government have given to the Press will be virtually nullified, because the matter will be delayed, and we know what will be the consequence if it goes to the Select Committee.

I myself am not happy about the Press Laws Enquiry Committee's recommendations. In my opinion in 1948 when the Press Laws Enquiry Committee went into this matter of the Telegraph Act, they did not look into

the whole question in the proper perspective. These matters might not have arisen in that context, but whatever might be the consideration, they did not examine the matter in the proper perspective. Take the case of the Press Council which consists of brilliant editors and others. I will say in this matter the Press Council lags much behind the present thinking in the entire world. They are virtually going to justify that certain restrictions should be there on Press messages, with which I am not agreeable. Even this Press Council of India report, 1969, instead of treading on new ground went back on the recommendations of the Press Laws Enquiry Committee and also the Press Commission. So we completely differ from the recommendations of the Press Council of India, 1969, or of the Press Commission or of the Press Laws Enquiry Committee. That is why I am saying that whatever gains the Indian press is going to have because of the amendment should not be lost in our anxiety to see that this matter should be referred either to a Select Committee or to the public for eliciting public opinion. That is why I am opposing this, and I request that even at this late hour my friends will not press their demand.

Mr. Deputy Chairman, when I got this Bill, I tabled two amendments. One is that in no circumstances the press messages of accredited correspondents should be detailed. The second is that in connection with the interception of private messages the reasons should be assigned. Broadly that has been accepted by the Government, though in a different form, with the advice of their experts. Practically there is no difference. When that thing has been achieved which is much more than the recommendations of the Press Commission, much more than the recommendations of the Press Council, much more than the recommendations of the Press Laws Enquiry Committee, I think in our anxiety to achieve much more we should not delay this because the Select Committee cannot go into other matters in any circumstances. I think if we do it we will play into the hands of bureaucrats and others who are very much perturbed about law and order in this country to take much more power through the Select Committee than we have already given here.

Mr. Deputy Chairman, Sir, in this connection I want to request the hon'ble Minister one thing. Personally speaking,

as a pressman, I am, to a great extent, satisfied with this. But I want to say one thing. The Press Council has said that even a question of this nature, in the authority being given to some District Magistrates or others, there is a chance of misuse. They have drawn their attention to these facts. I am not going to quote these things. I think the rules that will be framed under the Telegraph Act should take into consideration those details which have been given in the Press Council's report so that there will be no unnecessary harassment even as regards private telegrams.

Sir, when we accepted the second amendment it brought forward another amendment stating that reasons will be assigned in case of private telegrams also. Then the matter can go to the law courts. To that extent also it is important. I think we should not furnish at this stage to the Minister the power to change the situation which we have already achieved because I feel that the situation has already come, because of the motion to refer it to the Select Committee and because of this motion for eliciting public opinion, to back out from that position. I request the hon'ble Members to compel the Government to bring forward their amendment and with that understanding we can appeal to both of our friends to withdraw their motion if he is going to move this amendment to clause 5 of this Bill.

Mr. Deputy Chairman, in this connection I will again request the hon'ble Minister that he should seriously consider section 23 of the Telegraph Act, and if he is in a position he should bring forward an amendment to this also so that the Press Council's opinion will be respected.

Mr. Deputy Chairman, Sir, in this connection I want to quote from the Press Commission because there seems to be a thinking here that—and that we understand—correspondent's messages in India should be outside the purview of this Telegraph Act. These messages have priority over others. And they are thinking to have some restriction on it. I am appealing to the Minister that sometimes it may happen that the foreign correspondents here may send messages to their own countries which, to a certain extent, may go against the interest of this country. Sometimes there is risk, I agree. But will you not show to the world that you do not care for these small messages

that these foreign correspondents are sending from this country and thereby tarnishing the image of this country? They have now many modern ways of transmitting messages. I can understand the position in 1885 when this Telegraph Act was enacted. In 1885 those restrictions could be there. But with technological change in this world, can you stop transmission of a message? Why should a Consul use a telegraph office for sending a message? Cannot they talk over the telephone to their papers in their own country to publish whatever they like to publish against India? Cannot they use various other names if they want to publish something against India? The transmission of news to England from Calcutta about which we are perturbed, can they come under the purview of this Telegraph Act? I think in the modern technological world when so many media have been devised, through which telegraphs and telephones are being sent to the Press the world over, it will be too much for us to think that by having an amendment in the Telegraph Act we can stop them from sending messages; it is not possible. It has become irrelevant. In 1885 it was some use when telegrams were being intercepted or detailed. But now there is no meaning because most of the important presses in India have their own teleprinter service. They do not go to the post office at all. The *Statesman* in Delhi can easily publish anything which comes from Calcutta. The P.T.I. or other news agencies have their own teleprinter services. They have their own telephone service and most of 3 P.M. the urgent messages are done over the telephone. So, the Telegraph Department does not come into the picture at all. With all these technological changes in the world, this Telegraph law has become absolutely obsolete, and to a certain extent these restrictions are irritating. Here I may quote from page 4 of the Press Council Annual Report, 1969. In a note it is said:

"Mr. S. A. Brelvi, our colleague, does not share the views expressed by us in this paragraph (76). He endorses the suggestion made by the AINEC in this regard and draws attention to one of the Resolutions passed by the recent United Nations Conference on the Freedom of Information solemnly condemning the use in peace time of censorship which restricts or controls freedom of in-

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formation and inviting Governments participating in the conference to take necessary steps to promote its progressive abolition."

In the United Nations all of us are agreed that there will be no pre-censorship of any message. That is the position that we have taken and we are a member of the United Nations. So, why at this late stage should we try to impose restrictions on foreign messages. It may please us. Sometimes foreign correspondents do some harm. But how can you stop these things, when these technological changes have taken place all over the world? You cannot stop it. If you can stop it, you can have some amendment; I can understand that. But you cannot stop it because technological changes have taken place in such a large measure that no Government can do it. With these satellites and other things, you have no power to intercept and detain any messages going out. So, why have these small irritants, despite this resolution of the United Nations? So, I think it would be better at this stage if we accept whatever amendments have been given by the Government, after considering all these matters, and then again put pressure on the Government to bring amendments to section 29 so that the press correspondents will not be harassed.

About private messages, I think there is improvement, because they will now have to assign reasons if they want to intercept or detain any message. So, in view of all this, I would request all the hon. Members here not to allow the Government to retrace their steps by taking advantage of the motion for reference of this Bill to a Select Committee. If the Minister gives an assurance that he will accept the amendments that have been suggested, then I think neither the motion for reference of the Bill to a Select Committee, nor the motion for eliciting public opinion should be pressed, because that will give the Government an opportunity to retrace their steps and take back whatever gains we have achieved.

SHRI SASANKASEKHAR SAN-YAL (West Bengal): We oppose the Bill as it is.

SHRI BANKA BEHARY DAS: If the Minister gives an assurance that he will accept the amendments that have

been tabled, then we should not press for the motion for reference of the Bill to a Select Committee or the motion for eliciting public opinion.

श्री शीलभद्र याजी (बिहार) : उपसभा-पति महोदय, यह जो विधेयक जिस रूप में आया है, मैं उसका समर्थन करता हूँ। मुझे आश्चर्य हो रहा है श्री बांक बिहारी दास जी और श्री अडवानी जी की दलील को सुनकर क्योंकि इसमें साफ साफ लिखा है कि देश की अखंडता, सुरक्षा और आजादी को बचाने के लिए यदि ऐसे न्यूज टेलीग्राम द्वारा भेजे जाते हैं तो उनको रोकने की इसमें व्यवस्था की गई है। मैं तो यह समझ रहा था कि सदन के जितने भी सदस्य हैं वे इस बिल का समर्थन करेंगे, लेकिन चोर की दाढ़ी में तिनका वाली जो बहावत मशहूर है उससे हमारे भाई अपनी असली कलर में चले आते हैं कि वे देश की कितनी सुरक्षा, कितनी अखंडता चाहते हैं और यही वजह है कि वे आज इस बिल का विरोध कर रहे हैं। मैं समझता हूँ कि यह सरकार पहले से ही कमजोर चली आ रही है कि वह इस तरह के मामलों से सख्ती से पेश क्यों नहीं आती है और इस तरह का काम क्यों नहीं करती है। लेकिन यहां से जो प्रेस टेलीग्राम विदेशों में जाते हैं उनमें तरह तरह की खबरें जाती हैं। अभी एक सदस्य कह रहे थे, आडवानी साहब कह रहे थे, रणा और चाइना को एक तराजू में तौल रहे थे, वैसी खबरें जाती हैं, जो इन्टरेस्टिंग लोण हैं वे भेजते हैं, हमारा हिन्दुस्तान का चेहरा भी बदलता है, दूसरों का भी बदलता है। अगर हम दूसरे मुल्कों से मिलान करें तो हमारी सरकार सख्ती से पेश नहीं आ रहा है। सेक्शन 5 में दिया गया है कि कि इस तरह से देश की इन्ट्रिटी, आजादी और जो फ्रेंडली कन्टीज हैं उनके खिलाफ कोई बात आती है तो उस तरह की न्यूज न निकले उस तरह के टेलीग्राम को रोका जाय तो हर सदस्य इसका समर्थन करेगा, लेकिन बांक बिहारी जी ने कह दिया कि वे टेलीफोन कर देंगे, ईधर से न्यूज भेज देंगे, उधर से न्यूज भेज देंगे। हिन्दुस्तान में सब चीज की आजादी है। हमारी डेमोक्रेसी मोबोक्रेसी के रूप में बदलती जा रही है,

यहां हर चीज की आजादी है, बोलने की आजादी है, कोई काम करने की आजादी है। तो जितनी आजादी आप दे रहे हैं उस पर अंकुश लगाने की बात है। इससे देश की अखंडता भी जायेगी, सुरक्षा भी जायेगी और दूसरे मुल्क हैं उनके खिलाफ जो प्रलय चलता है उसको भी नहीं रोका जा सकता है। इसलिए सरकार को मजबूती से दिखलाना चाहिए कि वह क्या करना चाहती है। मेमबरो को भी बसौटी होनी चाहिए कि कौन देशभक्ति से ओतप्रोत है। जनसंघ वाले बड़े बोलते हैं, हम रिएक्शनरी हैं, मगर हमारे अन्दर पेट्रिप्रिज्म है, नेशनलिज्म है, उसको दहाई देते हैं, लेकिन रिएक्शनरी भी है, उल्टी भी है। मुझे आश्चर्य है बांक बिहारी दास जी पर, वे कितनी आजादी देना चाहते हैं फारेन कारेस्पोंडेंस को जो कुछ भजे कोई हर्ज नहीं है, नहीं तो टेलीफोन करेंगे। मैं समझता हूं कि सरकार को झुकना नहीं चाहिए। जिनको समझ में बात नहीं आ रही है कि इस बिल का क्या तात्पर्य है क्या उद्देश्य है उनको समझना चाहिए जिस रूप में यह बिल आया है उसको मैं ठीक समझता हूं।

देश में भी इस तरह की न्यूज छपती है, उसको भी रोकने की व्यवस्था होनी चाहिए। इसमें यह कहते हैं कि सेर्फ फारेन टेलीग्राम्स को रोकना चाहिए। इस लिए अगर देश की आजादी की सुरक्षा करनी है इन्टेग्रिटी भी रखनी है तो इस तरह के जो समाचार तारों के जरिए जाते हैं उनको रोकिए देश में भी और विदेश में भी, नहीं तो इससे अनर्थ होगा। मेरी समझ में यह डेमोक्रेसी मोवमेंट्स का स्वरूप लेने जा रही है इसको बचाने के लिए यह निहायत जरूरी है कि जो मौजूदा विधायक हैं, जो एमेंडमेंट आ रहा है उस एमेंडमेंट का पूरा का पूरा मान लेना चाहिए। इसी में देशभक्ति की बसौटी है और सभी की राष्ट्रीयता की बसौटी है। इन शब्दों के साथ मैं इस विधेयक का तहे दिल से समर्थन करता हूं और समझता हूं कि हर एक देशभक्त, जो अपने

को देशभक्त कहता है और देश की इन्टेग्रिटी जो रखना चाहता है वह इसका समर्थन करेगा।

श्री ए० डी० मणि : सब देशभक्त हैं।

श्री शीलमन्न याजी : ये हमारे मणि साहब प्रेस वाले हैं। मैं ही एक आदमी हूं, माननीय डिपुटी चैयरमैन साहब, जो बराबर कहता है कि प्रेस का जल्दी से जल्दी राष्ट्रीयकरण होना चाहिए, जो पार्टीज के आर्गन हैं उनको जोड़ दीजिए।

श्री नारायणेश्वर प्रसाद शर्मा : (उत्तर प्रदेश) : चीनी मिलों का राष्ट्रीयकरण करिए।

श्री शीलमन्न याजी : ये जितने पर्वटेड सोशलिस्ट हैं इन सबको पक्का सोशलिस्ट बनाऊंगा। इसलिए प्रेस का राष्ट्रीयकरण हो, यह मैं बराबर कहता हूं कि जो पार्टी आर्गन हैं उनको छोड़ दो लेकिन बड़े बड़े कैपिटलिस्ट, पूंजीपति जो चैन आफ न्यूज पेपर रखते हैं, जो गवर्नमेंट को क्रिटिसाइज करते हैं, सोशलिज्म को क्रिटिसाइज करते हैं, उसके खिलाफ जहर उगलते हैं उनका सरकार को राष्ट्रीयकरण कर लेना चाहिए। हमारी सरकार बड़ी कमजोर है। बगल में एक श्रीमति भंडारनायक हैं जिन्होंने सभी अखबारों का राष्ट्रीयकरण किया और बहुदुरी के साथ किया (Interruption) अरे, सुनने की कोशिश कीजिए। जनसंघियों की मैं बड़ी इज्जत करता हूं। जनसंघियों को मैं आज तक देश भक्त समझता था लेकिन अब मुझे डाउट होने लगा है यह सोच कर कि इस तरह के विधेयक का वे विरोध क्यों करते हैं। मैं आप से कहता हूं कि देश के इंटरेस्ट में, देश की अखंडता के लिए, और फ्रेंडली देशों में रिलेशन्स बचाने के ख्याल से जैसा बिल यह आया है इस की ऐसे ही पास होना चाहिए। यह मेरी आप से गुजारिश है। जिन को यह बात समझ में नहीं आयी है वे इस को समझें। बांक बिहारी दास जी फ्रीडम लेना चाहते हैं तो उन को भी चाहिए कि देश और विदेश में जो तार भेजने की व्यवस्था

[श्री शीलभद्र याजी]

है छपने के लिए, उन को रोकने की व्यवस्था भी होनी चाहिए। इसी में देश का कल्याण है और इन शब्दों के साथ मैं इस का समर्थन करता हूँ।

श्री नवल किशोर (उत्तर प्रदेश) : उपाध्यक्ष जी, यह एक बहुत छोटा सा विधेयक है और इस में सिर्फ दो ही बलाज है और देखने में कुछ मासूम भी मालूम पड़ता है और आवश्यक भी यह इस मायने में है कि सरकार को इस तरह का अधिकार और तावत होनी चाहिए। मेरा जी तो जरूर चाहता है कि इस का समर्थन किया जाये, लेकिन साथ साथ थोड़ा संशय और डर भी लगता है . . .

श्री जगदम्बा प्रसाद शारदा (बिहार) : मासूम से डर क्या ?

श्री नवल किशोर : मासूम बड़ा खतरनाक होता है। श्रीमन् 1885 में इस का एक्ट बना था इफ क से और वहीं सन् था कि जब कांग्रेस का जन्म हुआ था और यह ऐक्ट अंग्रेजों ने बनाया था और कांग्रेस के द्वारा जो राष्ट्रीय भावना देश में फैल रही थी मैं जानता नहीं कि उस को रोकने के लिए कहां तक और वे उभड़ने न पायें इस के लिए इस का इस्तेमाल कितना किया गया होगा। एक बात सही है कि यह बिल आज 85 साल के बाद बदला जा रहा है और यदि श्री बांकविहारी दास जी की बात मानी जाये तो माननीय मंत्री जी को इस विधेयक को वापस लेना चाहिए क्योंकि सेक्शन 29 में भी अगर अमेंडमेंट करता है तो यह तो अच्छा कानून बनाने का कोई तरीका नहीं होता कि एक ही ऐक्ट के बारे में भिन्न भिन्न चीजों को ले कर भिन्न भिन्न संशोधन सदन में पेश किये जायें। तो यदि वह इस से इस्तफा करते हैं कि सेक्शन 29 में भी संशोधन की आवश्यकता है और संशोधन किया जायगा तो मैं समझता हूँ कि इस को वापस लिया जाय जैसे कि एडवोकेट्स बिल वापस हुआ था और फिर से एक कांग्रेसिव बिल तमाम धाराओं को संशोधित करते हुए यहां पर पेश किया जाय।

श्रीमन्, सवाल यह उठता है कि यह बिल 1885 से था और भाषा में सिवाय कुछ नये वाक्यों को जोड़ा गया है, मगर जो इस का आधार-भूत सिद्धांत था उस में कोई तब्दीली नहीं हुई। तो इस अमेंडमेंट के आने की आवश्यकता क्या हुई ? जैसा कि आइराणी जी ने कहा, जो इस के उद्देश्य है उन से पता चलता है कि कुछ इस बात का शक पैदा हुआ कि जो इस के प्रावि-जन्स है वे वैध है या नहीं और इस लिए उन को वैधता देने के लिए यह आवश्यक समझा गया कि इस के अंदर कुछ चीजों को जोड़ा जाय और कुछ इस के अंदर काट दी जाये ताकि यह कानून की दृष्टि में एक अच्छा कानून बन सके। मैं यह मानने के लिए तैयार हूँ कि जो संशोधन इस में किया गया है उस से मेरी दृष्टि में जो पुराना कानून था उस को देखते हुए, इस में काफ़ी सुधार होगा। सबसे पहली बात तो यह है कि जो पिछला कानून था मान्यवर, उस की कक्षा 5 वीं जो उपधारा (2) है, उस में लिखा हुआ है कि :-

"If any doubt arises as to the existence of a public emergency, or whether any act done under subsection (1) was in the interest of the public safety, a certificate of the Central or, as the case may be, the State Government shall be conclusive proof on the point."

इसके माने यह है कि वह चीज कानून के अन्तर्गत कितनी अदालत में नहीं जा सकती थी इन्होंने इसको इस अमेंडमेंट में निकाल दिया है और इसके माने यह है कि अगर वह यह महसूस करे कि उसके संग अन्याय हुआ है तो उसको अधिकार होगा कि इस मामले को अदालत में ले जाय। इसका जूडीशियल रिव्यू हो सकता है। मैं समझता हूँ कि यह एक सुधार की बात है।

इसी के साथ साथ, 5(1) को अगर देखें तो इन्होंने एक सेंटेंस जोड़ा है :

". . . if satisfied that it is necessary or expedient so to do, take temporary possession (for so long as the public emergency exists or the interest of the public safety requires the taking of such action). . ."

यह भी एक किस्म की उनके अधिकारों पर कुछ थोड़ी सी सीमा लगाता है, इन शब्दों के न होने से सरकार इन अधिकारों को आविष्टरी ढंग से इस्तेमाल कर सकती थी।

इसी तरीके से मैं देखता हूँ कि (2) में भी इन्होंने कुछ शब्दों को जोड़ा है और अधिकार को सीमित किया है कि अगर देश की सत्ता, उसकी इंटरिटी, देश की सुरक्षा और जो विदेशी रियासत है उनके साथ हमारे सम्बन्धों पर असर पड़े, उसकी बिगाड़ने के लिये या जो अच्छे साम्प्रदायिक सम्बन्ध हैं उनको बिगाड़ने के लिये, कोई इस तरह का मैसेज या टेलिग्राम या कोई चोख आये, तो सरकार को अधिकार होगा उसको इंटरसेप्ट करने का। मैं इस बात को मानता हूँ कि आज जो देश की स्थिति है, आज जो कुछ पश्चिमी बंगाल, केरल, आंध्र, बिहार और पंजाब और उत्तर प्रदेश के कुछ हिस्सों में हो रहा है, जो चीजें चल रही हैं, वह काफी खतरा पैदा करने वाली है इस देश की आजादी के लिये और उसकी सावरेनिटी के लिये और इसलिये उन चीजों को रोकने के लिये सरकार के पास इस तरह का अधिकार होना चाहिये कि यदि वह इस बात को महसूस करे कि इस तरह के मैसेज भेजे जा रहे हैं तो उसकी वह इंटरसेप्ट कर सके, उनको रोक सके।

यहां पर इस सम्बन्ध में प्रेस कौंसिल की चर्चा की गई और उस अमेंडमेंट की बात की गई। श्रीमान्, जहां तक प्रेस की आजादी, फ्रीडम आफ दि प्रेस, की बात है मैं 101 परसेंट उससे इत्तिफाक करता हूँ और शायद आज पांच बजे के बाद इस पर बहुत भी हामी कि किस तरीके से हरियाणा को सरकार की प्रेस की आजादी का हनन किया है, किस तरीके से उत्तर प्रदेश में अखबारों के ऊपर एक दबाव डाला जाता है, यहीं नहीं केन्द्रीय सरकार के बारे में भी इस प्रकार की धारणा है और मुझे धारणा है कि वह प्रेस के मैनेजमेंट पर दबाव डाल कर और प्रेस के लोगों को प्रजोपवन दे कर प्रेस को जो सही मानों में आजादी है उसके पर काफी कुठाराघात करत

है, तो यहां तक तो मैं इत्तिफाक करता हूँ कि प्रेस की आजादी होनी चाहिये लेकिन यह बात भी सही है कि हमारे देश के अन्दर बहुत से ऐसे अखबार हैं जो साम्प्रदायिक अखबार हैं जिनके अन्दर साम्प्रदायिक विष घोला जाता है, साम्प्रदायिकता को प्रोत्साहन दिया जाता है, और मैं यह चाहूंगा कि उन अखबारों के जो करेस्पोंडेंट्स हों, अगर वह गलती से एन्क्रिप्ट भी हो, अगर उनके मैसेज ऐसे हों जिससे कि देश में साम्प्रदायिक भावनायें खराब हो सकती हैं, तो उनके ऊपर पाबन्दी होनी चाहिये और ये जो प्राविजंस हैं वे उन पर भी लागू होने चाहिये।

इस सम्बन्ध में याजी जी ने कहा कि प्रेस का राष्ट्रीयकरण होना चाहिये। मैं समझता हूँ कि इससे ज्यादा खतरनाक चिज इस हाउस के अन्दर कोई दूसरा कह नहीं सकता था। किसी मान में यह सरकार प्रेस का राष्ट्रीयकरण किये हुये है, इसकी कॉन्शिस इस बात की है कि तमाम अखबार उसके कंट्रोल में हों और उसका दृष्टिकोण ही देश में फैलाया जाय, उसी एक पार्टी के काम का प्रोपोगेंडा कराया जाय, चाहे वह अखबार के जरिये से हो चाहे वह आल इंडिया रेडियो के जरिये से हो। फिर राष्ट्रीयकरण की आवश्यकता ही नहीं रह जाती है। इसके राष्ट्रीयकरण की आवाज उठाना मैं समझता हूँ कि जनतंत्र के खत्म करने के लिये आवाहन करने की बात है।

जहां तक फारेन करेस्पोंडेंट्स की बात है मैं नहीं समझता कि चाहे देश के करेस्पोंडेंट्स हों चाहे विदेश के हों अगर इस तरह के मैसेज भेजते हैं जिनसे कि हमारे देश की आजादी या हमारे वैदेशिक सम्बन्ध खराब हो सकते हैं, तो वह कोई एन्सेप्शन का सवाल नहीं है। इस तरह का कोई भी अमेंडमेंट या इस तरह का प्रश्न हमारे सामने नहीं उठता।

एक बात जो मुझे कहनी थी उसे कहने में मैंने थोड़ा डर लगता है, जैसा कि यादव जी ने कहा—मासूम चीज से डर क्यों लगता है, क्योंकि पिछले महीनों में जिस प्रकार से यह सरकार

[श्री नवल किशोर]

काम कर रही है उससे यह मालूम होता है कि इसके सामने कोई जनतंत्री आदर्श, कोई जनतंत्री सिद्धांत, कोई परम्पराएँ नहीं हैं। मैंने इशारतन कह दिया है कि जिस तरीके से इस सरकार ने आल इंडिया रेडियो का इस्तेमाल किया है वह अपनी जगह पर एक निहायत ही चिन्ता का विषय है।

सारे आल इंडिया में आप देख रहे हैं एक ही बात का प्रोपेगन्डा होता है, इसीलिए यह डर लगता है कि कहीं ये जो प्राविजन्स हैं इनका इस्तेमाल भी गलत ढंग से न हो जाये। प्रेस के मामले में भी मैंने यहाँ बात कही।

इस बात की भी खबर है कि बहुत से जो प्राइवेट लेटर्स होते हैं उनको भी गलती से या जान कर खोला जाता है। जिस समय 1965 में इमरजन्सी चल रही थी, मैंने अखबारों में पढ़ा, थोड़े से कई खत खोले गये, तो श्रीमन्, यह पता चला... (Time bell rings)... मैं थोड़ा टाइम लूंगा, तो मान्यवर वह खत खोले गये, तो पता चला कि उनमें मंत्रियों के लत्र लेटर्स थे, वह इस तरह के नहीं थे जिनमें कोई खतरा हो। तो शेर सिंह साहब से मैं चाहूंगा कि इसकी आड़ में लोगों के प्राइवेट खत खोल न लें, वह मेरा भी हो सकता है, शेर सिंह साहब का भी हो सकता है, मंत्रियों का भी हो सकता है, इसीलिए कम से कम इस बात की तरफ जरूर ध्यान दिया जाये, इस बात थ्योरिटी हो जाय कि नहीं खोला न जाएगा।

श्रीमन्, इतना बड़ा नक्शलाइट मूवमेंट चल रहा है, बड़े बड़े कम्युनल रायट्स हो जाते हैं। मैं जानना चाहता हूँ उन्होंने कितनी मेसेजेज को इन्टरसेप्ट किया। आज हिन्दुस्तान के अंदर रशिया के, चीन के, करोड़ों रुपयों के जाली नोट सौ सौ के, हिन्दुस्तान के अंदर आ रहे हैं जो हिन्दुस्तान की करेंसी को कैंपचर करना चाहते हैं, आपने उनमें से कितनों को इन्टरसेप्ट किया... (इन्टरप्शन)... आप इन्टरसेप्ट करते हैं सिर्फ आदमियों की प्राइवेट चीजों को और वह भी पोलिटिकल मोटिव्ह से। श्रीमन्,

ये जो हमारे टेलीफोन ह, उन टेलीफोनों की जिस तरह से इन्टरसेप्टिंग होती है, मैं प्रो० शेर सिंह का ध्यान आकर्षित करना चाहता हूँ, कि यह बड़े अफसोस की बात है जिस समय प्रेसीडेन्ट का चुनाव चल रहा था मैं यह जानता हूँ कि उत्तर प्रदेश में मेरे जैसे न जाने कितने साथी थे, जो कांग्रेस (ओल्ड) के थे, जो नेता थे उनके टेलीफोन को टैप किया जाता था। हम लोगों के लिए बड़ा मुश्किल हो गया था कहीं से टेलीफोन करना। आज भी मुश्किल यह है कि सिर्फ पोलिटिकल परपजेज के लिये टेलीफोन टैप किये जाते हैं। श्रीमन्, जूलाई में जो आल इंडिया कांग्रेस कमेटी की मीटिंग हुई थी, जिसको आप कांग्रेस (ओल्ड) कहते हैं उसकी तो उस समय में टेलीफोन की लाइन कट गई, यहां के कारस्पोंडेंट्स उन मेसेजेज को घंटों तक भेज नहीं पाए क्योंकि टेलीफोन कटा हुआ था। तो तकलीफ इस बात की होती है, आप उन चीजों का इस्तेमाल पोलिटिकल परपजेज के बारे में करते हैं जो कि आपको नहीं करना चाहिये।

जैसा कि संशोधन पेश हुआ है कि इसको सेलेक्ट कमेटी में भेज दिया जाये, तो मान्यवर इसमें मुझे कोई आपत्ति नहीं है। अगर वह समझते हैं इसको भेज दिया जाये, तो अच्छा ही है, इससे मैं इत्तिफाक करता नहीं कि वह जाने से कोई गड़बड़ होगी, वहां जाने से थोड़ा बहुत सुधार हो सकता है, लेकिन मैं इतनी शंकाओं के बावजूद भी इस खतरे को मोल लेने के लिये तैयार हूँ, इस उम्मीद से कि शायद इस सरकार को अब भी कुछ अक़ल आए और, शायद वह जनतंत्रीय परम्पराओं को मानें और मैं यह उम्मीद करता हूँ कि इसका मिस्यूज नहीं होगा और बहुत ही काशखली इसको इस्तेमाल किया जायेगा। मैं मानता हूँ कि सरकार को इस तरह का अधिकार होना चाहिये मगर कानून चाहे कितना ही अच्छा हो, अगर सरकार सही ढंग से इस्तेमाल नहीं करती, तो वह एक जुलूम व सितम के अंदर बदल जाता है, अदरबाइज, जैसा कि मैंने शुरू में कहा, देखने

में इसकी भाषा अच्छी है, जिसने डाफ्ट किया है उसने बहुत इमोसेन्ट जैसा बना दिया है। इन शब्दों के साथ मैं इस बिल को क्वालिफाइड सपोर्ट देता हूँ।

MR. DEPUTY CHAIRMAN : Mr. Gowdey Muralari.

SHRI A. D. MANI : Sir, as a newspaper man, I would like to put forth my views before Shri Murahari speaks and I seek his support for my views on this matter.

SHRI GODEY MURAHARI (Uttar Pradesh) : am sorry I may not be able to support your views because knowing your views on many matters, I do not want to take that risk. Maybe, you have the same views as mine.

उपसभापति जी, मैं समझता हूँ कि जो अमेंडिंग बिल हमारे सामने लाया गया है वह एक बदनीयती से लाया गया है। सैक्शन पांच के बारे में सरकार को दिक्कत हुई क्योंकि सुप्रीम कोर्ट ने इसके बारे में कुछ अपनी राय दे दी थी, सरकार को यह चाहिये था कि सैक्शन पांच को इसमें से पूरा निकाल देती लेकिन वैसा न करके, इस सैक्शन पांच को सरकार द्वारा मोजा पहिना कर हमारे सामने प्रस्तुत कर रही है। इसमें सिर्फ यह जोड़ दिया गया है कि जहाँ पर सावरीनटी का सवाल आयेगा वह पर सरकार को भी मैसेज को रोक सकती है और साथ ही साथ जो वायरलेस के यंत्र है और वायरलेस के स्टेशन है उन पर कब्जा कर सकते हैं। मैं समझता हूँ कि यह सारे का सारा अधिकार जो हिन्दुस्तान के नागरिकों को हमारे संविधान ने दिया, जो फन्डामेंटल राइट्स दिये हैं, फ्रीडम आफ स्पीच और फ्रीडम आफ एक्सप्रेशन के, वा एक सैक्शन के द्वारा हनन होने जा रहे हैं।

इस सैक्शन को सरकार को बिल्कुल ही नहीं लाना चाहिये था क्योंकि इस ऐक्ट में जो यह सैक्शन है वह अंग्रेजों ने बनाया था और उनके लिए जरूरी था इस तरह के सैक्शन रखना लेकिन मैं यह समझ नहीं पा रहा हूँ कि यह सरकार जो अपने को हिन्दुस्तान की जनता

की सरकार कहती है, जो अपने को प्रजातन्त्रवादी और एक डेमोक्रेटिक सरकार कहती है, वह सरकार इस तरह के हक को हमसे क्यों मांग रही है, यह बात समझ में नहीं आती है। मैं यह बात समझ सकता था कि जब एक देश किसी दूसरे देश से लड़ाई कर रहा हो, तो उस जमाने में इस तरह के पावर्स की मांग कोई सरकार करे, तो उसको हम दे सकते हैं और वह एक दूसरी ही फिज्रा हो सकती है। लेकिन एक देश में जहाँ लड़ाई की स्थिति नहीं है, जहाँ हम किसी से वार नहीं कर रहे हैं, ऐसी स्थिति में सरकार इस तरह का सैक्शन हमारे सामने लाये, तो यह बात समझ में नह आती। मैं समझता हूँ कि यह सरकार अपने को बिल्कुल निरंकुश बनाना चाहती है। वह देश में एक डिक्टोरियल सरकार बनाना चाहती है जो अपने हर एक राजनीतिक प्रतिवादी का मुँह बंद करने का अधिकार अपने पास रखना चाहती है और यही वजह है कि सरकार सैक्शन पांच को रखना चाहती है। मैं तो यहाँ तब कहता हूँ कि इस बिल को सिलेक्ट कमेटी में भी नहीं भेजा जाना चाहिये बल्कि इसको यहीं पर खत्म कर दिया जाना चाहिये। मैं इस पांच सैक्शन को इस बिल में रखना फन्डामेंटल राइट्स के विरुद्ध मानता हूँ और चाहता हूँ कि इस बिल को सिलेक्ट कमेटी में भी नहीं भेजा जाना चाहिये।

प्रो० शेर सिंह : गलती छोड़ रहे हैं, ला नहीं रहे हैं।

श्री गोडे मुराहरी : कहां छोड़ रहे हों? जो पहले निकल दिया गया था उसको फिर मांग रहे हैं। कोर्ट ने जिस चीज को गलत बतलाया है उसको दूसरे रूप में रखने जा रहे हैं और यही बात मेरी समझ में नहीं आ रही है। इसलिए मैं सदन से चाहूंगा कि वह इस बिल को खत्म कर दे, इसको यहां से फेर दें और इसको सिलेक्ट कमेटी में जाने की ज़रूरत ही नहीं है, अगर यह सिलेक्ट कमेटी में चला भी गया तो मुझे आशा है कि सिलेक्ट कमेटी इसको खत्म कर देगी। लेकिन यह सरकार किस ढंग

[श्री गोडे मुरहरि]

से अपना काम करना चाहती है वह इस बिल को प्रस्तुत करने से जाहिर हो जाता है।

असल में आज देश में जो बेदखली के बारे में गरीब जनता का संघर्ष चल रहा है, आज जनता क्या मांग रही है, आज जनता वह चीज मांग रही है जिस चीज कांग्रेस ने अपने प्रोग्राम में रखा था और जिसको गांधीजी ने तथा बाकी कांग्रेस नेताओं ने देश के सामने रखा था।

श्री उपसभापति : इस चीज का इस बिल से क्या संबंध है।

श्री गोडे मुरहरि : है, बिल से संबंध है। इस बिल में अगर कोई मूवमेंट चल रहा हो, तो उसकी खबर भेजने पर प्रतिबंध सरकार ला सकती है और इसी के लिए सरकार यह अधिकार मांग रही है। वह चाहती है कि कोई भी आन्दोलन अगर देश में हो, अगर कहीं पर कोई सत्याग्रह हो, कोई पोलिटिकल एजिडेशन हो, तो उसके बारे में कोई खबर अखबारों में न जाय। उस खबर को रोकने और कब्जा करने का अधिकार सरकार अपने पास रखना चाहती है और यही चीज इस बिल के द्वारा सरकार चाहती है। भले ही यहां पर मिनिस्टर साहब कहे कि इसका किंग राजनीतिक पार्टी, नगरिक या पोलिटिकल एजिडेशन को दबाने के लिए इस्तेमाल नहीं किया जायेगा, लेकिन मैं यह पर यह निवेदन करना चाहता हूं कि हमने देखा कि जब उड़ीसा से कोई मैसेज भेजा जा रहा था, तो उसको रोक दिया गया। उस वक्त कोई भी इमरजेंसी की बात नहीं थी, न ही कोई लड़ाई का जमाना था कि वहां की सरकार उस मैसेज को रोकती। इसलिए कोई भी सरकार चाहे, तो इसका दुरुपयोग कर सकती है और मेरा तो अनुमान है कि यह सरकार इसका दुरुपयोग करेगी क्योंकि जब कोई सरकार जनता को कुचलने पर उतर आती है, जनता के जी मूवमेंट्स हैं, एजिडेशन्स हैं, आन्दोलन हैं उनको खत्म करने पर उतर आती

है, जब सरकार जितने बड़ बड़ लोग है उन प्रायर्टी की रक्षा करने पर तुली हुई है, बड़े लोगों के अधिकार की रक्षा करने पर तुली हुई है तब वह उन प्रायर्टी राइट्स को कायम रखने के लिए कहां तक और किस चीज का इस्तेमाल करेगी उसकी कोई हद नहीं हो सकती। कभी पुलिस का इस्तेमाल करेगी, कभी आर्मी का इस्तेमाल करेगी और जब यह भी काम न आए तब बिल्कुल ऐसा वातावरण बना दिया जायगा जहां पर सेंशन 5 का भी इस्तेमाल होगा, कहीं खबर नहीं जा पाएगी, सबको सप्रेस करने पर यह सरकार उतर आएगी। इसलिए मैं समझता हूं कि यह अधिकार किसी भी जनतन्त्रिय सरकार को देना ही नहीं चाहिये। यह अधिकार कोई सरकार उसी समय मांग सकती है जब इस देश की दूसरे देश के साथ लड़ाई हो रही हो, किसी इमरजेंसी में इस तरह की चीज मांग सकती है उस वक्त देखा जायगा, लेकिन आज के जमाने में इस तरह का विप्रेषण लाना सरकार के तरफ से दाल में काला मालूम होता है। मुझे लगता है कि न सिर्फ मैसेज पर बल्कि वायरलेस सेट्स पर भी कब्जा करने की सरकार बात करती है। यह छोटा सा बिल हमारे सामने लाए है लेकिन इसका मकसद इतना गहरा और जबरदस्त है कि मैं चाहूंगा कि पार्लियामेंट इसको खत्म करे, इसकी इजाजत न दे, इसको पास न करे।

SHRI A. D. MANI: Mr. Deputy Chairman, Sir, my reactions to the Bill are of a mixed character. We considered this Bill about twenty years ago when I was a member of the Press Commission, and we endorsed, by and large, the recommendations made by the Press Laws Enquiry Committee even though the newspapermen generally have been opposed to this Section of the Indian Telegraph Act. Before the Press Laws Enquiry Committee, and before us comprising the Press Commission, the nature of the political situation existing at that time was brought to our notice, and it was suggested that certain powers should be vested in the Government of the State to control the transmission of messages, which were likely to inflame a riotous situation and lead to a breakdown of law and order. Sir, I draw the attention of the Minister

to a similar Section in the U. K. Wireless Telegraphy Act of 1949 which says :

"Any person who, by means of a wireless telegraphy, sends or attempts to send, an message which, to his knowledge, is false or misleading and is, to his knowledge, likely to prejudice the efficiency of any safety of life service or endanger the safety of any person or of any vessel" . . . etc.

This Section 5(a) of the U.K. Act makes a reference to a false message being sent which the person, who sends it, knows it to be false. That is to say, he must be knowing that he was deliberately telling lies in sending such a telegram. And there that was the protection that was given to the public under the U. K. Wireless Telegraphy Act. Sir, this Act was passed in 1885, when the British Government was in control of this country and when more or less a despotic regime was in existence. The Press Council of India, which considered this matter, has referred to the numerous riots that have taken place in this country, and they have made certain suggestions for limiting the operation of Section 5. They have said that a register of messages withheld should be kept, so that the reasons for which a message has been withheld may be made known to the person affected and the matter taken to a court of law if the necessity arises. Sir, I would like to mention here that as far as Prof. Sher Singh's amendment is concerned, he wants to exempt accredited correspondents, accredited either to the State or the Central Government, from the operation of section 5. If the Minister would like to give some attention to this matter I would like to point out to him that press correspondents function largely at State capitals and as you know at District Headquarters; there are press correspondents in Chanda, Yeotmal, Bilaspur and other places but there are no press correspondents in villages. Riots broke out in Bhiwandi but we did not know what the situation in Bhiwandi was because messages were unconsciously delayed on the teleprinter as well as on the telegraphic circuits. I feel therefore that if the Minister wants to make an exemption in favour of the press correspondents he should accept an amendment saying that any message sent by any person to newspapers shall not be intercepted or detained. I can accept that position. Any

person who wants to send a message to a newspaper about some unusual happening, say like riots having broken out in a particular place, should not come within the mischief of section 5. I can accept that position because press correspondents, as Mr. Advani knows, function only at certain places, at District Headquarters and in the capitals, but not in the villages. Riots break out in some remote areas of this country and in such cases there is no protection given to anyone. So if the Minister accepts this amendment, I would be satisfied.

With regard to this section itself there is one other suggestion I would like to make. This section 5(2) gives a blanket power to Government for not transmitting a message for an indefinite period. A telegram may be filed, it may not be sent at all. The person who does not want that telegram to be transmitted may record his reasons in writing for not sending it but the Press Council Enquiry Committee as well as the press correspondents themselves have thought that this should be only for a minimum period, say, for a period of five to six days. Then alone a restriction of this kind would be justified. If you give a blanket power of this character what would happen is that a large number of press correspondents at District Headquarters and other remote places will be harassed by the District Magistrates holding up their messages indefinitely. We want the messages to go from place to place without any hitch. As one who has always believed in the freedom of the press I feel that we should not make a distinction between freedom of the press and freedom of the individual. Now I am prevented from sending a message by telegram but I am not prevented from going into the street and spreading the message orally to a large number of people. What happens to those people who use the bamboo telegraphs for spreading rumours? It is for that reason that we have never been satisfied with this section as it stands and I would like to suggest to the hon. Minister that he should withdraw this Bill and bring in a Bill putting into it the essential ingredients of the relevant sections of the U. K. Telegraph Act, namely, that a person who knowingly sends a false message shall be liable to imprisonment. There is no censorship there; there is no interception but such a person shall be liable to be punished. If I were to send a message which is a

[Shri A. D. Mani.]

false message or a message which goes against public safety or the safety of the country, put me on trial before a court of law but don't hold up the messages. The press is opposed to censorship of any kind and this Act imposes pre-censorship and leaves the power in the hands of persons who are not qualified to sit in judgment on the performance of the press. Very often the Naib Tahsildar withholds the message, is he a person qualified to decide that the message should not be sent to the newspapers? Therefore I am opposed to this section and if you want to amend this section I would like to suggest to Mr. Kulkarni that he should press for reference of the Bill to a Joint Select Committee. We have had the experience in the case of the Advocates Act. The Advocates Act was debated here and it went to the other House. There also . . .

MR. DEPUTY CHAIRMAN : There is no amendment to that effect now before the House.

SHRI A. D. MANI : Sir his amendment is there.

MR. DEPUTY CHAIRMAN : But you are making suggestion to refer it to a Joint Select Committee; there is no such amendment before the House and there is no point in your making that suggestion.

SHRI A. D. MANI : I want the Government to come forward and accept my suggestion. You want to amend the Telegraph Act. You are not interested in delay. The general elections are going to take place in 1972. This Bill will have to go to the other House. If you want to do anything effective and constructive, make it a Joint Select Committee motion. Let the other House also be associated with the consideration of the Bill. Otherwise, what will happen is an important matter like this will be referred also by the other House to a Select Committee and by the time the Select Committee reports, the new elections will have been held. It will not serve any public purpose only to send it to a Select Committee of this House. I hope that when this Bill goes before the Select Committee, the Minister will take into account the fact that it is not only the freedom of newspaper correspondents that is involved, but also the freedom of the individual. If I can

speak, why cannot I write and send it by telegram? I want to go on record saying that if newspaper correspondents had been allowed to report freely and not falsely, the communal situation in this country would not have been so bad as it was last year. During the Ahmedabad riots we did not know what was happening. Then the bamboo telegraph started working. Bamboo telegraph means Mr. Chitta Basu telling Mr. Mukherjee and Mr. Mukherjee telling other people. This is what started working in this country. I feel very strongly, therefore, that the Minister should take into account the rights of the citizens. If I can send it by letter, why should I not send it by telegram? It is not an academic question. It is a question which concerns the freedom of the individual. We want to set an example that ours is a democratic country and we do not want to impose unnecessary restrictions on the freedom of the individual and the freedom of newspapers. Thank you.

SHRI KALYAN ROY : I stand to oppose this Bill and I will not make a long speech. I do not think it requires a speech to convince the sensible Minister of the pernicious character of this amending Bill. I would just request the Minister and the party he represents to think once more before bringing forward this sort of amending Bill and trying to push it through this House or any other House. Let us see what are the issues involved. The issue is not this amendment or that amendment. The issue is where do they take the stand. Do they take the stand in support of censorship or against censorship? Do they take the stand for freedom of expression and freedom to communicate news to the general masses wherever they are or do they stand along with those elements of the society who are becoming more and more active, more and more dogmatic, more and more assertive demanding that India has had enough freedom so far and the time has come to curb other parties, to ban other parties by invoking or appealing to the so-called deterioration in law and order? This amendment unfortunately brings the ruling Congress very near to those reactionaries whom they are fighting. What sort of impression people will get? Is the country going more and more to have control over the press, over the people, over their tongue, over their medium of communication, or should the medium of communication be completely free from the control of officers

whose behaviour we have seen in the last twenty years, which is the behaviour of a despot. Today when we are discussing about the administrative officers or the various activities of the district officers or of the police officers, is it wise to give any more power to anyone of them? Would it be sensible? Prof. Sher Singh is having almost a party perhaps now and I would request him to kindly lend me his ears if not his mind. Sir, the position today is, what sort of impression you are going to create in the House and before the general public as a whole who today demand more freedom of expression, more freedom of speech, that their communication media should be completely independent of state control? Instead of this particular step, in August 1970 we find this Government led by Mrs. Indira Gandhi coming with a Bill giving more power to the officers in order to curtail the freedom of expression. That is a very sinister, very pernicious, very dangerous move against the development of democracy which is being threatened today by two forces. One is the force which Mr. Advani represents. Mr. Advani talked a lot about freedom of expression and he shed tears for the journalists and talked of the committed press. I used to be a journalist in the Times of India. I worked in the Times of India for six months as a senior correspondent. One morning I went to the Calcutta office of the Times of India which was at that time owned by Mr. Dalmia, and we found that three papers which Mr. Dalmia used to run in Calcutta—Times of India, Nava Bharat Times and Satya Yug—had been closed down by a simple order, script, by the teleprinter that Mr. Dalmia did not want to run these three papers from Calcutta. This is the freedom of speech which Mr. Advani wants. We are not for that. We want freedom of expression, we want freedom of speech. Our journalists are the people who carry news to the remote corners. This particular amendment is going to sound a deathknell because tomorrow any strike news or any news of the workers' struggle for better wages or for quarters or against mass victimisation which the State sector are doing or about the land struggle which is rocking the whole society from Calcutta to Delhi, that will be suppressed. That is what they want the power to censor that. This is a censorship which we are fighting. If you push this Bill through, then other types of similar elements will try to control the press and try to control the medium of communi-

cation, the danger of which I do not know whether the Minister is aware. One set of danger is to give more power to the bureaucrats, try to push out some of the papers, try to censor those news which may be dangerous for your stability, not the stability of the country, not the stability of the nation, but the stability of a particular regime. If a certain party in Orissa who are very much hobnobbing with the mine-owners, who do not even pay the minimum wage, feel that a particular strike of the mine-workers is dangerous, then they declare an emergency and use the censoring to prevent the news of the strike spreading all over the country. Plantation owners in other places will use their lever in order to black out the news of strike. So we will find a new alliance between the newspaper monopolists, the big tycoons and the Government; the three will come together if this particular Bill is accepted.

There is another danger which I have to state before the House, the danger of another kind of censorship which is creeping in. I hope the Minister will listen to me because this is a very serious problem which we are discussing. I am told there is another sort of interference which is creeping in. When a political party finds that a particular news, or a particular telephone, or a particular telegram, is not to its liking it immediately either delays the transmission of the news or resort to other methods so that the party to whom it is being transmitted may not give the news.

Sir, only day before yesterday I tabled a question about Durgapur. Sometime back Mr. Ajoy Mukherji, ex-Chief Minister of West Bengal, in the month of June tried to hold a meeting in Durgapur. That meeting was attacked and chairs were burnt down, and Mr. Ajoy Mukherji was nearly assaulted. The police intervened and order was restored. Mr. Ajoy Mukherjee had a heart attack. His comrades immediately wanted to put a trunk call to Calcutta to give the news that Mr. Ajoy Mukherji had a heart attack and his condition was serious. But the man was told that the Calcutta lines were out of order. The news of Mr. Mukherji's serious illness was delayed till 4 A.M. the next day. Then he was somehow taken to Calcutta by the Black Diamond Express. A question was asked in this House on the 21st August :

"whether the attention of the Government of India has been drawn to

[Shri Kalyan Roy]

the serious criticisms by Shri Ajoy Mukherji, former Chief Minister of West Bengal published in the Statesman dated 3rd June, 1970 that his followers were unable to contact Calcutta to Durgapur over the Trunk Telephone after he had fallen ill there on the 31st May, 1970;

(b) whether it is a fact that the trunk lines between Durgapur and Calcutta were out of order on the 31st night or any other time during that day; and

(c) if so, whether any investigation has been conducted in this regard and the result thereof?"

Here is the question of life and death of an ex-Chief Minister. And what does the Minister reply? He says.—

"(a) The Government have seen the Press Report; no complaint, verbal or written, has been received by any officer of the Department so far.

(b) At least 4 lines were available from Durgapur to Calcutta throughout on 31st May, 1970."

The ex-Chief Minister made a statement in the press and the Minister says that he has not received any report. What sort of rotten bureaucrats you have put in West Bengal who are completely paralysing this whole machinery? The Minister says that there was no disorder in any telephone. He says that "at least 4 lines were available from Durgapur to Calcutta throughout on 31st May, 1970." Did you ask Mr. Mukherji about it? Did the officer go and find out whether he had put a trunk call?

Again, the same thing happened to me personally. I booked an urgent trunk call from Asansol to Calcutta on 24th April 1970 about a strike in a coalmine. The strike took place against a very rotten agreement between a Union and the C. I. T. U. management. I got a reply from Mr. S. N. Sinha which says :—

"Enquiries made in this case reveal that the called subscriber at Calcutta did hold the line during the attempts in putting through the trunk calls booked by you in the first instance but he had to leave the line as he could not speak to the Asansol end. No clues have been found to substantiate any political affiliation of the

Telephone Operator at Asansol and the same Operator had put through the call when booked second time."

So what do we find? There is censorship by one party over the other party. We are against any censorship either by the ruling or by any party. We want complete freedom of medium of communication, no control whatsoever. If this Bill is pushed through, if the amendments that we find here are pushed through, then tomorrow you would not have anything to say against those elements who are trying to check the progress of the country.

Sir, I do not have much time. But I would only say that it is not only sinister and pernicious, it is most dangerous. It is putting the clock back and it will only give ammunition to those reactionaries, those arch enemies of progress, those arch enemies of planned economy, those arch enemies of socialism who stand for alienating the interest of the country.

It is they who are going to profit by it and they tomorrow in various garbs are going to take advantage of this. So I conclude by saying once again that I oppose this amendment Bill.

SHRI DEV DATT PURI (Haryana):

Sir, this is a simple measure which removes some of the illegalities of the old one and we are reading into it all kinds of things, as affecting socialism, as affecting non-alignment and as affecting everything in the world, except the Bill itself.

Sir, the Bill seeks to do three things. First, in the old Act there is a clause which says :

"If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate of the Central or, as the case may be, the State Government shall be conclusive proof on the point."

I do not know who drafted this clause in the Act, because I feel that it will not stand the scrutiny of a court of law for five minutes. Sir, briefly speaking, article 19 of our Constitution gives certain fundamental rights—the right to freedom of speech and expression, the right to assemble, the right to form associations or unions, etc., etc.

And corresponding with each right, there are certain limitations laid down in the sub-clauses (2), (3), (4), (5) and (6). If any Government seeks to be the sole judge of the circumstances in which those fundamental rights shall be limited, then it takes away the fundamental rights altogether. I do not want to go into the details of this matter, but if, for instance, it is sought to be provided that the certificate issued by the Central Government shall be proof of whether a certain action is reasonable or not, that would also mean exactly the same thing that the old section provided, and it would not stand scrutiny by a court of law at all. If the Government were to arrogate to itself the power to be the sole judge in respect of sub-clauses (2), (3), (4), (5) and (6) of article 19, then the freedoms and fundamental rights enumerated in sub-clauses (a) to (g) of article 19 would certainly come to naught. Therefore, the first thing that the Bill does is to do away with this pernicious sub-clause and I would not shed a tear for this sub-clause going away.

[THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS) in the Chair.]

Then, section 1 gives the Government the power of temporary dispossession: that is, the Government can take possession of certain telegraph instruments and of certain telegraphs under certain circumstances. Now, the article governing this power will be the article relating to the right to property, because they are taking over certain property. The relevant article is 19(f)—the right to acquire, hold and dispose of property. Now this right can only be limited by article 19(5), which says:

“Nothing in sub-clauses (d), (e) and (f) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.”

So, there are really two touchstones for the exercise of this power to limit the right to property, namely, that the restrictions have to be reasonable and they have to be in the interests of the

general public. These are the two limitations laid down by the Constitution. In the present Bill, clause 5(1) uses the words “public safety” instead of “in the interests of the general public”. So, I do not think there will be any questions raised in this regard. It also lays down reasonable restrictions upon the right to hold property. Therefore, I think no fault can be found with the new clause 5(1).

4 P.M.

Then sub-clause 5(2) says—

“On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of an offence, order that any message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, ... etc.”

This clause really takes powers to withhold from transmission certain messages that may be brought for transmission at the public telegraph office. The relevant right under the Constitution is the right to freedom of speech and expression. Every citizen shall have the right to freedom of speech and expression. At the same time the Constitution provides that—

“Nothing in sub-clause (a) ...”

—The clause that I have cited just now—

“...of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, insofar as such law imposes reasonable restrictions on the exercise of the right . . .”

So the first criterion is that the restriction that you impose upon transmission of messages should be reasonable—

“...conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the

[Shri Dev Datt Puri]

State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, ...etc."

So, they have really reproduced almost verbatim the provisions of sub-clause (2) of Article 19. There is only one little difference. Whereas the Constitution provides that these rights can be exercised in the interests of public order, the words used in the clause in the Bill are "public safety". I believe there are some rulings of the Supreme Court that public safety and public order may in certain circumstances be synonymous. I would nevertheless say that unsafety and disorder are quite distinct situations. Whereas ultimately the court may hold that if a disorder is threatened you can take a certain action but that it would be difficult to derive from that that you can exercise this power even when you feel that there is only public lack of safety. Therefore, for being very very careful I would suggest that "public order" should substitute "public safety" in sub-clause (2) of Clause 5 of the new Bill. That is my second observation. Article 19(6) would not help us in this case at all. I do not know how it was framed and how it remained on the Statute Book so long. It says that "a certificate of the Central Government as to whether those circumstances existed, shall be final". This will not stand. I think the provision in this amending Bill is a step in the right direction. In the course of the debate certain observations had been made and one of the things said was this. Some reference was made to the newspaper "Tribune". I do not know how it really comes within the ambit of the Bill. But since that is on record and since certain unfortunate differences have arisen between the Haryana Government and the Tribune as if it is an infringement of the freedom of the press or the freedom of expression or the freedom of transmission of messages...

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): But that has nothing to do with the subject here.

SHRI DEV DATT PURI: Yes, it has nothing to do with it. When the occasion arises I shall try to answer that. But how it was brought in here is completely unintelligible to me.

Anyway, I would say that the Bill is a wholesome measure. I find hardly any country in the world where there is no restriction whatever on the transmission of messages by telegraph. Therefore, the only thing that we have to see is that the Bill is a step forward although I do feel that in the drafting of the Bill there are one or two expressions which, if they are altered, will not, for all practical purposes, affect the working of the Bill. But that will make the Bill a little less vulnerable than it is today.

SHRI SASANKASEKHAR SAN-YAL: Mr. Vice-Chairman, from our side, I oppose the Bill even with these amendments, because to my humble mind it appears that the Bill is mischievous and retrograde. The Constitution says that any law which is inconsistent with the provisions of the Constitution is inoperative and infructuous. In the Telegraph Act there was no definition of emergency. There was no definition of public safety. In this amending Bill also there is no such definition. In the General Clauses Act there is no such definition. The only concept of emergency is in Art. 352 of the Constitution where the President's prerogative of declaration of emergency is provided for. Ultimately it comes to this, that an emergency which was within the exclusive ambit of the President's power will be encroached upon by even a petty assistant sub-inspector. My friend who preceded me was good enough to refer to Art. 19 of the Constitution. Under Art. 19, there are provisions relating to freedom of speech and expression and there is a proviso that reasonable restrictions will be made. But my friend will see that in this amending Bill it is enough if the Central Government or the State Government or for that matter any officer specially authorised in this behalf is satisfied. So, reasonableness of the restrictions is no longer a justiciable proposition. It is excluded from the purview of any caprice or whim of a petty sub-inspector saying "I am satisfied". If he says that, that will conclude the whole matter. Where are we going? Are we not going to the medieval ages where 'I am the State' was the proposition. Here it will be a sub-inspector or an assistant sub-inspector saying "I am satisfied". Are we not going to that? Who will define the concept of emergency? The basic concept of the Bill has to be defined. Emergency is the crux of the

whole matter. Who will define it? Nobody has defined it. Therefore, it is an encroachment upon the President's prerogative of determining emergency. So, this law is going to be *ultra vires* of the Constitution. From another point of view it will be an inoperative law. The amendments maintain the prestige and dignity of the press. The fourth estate has been vindicated. I have been a free journalist in my life, in my younger days. I was a free press man, a united press man. I am glad that the fourth estate has been respected. But at the same time, why is the common man disrespected? The message of the fourth estate will be protected. The message of the common man will not be protected. Is it not a discrimination? Will not this discrimination land the whole matter within the writ and mandamus proposition?

Therefore, in my humble submission, the whole thing is retrograde. The purpose is not very far to seek. There are certain parties which are non-conformist. I come from West Bengal. There are parties which are dreaded by the powers and which are represented in the Cabinet here. Therefore, this will be an engine of oppression and tyranny and an avenue of strangulation so far as these parties are concerned. The messages to and fro will be dealt with as in the bureaucratic days and through the medium of this apparently innocuous Bill, the days of Bhesil Blackett and Reginald Maxwell are being sought to be revived and recalled. Therefore, as a humble student of law and as a lawyer myself and a parliamentarian of some experience, this is what I feel. My heart is filled with the misgiving that this Bill is going to be a weapon of tyranny for the democratic front and therefore, I oppose.

SHRI G. A. APPAN (Tamil Nadu).
Mr. Vice-Chairman, Sir, this is an amendment to the Indian Telegraph Act of 1885. No doubt, there is nothing wrong in making some amendments to an Act passed in 1885 since the time that has passed is so much.

Now, you know, the provisions of this Bill come into force or take effect only in the event of an emergency. I entirely agree with Shri Sanyal that the power and prerogative of declaring a state of emergency vests with the President, but here, perhaps, the Postal Department or

officers of any Department could take the prerogative of the President to declare any situation as an emergency just to act according to their own whims and fancies. These days, I do not know how and why the Fourth Estate, the vital pillar of any democracy, should try only with the communications system of telegraph when we have still more effective and quick means of communication like the telex, telephones, wireless and things like that. I do not know how this Bill is going to solve the problem and no doubt, when coming to the question, I entirely agree with the latest amendment which the Government themselves would like to introduce. Perhaps I should thank them for that. Prof. Sher Singh has sought two amendments to be introduced. There at least is a little more improvement than in the original Bill itself. I also entirely agree with the amendment of Shri Banka Behary Das. Of course, with these amendments also, I do not think there is now the question of emergency or there is going to be an emergency in the near future. Whatever it is, let us not expect or go for an immediate emergency. Under the circumstances, I do not know why this Bill should be referred to a Select Committee and if anything should be done to refer a Bill to the Select Committee, it should be to the Joint Select Committee to expedite things, if there is an emergency. Furthermore, when there is no idea of this House referring it to a Joint Select Committee, why should they refer it to a Select Committee at all? Now that there is no feeling that an emergency is imminent, why not we refer it to public opinion? It can be done even through the medium of the Press, though not by the Government themselves which means money.

Mr. Vice-Chairman, Sir, I would rather request the Government to reduce the charges of the Press telegrams, Press messages, etc. There is one more amendment of another hon. friend that the private members' telegrams also should be stopped subject to reasons to be assigned by the concerned authority when any telegram is intercepted or detained. Mr. Vice-Chairman, Sir, I think that the Press telegrams would be a little safer than the telegrams from individuals whose insults, hatred, aversions and even quarrels in the whole country are more dangerous than that of the Press people. At least the Press people have the moral standard that they

[Shri G. A. Appan]

will not try to publish anything or communicate anything in the fear that the Government will take action against them. I feel, Sir, that as a very important pillar of the State, like Parliament, Legislatures, the Executive and the Judiciary, the Press should also have equal powers and nobody should encroach upon the privileges and the powers of the Press.

Still more so when they want to send messages, unless they are of an incendiary nature or criminal in nature and the messages are false or malicious there should be no objection. Under these circumstances, though the amending Bill is justifiable, I do not think it needs to be sent to any Select Committee. The two amendments of the Government will be sufficient and let us not try to pacify the people.

PROF. SHER SINGH: I am thankful to the hon. Members who have generally welcomed the Bill even though some of them have criticised certain provisions of the Bill. I am surprised to hear from some that this is a retrograde step. In fact we are not assuming more powers. We are giving back some powers which we already enjoyed under Section 5 of the Act of 1885. In the old Act there was a provision that any decision taken by the Government of the State or the Centre or any officer authorised in that behalf by the Central or State Government, if he decides that there is some emergency or danger to public safety, that cannot be challenged in a court of law. That was final. Now we are striking off that provision. Now if any individual or press correspondent is affected by the provision of this Bill, he can go to a court of law and I am also moving an amendment that when some order is to be issued directing the stoppage of messages or their interception or detention, then the officer of the State or Central Government issuing that order shall have to give the reasons in writing so that anybody aggrieved can go to a court with those reasons and challenge the order. This is an improvement.

Now some criticism has been made that this may be *ultra vires* the Constitution. It is because of this fact that we have brought up this amendment.

Previously 'emergency' and 'public safety' were not defined. Now we have defined under article 19(2) of the Constitution. It is only in certain cases that we can decide that there is emergency or danger to public safety. So it will now be very much in line with the provisions of the Constitution and so we have brought this amendment.

Some criticism has been made that we should have brought a more comprehensive Bill because the Press Commission and the Law Commission have also suggested that we should also take into consideration Section 29 of this Act. That is also under consideration but we are now amending section 5. The Press Law Enquiry Committee, the Press Commission and the Press Council have all considered this section 5 and we have gone a step further. We have accepted all the recommendations of the Press Council. We have in fact gone a step ahead of the recommendations of the Press Council.

All the recommendations of the Press Council, of the Press Laws Inquiry Committee and of the Press Commission, all of them had accepted that Government should have the powers to withhold, to intercept, to detain, messages when there is an emergency. The only objection, which all these bodies had, was that these powers should not be misused, and that a responsible officer should go into these cases, that sometimes the Minister himself should go into the reasons, which have been assigned by the officer while announcing that some emergency has occurred or there is danger to public safety. We have now accepted this amendment that the reasons have to be recorded in writing now. I think we have met all the demands of the Press Council, the Press Laws Inquiry Committee and the Press Commission. So, ours is not a retrograde step. It is a progressive step, and we are very much interested in the freedom of the press. But, Sir, one thing we have to be very careful about, and that is, when there are communal disturbances, or whenever there is some emergency in a particular area, Government must have some powers to see that that communal hatred and the disturbance and the unrest does not spread, that we should control it there and then. And for that Government should have some powers.

श्री अर्जुन अरोड़ा (उत्तर प्रदेश) : हिन्दी में बोलिए ।

प्रो० शेर सिंह : जैसा आप उचित समझे । उपसभाध्यक्ष महोदय, मुझे आदेश हुआ है कि मैं हिन्दी में बोलू ।

उपसभाध्यक्ष (श्री बांक बिहारी दास) : मेरा कोई आदेश नहीं हुआ है ।

SHRI MULKA GOVINDA REDDY (Mysore) : You will lose your time. Please continue in English.

प्रो० शेर सिंह : कुछ साधियों की इच्छा है । तो मैं निवेदन यह कर रहा था कि ऐसा कोई कदम हमारा नहीं है जो पीछे की तरफ ले जाय । हमारा कदम आगे बढ़ रहा है । इसमें हम यह सोचते हैं कि . .

SHRI G. A. APPAN : On a point of order, Sir. Why has our hon. Minister changed himself suddenly to Hindi business? He knows beautiful English.

PROF. SHER SINGH : There was a demand on me to speak in Hindi.

SHRI ARJUN ARORA : He speaks more beautiful Hindi.

SHRI SHEEL BHADRA YAJEE : The demand was made by us.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS) : Please allow him to speak in whichever language he likes.

SHRI G. A. APPAN : Anyhow let him not insult our languages.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS) : Nobody is insulting your language.

SHRI G. A. APPAN : Why this undue preference to Hindi and that all of a sudden? Why this sudden switch-over from English to Hindi.

(Interruptions)

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS) : You have spoken and you have made your point. Mr. Appan.

PROF. SHER SINGH : I fail to understand why my hon. friend is so allergic to Hindi. He should not be, and when somebody speaks in Hindi, he should not take it as showing disrespect to his language or any other language. It does not mean any disrespect to any language. All languages are to be respected. All languages are recognised and we respect all the languages equally.

तो मैं यह निवेदन कर रहा था कि प्रेस की आज़ादी में हमारा पूरा विश्वास है, हम चाहते हैं कि प्रेस को अधिक से अधिक आज़ादी मिले ।

SHRI G. A. APPAN : (*Spoke in Tamil.*)

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS) : I have not given you permission to speak in Tamil.

SHRI G. A. APPAN : Now I am submitting that let him not be a Hindi Minister. Let him be a Minister of India.

PROF. SHER SINGH : I enjoy his language; I very much enjoy his language, and I do not know why he does not enjoy mine.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS) : The hon. Minister may speak in any language he likes.

SHRI G. A. APPAN : What is this fun, Sir, when he is making a policy statement and he is telling about the country's position?

SHRI SHEEL BHADRA YAJEE : He has not insulted your language.

SHRI G. A. APPAN : I don't say that.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS) : There is the provision for translation. You can hear the English translation.

SHRI G. A. APPAN : I don't say that he does it to insult my language.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS) : Let us get on with the business.

PROF. SHER SINGH : There is the arrangement for translation.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): Let there be no more interruptions. Kindly sit down, Mr. Appan. The convention in this House is that everybody is free to speak in this own mother-tongue or in any language which has been accepted here. So I think you should not interrupt any more.

SHRI G. A. APPAN: If he is answering a question I would not object.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): Don't you know that there is translation facility here. You can take advantage of that. You kindly sit down. Let us carry on the business.

SHRI G. A. APPAN: I must make my protest; let not the Ministers do that. Of course, if they want to reply to some questions, they can do it in Hindi. That is according to rule. When Members ask a question in Hindi the Ministers will have to reply in that language. But this is not so.

(Interruptions)

SHRI S. S. MARISWAMY (Tamil Nadu): There is a clarification which has to be given. Now I begin my speech in English and naturally I am expected to finish my speech in English. It is not fair. I am not suggesting that he should not speak in Hindi or in any other language but this is what we are feeling. The moment he switches over to Hindi, we have to put on the instruments and there is the strain on the ear drums and all those difficulties are involved. There has to be a human approach in such matters.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): The position is I cannot compel him to speak in a particular language.

SHRI G. A. APPAN: We only request him; there is no question of any compulsion.

SHRI SHEEL BHADRA YAJEE: How can he say...

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): Mr. Yajee, shall we waste our time in these small wrangles?

Now you proceed: you are free to speak in any language.

SHRI S. S. MARISWAMY: There must be some human consideration when an hon. Member says he is not able to understand.

PROF. SHER SINGH: Some hon. Members spoke in English and I was replying to all their criticism in English only but there were some hon. Members who spoke in Hindi and they can naturally expect me to reply to the objections that they have raised in Hindi. They are perfectly within their rights to demand that I should reply to their objections in Hindi and I can do that.

SHRI MONORANJAN ROY (West Bengal): If there was a Minister who did not know Hindi and if some hon. Members had spoken in Hindi he would have replied to them in English only. So he can speak here now in English.

SHRI G. A. APPAN: We only appeal to him.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): You cannot compel him, yes. If he accepts your appeal there is no harm but nobody can compel him.

PROF. SHER SINGH: We very much believe in the freedom of the press and also in the freedom of the individual. No doubt we are putting some restrictions here but those restrictions are reasonable restrictions and those restrictions are such that the Constitution allows us to impose them, when there is some danger to public safety or when some emergency occurs either in the whole country or in any part thereof. Now, we have gone, as I said, a step further to give more freedom to accredited press correspondents who can now send their messages and their messages like other messages will not be intercepted in transit or will not be detained from delivery. As soon as they are transmitted they will not be stopped; they will be delivered. In the case of individuals also where any message is stopped we have to assign reasons why we have stopped it; why we have withdrawn it or why we have detained it. Sometimes some individuals also send certain messages inciting the commission of certain offences and in such cases we shall have to take action against such individuals also. And here for individuals also reasonable restric-

tions have been imposed. Of course the individuals are also at liberty to go to a court of law and challenge our order if they so feel. So we have been very reasonable and I think this is a progressive measure and what I see from the mood of hon. Members I can see there is a consensus in favour of the Bill and I will have no objection if this Bill is passed straightway accepting certain amendments.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): The question is:

"That the Bill further to amend the Indian Telegraph Act, 1885, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri S. N. Mishra.
2. Shri Dahyabhai V. Patel.
3. Shri Sundar Singh Bhandari.
4. Shri Bhupesh Gupta.
5. Shri Banka Behary Das.
6. Shri A. P. Chatterjee.
7. Shri M. N. Kaul.
8. Shri Chandra Shekhar.
9. Shri M. M. Dharia.
10. Shri Rajnarain.
11. Shri Sheel Bhadra Yajee.

with instructions to report by the first week of the Seventy-fourth Session of the Rajya Sabha.

The Motion was negatived.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): There is another amendment of Mr. A. G. Kulkarni.

SHRI A. G. KULKARNI: I am not pressing it. Sir, I beg leave to withdraw my motion for reference of the Bill to the Select Committee.

The motion was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): The question is:

"That the Bill further to amend the Indian Telegraph Act, 1885, be taken into consideration."

The motion was adopted.

*For text of the motion, vide col. 161 supra.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): We shall now take up the clause-by-clause consideration of the Bill.

Clause 2—Substitution of new section for section 5

PROF. SHER SINGH: Sir, I move:

5. "That at page 2, line 4 for the word 'order' the words 'for reasons to be recorded in writing by order direct' to be substituted."

SHRI KRISHAN KANT (Haryana): Sir, I move:

9. "That at page 2, after line 9, the following proviso be inserted, namely:—

'Provided that press messages intended to be published in India of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained.'

The questions were proposed.

SHRI KRISHAN KANT: My amendment is very simple. I think with this amendment the purpose of the Bill will be justified and about which many of our friends were critical. I do not want to make a speech on this because I hope that it will be accepted.

PROF. SHER SINGH: I accept this amendment.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): The question is:

5. "That at page 2, line 4, for the word 'order' the words 'for reasons to be recorded in writing by order direct, be substituted.'"

The motion was adopted.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): The question is:

9. "That at page 2, after line 9, the following proviso be inserted, namely:—

'Provided that press messages intended to be published in India of correspondents accredited to the Central Government or a State Government shall not be intercepted or detained.'

The motion was adopted.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): The question is:

"That clause 2, as amended, stand part of the Bill".

The motion was adopted.

Clause 2, as amended, was added to the Bill.

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

PROF. SHER SINGH: Sir, I move:

"That the Bill, as amended, be passed."

The question was proposed.

SHRI A. D. MANI: Only one suggestion I want to make. We are amending the Act of 1885 for the first time and we have introduced the proviso to clause 2 which was moved by Mr. Krishan Kant, which I think, opens the doors for the press to transmit messages without interception by the telegraph authorities. I want to make one suggestion to the Minister and that is if a message is delayed, it should be only for a minimum period. It cannot be delayed indefinitely. He should prescribe a limit of ten days or fourteen days, after which the message must have the right to go across to the other party. This has been recommended by the Press Council in its report. I hope that he will make a statement that he will consider this matter for prescribing a minimum period for delaying it, after which it should be transmitted. I would be satisfied if the Minister gives an assurance to me on this point.

SHRI A. P. CHATTERJEE (West Bengal): Mr. Vice-Chairman, I would not have risen to speak on this because as a matter of fact the representative of my party has already made his views clear on this Bill. But on only one point I would like to add some words.

Now, Sir, I find that as far as clause 2 is concerned it is very clumsily drafted, and of course when it is a question of the Third Reading of a Bill, we really project into the future and it is not a question of amendment, and the future functioning of the Act itself only can be commented upon through the observations during the Third Reading of a Bill. While keeping in mind that aspect, I am placing before the Government this particular portion of sub-section (2) of section 5 as sought to be amended. Sub-section (2) of section 5

as sought to be amended, as I have said, is very clumsily worded because in the first sentence it is said: "On the occurrence of any public emergency, or in the interest of the public safety" the Central Government may order something. Then again later it says that that order may be passed by the Government" in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order", etc., etc. I do not understand actually why these words "on the occurrence of any public emergency, or in the interest of the public safety" stand by themselves all alone and isolated in the first part of sub-section (2). Do they derogate from the other words "in the interests of the sovereignty and integrity of India" etc., or do they add to those words? If they derogate from those words, then the very purpose of the amendment that was sought to be made in order to conform to article 19(2) of the Constitution will completely fail. If they are an addition, then it appears that something more is added than is warranted by article 19(2) which lays down on what grounds freedom of speech can be restricted. It means the other two expressions are added, namely, "on the occurrence of any public emergency, or in the interest of the public safety", that is to say, under sub-section (2) of section 5 certain action can be ordered by the Government not merely in the interest of the security of the State, sovereignty and integrity of India, etc., but such action or such order may be passed by the Central Government on the occurrence of a public emergency or in the interest of public safety. Sir, these two expressions are never contemplated by the Constitution, and I do not know what is meant by public emergency. There is one kind of emergency no doubt contemplated by the Constitution and that emergency is declared by the President under certain circumstances; for example, when there is an invasion of India or threat of invasion of India or threat of complete breakdown of law and order in India. That kind of emergency no doubt is contemplated in the Constitution, but the other expression public emergency" has been bodily taken from the Telegraph Act of 1885, and this public emergency is never contemplated by the Constitution. I do not know how it can pass the test of reasonable restriction under article 19(2) if you put in this public emergency. It is not defined

there at least in the Constitution and it is something unheard of and unknown in the Indian Constitution. There is nothing like public emergency.

SHRI R. T. PARTHASARATHY (Tamil Nadu): Test it in the court of law if you want.

SHRI A. P. CHATTERJEE: That is another thing. Of course it will go to the court of law, but the point is this. When we are considering a Bill, we also should apply our mind to it. We should not abdicate our intellect and our intelligence to the court only. We should also try to see whether the Bill, as it is going to be passed, is a proper Bill or not.

Next, Sir, comes "in the interest of public safety". You know the famous case of *Ramesh Thapar*. That case was decided by the Supreme Court in 1950 or 1951, in which "public safety" came in for much criticism at the hands of the Supreme Court. The Supreme Court said, if I am right, that any restriction on freedom of speech in the interest of public safety would be too wide and therefore would be in contravention of the provisions of article 19(2). Public order is all right, but public safety is quite different. Public safety is a very wide term. It appears that "public emergency" and "public safety" have been put in, that is to say, sub-section (2) of section 5 has been made very coercive, very wide, and in that respect I am submitting not only it has been clumsily worded but also it will be a great inroad into the liberty of speech and freedom of speech.

PROF. SHER SINGH: There were only these expressions "public emergency" and "public safety" and it was not defined as to when it would be considered that there was public emergency or "in the interest of public safety". This has been defined and there is a condition put there. Not that they can declare a public emergency or "in the interest of public safety" any time. There are conditions. It is laid down in the clause itself—"if satisfied that it is necessary or expedient so to do in the interests of the sovereignty and integrity of India . . ." Now to bring this in conformity with the provisions of article 19(2) of the Constitution, these words have been added. Previously public emergency and public safety were not defined. Now this has

been defined and conditions have been laid down. It is not that they can just declare public emergency and take any action in the interest of public safety. They can take action only when they are satisfied that it is necessary so to do in the interests of so many things like the sovereignty and integrity of India, the security of the State, etc., as laid down in article 19(2) of the Constitution. Therefore, we do not have wide powers. In fact, we have restricted powers.

As for Mr. Mani's suggestion that there should not be any unnecessary delay, I assure him that there will not be any unnecessary delay and the message will be passed as soon as possible.

THE VICE-CHAIRMAN (SHRI BANKA BEHARY DAS): The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

THE DRUGS AND COSMETICS (AMENDMENT) BILL, 1969

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING AND WORKS, HOUSING AND URBAN DEVELOPMENT (SHRI B. S. MURTHY): Sir, I move:

"That the Bill further to amend the Drugs and Cosmetics Act, 1940, be taken into consideration."

Sir, the Drugs and Cosmetics Act, 1940, extends to the whole of India except the State of Jammu and Kashmir. It will be noticed from the Statement of Objects and Reasons for the Drugs and Cosmetics (Amendment) Bill, 1969, that the aim of this Bill is to extend this statute to the State of Jammu and Kashmir.

Hon. Members of this House would agree that the enforcement of this Act has to be uniform and stringent throughout the country. Otherwise, the progress made in one State will be neutralised by the lack of adequate quality control measures in other States. In case the regulations are not made applicable to a particular State, it becomes difficult to exercise quality control over drugs which move into or go out from that State. Such a state of affairs will