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PAPERS LAID ON THE TABLE

**ANNUAL REPORT (1965-66) .
ND ACCOUNTS OF THE INDIA
TOURISM DEVELOPMENT CORPORATION
LIMITED NEW DELHI AND RELATED PAPERS**

THE DEPUTY MINISTER IN THE
MINISTRY OF TOURISM AND
CIVIL AVIATION (SHRIMATI
JAHANARA JFATPAL SINGH):
Madam, I beg to lay on the Table,
under sub-section (1) of section 019-
A of the Companies Act, 1956, a copy
of the Annual Report and Accounts
of the India Tourism Development
Corporation Limited, New Delhi, for
the year 1965-66, together with the
Auditors' Report on the Accounts.
[Placed in Library. See No. LT-604|
68.]

**AMENDMENTS TO THE SECOND SCHEDULE TO
THE INDIAN TARIFF ACT, 1934**

THE DEPUTY MINISTER IN THE
MINISTRY OF HOME AFFAIRS (SHRI K.
S. RAMASWAMY): Madam, on behalf of
Shri Mohd. Shafi Qureshi, I beg to lay on the
Table, under subsection (2) of section 4-A
of the
Indian Tariff Act, 1934, a copy of the
Ministry of Commerce Notification No.
131|24|66-EP(CAP), dated the 7th
February, 1968, publishing certain
amendments in the Second Schedule
to the said Act. [Placed in the
Library. See No. LT-604|68.]

**NOTIFICATIONS UNDER THE ALL INDIA
SERVICES ACT, 1951**

SHRI K. S. RAMASWAMY: Sir, I also
beg to lay on the Table, under sub-section (2)
of section 3 of the All India Services Act,
1951, a copy each of the following
Notifications of the Ministry of Home
Affairs:—

(i) Notification G.S.R. No. 245,
dated the 20th January, 1968.

(ii) Three Notifications (G.S.JI. Nos.
246, 247 and 291), dated the 31st January,
1968.

(iii) Notification G.S.R. No. 248, dated
the 1st February, 1968.

[Placed in Library. See No. LT-275|68 for
(i) to (iii).]

(iv) Three Notifications (G.S.R. Nos. 292,
326 and 327), dated the 5th February,
1968. [Placed in Library. See Nos. LT-
275|68 and 387168.]

I <v) Two Notifications (G.S.R. Nos. 328
and 329), dated the 17th February, 1968.
[Placed in Library. See No. LT- 387168.]

**MOTIONS RE THE AWARD (FEB-
RUARY 19, 1968) OF THE INDO-
PAKISTAN WESTERN BOUNDARY
CASE TRIBUNAL ON THE RANN OF
KUTCH—contd.**

THE DEPUTY CHAIRMAN: We go on to
the debate of yesterday regarding the Kutch
Award. I understand that the House is willing
to sit through the lunch hour. So, I call Miss
Maniben Patel to speak.

कुमारी मनिबेन बल्लभभाई पटेल
(गुजरात) : श्रीमती जी, मुझे दुख से कहना
पड़ता है कि शुरू से कच्छ के बारे में एक प्रकार
से लापरवाही, इनडिफिनेट एटिट्यूड केन्द्र सर-
कार का हम पाते रहे हैं। गुजरात राज्य जब
अलग हुआ तब ही उस समय के मुख्य मन्त्री ने
तीन बार सरहद की सड़के बनाने की आव-
श्यकता पर लिखा, परन्तु उस पर कोई
कार्यवाही नहीं की गई।

[THE VICE-CHAIRMAN (SHRI M. P.
BHARGAVA) in the Chair.]

मुझे यह भी बहुत दुख के साथ कहना
पड़ता है कि कच्छ पर जब-जब पाकिस्तान ने

आक्रमण किया तब-तब उसके बारे में कुछ नहीं किया गया। जब वहाँ आक्रमण हुआ तब सरहद की रक्षा के लिये कई दिन तक वहाँ पर फौज भी नहीं गई और एस० आर० पी० के उनके पास जो साधन थे उससे सरहद की रक्षा की गई। कंजरकोट की रक्षा करते हुये हमारे लोगों ने अपनी जानें दीं। यह दुख की बात है कि आज इस अवाइड के मुताबिक हम को कंजरकोट पाकिस्तान को सुपुर्द करने की बात आई है। उसका अर्थ एक तरह से यह है कि कंजरकोट पर हमने आक्रमण किया था, उपर बात सही यह है कि कंजरकोट हमारा था, उस पर आक्रमण पाकिस्तान ने किया था और उसकी रक्षा हमारे सिपाहियों ने अपनी जान देकर की थी। परन्तु गलती हमने की, आरबिट्रेशन में जाना स्वीकार किया और अब इसके बारे में कुछ कहने से फायदा नहीं है। अब मैं यही आशा करती हूँ कि सरकार फिर से इस तरह की गलती न करे।

मैंने देखा कि दो बड़े विद्वान, कायदा शास्त्री, यहां एक दूसरे के सामने बातें कर रहे थे। ऐसी स्थिति में हमारे जैसा मामूली सदस्य उलझन में पड़ जाता है कि कौनसी बात सही है, कौनसी बात गलत है। परन्तु एक बात तो सही है कि फिर से इस तरह से नहीं होना चाहिये। यह बात भी सोचने की है कि हमारी ओर से जिस को पंच नियुक्त किया गया था उनका कहना भी गौर से सोचना नहीं चाहिए उस पर कोई महत्व नहीं देना चाहिए, यह पूरी तरह से भेरी समझ में नहीं आता है।

आज गुजरात एक ऐसा प्रदेश है जहां शिष्टता से रहने वाले लोग हैं और इस कारण मैं देखती हूँ कि उनके बारे में जितना चाहिये उतना ध्यान नहीं दिया जाता।

बाकी मैं यह कहना चाहती हूँ कि राजनारायण जी थोड़े दिन पहले वहाँ गये थे। उनको वहाँ जाने की कोई जरूरत नहीं थी। वहाँ जाने से वे खाली वहाँ गड़बड़

कराना चाहते थे। इतना ही उममें हो सकता है और कुछ ही नहीं सकता। परन्तु मैं फिर से सरकार से यह कहना चाहती हूँ कि अभी भी कच्छ के बारे में पूरा ध्यान दिया जाय। आज भी वह सारी सरहद जो गुजरात और पाकिस्तान के बीच में है वहाँ कोई सहूलियतें नहीं हैं वहाँ पानी की तकरीक है। तो इस बारे में काफी ध्यान देना चाहिये। हम को यह भी सोचना है कि वहाँ फिर गड़बड़ होगी। इसलिये मुझे यह कहना है कि मेहरबानी करके सरकार इस पर थोड़ा ध्यान दे, थोड़ा लक्ष दे और कच्छ को जो चोट लगी है उसको मुलजाने का रास्ता निकाले।

अब बात है कि अगर कोई भी बात गुजरात करता है तो उसके बारे में शोर मचता है। पिछले हफ्ते नर्मदा का पानी कच्छ तक ले जाने का प्रधान मंत्री ने उल्लेख किया और उसके बारे में मध्य प्रदेश के एक मंत्री बोले उठे कि नर्मदा का पानी नहीं दिया जायेगा। मुझे समझ में नहीं आता है कि नर्मदा के बारे में इस तरह से क्यों एक एटिट्यूड लिया गया है। कई साल से एक तरफ अन्न बढ़ाने की बात की जाती है और दूसरी तरफ इस और कोई लक्ष नहीं किया जाता है।

जब कच्छ के बारे में अवाइड हुआ तब हम कहते हैं और सही कहते हैं कि एक अवाइड हुआ तो हम को उसका आदर करना चाहिये परन्तु प्रदेशों के बीच में जो एक अवाइड होता है जो एक पंच राय देता है उसका इम्प्लीमेंटेशन करने में क्यों झिझक होती है यह मेरी समझ में नहीं आता है।

मुझे तो यही कहना है कि कृपा करके गुजरात को इस बारे में जो दुख हुआ है उसको लक्ष्य में रख कर के जो आज हालत हुई है वह हालत फिर से न हो और कच्छ के बारे में और सारी गुजरात और पाकिस्तान की सरहद के बारे में पूरा ध्यान दिया जाय। इतना ही मेरा कहना है।

SHRI CHITTA BASU (West Bengal): Mr. Vice-Chairman, the Award of the International Tribunal on Kutch has once again gone to prove that the Western countries are still not in a mood to miss a single opportunity to beat India. We walked straight into the trap when we chose to refer the Kashmir question to the United Nations and you all know that the problem of Kashmir has not been solved. Rather it has

become further complicated. Intrigues and machinations are on the increase and, if I am permitted to say so, with the connivance of the Western countries. Then, again, in the matter of Kutch we chose to refer the matter to an international Tribunal at the instance of, the British Government and it is found that we have not been given justice.

Yesterday, it was said by Congress Members opposite that since Parliament ratified the agreement to refer the matter of Kutch to international arbitration and since in that agreement itself there is a condition that the decision would be binding on us, we cannot but agree to accept it under the force of compulsion. I want to refresh the memory of this House. When this question was brought before Parliament, Parliament, in its wisdom, agreed to ratify the motion of the Government. But at that time, as far as I know, the late lamented Prime Minister of India made a solemn pledge in this House that not a single inch of Indian territory would be handed over to Pakistan or any other foreign country. Parliament, in its wisdom, ratified the agreement, because Parliament did not know at that time that the decision of the Tribunal would be on the basis of political considerations or extraneous considerations. Parliament, in its wisdom, agreed to refer the matter to an international Tribunal because the House felt that justice would be done in this matter and that the Tribunal would be working strictly within the limits of its jurisdiction. As far as that part of it is concerned, I want to say that Parliament on the basis

of the solemn promise given by the Prime Minister, agreed to ratify the agreement. But what do we see today? It was expected that the Tribunal would give its Award on the basis of the map, on the basis of material evidence produced by the contesting parties. On that basis we can easily see that there was no dispute in regard to the Rann of Kutch.

History has it that the rulers of Kutch State have always exercised effective control over the entire part of the Rann and the Rann was a part of Kutch. There has been no dispute between Kutch and Sind in this matter although there might have been certain intrusions and invasions from the side of Sind during the period from 1762 to 1777. But the people of Kutch fought valiantly against that intrusion and maintained their effective control over that area.

Sir, in this matter I want once more to place before you that even Pakistan's claim that the Rann of Kutch is an arm of the sea, dead or alive, has not been proved by the documents placed by Pakistan herself. Again, Pakistan's claim over the Leiritory does not bear any semblance to the actual happenings during the whole of the British period right up to the 15th August, 1947. When these historical facts incontrovertibly are corroborated even by the documents given by Pakistan, I do not find any reason why a particular portion of that land has been awarded in favour of Pakistan. Sir, in this connection I want to refer to a particular portion of the judgment wherein it has been said, page 152:

"However, in respect of sectors where a continuous and for the region intensive Sind activity, meeting with no effective opposition from the Kutch side, is established, I am of the opinion that Pakistan has made out a better and superior title."

Does it mean that the right of title will be determined on the basis merely of the degree of aggressiveness? Does it mean that an aggressor will be

allowed to enjoy the fruits of aggression because they could commit an aggression? Therefore, if we are to accept this very principle on the basis of which a certain part of our territory has been given, it is absolutely baseless, absolutely erroneous and absolutely pernicious. This will enable an aggressor to continue to enjoy the fruits of aggression if that award is based on this consideration, and I think you would agree with me in this.

Sir, again I want to draw your kind attention to page 8 particularly where Mr. Bebler was referring to his matter. It is a befitting reply—anyway he has said that there cannot be any argument on the basis of which mere aggressiveness of a particular contesting party creates superior title.

In this connection I want to refer to another portion of the judgment which is exclusively of political nature, page 153:

"In my opinion it would be inequitable to recognise the inlets as foreign territory. It would be conducive to friction and conflict. The paramount consideration of promoting peace and stability in this region compels the recognition and confirmation that this territory, which is wholly surrounded"...

Please note this:

"which is wholly surrounded by Pakistan territory, also be regarded as such."

This raises a very fundamental question. You know there are a large number of Indian enclaves which are surrounded by Pakistan territory. If this principle is accepted as the guideline to determine to whom this particular territory belongs, what will you have to say in regard to the Indian enclaves entirely surrounded by Pakistan territory? The very

acceptance of this principle in the matter of delineation—does it not invite the further cession of our territory? Again, I want to submit this on this political consideration, the consideration of peace and amity. I would not have minded had this consideration been there to bring about stability and peace between these two neighbouring countries for all time to come. Has not history shown that even when we accepted certain adjustments with Pakistan with regard to territory, Pakistan's belligerency has not yet stopped? Is it not a fact that we have given certain territory to Pakistan and allowed them to construct their dam at Mangla? Yet Pakistan continues its belligerency. Is it not a fact that we arrived at a mutual agreement on the division of river waters? Yet Pakistan continues its belligerency. Even if on the basis of political considerations we are ready to pay the price for abiding peace and abiding tranquillity and abiding good relations, even if it is so, what is the guarantee that there will be abiding peace and abiding stability? Even today Pakistan is indulging in "hate India" campaign. The relations are being strained every day, day in and day out. That being the case, I want to conclude that when Indian territories, which belong to India, are being given over to a foreign country, Pakistan, on the basis of a consideration which is wholly extraneous to the jurisdiction of the Tribunal itself, it should be a nullity as Mr. Chagla was telling yesterday. Therefore, there is no obligation on the part of our country to respect it, to accept it in an unquestioned way. The unquestioned acceptance of this award will further prove our weak-kneed policy, and I want to refresh the memory of the Government that because of this weak-kneed policy Pakistan has been constantly raising this demand or that demand one after another. It is not limited only to Kutch. If this principle of ceding a part of our country is accepted, it may be extended to

[Shri Chitta Basu]

the question of Kashmir also. It may be extended also to the question of those parts of our Indian territory which are still being forcibly occupied by the Chinese. What will you have to say when this type of proposal will be coming that in the case of Kutch you have agreed to give a part of your country to Pakistan to earn stability, to earn peace, to earn good neighbourliness; why should you not give another portion of Kashmir to Pakistan to earn abiding peace and abiding tranquility?

Why should you not give a part of Indian territory to China to earn stability and peace which we long for? Therefore, this will further complicate the issue, and that will invite further ceding of Indian territory which the Government has got no right to do. If the Government pursues its policy, it would be an act of treachery to the nation.

Again, I want to draw your attention that the Government has no right to part with a part of the country simply by executive action. This has been reinforced particularly by the decision of the Supreme Court in the matter of Berubari. I do not know why the Government is not bringing forward any proposal for amending the Constitution, which alone can vest the Government with the power to cede a part of Indian territory.

Therefore, while concluding I would once more urge upon the Government of India that in the interests of national unity, in the interests of the independence of our country and in the interests of the territorial integrity of the country, we cannot afford to accept this agreement, this Award, without questioning it. Therefore, the Government would do well to accept the motion of rejection of this Award moved by Shri Rajnarain in this House.

SHRIMATI LALITHA (RAJAGOPALAN) (Madras): From the opinions expressed by various Mem-

bers who disagree with this Award it seems to me that they were trying to pass judgment on the judgment of the International Tribunal in this matter. Whatever it might be, we cannot deny the fact that there was a dispute; nor can we deny referring this matter to the International Tribunal. So, now that the Award is there, we have to accept it in a graceful manner. I feel very sorry, when the representatives of both the countries are here in Delhi now discussing the ways and means to implement the Award, we have taken up this discussion. I wish we had taken this up even before that; otherwise, we should not have taken up this discussion at all. When disputes between two countries could not be solved by themselves or rather when one party is disinclined to solve it in such a manner, for the sake of lessening tension and suspicion and for maintaining peace and security, it is a well-established fact that such matters are often referred to an international Tribunal and whatever that international Tribunal gives as judgment, that judgment is invariably accepted.

In this connection, I would like to cite some of the instances—

Date of Award :	June 23, 1865.
Parties concerned	Netherland — Venezuela.
Dispute:	Territorial.
Arbitrator:	Isabella II. Queen of
Arbitral Tribunal :	the Spains.
Award :	In favour of Venezuela.
Remarks:	The Aves Island was declared property of Venezuela, who had to pay an indemnity to Holland for the loss of the fishery rights of her subjects. The Netherlands accepted this decision but preferred the continuation of the fishery rights.

Of course, when this decision was taken, it went in favour of Venezuela. To a certain extent, it was a loss to

the Netherlands. But still, the Netherlands accepted it as a compromise.

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Again, I would refer to another instance:

Date of Award: April 2, 1861.
Parties : Muscat—Zanzibar.
Dispute: Sovereignty claims.
Arbitrator : Lord Canning, Governor-General of India.
Award : In favour of both, partially, (political character).

I would like to say this because Mr. Chagla referred that this Kutch Tribunal Award was political. I would like to say that here also—it was in favour of both, it was political in character and it was accepted by both.

So, an Award might be motivated by political consideration or otherwise. But once you have referred it to an international Tribunal, whether it is a political judgment or a judicial one, you have to accept it, and one cannot differentiate between a political judgment and a judgment otherwise. So, this instance can be taken to show that this judgment was of a political character.

Then again, I would like to refer to another instance:

Date of Award : April 21, 1870.
Parties : Great Britain—Portugal.
Dispute : Territorial.
Arbitrator : U.S. Grant, President of the USA.
Award : In favour of Portugal.

The decision has been given in favour of Portugal, and the remarks are:

'The respective claims were submitted for arbitration for final decision which would be without appeal. Under the Protocol of Conference

to set up this arbitration, the award could be wholly in favour of either of the parties or an equitable solution of the difficulty.'

I want to emphasise this that 'the award could be wholly in favour of either of the parties or an equitable solution of the difficulty'. You can very well understand, when a decision is given by an international Tribunal, it does not mean that the entire thing should go only to one country as we anticipated. In that trend we discuss this matter, when we have been given 90 per cent and only 10 per cent goes to Pakistan. The previous Award shows that the Tribunal is entitled to decide whichever way it likes and it should invariably be accepted by both the parties.

Then,

Date of Award : July 24, 1875.
Parties : Britain—Portugal.
Dispute : Territorial.
Arbitrator : De Mac Mahon, President of France.

The Award went in favour of Portugal.

Remarks: The law to be applied was that should the Arbitrator be unable to decide wholly in favour of either of the respective claims, he shall be requested to give such a decision as will, in his opinion, furnish an equitable solution of the difficulty.

And this was accepted by both the parties. They did not question the judgment. They both accepted this decision.

Then again:

Date of Award: Augusts. 1885.
Parties : Britain—Transvaal.
Dispute : Boundary.
Award : In favour of Transvaal.

Remarks : The decision of the referee on any question of disagreement was to be final.

And this is the last instance I am referring to:

Date of Award: May 30, 1905.
Parties : Britain—Portugal.
Dispute : Boundary.
Arbitrator : Victor—Emmanuel III, King of Italy.
Remarks : In place of the procedure contemplated in an earlier declaration, the two Governments decided to have an arbitrator who was to give a decision which would be accepted as final by both.

I am citing all the awards only to show to the House that the decision need not go in favour of only one country. It is always the decision of the Tribunal which is invariably accepted by both the parties, so long as it does not infringe both the parties.

Such a dispute, whether it is a river or a boundary or a territorial dispute, is always decided by an international Tribunal, and so in the same way we had referred this demarcation or determination of the boundary of this area to the International Tribunal. And the Tribunal consisting of eminent people from three countries has given the Award, according to the evidence given by both the parties. Now, a judgment is a judgment; whether there is a dissenting note or not, it is the majority opinion that carries. Unless we accept this fact and unless we try to implement this Award, I think our relations in the international sphere will worsen. If we accept this Award and implement it, I think if Pakistan tries to rub us on the wrong side in future, we have every right to con-

vince the world that what she is doing is wrong.

This House has been discussing this matter since yesterday. Some hon. Members seemed to dwell only upon the 1965 aggression. They refuse to go far back behind, when this dispute was there. And if you look at the debate of August 18, 1965, Mr. Lal Bahadur Shastri himself, speaking on the Indo-Pakistan Agreement stated that the agreement of 1965 was only in conformity with the Indo-Pakistan Border Agreement of 1959-60. Mr. Vice-Chairman, I would like just to read out one or two lines from Shastriji's statement in the Lok Sabha in 1965—

"First of all, when the Indo-Pakistan Agreement was signed in 1965, the main element of the agreement was cease-fire on both sides to be followed by withdrawal of forces and restoration of the *status quo* as prevailing on the 1st January 1965. Once these are accomplished, there has to be a meeting between the Ministers of India and Pakistan and if such a meeting is unable to resolve the boundary issue, a 3-man impartial tribunal is to be constituted to give its finding on this subject".

Then again, Prime Minister Lal Bahadur Shastri on August 18, 1965, on the Indo-Pakistan Agreement, says—

"At first, discussions at official level were envisaged and thereafter at Ministers' level. In the event of failure of these negotiations, the matter was to be referred to an impartial tribunal for a binding decision"

I want to emphasise the words 'binding decision'. I do not understand how an hon. Member has said that Shastriji's hand and foot were tied down.

Again, Sir, the hon. Members will see what the late Prime Minister Shri Lal Bahadur Shastri said. I quote:—

"Hon. Members will see that the basic claim of Pakistan is in regard to the alignment of border between India and Pakistan, and this claim Pakistan seeks to base on pre-partition and post-partition documents ... I would like, however to reiterate and re-emphasise that the text of the agreement makes it perfectly clear that both India and Pakistan are referring to the subsisting border between the two countries and both claim to have evidence in support of what they say."

The matter was placed before the Tribunal which heard the evidence given by both the countries and then gave its judgement. Therefore, it would be wrong to say that the judgment is politically motivated. Again, this is what Mr. Lal Bahadur Shastri said:—

"It is, of course, true that where there is a dispute about the alignment of a border between one country and another, such a dispute *ipso facto* involves some territory or other."

That means when a judgement is given and when a Tribunal decides about a territory that means the territory is divided. Some parts come to India and some parts go to Pakistan. That is the implication of that particular line—

"... alignment of a border between one country and another, such a dispute *ipso facto* involves some territory or other."

Some people question about the Tribunal. They say that the Tribunal does not consist of able people. In this connection let us see what our late Prime Minister had to say. He says:—

"So, I do not think that we are going to suffer in any way because we have decided to have members of the Tribunal from outside India... After all, the Tribunal will consist of very distinguished people and it would not be advisable to charge them from now on and express our view."

May I, in this connection, refer to article 51 of the Constitution which says:—

The State shall endeavour to—

"(a) promote international peace and security;

(b) maintain just and honourable relations between nations;

(c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and

(d) encourage settlement of international disputes by arbitration."

Sq I just do not find any justification in any Member accusing the late Prime Minister Lal Bahadur Shastri that his hands were tied down. At the same time I would like to pay my tributes to the late Prime Minister. He was a man who was guided by his own conscience. This was well proved when he resigned because of frequent railway accidents happening when he was the Railway Minister 'hough he was not responsible for it. He was. Cabinet Minister and still he resigned. Therefore, I just cannot understand how any body could say that his hands and feet were tied down. (*Time bell rings.*) Just five minutes more.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Two minutes more.

SHRIMATI LALITHA (RAJAGOPALAN): Taking all this into consideration we can outright say that there was a dispute. It may be that

[Shrimati Lalitha (Rajagopalan)] j
at the outset it is difficult for us to
reconcile with the facts but it is
imperative that we accept the
Award gracefully.

Sir, hon. Members would remem-
ber that during the 1965 Aggression,
when the Indus-Water Treaty was
renewed, there was tremendous up-
roar in the two Houses of Parliament
about this. But the late Prime Min-
ister, Lal Bahadurji Shastri, took a
very correct stand by stating that
though Pakistan was an aggressor
our commitments were with the
World Bank and we had to keep up our
prestige in the world. Had we acted
adversely, we do not know what would have
happened. While we discuss things here we
do not consider the situation arising in
relation to the outside world. We only think
of the conditions here and argue in a narrow-
minded manner.

Lastly, Sir, I would just take three minutes

THE VICE-CHAIRMAN (SHRI M. P.
BHARGAVA): You can reduce it by half.

SHRIMATI LALITHA (RAJAGO-
PALAN): The implementation of the Award
is now being contemplated and both the
parties are trying to do what they can do. In
this connection our Prime Minister, our
Deputy Prime Minister and the Home Min-
ister have said something very good in the
Lok Sabha. I think we all should ponder over
that thing and act accordingly and not do
something in haste. The Deputy Prime Minis-
ter has very rightly said:—

"The Government is going to stick to its
word and nothing else. We do not want to
live like outlaws in the world."

And this is what the Home Minister, Mr.
Chavan said:—

"But our present attitude should be to
honour our international

commitment even if one has to pay the
political price for it."

Again, he said:—

"The decision taken by the then Prime
Minister was taken after full consideration
of the issues involved, and with a full sense
of national responsibility and responsibility
to the people. When we have taken such a
decision and when the award comes, we
have to accept it."

Lastly, I quote the Pri. e
Minister . . .

THE VICE-CHAIRMAN (SHRI M. P.
BHARGAVA): It is time to wind up.

SHRIMATI LALITHA (RAJAGO-
PALAN): The report says:—

"The Prime Minister, Mrs. Indira
Gandhi, today told the Lok Sabha that
India would implement the Kutch award in
the hope that the settlement would close an
unfortunate chapter in Indo-Pakistan
relations and promote normal relations
between the two countries."

I hope we will look into this problem in that
atmosphere. Let us not do something which
will be devastating to the country. Let us be
one with the Government in this matter and
help them with all possible means to im-
plement this Award.

I am very sorry, Sir, I have taken too much
time. Thank you.

श्री राजनारायण (उत्तर प्रदेश) : नहीं
अभी इन को बोलने के लिये और समय दिया
जाय । हमारा समय भी दे दिया जाय ।

उपसभाध्यक्ष श्री महावीर प्रसाद भार्गव :
आपका कौन समय है ?

श्री राजनारायण : अभी तो हमारा
रिप्लाइ है । उसमें मे समय दे दिया जाय ।

श्रीमती पुरुषार्थन जनार्दनराय महता (गुजरात) : उपमहाधक्ष जी, कच्छ का प्रश्न हमारे लिये सिर्फ दिमाग का नहीं है हमारे दिल का भी है। कच्छ की एक अलग परिस्थिति है। मैं भी सोचती हूँ कि कच्छ का प्रश्न कितना बड़ा है। कच्छ कोई नया बनाया हुआ प्रदेश नहीं है। कच्छ की नयी बनायी हुई परिस्थिति नहीं है। कच्छ का बहुत पुराना इतिहास रहा है। मैं कच्छ का इतिहास जानती हूँ। कच्छ का प्रागैतिहासिक महत्व अमूल्य है। अग्निपुराण में ऋण या रन का उल्लेख है और रन की असह्य गरमी और ताप का वर्णन किया है। उत्तर पश्चिम कच्छ पर आये हुये प्रदेश को विभूजग्नि कहा गया है। दक्षिण पूर्व प्रदेश जो छोटा रन कहलाता है उसको कंडाग्नि के नाम से बतलाया गया है। इसका अपभ्रंश शब्द यह आज का कंडला है। स्कंद पुराण में कच्छ मंडल और वायु पुराण में कच्छीय शब्द प्रयोग में आया है। यह संक्षेप में हमारे कच्छ का इतिहास है यह प्राचीन पौराणिक प्रस्ताव रखने का कारण हो है कि यह रन प्रदेश कच्छ के साथ संकलित था। वह जो रन है वह कच्छ में संमिलित है। रन कभी कच्छ में अलग नहीं था, रन कभी कच्छ का अलग प्रदेश नहीं था। कच्छ और रन पुरातन काल से एक है वहाँ की संस्कृति एक है, वहाँ का रहन सहन एक है और वहाँ का इतिहास भी एक है। रन पर कच्छ के राजा की हुकूमत थी, अधिकार था, सत्ता थी।

सन् 1819 में कच्छ के भयंकर धरती कंप में सिन्धु नदी का प्रवाह बदल गया और रन की परिस्थिति में भौगोलिक परिवर्तन हुआ। इसी से कच्छ के जीवन पर गहरा असर हुआ। कच्छ के दोनों रन, बड़ा और छोटा, कच्छ की हृद में हैं। आज तक उनकी गणना कच्छ के साथ ही हुई है और उनका रिजर्व उपलब्ध है। 1843 में कच्छ का ब्रिटिश पोलिटिकल एजेंट आई० ज० लम्सन् ने कच्छ का एक राजकीय नक्शा बनाया। उसमें उल्लेख है कि कच्छ पर कच्छ राज्य का अधिकार है और सार्वभौमत्व है। यह सार्वभौमत्व 1947

तक रहा है। इसके अतिरिक्त यह सार्वभौमत्व उन्होंने ईस्ट इण्डिया कम्पनी को भेज दिया और उसने कच्छ की सोमा निश्चित की थी और वह मानी गई थी।

Observations on map of Kutch is showing possession on borders of Kutch with Kutch rulers. Lt. Col. Holland के Road between Sind and Kutch

में भी स्पष्ट निर्देश है कि कच्छ का रन यह कच्छ राज्य के प्रदेश का अभिन्न अंग है।

इसके अलावा कच्छ राज्य और ब्रिटिश राज्य दोनों के बीच में अनेक करार हुए थे। इसमें 1819 में जो करार हुआ था वह बहुत अगत्यका है। यह तहनामा की 21 वीं बक्तेम में कच्छ के रन पर कच्छ की सत्ता प्रस्थापित की है और उसको स्वीकार किया है।

मैं सबसे अधिक ध्यान इस प्रश्न पर देना चाहती थी कि जो दलील और दस्तावेज और लेख हैं वह कच्छ राज्य की नेटिव स्टेट के ऊपर जिस ब्रिटिश हुकूमत का सार्वभौमत्व था उन्होंने यह कक्ष में गिन कर दिया है। यह सर्वविदित है कि सार्वभौम सत्ता के आफिशर की इच्छा सर्वमान्य थी। None was able to challenge the political agent थर पार कर, मोरवी और नगर पारकर के साथ भी बहुत ऐसा करार और तहनामा हुआ था। किन्तु पोलिटिकल एजेंट का फैसला सबको शिरोमान्य करना पड़ता था। इस एवार्ड के पृष्ठ 13 में भी यह लिखा हुआ है :

Boundry between Sind and Indian States was never solved.

इस उल्लेख से फलित होता है कि यह आपस-आपस का प्रश्न था। खासतौर पर पार कर और थरपारकर का था और यहाँ पर कच्छ अपना राज्य का अधिकार प्रस्थापित करना चाहता था। वहाँ पर सिंध का कोई अधिकारी नहीं था। आज वहाँ पर जो स्थिति है उससे मुझे दुःख और चिन्ता है।

1947 से यह प्रश्न उपस्थित हुआ। इस एवार्ड में कच्छ के रन को नो मैन्स लैंड

[श्री जीव पृथ्वीन जारदन नरहेता]

कहा है परन्तु रण होने के कारण कोई योजना सम्भावित नहीं थी। किन्तु मैं आज यह सब गृह का लक्ष्य पर यह चीज रखना चाहती हूँ कि रण के मार्ग से हमेशा बगझार, कैरावान्स आया जाया करते थे। उन लोगों के पीने के पानी का प्रबन्ध और उनके सख्त का प्रबन्ध कच्छ राज्य की ओर से होता था। उस क्षेत्र से परदेशी आक्रमणकारी आते थे और कच्छ की शूरवीर प्रजा को उनका सामना करना पड़ता था। यह सब कच्छ के रण की तरफ से आने जाने का व्यवहार था। जारा का युद्ध बड़ा भारी हुआ था और वहाँ की जनता ने इसमें बहुत बड़ा भाग लिया था। It was not no man's land but it was and it is Kutch's Rann.

इस राजकीय प्रश्न के अलावा गन्त मेकरण घंघ लोडाई के साधु ने रण में लोगों को पानी पिलाने के लिए प्रबन्ध किया था। उस समय जो लोग रण में जाते थे उन्हें ये साधु पानी पिलाते थे। ये साधु गधे पर पानी रख कर चलते थे और एक कुत्ते को उसके साथ रखते थे। कुत्ता रण में डूबर उग्न जाता था और जो भी आदमी प्यास के मारे बेहोश पड़ा रहता था उसको देख कर कुत्ता इन मद्दतमा के पास आता था और फिर वे वहाँ जाकर उसको पानी पिलाते थे। इस तरह से इन साधु ने कई मरते हुए मनुष्यों की जान बचाई। इस तरह की कई लोक कथाएँ हमारे इतिहास में उपलब्ध हैं। आज भी उस जगह पर एक कुत्ते और गधे की समाधि बनो हुई है जहाँ पर साल में एक दफा मेला लगता है और जिसमें हजारों तथा लाखों लोग शामिल होते हैं। यह जो लोक कथाएँ हैं उनसे यह बात सिद्ध होती है कि वह हिस्सा हमारा था। इस तरह की कई लोक कथाएँ उपलब्ध हैं जिनसे यह बात सिद्ध होती है कि जो जगह अब पाकिस्तान को दी जा रही है वह हमारी है। इस तरह की हमारी संस्कृति थी जो यह बात सिद्ध करती है कि वह स्थान हमारा है।

एक बात मैं यह समझ में नहीं आती है पशुओं की चराई का समर्थन किया गया है। मैं जानती हूँ कि पशुओं की चराई का इतिहास है। भारत में सब भूमि गोपाल की मानी जाती है। इसका अर्थ है जहाँ खेत नहीं है, वहाँ पर पशु पालकों के पशु चर सकते हैं। आज भी रोजनल और सोजनल माइग्रेशन होता है और कोई चरागाह के प्रश्न पर चिन्ता नहीं करते हैं। किन्तु यह हमने पहले ही गलती हो गई कि हमने उनके पशुओं को चरने के लिए इजाजत दे दी। जब पाकिस्तान के पशु इस जमीन पर चरने के लिए आते थे तो जब लोगों से कहा जाता था कि तुम इन पशुओं को चरने के लिए क्यों आने देते हो, तो वे कहते थे पशुओं के लिए यह सारी भूमि है और इसमें चर लेते हैं तो कोई हर्ज नहीं है। यह सब भूमि गोपाल की है। गोपाल भगवान कृष्ण नहीं हैं। गोपाल भगवान नहीं हैं। गोपाल तो वे हैं जो पशुओं के पालक हैं और उन्हीं को गोपाल कहा जाता है। जो गाँवों का पालन करते हैं उनकी ही सब भूमि है। वे लोग जहाँ जाते हैं वहाँ पर ही अपने पशुओं को चराते हैं। आज हम अपने इतिहास को नहीं जानते हैं और इसी गलती की वजह से हम अपनी भूमि देने जा रहे हैं। किन्तु यह हमारी गलती है कि प्रदेशों को विभजित के होते हुए भी हमने पाकिस्तान के पशुओं को चरने की इजाजत दी और वह इसलिए दी थी कि यह जो पशु है वे भी भगवान के हैं। हमें अपनी इस उदार नीति पर बड़ा दुःख है और अपनी इस भावना से हमने अपना यह प्रदेश खो दिया है।

छाड़, कंजरकोट और धारावाली के साथ दूसरे जो प्रदेश भी गये हैं। मैं इन प्रदेशों के बारे में थोड़ा ही ज्ञान ला सकती हूँ किन्तु यह हमारे देश के अंगरेजों के प्रदेश थे और वहाँ पर हमारे पशुओं की चरागाह बन गई थी।

धरपाटकर के प्रदेश में भी कच्छ Vahivatdar (वहिवतदार) जाता था और

पशु चराई कर लेता था। छाड़ में भी चराने वाले कर देते थे और जो यह कर लेते थे उनका राज्य है। हमारे हाउस के सदस्यों को ये सब बातें अच्छी तरह से मालूम नहीं हैं। परन्तु हमारे जदसुख लाल जी को भी ये सब बातें मालूम हैं कि पशुशालकों का व्यवहार और ट्रेडिंग वहाँ पर क्या रहा था।

अब तो हमारी ओर से गलती हो चुकी है और एवाइ आ गया है। हमने परिस्थितियों के अनुसार जो कदम उठाये उसके मुताबिक हम बचनबद्ध हो गये हैं और अब यह चीज हमारे लिये बज्रकारी हो गई है। परन्तु इन चीजों के लिये जो दलीलें, जो पुरावा और जो समर्थन दिया गया है, उसको कबल करने के लिये बिल नहीं करता है। जो प्रदेश ट्रेडिंग से और वहाँ से हमारा या आज उसको छोड़ने का हमें बहुत भारी दुःख है।

अब इस समय हमारे सामने सुरक्षा का प्रश्न सबसे अधिक है। अब हमें सीमा के बारे में अधिक खयाल रखना होगा ताकि हमारे देश पर दोबारा कोई हमला न कर सके। हमें सीमा पर रहने वालों को ट्रेडिंग देने की कोई योजना बनानी होगी ताकि हमारी सीमा हमेशा के लिये सुरक्षित रह सके। कच्छ में जितनी सड़कों की जरूरत है उनको हमें जल्द से जल्द पूरा करना चाहिये और वहाँ पर पानी तथा पैतियों की सुविधा का सब तरह का प्रबंध करना चाहिये। जो गलती हमारे कहने से हो गई है वह तो हो गई है। अब हमें अपने प्रदेश की रक्षा के लिये हर तरह का प्रबंध करना चाहिये।

मैं एक बात और कहना चाहती हूँ कि जिस समय पाकिस्तान की ओर से एडेशन हुआ था, मैं उस समय वहाँ पर थी। मैं देख रही थी कि वहाँ के लोग

किस तरह से देश की रक्षा के लिये काम कर रहे हैं। मैं सब जगह पर घूमी और देखा कि किस तरह से सेना को मदद देने के लिये लोग सेना में भाँगे हो रहे थे। छाड़ हमारे सीधे रास्ते पर है, छाड़ हमारा आधार है और वहाँ पर बैठकर हम लड़ाई कर सकते थे। यह हमारा एक स्ट्रैटेजिक प्वाइंट है जो कि अब हम से जा रहा है। हमें अब तो प्वाइंट को मानना हो पड़ रहा है और समा के सदस्यों से विनती करना चाहती हूँ छाड़, कंजरकोट और दूसरे प्रदेश हमारे से जा रहे हैं उनसे हमारी सीमाओं के लिये सुरक्षा का प्रश्न बहुत जटिल हो गया है और हमारे सामने मुश्किल पैदा हो गई है। आज हालत यह है कि पाकिस्तान के आदमी वहाँ पर आते रहते हैं। कभी हम बस आदमियों को पकड़ लेते हैं और कभी पाँच आदमियों को पकड़ लेते हैं। हमें यह मालूम नहीं होता है कि वह किस मकसद के लिये आते हैं। जासूसी करने के लिये आते हैं या कोई काम के लिये आते हैं। इनलिये मेरी विनती है कि हमें अपने बाईर की रक्षा के लिये जल्द से जल्द कदम उठाने चाहिये ताकि हमारी सीमा अच्छी तरह से सुरक्षित रहे।

[Time bell rings.]

मगर अवाइ के साथ हमारी जो परिस्थिति है, संरक्षण की परिस्थिति है वह कम हो रही है और मैं चाहती हूँ कि इसको जोर देने के लिये हमें कुछ करना चाहिये कुछ सोचना चाहिये। कच्छ का रास्ता अभी तक पूरा नहीं हुआ है और मैं यहाँ एला करना चाहती हूँ कि हमारी जो श्रंखला कांडला रेलवे है उसपर काम अभी बहुत अच्छी तरह से नहीं चलता है। तो मैं यह सोचती हूँ कि हमारा संरक्षण मजबूत करना चाहिये और जो जो काम करने में डिलाई होती है वह जल्दी से करना चाहिये।

[श्री पुष्पावेन जनार्दनराय महेता]

इसके साथ साथ मैं कहना चाहती हूँ कि कच्छ का जो अवार्ड है उसमें चाहे जो हो, हमारी इंटरनेशनल परिस्थिति चाहे जो हो, इंटरनेशनल परिस्थिति का हमें अभ्यास नहीं है, मगर नेशनल परिस्थिति का हमें अभ्यास है और मैं कह सकती हूँ कि इस एवार्ड से हमें फायदा नहीं होगा और यह हमारे लिये चिंता का प्रश्न होगा। इससे ज्यादा हमें नहीं कहना है।

SHRI P. N. SAPRU (Uttar Pradesh): Mr. Vice-Chairman, when this Award was announced, I welcomed it and I was the first to say that it should be accepted by us. But after considering the Award I am fully in agreement with the arguments advanced by Tto". Chagla, in regard to the character of this Award. The learned Judge, the Chairman, says at page 153 as follows:

"In my opinion it would be inequitable to recognise these inlets as foreign territory. It would be conducive to friction and conflict. The paramount consideration of promoting peace and stability in this region compels the recognition and confirmation that this territory, which is wholly surrounded by Pakistan territory, also be regarded as such. The points where the boundary will thus cut off the two inlets are these:"

Now it is quite clear that the arbitrator has gone beyond the terms of reference and from the legal point of view the Award is a nullity. I was just re-reading a book called "The Settlement of Boundary Disputes in International Law", written by Cuk-wurah. At page 200 he says:

"Many boundary settlements have been preceded by prolonged negotiations before finally being submitted to adjudication by an international tribunal. Once this procedure is reported to, jurisdiction over

the matter shifts to the new body, and each side to the dispute is committed in advance to accepting the tribunal's verdict, unless it is clearly shown to have disregarded the terms of reference."

Now it is quite clear that the learned Chairman of this Tribunal disregarded the terms of reference or went beyond the terms of reference. He took into consideration political matters. He was not asked to produce a political settlement. He was asked to demarcate and settle the "boundary dispute. Therefore from a legal point of view I was unable to understand Mr. Setalvad's argument. From a legal point of view Mr. Chagla's argument is correct.

But it is not from a legal point of view only that we have to judge this issue. We have to take into consideration other factors also and one of the reasons which makes me hesitate to suggest that the Award should be rejected, which makes me think that the Award should be accepted for whatever it is worth is that we need to settle our disputes with Pakistan. We need to have friendly relations with our neighbours. We need to give to the world the picture of a country dedicated to peace. I may say that I had occasion recently to go through the book of President Ayub "Friends, Not Masters". I was greatly disappointed with that book because if his thesis is accepted, there can be no friendship between India and Pakistan. The point of view which he has expressed in this book is that India wants to finish off Pakistan. Pakistan is one-fifth of India and India has designs on Pakistan. If that is the mentality, it is difficult to argue. I remember a speech which I made in the debate on foreign affairs and I said that the ultimate solution of the problem was some sort of a loose confederation between India and Pakistan. But I see no signs of that. Mr. Nehru always used to show me courtesy by listening to my speeches. After I finished my speech, he came

to me and said "You made this remark but Pakistanis are very sensitive about it." I told him "You are the Prime Minister of India, I am not the Prime Minister of India. I am just an ordinary citizen and I am free to give expression to what in my opinion should be the ultimate solution of the problem." So he understood my point. It is far from anybody's intention to suggest even remotely that Mr. Nehru ever wanted a reunification of India and Pakistan. 2 P.M.

He never wanted Pakistan to disappear. That is the mentality of President Ayub. We should make concession but we should be under no illusion as long as those concessions are likely to affect the mind of Pakistan. Even if we are to yield on the question of Kashmir—and I am one of those who flirt with the idea that we should give Kashmir some sort of autonomy Pakistan will discover something or other to keep alive the dispute between us because it wants to exist and it can exist only when there is a dispute between India and Pakistan. That is the difficulty so far as we are concerned. I told Mr. Shastri, when I went through the agreement at that time, that it was 'a mistake on his part—I told him frankly in private association and I can reveal it now—to agree to that clause in the agreement which ruled out the appointment of any national to this Tribunal. I said that I would have had a judge from India, and I would have had a judge from Pakistan and with the agreement of both the parties, I would also have a nominee of the Secretary-General of the United Nations as the Chairman. The reason was this. Our Judge, Mr. Ales Bebler, is one of the greatest authorities on International law as it should be in a non-colonial era. Their Judge, Mr. Entezam, is a very distinguished diplomat and the Swedish Judge, with his democratic bias, was influenced by the consideration that there should be political stability. That was not the point referred to him. This is the theme which has been developed

by the great Jurist, Mr. Cardozo, in his book on 'Sources of Law'. The

• Swedish Judge naturally felt attracted by the argument of the Pakistan Judge. It has been said that 90 per cent, territory has been given to us but it is the 10 per cent, which we have to give up that matters and that is the position which has been created by this Award.

May I also say that one of the lessons which we should draw from this agreement is that we should hereafter settle our disputes by direct negotiations? That is the great virtue of the Tashkent Agreement and we should settle our disputes in the Tashkent spirit. We should not go to this Power or that Power for the purpose of mediation. Situated as we are, mediation is not likely to help us. Therefore, it is that I feel that we have had to suffer for some mistake which we committed in the conduct of negotiations regarding this Kutch border. I do not say that We should not now go ahead with the demarcation of the boundaries but let me give this warning that I am not sure that the Award will not involve some secession of territory and if it involves some secession of territory, the matter will have to go to the Supreme Court and we do not know what will be the decision of the Supreme Court in that case. We know that we had to fight in the Supreme Court so far as Berubari was concerned. We may have to fight this litigation in the Supreme Court so far as this Award is concerned. Therefore, it is not a matter of happiness that this Award is what it is. I do not deny that Mr. Daphtary, Mr. Chatterjee, Mr. Palkhi-wala and others who appeared for us did the best that they could for us. I would like to pay a tribute to the eminent jurist who was our arbitrator and I would like to say that the Swedish Chairman also enjoys a reputation of eminence in the world of international law but unfortunately I am not happy over the Award. I accept it as I accept many things which I do not like in life. It is

[Shri P. N. Saprū.]

something which has been forced down my throat. I do not feel happy about it. I can only say that this means that destiny intended that this should happen and it has happened. I am grateful to Mr. Rajnarain for a very thought-provoking speech which he delivered yesterday on this question. He did not speak in a partisan spirit. He spoke as the spokesman of the nationalist thought in this country.

SHRI AKBAR ALI KHAN (Andhra Pradesh): You pay very good compliments to Shri Rajnarain.

SHRI BANKA BEHARY DAS (Orissa): Mr. Vice-Chairman, after all those speeches of eminent jurists, I am not going to advance any legal argument against the acceptance of the Award. I want to refer Mr. Saprū, with all respect, to the fact that it is not only on one ground that an Award can be challenged. International jurists in many books which I can quote, have said that on three grounds international awards can be challenged, namely:

- (i) if one of the Judges is supposed to be gained over;
- (ii) if the Tribunal goes beyond the bounds of reference; and
- (iii) if the argument that have been adduced for coming to a conclusion are not the proper arguments for coming to that conclusion.

So, all those eminent international jurists have told us that, these are the three grounds on which a tribunal's award can be challenged. I am not saying about the first ground, but those second and third clearly indicate that this Award is not a legal Award and I shall very briefly go into them.

After hearing some of the illuminating speeches of our friends from Gujarat, from both sides of the House, who gave the history of the Rann of Kutch, I want to refer only to the

statement of Mr. Bebler who was our nominee on the Tribunal. I will divide the Award into two parts. One is about Biar Bet and other areas. Sir, the other conclusion that the Chairman has drawn is about the grazing, that is, Pakistani agriculturists were utilising it as a grazing ground, and the other three inlets which have been given to Pakistan, as admitted by the Chairman himself, have been owned and possessed by India. About the first argument Mr. Bebler has said this on page 77:

"It is inconceivable that the boundaries of Sind were kept vague and uncertain when Sind was created a Governor's province; the Under Secretary of State declared in the British Parliament that the boundaries of Sind were "clear". He no doubt had in mind the boundaries of Sind as shown in all official maps.

The inhabitants of Sind villages lying beyond the northern edge of the Rann, used to graze their cattle on three bays in the Rann, lying close to the northern edge of it. In this activity Sind authorities were not involved . . ."

He has clearly stated that Sind authorities were not involved in this activity. It means that only some agriculturists were involved in this activity.

"... while Kutch authorities levied a symbolic grazing tax (pan-chari) from 1926 on, although the recovery of this tax was resisted by the grazers."

That is, before independence.

"a revenue officer (tajvijidar) was also appointed by Kutch."

"The grazing of Sind cattle on the three bays in the Rann, being a purely private activity, would not constitute display of State authority." . . .

It means that even about that area, the three bets, which the Chairman has stated belong to Pakistan because of grazing activity, Mr. Bebler, our nominee there, has clearly stated quoting House of Commons debates that the boundaries of Sind were clear. Secondly, he has also stated that this grazing activity does not constitute any territorial sovereignty on the part of Sind over that grazing area because it was private activity, and also because the ruler of Kutch was levying a symbolic grazing tax on them. Sir, we know that even after the partition of Bengal into East Bengal—it is now East Pakistan—and West Bengal—it is now West Bengal—up till now also there are many people belonging to East Bengal or East Pakistan who are having their agricultural lands just on the border, in another revenue *mauza* or *taluka*, which is in West Bengal. But for that reason it does not up till now give power to East Bengal or East Pakistan to exercise its sovereignty over West Bengal or over those villages where their agriculturists' lands are situated. That is why 'Mr. Bebler has categorically stated here that this was a private affair' and the International Tribunal should not go in those aspects. Now this is one aspect of those three factors or bases. About inlets both of them agree that it is under the possession of Pakistan. So, here I want to say that on both those two grounds according to the formulations of international jurists, the decision of this Tribunal has no legal basis.

Now about the political aspect of the matter. Some of our friends who also want to challenge it on legal grounds have said on political grounds that, if we want to have amity between India and Pakistan, this may be considered in that perspective. Here also I want to tell them that by ceding these areas to Pakistan relations between India and Pakistan are not going to improve. If all those other differences that He between India and Pakistan would

have been taken into consideration 'and both India and Pakistan would have been a party to It and there would have been a permanent solution to the political stalemate that is going on between the two countries, I can understand that some give and take on political grounds between the two countries can take place just to have better relations. So from the point of view of political relations also no useful purpose will be served even if we cede these areas to Pakistan. Can any friend or the Government tell us that by ceding these areas on political grounds the problem of Kashmir will be solved? Can they tell us that by ceding these areas the other problems that are lying up till now unsolved will be solved? There is no question like that. So even if you take it from the point of view of political considerations there is no question of these two countries coming closer because of ceding these areas to Pakistan. Secondly, I want to tell my friends that it is not the nation's commitment. It is not 'a country where a bi-party foreign policy is being followed. I can understand, when this Agreement was entered into, when this Agreement was put before Parliament, if both sides would have agreed to it. In some other areas, democratic countries have their bi-party foreign policy. If in this country we could have evolved a bi-party foreign policy by which all the political parties in this country, at that time, would have agreed to this position then I can understand that the nation would have been committed to this. Kindly remember all those instances of international commitments of England—not their Immigration law enacted the other day—the commitments they entered into with America also, in regard to the Suez. But the nation did not accept all those commitments. One party, by virtue of its majority, if it enters into an agreement with another, the nation can well reject that agreement on some other occasion when it arises. That is why I am to put to my friends here also, even if you think that on

[Shri Banka Behary Das.] political grounds you have some justification to accept this Award because you have written there that you will accept this—though it is not a legal and valid document—in order to further the political relations that are now existing between India and Pakistan, the nation is not committed to it. So I would urge upon the Government, if they at all feel that this will improve our political relationship with Pakistan, that they should now resort to the method of plebiscite, because it is not a small question.

[THE VICE-CHAIRMAN (SHRI AKBAR ; ALI KHAN) in the Chair.] ^For the last twenty years we have &l-. lowed other countries to nibble at our borders. Throughout thes_e twenty years, all those neighbours who were at one time very weak nations began to behave as bullies because India behaved like a coward. In this world there are bullies—not that somebody is born a bully—but in the interna-tional situation that we are ' facing .bullies have come up, and it is because there are cowards in this world, an<j India, within these twenty years, • whatever might be its achievements in some fields, it has throughout behaved as a coward, as a result of which even smaller nations which are on the border have tried to behave as bullies, and as long as ' there is no personal equation between two countries on the basis of strength, on the basis of mutual respect, I am very sorry to say, in the present case, that by just conceding these areas you ar_e going to whet the appetite of Pakistan, as a result of Which Pakistan will always think and claim a hundred times that they can always again the cost of India.' So even if you cede these" areas, it is not going ' to help to create better relations between India and Pakistan which we all want to have. I am sorry to say that even when Parliament is sitting, when it is seized of the matter, when the decision of Parliament is not even known to the Government they unilaterally decided to implement the Award, and the talks

are going on, and today's papers say that by the end of this month the talks will be over and by the middle of next month the entire boundary between India and Pakistan will be demarcated according to this Award. It is an absolutely obnoxious situation in which we have been placed. I .wiH urge here that when the Prime Minister replies to the debate she should take into consideration . the sentiments of this nation. When I gay nation I don't mean the opposition only because some of the Members on the Treasury Benches including Members from Gujarat, have been very much agitated over this, and in spite of it if they want that they should . take into confidence the people and know the desire of the nation, then I will say that Government should resort to the plebiscite method and determine whether the nation is committed to this Award or not. Mr. Vice-Chairman, secondly, I want .to say that even if Government want to decide if Dv a majority—the Government has the backing of the majority—they cannot do it, and I agree entirely with Mr. Sapru that ceding of these areas cannot take place without an amendment in the Constitution. Even if they decide that it is a question of boundary adjustment so far as Chhad Bet and other Bets are concerned and ^ven if we concede that point, I am not prepared to concede the sam_e thing about the inlets which, according to me and according to everybody, belongs and has always belonged to India. It was always in the possession of India and that has been Indian territory and even according to the Award these inlets belong to India and they have been Indian territory. The moment you concede that this is Indian territory then if for any reasons you are going to cede that territory to somebody else then the only method by which you can do it is by an amendment of the Constitution. You can amend the Constitution and then deliver thi_s area to Pakistan. In Ihis connection I want to quote what Mr. L. Oppenheim, another famous^ In-

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international jurist, whom I quoted, during my speech on the President's Address, has to say on the question of cession. On page 49 of his book International Law, Volume I he says:

"Cession of territory is transfer of sovereignty over the said territory by the Owner State to another State".

These areas which are now going to be transferred to Pakistan do not come under the description of boundary adjustment, as the Chhad Bet and other Bets may be. These other inlets which we claim and which even the Chairman of this Commission says are areas of India, even if you want to transfer the sovereignty of India over this territory to another country, then in that case India can cede that territory to Pakistan and Pakistan can acquire that territory only through an amendment of the Constitution of India. So even if they decide to do it, in spite of the opposition of the nation, in spite of the wishes of many Members from both sides of the House, in spite of the fact that the nation was not committed to this Agreement that had taken place, they can do it only by amending the Constitution. Therefore, Mr. Vice-Chairman, there are these alternatives before the Government. First is reference of the question to a plebiscite to know the mind of the people, to know if there is a willing acceptance of this transfer. The second is, if they think that by majority they can accept the Award then because they will be going to cede Indian territory to Pakistan which will be the acquiring country, the only course open to the Government, according to international jurists, is to amend the Constitution so that the definition of Gujarat State is changed and Gujarat will then be allowed to surrender that territory to Pakistan.

I am not going to say anything more now. On these grounds, I oppose this Award and I submit that this Award should be rejected and hence I want I

to support the motion of Shri Raj-narain.

SHRI SURESH J. DESAI (Gujarat): Mr. Vice-Chairman, I oppose the motion moved by my hon. friend Shri Rajnarain. I oppose the motion not because we are happy over this Award but because I firmly believe that we cannot repudiate an international commitment which we have knowingly entered into. Sir, when this Agreement was signed on the 30th June, 1965 I was one of those people who opposed it very strongly in the Congress Parliamentary Party. I opposed it not because I disagreed with the principle of settling international boundary disputes by arbitration—in fact we were already committed to this principle of settling all boundary disputes by arbitration, as early as 1959 because of the Joint Communique of 24th October, 1959 between India and Pakistan where it was clearly enunciated:

"It was agreed that all outstanding boundary disputes should be referred to an impartial arbitration for settlement and implementation of that settlement by demarcation on the ground and by exchange of territorial jurisdiction, if any"

But I was opposed to this Agreement on other grounds. Firstly, while India referred this dispute in good faith as a boundary dispute, Pakistan referred the dispute as a territorial dispute. I would read out what the Agreement says here. It makes it very clear in article 3 of the Agreement:

"In view of the fact that:

(a) India claims that there is no territorial dispute as there is a well-established boundary running roughly along the northern edge of the Rann of Kutch as shown in the pre-partition maps, which needs to be demarcated on the ground.

(b) Pakistan claims that the border between India and Pakistan in the Rann of Kutch runs roughly

[Shri Suresh J. Desai.]

along the 24th parallel as is clear from several pre-partition and post-partition documents and, therefore, the dispute involves some 3,500 square miles of territory."

Therefore, the first ground on which I opposed the Agreement was that while we referred it as a boundary dispute for arbitration in fact we cannot refer any territorial dispute to an arbitration of this sort. The second ground for my strongly opposing this Agreement was that only July 14, 1948 the Pakistan High Commissioner had submitted a note to the Government—just eleven months after our attaining independence—asking for the appointment of a border commission to determine the Kutch-Sind border and we replied on the 10th of May, 1949 taking up the definite stand that this question was finally settled by the Resolution of the Government of Bombay of 24th February, 1914 and that the question of a Joint Border Commission in that sector did not arise. We should not have given up that stand because Pakistan committed aggression in Kutch,

My third ground for differing and for opposing this Agreement was that it was 'a most inappropriate time to enter into any agreement of this sort. Initially Pakistan had got certain advantages because the Pakistani Army was on more favourable ground for fighting. Secondly it was a surprise attack by Pakistan. Thirdly, Pakistan could use tanks in that whereas we could not take our tanks there because of the nature of the soil. The initial advantage was with Pakistan and there was jubilation among the Pakistani people. At that time we should not have entered into an agreement of this sort. That was especially so because our army was preparing to make a counter attack to give a counter blow. At that time our army was trying to regain its prestige which had suffered because of the initial advantages of Pakistan. But because Britain prevailed upon

our Prime Minister, our Government¹ entered into this Agreement. At that time, there was also a strong demand that we should open a second front, not in Kutch but at some more favourable place. Most of the people in the Congress Party also were in favour of opening a second front at that time. While they were asking for the opening of a second front, while our army was preparing to give a counter blow, at that time we entered into this Agreement. The army lost this opportunity of regaining its prestige and because of its initial advantage the people of Pakistan were jubilant and they thought that India was militarily weak and tottering. I shall read out some extracts from the Pakistani press of that time which will clearly show how the people of Pakistan viewed this Agreement at that time:

The "Huriat" of Karachi wrote on the 23rd of April, 1965 thus:

"Whatever happened in the dispute between India and China in the NEPA will be repeated in the dispute and in the war between India and Pakistan."

It was a reference to our conflict with China of 1962.

Then the "Navai Vaquat" of Lahore wrote on 9th May, 1965:

"The prescription we have applied to Kutch should be applied to the Kashmir frontier".

They mean by "prescription" the use of force. There is here an extract from the proceedings of the Pakistan National Assembly which says:

"If there is a war between India and Pakistan the Pakistan Army shall march on Delhi and capture Red Fort and shall fly the Pakistani flag on the Red Fort at Delhi".

That was the reaction or the mood in which they were at that time. Another issue of the "Huriat" of Karachi dated the 13th August, 1955—very

soon " after this Agreement was signed on the 30th June, contains this:

"The daughter should know that the sparks of fire which her father had lighted have now become a flame and it cannot be extinguished by the waters of the Ganga and Yamuna."

Then Mr. Bhutto in "Pakistan Times" dated the 20th August, 1965 says:

"To say that Pakistan has committed aggression in Kashmir is foolish and hypocritical. Pakistan cannot commit aggression on its own subjects in Kashmir."

There are a number of extracts with which I do not want to take the time of the House. Anyhow the initial setback which we received in the Kutch sector and this Agreement which we were prevailed upon to enter into created an impression in Pakistan that we were militarily weak, that we were tottering and it was only a question of Pakistan using more force to settle all the problems with us. I firmly believe that if we had taken up a strong attitude at that time and not entered into this Agreement the larger conflict which followed later on between India and Pakistan could have been averted.

[THE DEPUTY CHAIRMAN in the Chair]

I am mentioning these facts, Madam, only because we should grow wiser from our experience and we should n't enter into this sort of arbit^ation for tackling boundary disputes which later on develop into territorial disputes. That is why I quote all these facts.

As far as the case itself was concerned, evidence was properly led by our people. There was voluminous evidence; about 300 maps were submitted apart from the administrative reports of the erstwhile Bombay Government, Kutch administrative reports

etc. I do not think we have made any mistake in presenting our case, but what is the result? The result is, the judgment—u¹ I may not call it pervert, if I may not call it politically motivated—throws all legal concepts of international law and justice to the wind. I will give only one instance because I have not got sufficient time. There are a number of such instances which you will find if you read the whole book carefully. On page 134 it says:

"It is, in my opinion, established that after the publication of Indian Map B-II, the following maps beyond doubt did depict a continuous boundary of the said character, referring in whole or in part to the boundary at issue in these proceedings ____"

Then there are 50 maps that are quoted and the Chairman goes on to say:

"In conclusion the maps listed above do depict with striking uniformity a continuous boundary lying along the northern edge of the Rann and a few of them were seen and approved by the highest British authorities."

He further states:

"I have stated earlier that in my opinion, there did not exist at any time relevant in these proceedings, a historically recognised and well-established boundary in the disputed region."

At one place he says that there was a continuous boundary and that was clearly proved by the maps and at another place he says that in his opinion there did not exist at any time relevant in these proceedings a historically recognised and well-established boundary in the disputed region. Then he again contradicts himself and says:

"This notwithstanding, the statement and the maps now referred to constitute acts of competent British

[Shri Suresh J. Desai]

authorities which—if viewed as being in response to claims by Kutch or other Indian States that the Rann was Indian State territory— may be interpreted as acquiescence in, or acceptance of, such claims, and which—if viewed as unilateral administrative acts not prompted by such representations—may amount to a voluntary relinquishment, whether conscious or inadvertent, of British territorial rights in the Rann."

Now the clear recognition by the highest British authority of the claims and rights of the erstwhile State of Kutch is just watered down here as voluntary relinquishment, whether conscious or inadvertent. To my mind, Madam, they are either lacking in legal acumen or deliberately and consciously they are perverting the clear evidence which was put before them which they themselves recognised as depicting that the highest British authorities had accepted that the whole of the Rann of Kutch belonged to the erstwhile State of Kutch. There are a number of clear instances of this type and I have no doubt that this is—if you do not call it politically motivated—a sort of perverse judg-met. This is a perverse Award to which we have been subjected. At the same time, Madam, notwithstanding the fact that we opposed the Agreement very strongly at that time, because of the fact that it implied an international commitment, in my humble opinion it would not be in keeing with the prestige of the country to go back upon the Agreement.

After all

we cannot follow the conduct which Pakistan has been following in international society. We cannot be an outlaw in the international society. We have a name, a prestige in the international sphere and we have to keep it up and we have to follow certain codes of moral conduct in the field of international relations and only from that viewpoint I say that we have no other alternative but to accept the Award. Witii regret we

I should accept the Award; that is the only thing now left for us.

Only one more point I want to touch and that is as to whether the Consti-
[tution needs to be amended or not.
There are legal experts on this side
] and on the other side also. I would
| request Madam Prime Minister, when
she intervenes, to make it clear what
the opinion of the Government of
India's legal experts, especially the
Law Ministry, is im the matter.

Thank you, Madam, for giving me this opportunity to speak.

SHRI BHUPESH GUPTA (West Bengal):
Madam Deputy Chairman, it is quite possible to speak with a j great deal of passion on a matter like this as indeed my friends of the Samyukta Socialist Party and the Jana Sangh have done here. I am also capable of introducing a little passion but I thought that over a subject like this I had rather avoid passion and view it in the larger perspective of national interests. Often it is said that unless you take the stand that this Award should be rejected you are not displaying patriotism. I do not at all accept that viewpoint because we live not in an isolated world. We live with our neighbours in certain conditions of international realities and realities of our internal political life also. How then can we completely ignore the repercussion that a step of the kind envisaged or suggested by the Samyukta Socialist Party is likely to create? Madam Deputy Chairman, we need not sit as if in a court of appeal d«al with the Award and examine it from a legalistic angle or even from the angle off accepted constitutional law or usage. We shall have to consider it in the context of a very specific pra(blem, a question we have been living with all these years, namely, the question of Indo-Pak relations. We have to make up our mind clearly as to the direction in which we want to m«ve no matter what the other

party does in a given situation. As far as Indo-Pak relations are concerned we are committed as a nation and as a community also to the line of peaceful approach, peaceful settlement, friendship and amity with our neighbour. This is as it should be because the problems arising from Indo-Pak relations are a legacy of the partition of the country and it should always be our endeavour in shaping our internal affairs and our external affairs to see that we minimise as far as possible the harmful consequences of the partition of the country within the framework of the co-existence of the two States. It should be our endeavour always to seek points of agreement, seek bridges for building up friendship and amity to which we are committed. It should be our endeavour, therefore, to reduce the points of friction as far as possible of course consistent with national dignity and national honour but then, Madam Deputy Chairman, can we possibly view in the context of our national honour in chauvinistic spirit without taking into account the reality that here exists on this sub-continent of two nations which had been artificially created as a result of partition, against which we had fought during all those years of our freedom fight? No, we cannot possibly ignore it. Therefore, I think the approach in this matter should be political, should be moral, should be ethical. Our horizon should not be a narrow one, but a broader and larger one. Only on that basis can we arrive at the right conclusions. Otherwise, we shall be faltering, we shall be failing in taking the right step. It is very easy to say that the Award should be rejected, but then we must also say how we are going to face the situation that might arise out of it. Are we thinking in terms of fresh clashes and conflicts or are we interested in seeing that clashes do not take place and we proceed, as far as possible and to the best of our ability, along peaceful lines? Clashes between India and Pakistan harm both our people. It is not just if a sort of war between two

nations who suddenly come, by a coincidence of historical processes, into a clash of interests to defend certain chauvinistic interests here or in the other place. It is not like that. Here certainly there are elements, warmongers, who want a clash and conflict, but the ultimate and real beneficiary of such a conflict is a third party and that party is Anglo-American imperialism. Therefore, if we are to consider this matter, how can we, for a moment, forget that we have to be on guard against the evil designs and machinations of the imperialist powers and the likely advantage they may derive out of any untoward turn developing in the relations between our two countries. That is very important. Those people who do not take into account imperialism or imperialist machinations, well, for them it is easy to say what they say. Anyhow, you can hit newspaper headlines. What I am saying would not easily attract newspaper headlines. The going is not good on my side. I know it, but I must stand for what I believe and I know that on a subject like this one does not speak always with assurance.

SHRI LOKANATH MISRA (Orissa):
You have attracted the headlines too long.

SHRI BHUFESH GUPTA: As far as you are concerned, I do not know, but your Party is half supporting it and half opposing it. The Kutch part of it opposes this Award and asks the Government to reject it and Mr. Dandekar and Mr. Masani are on the Kutch part. Prof. Ranga wants to accept it. Why go to any Tribunal? In one Party you cannot come to one conclusion, which is a plausible one and which is acceptable to all of you. So, you can understand the problem how difficult it is to settle Indo-Pak problems when the Swatantra Party cannot settle its domestic problem over a matter like this, i.e., "To be or not to be"?

SHRI LOKANATH MISRA: We settle it ourselves.

SHRI BHUFESH GUPTA: This is the hi st thing. Secondly, here, if I am to go through this Award carefully and study it as u' I am a lawyer, it is possible to find out arguments tor or against it. Give it to Mr. Setalvad he wiH produce one set of arguments. Give it to Mr. Chagla, he will produce exactly the opposite set of arguments. Give it to somebody else, he will find some arguments to be the chairman in the conflict between Mr. Chagla and Mr. Setalvad. It is quite possible. Otherwise, lawyers would not be minting money. If the propositions were so simple, so self-evident, so self-explanatory, do you think that Mr. Chagla and Mr. Setalvad, both of them, would have been flourishing in the Bombay High Court making making money? They were appearing on both sides and both of them were making money. Therefore, let us not go into that, Here is a political ijssue. Here is an issue which demands no legal quibblings as if we are in a court oi' law. Now that the Award has come, a situation has arisen. What is demanded of us is vision, statesmanship, courage to stand up to certain principles that have been held dear to our heart and which we wish to promote. We want to set an example and we want to inspire the healthy forces in Pakistan also. We are addressing, whether we like it or not, when we speak in Parliament a larger world audience and above all the people in Pakistan. I am talking about the good people. They will be watching as to how India reacts to this Award. We know that in the internal life oi Pakistan conflicts are going on between the aggressive forces, on the one hand, those who want enmity, hostility and tension with India. On the other hand, ther are those who seek the ways efl friendship, amPy and peace with ou~ country. Are we not interested in en couraging those people in the politic-' life of Pakistan by our example b~j our conduct, by our spoken word. I

i and deeds. Well the bridge of friend-
! ship will be open from this side, if there are
people on that side, to walk along the
bridge. That should be our
j approach. Therefore, let us discuss it
i 'rom that angle.

Historically speaking, the original ! sin was
comitted by tne late lamented I Prime
Minister. Lal Bahadul Shastriji. j I tell you
very frankly. As far as this Congress
Government is concerned, \ the sooner it
goes, the better. There is no doubt about it,
but we are not concerned with the question of
Gov-i ernment at the moment. We are con-
cerned with the proposition before us and ii
you look at it historically, you will find that
the original sin was committed. I took part
in all the private discussions Lal
Bahadur Shastriji held with the leaders of
various political parties in his room in
Parliament or in Prime Minister's office.
What was the position then? It is not as if we
were winning at that time. Rainy season was
coming. The situation was difficult. At that
time the British came into the picture and
indulged in secret diplomacy at that time.
Thty prepared a kind of draft agreement and
asked India and Pakistan to accpet it.
Maybe thsy had consulted Pakistan
already and asked India to sign on the dotted
line. I may inform the House even
Shastriji's Government found it difficult to
sign the original dra't agreement, as it was
given to the Government. It was vicious.
Even the agreement that was finally signed
was bad. We criticised it. We asked Lal
Bahadur Shastriji not to sign such an
agreement, certain terms of the agreement.
We were in favour of a cease-, Are. I declare
here that we were absolutely right. There
should not e been any attempt on our
part lT prolong the war and go into the -
ivocess of •military conflict and so on. Tf there
were other ways of seeking i solution¹ or at
least trying for a solu-on avoiding war,
avoidance of war k something which civilised
nations hould practise. War is not some-J
'ling which we cherish. It is one

which we should try to avoid all the time. In the case of those who want it, it is a different matter. But what ' happened as far as this agreement is concerned? First of all, in the terms . of the agreement, in the very pream- j ble, there were certain statements j made which were not at "U satisfac- J tory and the agreement provided that this wiH be not only for the .demarcation of boundary, but the determination O! the border in the light of the respective claims. We objected to this at that time. Pakistan had laid claim to 3500 sq. miles. We said: you do not go to arbitration on the basis of the claim; go to arbitration, if necessary, on the basis of demarcation of the boundary or delimitation and also in that lespect on the basis of such claim coming from the other side. Therefore, it was wrong. It was wrong on Shastri-ji's part to agree to it. Secondly, there was another formulation. In the agreement it is said the arbitration award of the tribunal "shall not be questioned on any ground whatsoever". Therefore, we precluded ourselves from questioning it. It would serve no purpose for Mr. Chagla to make out now that he can question it. At that time, Madam, Deputy Chairman, I pointed out that international usage and other law do not require that we should in this manner preclude ourselves. On the contrary international law provides that certain types of awards of tribunal could be legitimately questioned in conformity with the usage of international law. I pointed these things out and I said it should not have been done. There also Shastriji said, "No, nothing can be done". It was said, "Well, we are absolutely bound by it and nothing cou'd be done". Now what is the use of trying to manufacture arguments at this late hour when the Award is in our hands? When we asked Shastriji not to accept this kind of terms, not to submit to this kind of self-denying ordinance, Shastriii asked us not to trouble him, and na- j turally he appealed to us to accept this position in the name of peace.

We could understand the latter part of it that he appealed in the name of peace. With regard to the boundary demarcation and delimitation issue, in Lok Sabha on the 16th August, 1965, this is what he said. "It is perfectly clear that the boundary would be demarcated on the basis of documentary evidence and the *de facto* interim position would have no relevance whatsoever". But did the agreement provide for it? These were Shastriji's own words. It is no use saying one thing in Parliament and getting another thing done. You signed the agreement on the 30th June and the agreement did not contain this kind of formulation -vhich Shastriji made on the floor of the House; and we pointed out, we small people here pointed out, "Shastriji, what you are saying you had not signed in that agreement". Naturally he had no answer because tne agreement was then before us is it is now before us also. Therefore, you committed the original sin. That is number one.

You took the position that no matter what award comes We shall accept it without question. That was the international commitment. I would like even the Congress people sometimes to respect their word provided it is for a good cause, not the way they give assurance to America about sell out on devaluation and other things. As I am saying, we are protecting our national honour and interest and we cannot think of our long-term interest without taking into account the Indo-Pakistan relations. What is this budget, military defence budget of Rs. 1000 crores and more today? Would we have that budget with such impact on our economy but for the fact that we have not tidied up our Indo-Pakistan affairs that we have not settled our Indo-Pakistan problems? Therefore, you must take that into account. Do you not think that if we take the course that my friend. Mr. Rainarain, suggests, the budget will go higher, people will suffer, tension will increase and conditions of uncertainty will

[Shri Bhupesh Gupta] develop, far from solving the problem?

Madam Deputy Chairman, I have given the background. The British tricked Shastriji's Government into the trap. We are carrying this. Shrimati Indira Gandhi is holding the baby. Being a good mother, she will certainly hold it very nicely and tenderly, I have no doubt about it, but the baby comes from there after this award. Do you, Madam—this is the point—do you, Madam, think an award can ever give a hundred per cent satisfaction to anybody? Have you heard of an award, whether in industrial dispute or in private litigation or in partnership, which gives a hundred per cent satisfaction? Never an award has given hundred per cent satisfaction. I would like to be told about that award which gave to a party hundred per cent satisfaction especially when such claims are involved. In our Constitution we have provided for arbitration. In the present case we should have settled it through bilateral discussion. We should not have gone in for British-manufactured, British-contrived arbitration with British terms of reference under an agreement produced in Whitehall, for which we hold the Congress Government responsible.

Madam, let us look at the award. What was it that Pakistan Wanted? I have also gone through it. I am a bit of a student of law but the more I think of law the more frightened I feel myself. Therefore, I have tried to understand what is there. Anything can be said. Surely we support the minority judgment, but today we are 'riot' sitting as if we are the Privy Council or the House of Lords in the capacity of the highest judicial tribunal of the United Kingdom, nor are we acting here as the Supreme Court. A "political proposition has come before us. Let us see what we have "gained and what we have lost, what is plus and what is minus. The minus

certainly is 350 square miles. Is there anything plus in it? If you read this award not as a case of border demarcation or even border delimitation, Pakistan has built up its case as a case of territorial claim Involving 3500 square miles, with a view to establishing not a claim in the sense of how to draw the line but how much territory they could grab from our country, and their claim was put at 3500 square miles. How much they have got? It is 350 square miles. Where? That you all know. In substance we gain. Before the world opinion we stand vindicated because we said it is not a matter of territorial claim. Pakistan has failed to convince even the Chairman of the tribunal about its territorial claim. That has been rejected. The bottom of Pakistan's case has been knocked out by the unanimous judgment of the tribunal. Is it not a mortal victory for us? Did we think when we went to a tribunal of this kind that the tribunal would sign whatever New Delhi said or whatever my friend, Mr. Rajnarain said? We went there, we fought out the case against overwhelming odds, because one member of the tribunal was from Iran, a country which is a partner in SEATO and CENTO, Pakistan's military ally; another came from Sweden, from the ruling circles, pro-West circles of Sweden; only one came from a non-aligned country. In the sense of physical composition it was 2:1; that is, non-aligned 1, partisans 2. Even so Pakistan has failed to prove the basis of its case and the substantial part of its claim. Pakistan has morally lost. It is quite clear. Pakistan did not start the war in the Rann of Kutch in order to draw certain boundary or to put some boundary posts. Pakistan went into war in 1965 in the Rann of Kutch to take possession of the entire area, and in pursuance of that it went to the tribunal backed by Britain. We have defeated to some extent the game of the British as well as that of Pakistan.

THE DEPUTY CHAIRMAN: Please
%vind up.

SHRI BHUPESH GUPTA: Madam Deputy
Chairman, let me come to the operative part.
From the entire opposition you have heard
only one point of view. Here is a
different

point of view. Madam 3 P.M.
Deputy Chairman, let me
come to the original part. Therefore,
from the entire Opposition you have heard
views. Here is a different view. Another time
will come when my friend, Mr. Niren Ghosh,
wiH speak.

It looks as if we have lost everything. I do
not take a defeatist view. Certainly, I do not
like the Chairman's judgment here, the
majority judgment, and the manner in which
"he has sought to settle this thing. I am. not
going into the legal part of it. But first thing,
we have won morally. It was not a case of
territorial claim or territorial re-distribution.
Certainly we have won also irom another
point. Pakistan wanted 5500 square miles;
Pakistan got only one-tenth of it.

The rest has come to India.

AN HON. MEMBER: He does not
understand what he talks.

SHRI BHUPESH GUPTA: Then
ou go somewhere.

Pakistan came into the war. started
aggressive action, to take the v-ery part which
you have got. Pakistan started the war not to
regain only Chad Bet. They started the war
backed by the British to grab what has now,
as a result of the Tribunal, come to us, which
we retain. Please understand it. Then your
argument also can turn round that way. That
"way, that is not an issue. We went to the
Tribunal. The Award is given. Therefore, I
say, do not take a defeatist view of this or in
such a manner as to criticise the judgment.

Finally, I would only like to say this. We
have strong criticisms to 278 Rs—6.

make against the Government, especially the
Government that was in office in 1965 which
mismanaged and bungled and let itself be
tricked by Whitehall. Certainly, condemn that
Government by all means, condemn the
Congress Government any time you like. I am
with you. We condemned the British who
played the dirty trick at that time. But our
love for the British was still there. Shrimati
Indira Gandhi told the Congress Partymen to
be a little cautious, not to come to hasty
conclusions. Well, we know all that. Blame
them. But what about the Award now? It has
to be implemented. I know that it is not a very
popular utterance to toy friend, Mr. Rajnarain.
I hope I will not lose his friendship. Our
friendship is more enduring than the Award
for that particular area. But I say, what are we
to do now? What are the consequences of the
rejection? Politically or otherwise, discuss it;
come to the point.

Madam Deputy Chairman, we are bound by
the Tashkent spirit. We made a solemn
commitment some years ago, Shri Lal
Bahadur Shastri made it, the nation mad_e it.
The Tashkent spirit told us—and we accepted
it without reservation—that we shall seek
solution of all problems by peaceful methods,
through negotiations. We had been accusing
the Ayub Government or the Ayub regime that
it did not observe the Tashkent spirit. Must we
not deal over a matter like this in the Tashkent
spirit? Or shall we say that the Tashkent spirit
be suspended and put into the cold storage?
Then we shall stand here in this House, with a
sword in hand and tell the nations of the
world, tell our neighbours in Pakistan, that we
are not going to implement this Award and
should anybody do anything, shall we say,
sword will be met with sword? Is that the way
to speak? Whatever we may say, in the larger
interests of the country—I again say in the
nation al interests of the country, in the larger
interests of the relations be-

[Shri Bhupesh Gupta] tween India and Pakistan and for the promotion of the high ideals that we hold dear to our heart, it is absolutely essential that we, whether we like it or not, proceed to implement this Award in good faith. We have been vindicated because our case has been just and the faithful implementation of this Award, despite our reservation, despite our complaint, will bring honour to the country and create better relations, better condition, in the Tashkent spirit, in advancing to a greater initiative in order to bring about Indo-Pak amity and Indo-Pakistan relations.

THE PRIME MINISTER AND MINISTER OF EXTERNAL AFFAIRS (SHRIMATI INDIRA GANDHI): Madam Deputy Chairman, I must admit that I also share the unhappiness of the hon. Members and the country at Large that the Award is not wholly in our favour. Before I say anything further, I should like to pay a very warm tribute to Mr. Bebler for the hard work which he put in, for his forthrightness and the understanding which he has shown in his illuminating judgment.

Sardar Swaran Singh has yesterday given the historical details and described how the entire process of partition had been completed through arbitration. He has also raised the level of the debate to certain fundamentals. And here if I may, I should like to quote what our ex-President, Dr. Radhakrishnan, has written or said somewhere. I quote—

"When we say that we are Indians, that we are all Bharatiyas, we must remember that the true quality of Indianness does not, consist in our being merely born in this place but in our developing certain outlooks, attitudes and certain dispositions which have been associated with this country from time immemorial."

Madam, we have stood for certain ideals. It is easy for individuals and sometimes even for other countries to decry our efforts or to malign us. But India has endeavoured—being merely human beings. We have our shortcomings and we have not always succeeded—but we have always endeavoured to maintain certain standards during the freedom; fight and later on, during the struggle for development. And Madam, I sincerely hope that we shall always, continue to do so.

I have welcomed the motion of the hon. Member to take this matter into consideration, though I must oppose the other motion. We are always glad to hear the views of hon. Members on any subject which is of such deep concern to this House and to the country at large. However, Madam, I am somewhat astonished that the other day hon. Members should have allowed their memory to fail them on the point that the agreement had not only been discussed in this honourable House but been approved by it. The House, as I mentioned also the other day, discussed the agreement at great length. And as far back as August 24, 1965, it endorsed and approved of it by an overwhelming majority.

Sir, the issue before us today is not the issue of the Kutch Agreement. Most of the discussion here has centred around the Agreement but the issue today is not the Agreement which was approved by this House. And as in all democracies, we are committed to what the House has, discussed and approved. But since it has been discussed here, I should like to say just a few words to recall the background of the Agreement.

Shrimati Lalitha Rajagopalan and other hon. Members have rightly stated that it would be idle to believe that there was no dispute in Kutch. In fact, there was a dispute. There were bilateral talks, and finally there was armed conflict. It was hinted that the agreement arose out of the—

military pressure exported by Pakistan. This, Madam, is not true. When Pakistan tried to settle the issue by force and indulged in blatant aggression, we gave them a fitting reply. We did fight back. So, it was not from a position of weakness that Shastriji agreed to arbitration. The question before him was, as the hon. Mr. Setalvad rightly pointed out to decide what was the best way to deal With this problem. There were two broad courses open; one to let the armed conflict grow and the other to find out a peaceful solution. Now, the course of peaceful settlement through arbitration was chosen. Some Members have suggested that it might have been better to have bilateral talks rather than arbitration. Now, that is a matter of opinion, and they are entitled to hold a particular view. At that time, Shastriji said in this House and I quote—

"It would be disastrous if we wage war or if we go to war if there is any possibility of settling issues without any major conflict. And in this matter, as I said, with the endorsement of the House— and I think that is the general attitude of our people also—we felt that it would be desirable that we should try to have a peaceful approach and settle the matter honourably."

So it was not because of fear of armed confrontation or doubts about the outcome of such confrontation that this decision was taken. Not only did we fight back at that time but three months later, when Pakistan forced a much larger conflict upon us, our valiant forces, our brave officers, Jawans, airmen and others demonstrated their valour and their determination to defend our country.

The movers of the two motions have both maintained, and some other hon. Members also have said, that the implementation of the Award requires a constitutional amendment. Madam, this matter also has been dealt with in this House and, on a

previous occasion, in the other House. Let me straightway say that there is no question whatsoever of bypassing the Constitution or this honourable House. Indeed no Government with a parliamentary form of democracy can think of bypassing Parliament. And as this Government has amply demonstrated only the other day— and is glad to do every time it is; called upon to do so—this Government continues to enjoy the confidence of this Parliament and of this nation. There can be no question also of being shy of going to the people. We have gone to the people whenever required and, Madam, it is because the people have willed it so that we are sitting on this side of the House and not on the other.

Coming to the constitutional point, hon. Shri Shastriji made, it clear even in the discussion which took place in 1965 that what was involved in this case was not transfer or cession of territory but the determination and demarcation of a boundary- The Tribunal has thus determined the boundary alignment, where in its judgment the border between India and Pakistan lay at this particular point, at the time of independence.

I was astonished to hear some reference made to the Berubari case. There is nothing in common between the two cases: since that involved a transfer of territory and this one, the determination of the boundary alignment. Some hon. Members also mentioned Kashmir in this context. Here again my colleague, the Minister of Defence, has already clarified the point. It is quite irrelevant to link up the two issues. Since the determination of the boundary and demarcation which is to follow do not involve a transfer of territory, the question of a Constitutional amendment does not arise. This is the conclusion reached by Government on the basis of the legal advice given to them.

Madam, this House will have observed from the Award that the

[Shrimati Indira Gandhi]

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alignment claim of India has been substantially accepted by the Tribunal. May I correct my hon'ble friend, Shri Bhupesh Gupta, who always feels he is right? Here in this House he was trying to give away more territory than has actually been adjudged to lie on Pakistan side because. Madam, the figure is not 350 it is 315.

SHRI BHUPESH GUPTA: It must be a printing mistake.

SHRIMATI INDIRA GANDHI: Speaking mistake.

SHRI BHUPESH GUPTA: At least on one matter Shrimati Indira Gandhi has corrected me. Honourable development.

SHRIMATI INDIRA GANDHI: Therefore, while Judge Bebler upheld our claim completely, it is a matter of record that the alignment claimed by India has found support in regard to the greater part of it. The Members of the Tribunal rejected the three principal contentions advanced by Pakistan and held: —

"It has not been established that Sind exercised continuous and effective jurisdiction over the whole part of the country."
Pakistan's claim to this effect was thus rejected.

Again, the Tribunal rejected Pakistan's claim based on the so-called "Median Line" and the principle of nearness of shores. I shall not take the time of the House by quoting the relevant portion from the relevant paragraphs since hon'ble Members are in possession of the Award and the remarks which I wanted to refer to are on pages 146 and 149 of the printed copy of the Award. Similarly, the third basic contention of Pakistan concerning the so-called "widthless line" has also not been upheld by the Tribunal. On the contrary, the Tribunal has upheld the essential basis of the

Indian argument. The Tribunal has stated, on the basis of evidence produced by us, that these records must be construed as an act of recognition on the part of the highest British authority that the Rann was Kutch territory.

Madam, our disappointment at the Tribunal's findings not being wholly in our favour cannot justify our going back on a solemn commitment and agreement. It should be clear to us where our duty lies. As a responsible Government entrusted with the confidence of this Parliament and of the country, we cannot but honour this commitment.

It is understandable that hon. Members should be upset by the observations in the Award regarding the two inlets. As I said earlier, I must confess that I share that disappointment. We also regret that while upholding our case in regard to the greater part of the boundary alignment, the majority judges should have made deviations from the line claimed by us.

As hon. Shri Setalvad has pointed out, sometimes different conclusions are given in such pronouncements and these conclusions may not always meet the case in its entirety. In this very House, Madam, yesterday two eminent jurists in our midst expressed different conclusions and different reactions on the findings of the Tribunal. So, Madam, let us not question the motives of the Tribunal on the ground that while mostly upholding our claim, some of its findings are not in our favour.

The House will recall that speaking in this very House Shastriji himself had pointed out, and I quote: —

"However, we have taken a risk no doubt. But then what can we do? Is it suggested that on every border dispute we should go to war?"

It is hardly possible in this background to entertain any suggestion that we should somehow try to get out of this solemn commitment in one way or

another. We must remember that even in the midst of the active conflict of August-September, 1965 India chose not to repudiate this Agreement. I submit, Madam, that it would not be right or proper for us to do so now.

Hon'ble Member Shri Dharia and other talked of national interests. Madam, I believe as I stated at the beginning of my speech that our national honour and our larger and long-term interests demand that India should always do what is right and what is proper, and any other view would be taking an extremely short term point of view and would harm us in the long run.

Some hon'ble Members have expressed their concern about the defence of this part of the border. I appreciate this concern and it is something to which we have to give very careful attention, and, Madam, we are giving that attention.

An honourable Member seemed to suggest that the Government has been influenced in this case by the consideration of the defence of the area—which he called far-flung although it is no further from us than many other areas of the country—would be difficult and very expensive. This is an entirely wrong attitude to take. It is an incorrect attitude to take and it would be wrong for the Government to think along those lines. I should like to assure the House and make it perfectly clear that when the border is delineated, it will be defended strongly as indeed any other part of the border must be defended. Defence and security will be ensured at all times through the strength and determination of the whole nation and by its valiant armed forces who have left no one in the country or outside in any doubt about our capability to thwart aggression against our sacred soil.

A suggestion has been made that the development of this area should be ensured through the implementation of the various projects. Suggestions were made in the other House

and suggestions have been made to me both by members of the Congress Party and of other parties. One hon. Member tried to suggest that we were taking up this matter as a kind of sop to Gujarat. This again, Madam, if I may humbly suggest is a very wrong way of looking at the problem. It is our concern that the whole area should be developed and should be able to play its part in strengthening the country in every way. The reason why I mentioned it in my statement was that several Members in the other House had spoken of it in their speeches. I always welcome any such constructive suggestion which would promote the prosperity and development of this area and this is the principal task now to which we must pay urgent attention. The Narmada project, which is one of our most important projects, is of interest to more than one State and, Madam, we have been having consultations regarding the most fruitful and productive way of furthering this project for the common benefit of all.

SHRI BHUPESH GUPTA: We can discuss Narmada on a separate motion.

SHRIMATI INDIRA GANDHI: I hope that whatever is possible to provide for the speedy development of this area will soon be done.

„It is understandable that a debate of this kind should bring to the fore the larger question of the relationship between India and Pakistan. Now, here we must recognise that there are differences of approach. I can only state the Government's approach to this question. It has been stated on earlier occasions, but I should like to reiterate our policy, which is that we believe that India and Pakistan must some day settle down to a rational relationship of peace and good neighbourliness. We have a background and many problems in common. It is not realistic to think that we can go to war on the slightest provocation. It is, therefore, our sincere hope that the settlement of this issue will

[Shrimati Indira Gandhi] bring to a close an unhappy chapter of discord between India and Pakistan and help towards the promotion of normal and good neighbourly relations between our two countries.

I have dealt with most of the points. I see my hon. friend Shri Sapru here. He remarked—I listened to him although I was not sitting in my place here. I would like to let him and other hon. Members; know that I was listening to the whole of this debate with great attention from my room. Sometimes one is not able to be present here, but fortunately I have got the facility of listening to the remarks of hon. Members and thus keep in touch with what is happening in the House. As I said, I welcome the Motion that this matter be taken into consideration. But I hope that having listened to all the speeches and the arguments here, hon. Members will come to the conclusion that India must honour its commitment to this agreement which in 1965 was discussed at length in this House and endorsed by it. Thank you.

THE DEPUTY CHAIRMAN: Mr. Rajnarain will reply.

SHRI B. D. KHOBARAGADE (Maharashtra): One question, Madam.

SHRI G. MURAHARI (Uttar Pradesh): Madam, I would forgo my right to speak on this Motion provided you allow Mr. Chandrasekharan to speak.

THE DEPUTY CHAIRMAN: There are so many names before me. It is not that there is only one name or there is only one suggestion. There are many names before me. But the Prime Minister having intervened, I considered that the matter was closed and the mover would reply.

SHRI G. MURAHARI: The matter was not closed.

THE DEPUTY CHAIRMAN: Please listen to me. If the discussion is to go on . . .

SHRI G. MURAHARI: You are going back on your own word.

THE DEPUTY CHAIRMAN: I do not know whether the discussion should go on or not. If the House so desires . . . (*Interruption*) Mr. Rajnarain, will you reply at this stage?

SHRI BHUPESH GUPTA: Do you think the Prime Minister could convince Mr. Rajnarain if I could not convince him?

श्री राजनारायण : कम यह बात तो हो चुकी है कि प्राइम मिनिस्टर साहिब बीच में इन-रवीन करेगी और हमने आपके पास लिड कर भेज दिया था कि हमारी पार्टी की ओर से श्री चन्द्र शेखर बोलेंगे ।

THE DEPUTY CHAIRMAN: That is all right If the debate is to continue, I want to put to you whether you want to reply now or at the end?

SHRI RAJNARAIN: At the end.

SHRI BHUPESH GUPTA: The reply should always be in the end. What are you saying? You are forgetting this practice.

THE DEPUTY CHAIRMAN: Because the Prime Minister has intervened . . .

(*Interruption*)

DR. B. N. ANTANI (Gujarat): Madam, . . .

THE DEPUTY CHAIRMAN: What do you want to say?

DR. B. N. ANTANI: Madam, on a point of clarification. As I said yesterday in my speech, at one stage members of the Tribunal desired to visit the place on which they were going to arbitrate. Arrangements were made and it was decided that

they were coming. Could or would the hon. Prime Minister, for the satisfaction of people in Kutch who are very much concerned with this point clarify now, why and in what manner was this visit of the members of the Tribunal cancelled? I am emphasising this as does the entire Kutch. The Prime Minister herself visited one very near point. People on camels greeted her. They are the people who are to-day going to be deprived of that point.

THE DEPUTY CHAIRMAN: Please be brief.

DR. B. N. ANTANI: I will be very brief. I do not have the honour to be Mr. Rajnarain or Mr. Bhupesh Gupta. So I will be brief. Now, the Prime Minister will particularly remember that Chhad Bet has got a natural boundary of sand dunes. Now one is rightly or wrongly under the impression—perhaps it is wishful thinking, beggar, cannot be choosers—that if the Members of the Tribunal had visited that spot, the impression of the Members of the Tribunal would have been different.

SHRIMATI INDIRA GANDHI: Madam, it was India herself who had suggested such a visit, but after consideration, the Tribunal thought it was not necessary.

SHRI B. D. KHOBARAGADE: Madam, when the Tribunal was appointed, the Governments of Pakistan and India recommended their own representatives to constitute the Tribunal. But there was conflict regarding the person who should be the Chairman of the Tribunal. I would like to know from the hon. Prime Minister whether this conflict of opinion between India and Pakistan regarding the person who should be the Chairman of the Tribunal, was due to any distrust in any particular country and that the Chairman will not be impartial in giving the award. If that is so, is it not true that the present award is not a legal and

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judicious award, but a political award and that the doubts that were expressed in the beginning regarding the appointment of the Chairman have been confirmed now?

SHRIMATI INDIRA GANDHI: It was mentioned in the agreement, Madam, that if there was no agreement, the Secretary-General would appoint the Chairman.

THE DEPUTY CHAIRMAN: Now the debate will continue. Mr. Mookerjee.

SHRI DEBABRATA MOOKERJEE (West Bengal): Madam Deputy Chairman, the question before the House is this, whether we are prepared to stand by an agreement into which we solemnly entered, that this dispute should be referred to an arbitration. It is well known that an arbitrator's award cannot possibly satisfy on all conceivable points all the parties. We have 90 per cent, of the Award in our favour and only 10 per cent. has gone in favour of Pakistan. If we forget the quantitative aspect of it, the real question which will have to be considered is whether this Award has been vitiated by extraneous considerations and whether we should throw it out. It would be my endeavour to show by reference to the intrinsic evidence of the Award itself that the arbitrators did not allow their considerations to be warped by extraneous matter. I will place before you certain excerpts from the Opinion of the Chairman which will in my view make the position plain. The Chairman says:

"It is the case of both Parties that the Tribunal is not bound to adhere to either claim line if it conclude* on the evidence on record that the boundary lies elsewhere, between the extremes of those lines."

Now let us for a moment see what are the principal considerations which weighed with the arbitrators for th*

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purpose of arriving at their conclu-
sions. On page 116—I quotes— it is
said:

"The evidence falls into several broad categories, mainly dealt with separately in the various chapters of this Award: maps, non-cartographical evidence, such as official pronouncements and statements in the form of administration reports, etc., incidents when boundaries in the region were put in issue, and exercise of acts of authority in disputed territory. This material will now be examined seriatim; its total impact on the alignment of the boundary will thereafter be discussed in a concluding section."

So it is plain that the arbitrators did not go beyond the evidence that they had heard. They confined their considerations to the maps, survey documents, resolutions of Government, administration reports and correspondence at Government level. So I cannot quite conceive how you can impeach the conclusions of the arbitrators. I am talking of the majority opinion. If after having considered this evidence they have come to certain conclusions, could those conclusions be challenged as not being legal?

SHRI SUNDAR SINGH BHANDARI (Rajasthan): What led Mr. Bebler to differ?

SHRI DEBABRATA MOOKERJEE: It is well known that when a Tribunal consists of three persons or five persons, there is scope for difference of opinion. The matter which had been referred to them for consideration was not so simple as not to admit of any difference of opinion. If it were so easy, possibly we ourselves, India and Pakistan, should have been able to decide the dispute. Not having been able to do so, we felt constrained to agree to arbitration.

[THE VICE CHAIRMAN (SHRI P. K. KUMARAN) in the Chair.~]

I might here submit that in my pronouncement which takes the character of a judicial pronouncement, the rival contentions of the parties are examined and examined in as dispassionate a manner as possible and then only certain conclusions are reached. If the arbitrators considered the evidence as a whole and then felt that they should reach a particular conclusion, which they have actually done, it is not a feature which goes against the acceptance of the Award. On the other hand, I am inclined to think that it is a feature which shows that the minds of the arbitrators took note of the conflicting claims put forward by the disputants before them. If out of 10 points made by a particular party the arbitrator or the Judge negatives 9 points and holds the 10th point made by that party as a good one, that does not vitiate the conclusion reached by the Tribunal or the court concerned.

Sir, it has been argued that this Award, in order to command acceptance, has to be a legal one. I am endeavouring to show that it is legal everywhere, from top to bottom. Exception is taken to a casual observation made on page 153, but I think if we read the Award carefully, the conclusion becomes inescapable that even without this observation the conclusion reached by the majority of the arbitrators is based upon legal, acceptable and credible evidence. This is what is stated on page 153—I quote:

"In my opinion it would be inequitable to recognise these inlets as foreign territory. It would be conducive to friction and conflict. The paramount consideration of promoting peace and stability in this region compels the recognition and confirmation that this territory, which is wholly surrounded by Pakistan territory, also be regarded as such."

If one is careful in reading the passage to which exception has been

taken, it becomes abundantly clear that this observation is only of a casual nature. It is not a determining thing. Peace between India and Pakistan is hoped for as a result of settlement of the dispute. They went clearly upon the evidence that they had heard and after having carefully weighed that evidence they came to the conclusion that certain parts ought to go to Pakistan and certain other parts ought to go to India. I am talking of certain parts of the territory going to Pakistan or to India in a rather loose manner. What I mean to say is that they drew the boundary line and for the purpose of determining the boundary line and demarcating it they had to consider the evidence that they had heard and into which they went quite carefully. So in my submission it is not right to say that the arbitrators misconducted themselves. If they had allowed their judgment to be vitiated by considerations which did not properly arise from the evidence before them, then it might have been open to us to challenge the Award and say that we are not bound by it. I would respectfully ask the hon. Members here to point out any passage anywhere from this long expression of opinion to show that they went beyond the limits of evidence. The question remains that if after having heard that evidence they came to one conclusion which does not appear to be palatable to us, can we reasonably challenge that opinion and decide to go back upon an international commitment? We cannot eat the cake and have it too. When we went to arbitration, we took the chance of an award in our favour as much as the chance of an award against us. You cannot very well turn round and say at this moment that since it has been held by the arbitrators that the demarcating line should be along a particular area which you do not like for one reason or another, you are free to go back upon a solemn pledge which you gave and upon the basis of which

the arbitrators were appointed. I consider that it would be the height of folly to retract our steps and repudiate the Award on the ground that it is vitiated by extralegal considerations, I would request Members here to point to any passage in the Award except the one to which I have referred which would clearly indicate that the Award is vitiated by extraneous matters. Unless that is done clearly I do not think we have any case against this Award. It is true that in certain instances, countries have refused to go by the arbitrators' award. But we have to go upon the evidence and the conclusion reached by the arbitrators. Has anywhere anything been said against the Award on the ground that the conclusion is not supported by the evidence that was produced before them. I have not, I, at any rate, have not heard of any such criticism. The only passage to which I drew the attention of the House is said to be the vulnerable one the passage upon which the whole argument is sought to be built up that this is an Award which is motivated by political considerations. I submit that taking the Award as a whole, we have to decide upon our course of conduct. The Parliament approved the proposal to go to arbitration. We solemnly pledged that we shall be abiding by the conclusions reached by the arbitrators. We produced our evidence before them and if the arbitrators have arrived at a conclusion, mind you, a conclusion of fact, from evidence adduced by us and by Pakistan that the demarcating line should be drawn along a particular place, can we, in all honour, go back upon that international commitment? Can we do that? That is the simple question before us. We have always believed in settlement of disputes by arbitration. We have always told the world that we do not believe in war but we believe that all disputes can be settled with goodwill on both sides by reference to methods like arbitration. Arbitration is a well-known method of

[Shri Debabrata Mookerjee] settlement of international disputes. We did not do something which was never heard of. It was not that. We did something which was a recognised method. We agreed to go to arbitration with our eyes wide open. If today because of certain inconvenient conclusions reached by the arbitrators, we think of going back upon that a solemn commitment, I fear we shall be guilty of the worst form of international skulduggery. I would ask the House through you to consider this. We have "been the loudest in the world to say that we believe in Panchsheel, that we believe in the maintenance of international peace and that all disputes between nations should be decided not by war but by arbitration. Where shall we stand if to-day We go back upon this commitment and behave in a manner very different from the way in which we gave the world to understand that we always wanted peaceful settlement of disputes through peaceful means. I submit this Award, even if unpleasant in certain parts, has to be accepted and there is no way out for us.

SHRI K. CHANDRASEKHARAN (Kerala): Mr. Vice-Chairman, the hon. Prime Minister was pleased to state that the issue is a political one and on political considerations this Award has to be accepted. The Prime Minister also stated that the issue is not the agreement at this stage. We have long ago passed that stage but the Prime Minister did not refer to the legal aspects that arose out of this agreement. There was also no reference to the aspects as to whether this was an Award after all in conformity with and in pursuance of the agreement that India and Pakistan had jointly executed and on which basis the reference itself was made to the arbitrators. As you know, in the Joint Agreement of 30-6-65 this country had claimed that there was no territorial dispute at all, as there is a well-established boundary running

along the northern edge of the Rann of Kutch as shown in the prepartition maps and which boundary needs to be demarcated on the ground. A lot of confusion has been created on account of the words 'determination' and 'demarcation' but if we read the main reference that this country made, and the claim that this country made, it will be found that there was no question of any territorial dispute as far as India was concerned. India maintains that in the pre-partition maps and in the map of the Government of India in regard to the Province of Sind in 1935 it had been clearly stated as to what was the boundary between Sind and Kutch. It was this boundary that was to be determined, the boundary that was there on the critical date, and it was this boundary on the basis of the determination that has to be demarcated. According to the claim made by Pakistan, the border between India and Pakistan in the Rann of Kutch runs along the 24th Parallel and therefore Pakistan claimed that an area of 3500 square miles of territory in all, had been involved in the dispute. The question therefore, so far as reference to the Joint Agreement was concerned, was based on those two aspects, the claim of India and the claim of Pakistan. And it will be seen, Sir, on a reading of the Award that the majority judgment has found a third case which is neither the case of India nor the case of Pakistan. Ordinarily, Sir, in a civil case a civil court is competent to build up its judgment on a third case which is neither the case of the plaintiff nor of the defendant in a particular suit. But here it is not the question of a civil case; it is not the ordinary competence of a civil court. Here are a set of arbitrators invested with a particular jurisdiction on the basis of a particular Agreement, and they have to act within the four walls of that Agreement and on the wording of that Agreement. But they have not so acted in this particular case. The Tribunal has recorded a unanimous finding in an earlier part of its judgment that it has no

power to go outside the bounds of law. Pakistan claimed before the Tribunal that the Tribunal can go outside the bounds of law, but India stated that the Tribunal cannot go outside the bounds of law. And it was adjudicated upon and found by the Tribunal unanimously that it could not adjudicate *Ex Aequo Et Bono* as no such power had been given or subsequently proposed to be granted to the Tribunal. But in spite of this unanimous finding recorded by the Tribunal in an earlier part of its judgment, practically at the beginning of the inquiry itself, Sir, the Chairman—and another Member of the Tribunal—has gone beyond the Agreement and beyond the terms of reference to build up a case for this judgment, which is absolutely *ultra vires* of the Agreement on the basis of which the arbitrators were appointed.

I am indeed happy to notice, Sir, that the hon. Prime Minister had given a part of her time to pay a tribute to Judge Ales Bebler. Now, if the Prime Minister was sincere in her tribute, she would have stated, she ought to have stated that Judge Bebler was correct and he alone acted within the competence and jurisdiction of the Agreement and therefore India would stand by that judgment and not by the majority judgment which is *ultra vires* of the Agreement.

THE VICE-CHAIRMAN (SHRI P. K. KUMARAN): You have only two more minutes.

SHRI K. CHANDRASEKHAR: This great diplomat and constitutional expert of Yugoslavia has really understood the position and has decided unto himself that he will not be moved by any political considerations whatsoever, as probably the Chairman and the other Member were concerned with, and the result has been that so far as the Chairman and the other Judge were concerned, they have given a judgment which is

absolutely beyond their jurisdiction. The question therefore is not the issue of the Agreement although that is an issue which could be properly and morally raised on the forum of this House even at this stage but, even without going into the question of the Agreement, what is the judgment on the basis of the Agreement can always be enquired into, investigated, examined and found by this House, and I maintain, Sir, that the majority judgment is in excess of jurisdiction and *ultra vires* of the Joint Agreement itself and therefore an absolute nullity. The Tribunal has stated that a boundary alignment should be newly made. But then that boundary alignment, Sir, did not exist on the crucial date. That boundary alignment, Sir, did not exist in the preparation maps or in the map of the Province of Sind as formulated by the Government of India in 1935. It will be seen that in a fairly long and well discussed judgment, the dissenting Judge Bebler has come to the conclusion fully agreeing with the claim put forward by India. The dissenting judgment, Mr. Vice-Chairman, Sir, has noticed two particular things, the display of authority in the Rann of Kutch by the ruler of Kutch, and the boundaries in the Survey of India maps and in the Index Map of 1935 of the Province of Sind. On these two aspects there is nothing in the majority judgment which can canvas against the merits of the dissenting judgment, and I would submit, Sir, that these are the only relevant criteria, and these criteria having been missed . . . (*Time bell rings.*) I am just finishing.

These criteria having been missed and the Tribunal having gone upon a case which was never put in the Joint Agreement by India and Pakistan, I submit that the Award has to be treated as unenforceable by this country.

May I make in conclusion, Sir, two or three submissions? I do not know

[Shri K. Chandrasekharan] whether any purpose or use will be served by those submissions. Now when this House is still discussing this matter, newspaper reports have come, Sir, that representatives of this country's Government and the representatives of the Pakistan Government have reached a certain amount of agreement on the basis of the Award and on implementation of the proposals contained in this Award. Such an undue haste, if I may say so, on the part of the Government certainly does not serve any good to the country and certainly does not give any importance to the place that Parliament occupies in directing the nation's, affairs and in directing the Government to strive for the nation's development. We ought to have made a reference to the United Nations. We ought to have made a reference to the International Court of Justice often called world Court. It is not known as to why we are prepared to take the issues, particularly the legal and juristic issues involved in this case, and the question of the *ultra vires* nature of this Award to the United Nations or the World Court. May I tell the Government, Sir, with all the humility that I can command at this stage that in deference to the many aspects of the matter that have been pointed out in this House, in deference to the juristic views propounded by Mr. M. C. Chagla, a Member of the Congress Party, and in deference to large sections from among the Congress Party Members themselves who have come out openly in this House and registered their protest against and opposition to implementation of this Award, the least that Government can do to satisfy the conscience of this nation is to refer this matter under article 143 of the Constitution to the Supreme Court of India. Let the Supreme Court give its verdict as to whether this is *ultra vires* of the Agreement or not. We can then go into the political aspects of the matter. The decision that has been made is a political decision. It is a decision made on the basis of

political expediency. It is stated, Sir, that this will improve India-Pakistan relations. But I should say that this sort of attitude on the part of the Government of India is just displaying that the Government is weak-kneed, that this Government's not prepared to fight for its rightful claims and that this Government is not prepared to fight for its rightful place in the comity of nations. This is the sort of submissiveness being displayed by the Government for which I can only compare the Prime Minister of this country, Shrimati Indira Gandhi, to Mr. Neville Chamberlain in 1938.

Neville Chamberlain was 4 P.M. prepared to barter away

things because he thought that that policy of conciliation would land Great Britain and the world in ultimate peace. But it landed Great Britain and the world in ultimate war. I warn this Government now that this attitude that the Government is now taking, this sort of conciliation and this sort of submissive outlook on the part of the Government, is going to weaken this country as a whole. It is likely to weaken the morale of the nation as a whole and unless a new policy, a policy of no concessions at all, is taken up by the Government of India we are likely to lose our land not only to Pakistan, not only to China, not only to Ceylon, but we are likely to lose the whole nation itself 'and this is what the Congress Government appears to be doing at this stage.

THE VICE-CHAIRMAN (SHRI P. K. KUMARAN): Mr. Niren Ghosh Please try to finish within ten minutes.

SHRI NIREN GHOSH (West Bengal): Yes, Sir. Mr. Vice-Chairman, the Government of India is now in the unenviable position of being assailed from within and from without. This is the position of the Government now and that position flows from the very nature of the policy which they

have been pursuing for a pretty long j number of years. India emerged free, and we got our freedom, after \ a long period of slavery. At that I time our borders were undetermined in some places and undemarcated at many places. That being sO what the country required was a basic, national political approach towards the whole matter- in order to project its true j image and tc- uphold the interests of I the nation. In my opinion, that policy should have been one of entering into bilateral negotiations, peaceful negotiations on the basis of give and take. Where the borders are undetermined in some places and undemarcated in other places this is the—only possible political approach Jhat a country can adopt, unless it is a warring country unless it is a chauvinistic country, a country which wants to become aggressive Unfortunately our Government has not ! adopted that policy. It has not taken that position. In fact they entered into a competition with the Jana Sangh and at certain times with our friends of the S.S.P, in chauvinistic attempts, thinking perhaps that by that approach they could retain their mass basis. Whether it was rational, whether it was patriotic and in the true interests of the country, these thoughts did not occur to them. They plumped in for a chauvinistic policy. And now they find them- i selves in a position where they are being assailed from all sides. I can only pity them on this score.

Now what is the actual position with regard to this Award? The only ' stock argument that is being advanced by the Treasury Benches is this, that we cannot go back upon an international commitment. Though it is a bad bargain and our territories are going, in order to honour our international commitment, we have got to swallow it.

[THE VICE-CHAIRMAN (SHRI AKB-V* ALT KHAN) in the Chair.]

I say it would have been honourable for the country and patriotic \

also if we had entered into bilateral negotiations with Pakistan on a policy of give and take. That was never done. We said we stick to our position and they said they would stick to their position. Had we adopted that attitude of give and take, I do not take it for granted that Pakistan would have reciprocated. They might not have. In fact, the socio-economic conditions being what they are in India and Pakistan, both Governments are reactionary and it is difficult to envisage that good neighbourly relations would be established between India and Pakistan in the near future. But till then every single step forward which goes to lessen tension and to settle some of these controversial border problems is a welcome step. But that position was not adopted, on the basis of give and take. There is nothing on record to show that we adopted such an attitude and Pakistan rejected it. They might have rejected it. But we might have gone on negotiating. But to go for arbitration on such a subject is a step which I do not approve of. That I should say categorically. Just because fwo sovereign States are unable to determine and demar cate the border, they should not sur render their sovereign rights to others, and in this case to the imperialist powers. These imperialist powers always try to set one against the other, they want to make Indians fight those who were once Indians and who are now Pakistanis. They want to make Asians fight Asians. They always plump in for that game. Now where is rancour inside the country because our territory is going to another. It would have been better had we on our own volition adopted the policy that I had referred to and said that we can make adjustments, these being undertermined borders, give something here and take something there. If Pakistan had rejected it, then that would have been a different matter. The matter could be dragged on. and we can say we will negotiate, negotiate and negotiate till the matter is settled. To

[Shri Niren Ghosh] have gone in for arbitration was not a good thing. By this the Government has created such a situation that there is some sort of rancour and bitterness inside the country because 300 square miles of our territory is going away.

Quite apart from that matter, if we take the interests of the country as a whole, in this sub-continent unless India can establish peaceful good neighbourly relations with all the countries that are her neighbours, determine and demarcate all boundaries and settle all these disputes once and for all, we will be pawns in the hands of the imperialists time and again and our resources would be wasted again and again. There would be wars on Indian soil at one time between India and Pakistan, at another time between India and China and at—yet another time, I don't know between India and which other country. This is not a nice prospect. That is not a good thing. Had all our borders been demarcated formally then of course, there would be no question and we would have stuck to that well-determined position. That would be patriotic. But to be chauvinistic is not nationalism or patriotism. The two things should not be equated. Now communal fervour is there. Always there are certain parties which pounce upon all issues on which they can whip up communal fervour and anti-Muslim tension in the country. I would only appeal to some of our friends here, I would appeal to my hon. friend Shri Rajnarain here, that he should take these things into consideration. I take it for granted that he does not want such tension. But talking and arguing things in a way that might create communal tensions does not promote democratic movements in our country or in Pakistan. That is a point which we should take note of. Having said this I should say that in this case this Award we should honour because it settles some vexatious problem once for all. At least

this problem is settled; if on the western side the border is finalised, determined and demarcated, a great source of tension is eased and to some extent normal relations would prevail. Taking this factor into consideration I should say the Government should adopt the same attitude—not go in for arbitration or the Hague Court or this or that but one for all take this action—of entering into peaceful negotiation with all neighbours. And this applies to the northern boundary as well, the boundary that obtains between China and India. The same procedure should be adopted and on the basis of give and take we should settle all these boundary disputes once for all so that we may not be dragged into unnecessary conflict, so that democratic national issues may not get distorted and so that all nations can advance in a democratic and progressive manner. From that standpoint I would say that this Award we should honour and settle this issue and I would appeal to the other parties of the Opposition and to the Congress Members as well that they should not whip up communal tension. They should not utter words in a way which might tend to create communal tension in India. The fundamental policy we should adopt is to conduct negotiations on the basis of give and take wherever the border is undetermined and undemarcated with a view to settling those issues once and for all. Then we would know where we stand. Then we need not give an inch of our territory which is finally demarcated and settled.

SHRI D. L. SEN GUPTA: West Bengal):
 Mr. Vice-chairman, I have heard many hon. friend speaking on this subject in the last two days and I have not found anybody here who has justified the Award on merits. Some have opposed it while some have tried to support it on moral grounds. I shall discuss that moral aspect here afterwards. I would like only to emphasise here that the bankrupt Government of ours day in and day out

over the All India Radio harangued to the people at large that we have gained 90 per cent and we have lost only 10 per cent. This was suicidal. When we have lost 10 per cent which was ours the question of gaining 90 per cent does not arise. Since we have lost—even though only 10 per cent—we stand condemned before the people of Pakistan. They will naturally justify their aggression on Kutch on the ground that at least India had wrongfully usurped this 10 per cent of their land. So, Mr. Vice-Chairman, Sir, this Government of ours have not only landed themselves in this disaster where they cannot escape from the responsibility of giving 10 per cent but they are making a triumph of it by saying that they have gained 90 per cent. It is sheer-nonsense and this self-complacency must go.

I have of course noticed the anguish of our Prime Minister and other responsible Ministers of this Government. I see that they are not happy but they feel helpless. If they really feel the anguish of the people of this country, Mrs. Indira Gandhi has one way before her. She can share the anguish of the people and at the same time observe her moral responsibility in respect of this Award. She can say to the world: I am committed and therefore I am giving it. At the same time she can go out of the office by resigning and tell the people: I share your anguish, I have resigned because I feel I did something wrong. This is the way. She cannot suffer the anguish of the people and also hold the office of the Prime Minister of India; that is a paradox. If anybody is responsible it is her Government. She has no right to continue there with the anguish of the people if she has any.

Mr. Vice-Chairman, I know my time is short. At the same time I tell you here that if this Award is accepted you have no reason—my friend Mr. Niren Ghosh is not here—to claim the land which China has us-

urped because the logic here is very dangerous.

SHRI MULKA GOVINDA REDDY (Mysore): That is why they are supporting.

SHRI D. L. SEN GUPTA: I do not mind these 350 sq. miles but I mind very seriously the logic behind this. Mr. Vice-Chairman, please give me your indulgence. I am speaking on something important.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Four minutes more, I told you can have a maximum of ten minutes.

SHRI D. L. SEN GUPTA: If I repeat you stop me.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): It is not a question of repeating.

SHRI D. L. SEN GUPTA: Now what is the logic? The logic is this. On page 151, last but one paragraph, it is stated:

"As stated earlier, the activities undertaken by Kutch in these areas cannot be characterised as continuous and effective exercise of jurisdiction. By contrast, the presence of Sind in Dhara Banni and Chhad Bet partakes of characteristics which, having regard to the topography of the territory and the desolate character of the adjacent inhabited region, come as close to effective peaceful occupation and display of Government authority as may reasonably be expected in the circumstances."

If the area is desolate does that mean that my Government has no claim on it? If NEFA and Ladakh were desolate does that mean we have no claim? If that is so, how do they justify their later claims? They cannot. On the next page they say:

"However, in respect of sectors where a continuous and for the region intensive Sind activity, me-

[Shri D. L. Sen Gupta]

eting with no effective opposition from the Kutch side is established, I am of the opinion that Pakistan has made out better and superior title."

They say meeting with no effective opposition. Did China meet with any effective opposition? If China did not meet with any effective opposition how do you make any claim for getting back any of the occupied territories? Possibly that will be the argument against us, the moment this Award is accepted, in respect of occupied Kashmir. Mr. Vice-Chairman, I am telling you something very serious. I am telling you and through you this House that this issue has three important implications. One is legal, another is constitutional and the third is moral. Everybody has argued here on moral grounds. On legal and constitutional grounds I support Mr. Chagla 100 per cent. Mr. Setalvad argued like a lawyer without reading the brief. And here was Mr. Ramachandran who was more Gandhian than Gandhi himself. He did not know who Mr. Chagla was. He said he might have been a great Judge but a bad lawyer. He should have remembered that it was Mr. Chagla who placed the Kashmir issue before the U.N. and argued more effectively in 12 hours than what Mr. Krishna Menon could do in 12 hours. Now when he says something which is out of tune Mr. Ramachandran as a Gandhian comes out to say that he is a bad lawyer. It was unjust; it was uncharitable to Mr. Chagla. On constitutional ground you have no case to give it. If you are giving it on political grounds for peace and harmony then you are doing something which is beyond your jurisdiction. It is a part of India, how can it be given away without changing the Constitution? You cannot do it without amending the Constitution. So if you want to give it to Pakistan, give it to the Pakistan people outright, not in the name of the Award.

and that might foster good relations, harmonious relations. I can give everything for something bigger but what is the point here? It is a bad Award, a perverse Award, it should be rejected.

DR. ANUP SINGH (Punjab): Mr. Vice-Chairman, I think that the question before the House is, should we or should we not accept the Award given by the Tribunal, but unfortunately we have drifted apart. Mr. Niren Ghosh has claimed that from its very beginning, from the day of independence, India has pursued a path of war, this, that and the other thing. These are utterly irrelevant considerations. It has been argued that Mr. Chagla is a better lawyer in this case than Mr. Setalvad. I think that is also beside the point. The point is, do we or do we not stand committed to certain obligations? I am told by people who should know—and I wish that the Defence Minister were here to correct me—that it was at the instance of our spokesman that the words were inserted that there will be no question about the acceptance of this thing, no condition whatsoever. I am told that the Pakistan spokesman was satisfied with the stipulation that the Award would be binding, but we insisted that it should not be open to any 'ifs' and 'buts'. I presume we apprehended, perhaps rightly so under the circumstances, that Pakistan might not redeem her commitment. This is my presumption. But having inserted those words clearly "under no circumstances whatsoever"—I am not a lawyer—from the common sense point of view it can be seen that it certainly does not leave any loophole whatsoever.

It has been mentioned endlessly that one-tenth has been given or five-sixth has been given, etc. Did we at any stage say that if the Award is acceptable to us 95 per cent, we will raise no objection and if it is 80 per

cent, we wiH reject it? No, under the circumstances, it just closes the chapter completely. I think morally, technically, legally and politically we are bound by the Award. I do not subscribe to the idea that Parliament has been bypassed. This agreement was brought before Parliament. We endorsed it. Our friends here are consistent. They criticised St then. But when Parliament has endorsed it, we made a commitment as a Government, as a nation and as a people. Our record, I think, is second to none, if I may put it mildly, from the day we achieved independence. We have been ardent advocates of peaceful negotiations, settlement of all disputes by peaceful negotiations. When we were forced to take up arms under the most difficult circumstances, w>e were very unhappy. To-day, after having made a solemn commitment in writing, having accepted it, for us to go on arguing that we are not going to accept it, because there were political considerations, is not right.

Mr. Vice-Chairman, I would like to say just a word or two about this. It has been suggested that the two inlets belong to India and, influenced by political considerations, the Tribunal has given it away to Pakistan, j That unfortunately or fortunately is not the case. Let me quote from the document itself. I wish our colleague, Mr. Chagla, had taken the trouble of reading the whole thing, because that would have thrown a little better light. This is the opinion of the Chairman:—

"The two deep inlets on either side of Nagar Parkar will constitute the territory of Pakistan. Already in 1885, the Deputy Commissioner of Thar Parkar pointed out that if these inlets were to be considered Kutch territory."

Then, I come to the second paragraph:—

"In my opinion it would be inequitable to recognise these inlets as

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foreign territory. It would be conducive to friction and conflict"

It is not because they belong to India or that we are giving it away to Pakistan. If they were to be considered as part of Kutch, as wai claimed earlier, and if they were to be considered foreign territory, that would constitute a permanent and perennial danger to peace between the two.

SHRI SUNDAR SINGH BHAN-DARI: Is it somebody else's foreign territory?

DR. ANUP SINGH: It is neither to India nor Pakistan. He says:—

"The paramount consideration of promoting peace and stability in this region compels th© recognition and confirmation that this territory, which is wholly surrounded by Pakistan territory, also be regarded as such."

If you read it very carefully you will find that they have nowhere conceded that the territory belongs to India and that on considerations of amity and peace between the two we are now handing it over to Pakistan. That is not the position. The opinion of the Chairman, in a sense, as Mr. Mookerjee has already pointed out, is casual observation. It may be of a political nature, but it does not by any test whatsoever vitiate the legal position of the judgment that has been given.

Finally, as far as I am concerned, I do hope that in future our Government wiH be a bit more vigilant and careful in drafting these documents. We have been told that at the time when this draft agreement was brought before the Cabinet Committee, the Law Minister was not present . . .

DR. B. N. ANTANI: After having murdered us.

DR. ANUP SINGH: Mr. Daphtary was out of the country. So, his legal opinion was not available. It was rushed through. I do not know why? I am one with those who are becoming increasingly sceptical about our blind faith in international justice. I do feel that we have to live up to our commitments, as I said earlier, but to feel that because our case is just justice will come to us does not necessarily follow. We went to the Security Council and we have been there for twenty years. I am not suggesting that we should deviate from the path of peaceful negotiations or from our faith in morality and ethics. Mr. Dharia, in his youthful exuberance—I will not say recklessness—said, hell with the Award. It is very easy to say it, but I am afraid that if we do not honour our international commitments and if we do not recognise the validity of these commitments, all of us, internally, as well as externally, will collectively go to hell. It takes infinitely long to build up certain standards, certain conventions. *(Interruption)*. I was not here to listen to him. I only read it in the papers. I know that he is a serious youngman and I do hope that it was said in a moment of forgetfulness.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Mr. Jagat Narain. Please be brief.

श्री जगत नारायण (हरियाणा) : आपको पता ही है कि मैं आपका हुक्म माना करता हूँ । वाइस चेयरमैन महोदय, यहां पर बहुत से जूरिस्ट्स की तकरीरें हुईं, बड़े बड़े लायक वकीलों की तकरीरें हुईं । श्री राजनारायण जी ने जो प्रस्ताव पेश किया है वह बड़ी योग्यता से पेश किया है । मैं उसका पूरा समर्थन करता हूँ ।

मैं कोई लीगल आदमी नहीं हूँ, मैं कोई लोइयर नहीं हूँ । उस एस्पेक्ट में न जाते हुए मैं 3-4 बातें रखना

चाहता हूँ । मैंने बड़े ध्यान से कल आन भाई सरदार स्वर्ण सिंह को सुना है और आज अपनी बहिन श्रीमती इन्दिरा गांधी को भी बड़े गौर से सुना । यह सब मानते हैं कि आरबीट्रेशन में नहीं जाना चाहिये था, गलती हुई, यह भी मानते हैं कि जो फैसला हुआ वह अनहैप्पी है ।

चार बातें रखी गई हैं । आइडियलिज्म की बात लाई गई है कि हमारे आइडियल बहुत ऊंचे हैं । वाइस चेयरमैन महोदय, मैं बड़े अदब से पूछता हूँ—40 साल मैं भी कांग्रेस में रहा हूँ, मैंने दस साल जेल काटी महात्मा गांधी के हुक्म पर—ट्रेजरी बेंच से कि क्या महात्मा गांधी के आइडियल्स को स्वीकार करके उनके मुताबिक काम करते हैं । ये आइडियलिज्म की बातें सिवा लेक्चर के बाकी नहीं रही हैं । इसलिए यह जो आइडियलिज्म का प्रचार किया जाता है, उपदेश दिया जाता है वह बिल्कुल गलत है । मैं भी 40 साल कांग्रेस में रहा हूँ, हर ओहदे पर रहा हूँ । मैं समझता हूँ कि हमने महात्मा गांधी के आइडियलिज्म को खुद अपने हाथों समाप्त करके रख दिया है । इसलिए आइडिल्स की बात न लाएं ।

दूसरी बात यह कही गई कि प्रान जाय पर वचन न जाई, कहा गया कि हमने वादा किया है, हमने वचन दिया है उसको पूरा करना है । वाइस चेयरमैन महोदय, आपको याद होगा कि जब चाइना ने हमला किया था तब हमने पार्लियामेंट में शपथ खाई थी कि जो 20 हजार मुरब्बा मील रकबा हमारा चीन ने लिया है उसको हम वापस लेंगे । कहां हमारी आन गई उस रकबे को वापस लेने की ? क्या हमारी आन इसी में है कि हम अपने रकबे देते चले जाय पाकिस्तान को और चीन को ? क्या इसी में हमारी आन और शान है ? हम अपने उस इलाके को क्यों नहीं वापस लेते ? पार्लियामेंट में कांग्रेस के एक आदमी ने

यह नहीं कहा कि चीन के पास जो हमारा 20 हजार मुरब्बा मील रकबा है या पाकिस्तान के पास, एक-तिहाई काश्मीर है उसको वापस लेना है। आज कांग्रेस के किसी नेता ने, मेरी बहिन ने या सरदार स्वर्णसिंह ने नहीं कहा कि उसको वापस लेना है।

श्री शील भद्र याजी (विहार) : मैंने बार बार कहा है।

श्री जगत नारायण : कभी कोशिश की आपन उसे वापस लेने की ? (इन्टरप्शन) मुझे बड़ी खुशी हुई सरदार स्वर्ण सिंह ने अपने ऊपर सारी जिम्मेदारी ली। उन्होंने कहा मत नाम लो लाल बहादुर शास्त्री का, मत नाम लो अफसरों का, मैंने किया है। मैं भी समझता हूँ कि उन्होंने किया है। वाइस चैयरमैन महोदय, मैं उसी जिले से आता हूँ, उसी शहर से आता हूँ, जिससे सरदार स्वर्ण सिंह आते हैं। मेरे बड़े मित्र हैं, दोस्त हैं, हमने इकट्ठे काम किया है। मैं समझता हूँ कि उन्होंने यह गलती करवाई है हमारी गवर्नमेंट से जिसकी वजह से हमारा सारा इलाका उनको देना पड़ा है। वे कहते हैं कि जनता हमारे साथ हैं, मेरी बहिन ने कहा कि सारा मुन्क हमारे साथ है। मैं एक ले-मैन हूँ, आर्डिनरी वर्कर हूँ, बैंक-बैंकर हूँ, लीडर नहीं हूँ मगर आपको कहना चाहता हूँ कि रोज लोगों से मेरा वास्ता है, मैं आपको बताऊँ कि सारे हिन्दुस्तान में 90 फीसदी लोग इसके खिलाफ हैं। अगर मेरे भाई सरदार स्वर्ण सिंह आप मुस्तफी होकर उस इलाके से इलेक्शन लड़ें तो वे जीत नहीं सकते। आज कहा जाता है कि जनता हमारे साथ हैं, हमारे साथ सब लोग हैं। वाइस चैयरमैन महोदय, मैं कहना चाहता हूँ कि लोग बहुत दुखी हैं कच्छ के रन का हिस्सा देने से, जनता आपके साथ नहीं है। यहां पर बेशक आप डेस्कें थपका लें अपनी तकरीर पर, मगर जनता आपके साथ नहीं है।

5-7 सूबे आपके हाथ से निकल चुके हैं, यहाँ 30-40 की मेजरिटी है।

मैं ज्यादा टाइम नहीं लूंगा। कहा जाता है कि पार्लियामेंट ने फैसला किया 1965 में, अब हमारे लिए बह वाईडिंग है। मुझे बताइये कितनी बार आपने कांस्टीट्यूशन एमेंड किया है। हर सेशन में एमेंड करते रहे हैं। यह कोई जरूरी है कि अगर पहली पार्लियामेंट गलत फैसला कर ले तो नई पार्लियामेंट उसमें तब्दीली न कर सके ? नए आदमी आए हैं, नए चेहरे आए हैं, नए मेम्बर आए हैं, इसलिए यह कहना कि इसको बदल नहीं सकते, यह सही नहीं है। मैं ज्यादा नहीं कहना चाहता। जब चागला साहब लीडर आफ दि हाउस थे तो अगर वे कोई बात कहते थे सारा हाउस उसको मानता था, हमारी ट्रेजरी बेंचेंज मानती थी। आज भी वे ट्रेजरी बेंचेंज पर बैठे हैं। इतने काबिल वे वकील हैं, काबिल वे जज रहे हैं। आज उन्होंने यह बात कही। क्यों नहीं हमारे नेता उनकी बात को सुनने को तैयार होते, मुझे खुशी होती श्रीमती इन्दिरा गांधी कुछ न कुछ चागला साहब के मुतालिक कहतीं कि उन्होंने गलत बात कही या सही की। वे कुछ न कह सकीं, तारीफ करती रहीं सीतलवाड की। मैं समझता हूँ कि चागला साहब ने जो नुकतेनिगाह यहाँ पर रखा वह बिल्कुल दुरुस्त रखा। जब झगड़ा है किसी बात का, जब हम महसूस करते हैं कि जो इलाका हम दे रहे हैं वह खून और पसीने का इलाका है तो इस कैबिनेट को क्या अधिकार है, क्या अख्तियार कि जो पार्लियामेंट का और मेम्बरान का इलाका है उसको पाकिस्तान को दे ? इसलिये कांस्टीट्यूशन में एमेंडमेंट कीजिए, इस हाउस से वोट लीजिए एमेंडमेंट के लिए। उसके बाद दे सकते हैं या देने की कोशिश कीजिए अगर आपको देना है। आप तमाम हिन्दुस्तान

[श्री जगत नारायण]

के जो बड़े बड़े जूरिस्ट्स हैं उनको इकट्ठा कीजिये और चागला साहब ने जो पाइन्ट आफ व्यू रखा है उसे उनके सामने रखिये अगर इसमें निकल सकते हैं किसी तरह से । उन्होंने दो एग्जाम्पल दिये थे जिसमें उन्होंने फैसला नहीं माना । अगर उस ढंग से निकल सकते हैं तो निकलने की कोशिश कीजिए । याद रखिए यह हमारा मुल्क है, हमारा देश है, इसका हिस्सा आपने चीन के सुपुर्द किया, पाकिस्तान के सुपुर्द किया और कर रहे हैं । आज लंका आपसे इलाका माँग रहा है, कल निकोबार आईलैंड्स आपसे माँगे जायेंगे और आहिस्ता-आहिस्ता नेफा माँगा जायेगा, भूटान माँगा जायेगा । क्या कुछ आप देंगे ? इस बात के लिए देंगे कि आपको लोगों को खुश रखना है । अगर खुश रखना है तो आप हिन्दुस्तान का बँड़ा गकं कर रहे हैं । कोई मौका नहीं कि आप इस गद्दी पर बैठे, छोड़ जायें इस गद्दी को, हिन्दुस्तान को बचायें, हिन्दुस्तान की एक इंच जमीन देने की कोशिश न करें । इन अल्फाज के साथ मैं राजनारायण जी के प्रस्ताव को सपोर्ट करता हूँ ।

डा० बी० एन० अन्तनी : आज सीतलवाड देवता है ।

श्री राजनारायण : मुझे अफसोस है कि श्री स्वर्णसिंह यहाँ पर विराजमान नहीं हैं । इतने महत्वपूर्ण प्रस्ताव पर यहाँ विचार हो रहा है, न प्रधान मंत्री यहाँ हैं और न सुरक्षा मंत्री यहाँ हैं ।

मैं पहले स्वर्ण सिंह का जवाब देना चाहता हूँ और उनसे निवेदन करूँगा कि जो प्राउन्ड रूल्स 1959 में बने थे उन प्राउन्ड रूल्स को इस भारत पाक सीमा के विधारेण के लिए क्यों नहीं लागू किया

जाता ? मैं उसी को पढ़ देना चाहता हूँ

"During the general discussion between the two delegations held from 15th to 19th October, 1959, it was agreed that legal provision must be made for effecting the exchange of territories after demarcation has taken place whenever it becomes necessary."

प्राउन्ड रूल्स हमारे द्वारा और पाकिस्तान के अधिकारियों द्वारा स्वीकार किए गए थे । अगर ये प्राउन्ड रूल्स स्वीकार्य हैं, जो पाकिस्तान और हमारी सीमा के निर्धारण के लिए बनाए गए थे, तो उन्हें इस समय क्यों नहीं लागू किया जाता ? अगर इनको लागू कर दिया जाता है तो यह सरकार इस दोष से बरी हो जाती है । "Legal provision must be made" इसका मतलब यह है कि हमको कांस्टीट्यूशन एमेंडमेंट करना ही होगा । बिना कांस्टीट्यूशन को एमेंड किए हम अपनी टेरीटरी को दे नहीं सकते, अपने किसी हिस्से को छोड़ नहीं सकते, यह साबरेन्टी का ट्रांसफर है, प्रभु सत्ता हस्तांतरित हो रही है । हम इसको इतने में ही यहाँ पर कह देना चाहते हैं ।

इसी के साथ-साथ श्री लाल बहादुर शास्त्री जी ने जो गलती की या सही बात की उसके बारे में कहना चाहूँगा । जब एग्जीमेंट हुआ 30 जून 1965 को तो उस एग्जीमेंट में इन्होंने अपनी स्थिति साफ की है—

"Making our position clear in the agreement we had stated that there was a well-established boundary running roughly along the northern edge of the Rann of Kutch as shown in the pre-partition maps."

यह श्री लाल बहादुर शास्त्री जी लोकसभा में 18 अगस्त 1965 को बोले हैं । उसमें उन्होंने यह कहा है कि हमने यह बिल्कुल साफ कर दिया है कि हमारी वेल-एस्टेब्लिश्ड

बाउंडरी है। अब मैं यहां के जो कानून के पंडित लोग हैं उनसे यह जानना चाहता हूं कि वेल्-एस्टेब्लिशड बाउंडरी के माने क्या हैं? समुचित रूप से निर्धारित सीमा...

श्री महेश्वर नाथ कौल (नाम-निर्देशित) : यह तो हिंदी है।

श्री राजनारायण : जब समुचित रूप से हमारी निर्धारित सीमा है तो उसी सीमा के बारे में यह एवार्ड हो सकता है कि वह सीमा हमारी है या नहीं है। कोई नई सीमा बनाई नहीं जा सकती। तीन शब्दों का प्रयोग हुआ, वेल् इस्टेब्लिशड बाउंडरी, डिटरमिनेशन आफ दि बाउंडरी, डिमार्केशन आफ दि बाउंडरी, तो जब वेल् इस्टेब्लिशड बाउंडरी है, सुनिश्चित सीमा है तो डिटरमिंड है, हमारी सीमा डिटरमिंड है और डिटरमिनेशन का कोई सवाल ही नहीं उठता है। अगर कोई लीगल आस्पेक्ट में जाय तो यही कह सकता है कि क्योंकि हमने माना है कि हमारी सीमा वेल् इस्टेब्लिशड है, सुनिश्चित है, इसलिये अब केवल डिमार्केशन की बात रह गई, तो डिमार्केशन में एक प्वाइंट जायगा, दो प्वाइंट जायगा, दो गज या चार गज इधर उधर होगा, उसमें ऐसा तो नहीं हो सकता कि 315 या 317 या 320 वर्ग मील जमीन हमारी चली जाय। यह तो बिल्कुल हास्यास्पद है कि जो सरकार की ओर से तर्क दिया जा रहा है या जो कानूनी गलाहकार हैं उनके द्वारा तर्क दिया जा रहा है। तो इस सम्बन्ध में मैं यही निवेदन कर देना चाहता हूं कि इस सदन को जो आश्वासन दिया गया था उसको स्वर्ण सिंह जी देखेंगे तो कहीं जगह पर वह खड़े नहीं हो रहे हैं, वह हठवादी हों, आज अपने घमंड में हों कि जो हम कर रहे हैं वह कर रहे हैं तो बात भिन्न है।

डा० अनूप सिंह : क्या एक बात मैं पूछ सकता हूं?

श्री राजनारायण : जरूर पूछेंगे।

DR. ANUP SINGH: These are the words of Shri Lal Bahadur Shastri. There is no doubt about it. But if you read the Agreement, you will find that these words have not been incorporated there. We are bound by the Agreement not by what Shri Lal Bahadur Shastri said in Parliament. It is the Agreement that we have signed.

श्री राजनारायण : डा० अनूप सिंह, हम आपको समझे हैं, डा० अनूप सिंह ने बहुत सही कहा लेकिन मैं वह पढ़ रहा हूं जो कि एग्रीमेंट में बर्ड है, उन्हीं को पढ़ रहा हूं। सरदार स्वर्ण सिंह जो अब आ गये। मेरा कहना है कि ये एग्रीमेंट के बर्ड हैं, ऐसा न कहा जाय कि ये एग्रीमेंट के बर्ड नहीं हैं।

उपसभाध्यक्ष (श्री अरुबर अली खान) : हां, आप चलिए। You need not be interrupted.

श्री राजनारायण : जरा ठीक से चलने दीजिये, यों न करिये, क्योंकि देश का सवाल है और हमको हर एक आदमी को जवाब देना है। इसमें यह है:—

"India claims that there is no-territorial dispute as there is a well-established boundary running roughly along the northern edge of the Rann of Kutch as shown in the pre-partition maps which needs to be demarcated on the ground."

उसी को श्री लालबहादुर शास्त्री ने 18 अगस्त 1965 ई० को सदन में दुहराया है। तो मैं यह समझता हूं कि हमारे अनूप सिंह जी हमारे प्रस्ताव के पक्ष में वोट करेंगे। जब वेल् इस्टेब्लिशड है, बाउंडरी है तो डिटरमिनेशन की कोई बात नहीं है। जरा सुनिये, आप लोग तो यहां बैठ कर आपस में बात करने लग गये, एक दूसरी मीटिंग होने लगी आज वह वेल् इस्टेब्लिशड बाउंडरी सही है या गलत है वही मानी जाय या नहीं मानी जाय ट्राइब्युनल केवल इतना कह सकता है, उसका

[श्री राजनारायण]

एक पोशन काट कर नहीं दे सकता। हम इस बात को मान सकते हैं अगर इस एग्रीमेंट के मुताबिक एवार्ड जो यह होता, जो यह केवल कह देता, कि आपकी जो 3500 वर्ग मील जमीन जो कि पाकिस्तान ने मांगी है सब उसकी है उस समय हमें श्री स्वर्ण सिंह का तर्क सही लगता, वह यह कह सकते हैं कि यह उसका टर्म आफ रेफरेंस है, क्योंकि पाकिस्तान क्लेम करता है कि 3500 वर्ग मील हमारी टेरिटरी है और भारत कहता है कि हमारी वेल इस्टैब्लिश्ड बाउंड्री है, टेरिटरी का कोई झगड़ा है नहीं, तो यही दो सवाल तय करने को था कि पाकिस्तान की बात सही है या भारत की बात सही है। डा० अनूप सिंह कहते हैं कि कोई भी कारण हो, किसी भी कारण को ले कर के हों इसको मानने से इंकार नहीं करेंगे, यह हमने कहा है, तो हम आपके जरिये डा० अनूप सिंह से कहना चाहेंगे कि ये दो खम्बों का झगड़ा है कि ये दोनों खम्बों में कौन किसका है और ट्राइब्युनल हमें यह एवार्ड दे दे कि कोई तीसरा खम्बा ले लें तो क्या हम तीसरा खम्बा लेने के लिये बाध्य हैं। क्या हमने यही एग्रीमेंट किया है, क्या यही हमारा समझौता है। यह समझौता भाई अनूप सिंह जो नहीं है, अगर ऐसा अर्थ फरोगे तो देश को रसातल में ले जा कर डुवाओगे।

इसलिये मैं बहुत अदब से कहना चाहता हूं, इसको छिपाना नहीं चाहता हूं कि हम स्वर्ण सिंह जी को सुप्रीम कोर्ट तक ले जा कर ही रहेंगे, हमारे कागज बगैरह बन रहे हैं, करीब करीब बन गये हैं, दो चार दिन में दाखिल हो जायेंगे, स्वर्ण सिंह जी को वहां जाना होगा। जब बेरुबारी के बारे में यह मामला रेफर हुआ था तो सुप्रीम कोर्ट ने जो फाईंडिंग दी है वह बेरुबारी तक ही सीमति नहीं है, वह फाईंडिंग जेनरल है और जब भी कहीं भी देना पड़ेगा तो उसके लिये कांस्टीट्यूशनल अमैंडमेंट लाना ही पड़ेगा। यह कहाँ हमारे

कांस्टीट्यूशन में लिखा हुआ है कि कोई इंटरनेशनल कोई एवार्ड, कोई गलत और बेहूदा एवार्ड, दे दे और हम बिना पार्लियामेंट की स्वीकृति के टेरिटरी दे दें। कहां कांस्टीट्यूशन में प्राविजन ऐसा है। तो यह अनावश्यक ढंग से रियमरोल कर रहे हैं कांग्रेस के लोग या उनके जो लीगल एक्सपर्ट हैं या उनके सलाहकार हैं। हमारे मित्र जो बंगाल से आते हैं, उनकी हम बहुत इज्जत करते हैं, जज साहब हैं, उन्होंने क्या बहस की, मैं घबड़ा गया, जब गुप्ता बहुत आता था तो लावी में जा कर टहल आता था क्योंकि हम इसके आदी नहीं हैं, हमें सबक सिखाया जाता है ला प्वाइंट पर मैं बोलता चाहता हूं कि ला प्वाइंट को हमने बहुत अच्छा पढ़ा है, इतना पढ़ा है और इतना पढ़ा है कि शायद उम बारीकी से हमारे जो लीगल प्रैक्टीशनर्स हैं हाई कोर्टों में वह नहीं पढ़ते हैं क्योंकि हमारे जितने हाई कोर्ट के एडवोकेट हैं वह जिसमें पैरवी किये उसमें हम हारे हैं और जिसकी पैरवी हमने खुद की है जीत है, यह हम आपको बता देना चाहते हैं। अब मैं इस बात को यहीं रख रहा हूं और अब मैं आ रहा हूं अपने मित्र श्री भूपेश गुप्ता पर।

यह कच्छ लड़त समिति है, गुजरात कच्छ लड़त समिति है, कच्छ की हिकाजत के लिये लड़ने वाली कमेटी, यह समिति गुजरात में बनी है। अब इस कमेटी के सदस्य कौन कौन हैं, जरा सुनिये, उनके नाम हैं :- श्री इन्दुलाल याज्ञनिक, श्री मनुभाई पालखी वाला—समाजवादी पक्ष संतोषा—, श्री विद्युत ठाकुर—पी० एस० पी० प्रजा समाजवादी पक्ष—, श्री सुबोध मेहता—साम्यवादी पक्ष भूपेश गुप्ता—श्री नरेन्द्रसिंह झाला—स्वतंत्र पक्ष, श्री दिनकर मेहता—मार्क्सिस्ट साम्यवादी पक्ष, श्री चिमन भाई पटेल—जनसंघ, श्री दरसनदास परमार—रिपब्लिकन पक्ष, श्री इन्दुलाल छालिया—हिन्दू महासभा श्री राजेन्द्र लाल कपासी—गुजरात विद्यार्थी संघ, श्री प्रकाश रावल—राष्ट्रीय विद्यार्थी समाज।

SHRI BHUPESH GUPTA: Things are being done along that line.

SHRI NIREN GHOSH: We have spoken our line.

श्री राजनारायण : श्री नीरेन घोष ने अपना रुख यहाँ बताया और श्री नीरेन घोष के जो सम्मानित सदस्य गुजरात में हैं वह अपना रुख बता रहे हैं। देखिये मैं आपको बताता हूँ श्रीमन्। इतनी हिम्मत नहीं है कम्युनिस्ट पार्टी की, भारतीय कम्युनिस्ट पार्टी की या मार्क्सवादी कम्युनिस्ट पार्टी की, कि इस समय गुजरात में जो वानाकरण है जो एटमस्फियर है, उसके विरोध में चले। पहले वह नहीं आये थे, बाद में वह जब हम लोगों ने कहा कि अच्छा मत आओ तो मजबूर होकर उन्होंने कहा कि हम आयेगे और तब इस कमेटी के सदस्य बने और मेरी उपस्थिति में, मैं वहाँ विराजमान हूँ, एक डेपुटेशन इन लोगों के साथ गया वहाँ के मुख्य मंत्री के पास और वहाँ के मुख्य मंत्री को जो डेपुटेशन गया वह क्या है, उस सब को पढ़ते में ज्यादा समय लगेगा, लेकिन इतना कह दूँ कि यह था कि ये तमाम सदस्य प्रार्थना करते हैं कि सरकार एवार्ड को न माने। यह वहाँ के मुख्य मंत्री को मेमो-रेंडम सबमिट हुआ।

[THE DEPUTY CHAIRMAN in the Chair.]

जिसमें भारतीय कम्युनिस्ट पार्टी—श्री भूपेश गुप्ता, जिसमें मार्क्सवादी कम्युनिस्ट पार्टी—श्री नीरेन घोष, वहीं थे, तो अब यहाँ कुछ बोलें और वहाँ कुछ बोलें, इसका हमारे पास कोई इलाज नहीं है।

شری اکبر علی خان : آپکی دوستی

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†[श्री अकबर अली खान : आपकी दोस्ती है।]

श्री राजनारायण : दोस्ती तो हमारी खूब है। माननीया, एक बात और मैं कहना

† () Hindi transliteration.

चाहूँगा। मैं तहेदिल से इस बात को चाहता हूँ कि श्री भूपेश गुप्त हमारे साथ हों, मैं तहेदिल से इस बात को चाहता हूँ कि श्री नीरेन घोष हमारे साथ हों और मैं उसी बात को मद्दे-नजर रखते हुये इन लोगों से एक अपील करना चाहूँगा कि इतिहास को दुहरायें नहीं, इतिहास की पुनरावृत्ति नहीं होनी चाहिये, 1942 की, 1949 की। श्री भूपेश गुप्ता जो कहते हैं, शावेनिज्म, नैरो आउटलुक। मैं इनसे पूछना चाहता हूँ कि क्या संकुचित राष्ट्रीयता है। फिर भूपेश गुप्त को मैं याद दिलाना चाहता हूँ कि चले जाय जरा रूपी क्रांति के समय। क्या वे केमीनाव का पार्ट यहाँ प्ले नहीं कर रहे हैं। आज श्री भूपेश गुप्त और श्री नीरेन घोष से मैं अदब के साथ कहना चाहता हूँ कि वे केमीनाव और जिन्होव्हीद का पार्ट प्ले कर रहे हैं। उन लोगों ने, जब लेनिन ने कहा कि सोशलिस्ट रिवोल्यूशन के लिये तैयार हो, तो क्या बड़ा शावनिस्ट है क्योंकि एक मुल्क में समाजवादी क्रांति हो ही नहीं सकती है, समाजवादी क्रांति राष्ट्र-व्यापी नहीं है विश्वव्यापी है इसलिए लेनिन शावनिस्ट है। वही तर्क, जो आज मातृभूमि की रक्षा के लिये लड़ रहे हैं, श्री भूपेश गुप्त कहते हैं कि शावनिस्टिक एटीट्यूड मत रहो। आप किस बहार में वह रहे हैं जो कहते हैं कि एंग्लो इण्डियन के क्लब में प्रधान मंत्री फंस गये। मैं कहना चाहता हूँ श्री भूपेश गुप्त से कि प्रधान मंत्री को फंसने दो, फंसा करें। आप काहे को फंस रहे हो क्योंकि यह सारा अग्रीमेंट एंग्लो अमरीकन का है। यह एंग्लो अमरीकन लोग कहते हैं इस एग्री-मेन्ट को भारत सरकार माने और भूपेश गुप्त कहते हैं कि इस एग्रीमेन्ट को भारत सरकार माने। आज भूपेश गुप्त एंग्लो अमरीकन की दलावी कर रहे हैं। मैं यह डंके की चोट कह रहा हूँ। फर्क क्या है इस बात को देखो...

SHRI BHUPESH GUPTA: I would like Madam Deputy Chairman, our enduring friendship to survive the onslaught of the Kutch Award.

श्री राजनारायण : देखिये मैं बिलकुल सफाई से कहना चाहता हूँ क्योंकि अगर भूपेश गुप्त जी बिलकुल सैटिसफाइड हैं कि देशभक्ति की धारा प्रवाहित हो रही है तो हमको ईमानदारी के साथ बताओ कि क्या भूपेश गुप्त कहते हैं कि इस अवार्ड को न मानो। क्या अमरीका कहता है कि इस अवार्ड को न मानो, ब्रिटेन कहता है कि मानो। जख्म मार कर मानना पड़ेगा ? मैं भूपेश गुप्त की जानकारी के लिये बता दूँ, जो आगे बताने वाला हूँ अभी बता दूँ, कि जब एक इन्टर्नल कौन्सिल मुश्रीम पावर यहाँ बनी हुई थी, जब 1965 में माननीया, यहाँ की सरकार ने अपनी अंतरिम कमेटी बैठाकर यह फैसला दिया कि कच्छ पर हमारा हवाई जहाज, जायेगा, पाँच आदमियों की कमेटी थी और 12 घंटे के अंदर उन पाँच आदमियों की कमेटी की चर्चा ब्रिटेन में पहुँच गई और ब्रिटेन के प्रधान मंत्री ने यहाँ के प्रधान मंत्री को कहा : खबरदार, अगर तुमने कच्छ पर हवाई जहाज का इस्तेमाल किया तो हम सीटो नाटो के एग्जीमेन्ट के मुताबिक पाकिस्तान का साथ देंगे और उसके बाद वहाँ हवाई जहाज का हमला नहीं हुआ। इसलिये मैं भूपेश गुप्त को बताना चाहूँगा, आज इस कच्छ फैसले को लेकर क्या भूपेश जी ब्रिटेन का साथ नहीं दे रहे हैं।

श्री भूपेश गुप्त : प्राइम मिनिस्टर ने इसका जवाब दिया है।

THE DEPUTY CHAIRMAN: Mr. Rajnarain, you must finish now.

श्री राजनारायण : माननीया, मैं हाथ जोड़ूँगा आप हम को जरा चलने दीजिए। अब मैं श्री स्वर्ण सिंह को जवाब देता हूँ क्योंकि वह आ गये हैं।

THE DEPUTY CHAIRMAN: After you Mr. Bhandari has to reply.

श्री राजनारायण : देखिये, मैं संसदीय प्रथा को जानता हूँ। जितने लोग बोले हैं

हमारे पक्ष में और विपक्ष में सब को हमें जवाब देना है, खास तौर से विपक्ष को।

THE DEPUTY CHAIRMAN:- Mr. Rajnarain, you will have to limit your time.

श्री राजनारायण : माननीया, हम आपसे थोड़ा समय और चाहेंगे।

THE DEPUTY CHAIRMAN: You are such a good parliamentarian. You can finish replying to every one in 20 minutes.

श्री राजनारायण : मैं आपकी आज्ञा को शिरोधार्य करके चलने की कोशिश करूँगा। जरा धीरज रखिये।

देखिये, श्री लाल बहादुर शास्त्री श्री स्वर्ण सिंह को कंडम कर रहे हैं। यह है डा० राम मनोहर लोहिया का पत्र 12 अप्रैल 1965 का...

THE DEPUTY CHAIRMAN: Yott cannot go into details now.

श्री राजनारायण : जरा सुना जाय। अगर आप हमें हर विषय पर टोकना चाहेंगी तो हमारा बोलना व्यर्थ है। यह इसी से संबंधित है। देखिये उन्होंने क्या लिखा है :

“प्रिय श्री नेता, अब तक मेरे पत्रों का आप पर कोई असर नहीं पड़ा। अब मैं आखिरी कोशिश कर रहा हूँ। आपकी उस हैसियत को यह पत्र लिख रहा हूँ जिससे आप सदन के नेता हों।

यह जरूरी है कि आप सदन में एक बयान दें जिससे भारत की भूमि के बारे में “विवादग्रस्त क्षेत्र” की संज्ञा कभी इस्तेमाल न की जा सके। यह केवल मंत्रियों के लिये ही नहीं बल्कि किसी हद तक सब जनता और समाचारपत्रों के लिये फायदेमंद होगा। इन शब्दों का इस्तेमाल किसी भी क्षेत्र के बारे में तब ही हो सकता है जब उन्हें विदेशियों को

देने की संधि पर हस्ताक्षर होने वाले हों या हो गये हों। उनके पहले इनका इस्तेमाल विशुद्ध विद्रोह है।”

डा० लोहिया ने, चूंकि भारत सरकार गलती करती आ रही थी, जो हमारी जमीन थी उस पर अगर किसी ने क़ानून कर दिया तो मान लेती थी क्योंकि सरकार अज्ञानी है कि विवादस्पद है। यह हमारे गर्दन को हर समय ढोड़ रही थी। श्री लाल बहादुर शास्त्री ने जो जवाब दिया उसको भी थोड़ा पढ़ा देता हूं। हां, डा० लोहिया के लेटर का आखिरी पैरा रद्द गया है जो इस प्रकार है :

“मैं सदन में कई बार कह चुका हूं कि हदबंदी का मामला केवल कुछ गज इधर उधर का होता है और वहीं 100, 500 एकड़ का होता है। तो सिर्फ देने का नहीं होता है ले लेने का भी होता है...

प्रधान मंत्री का उत्तर :

“प्रिय डाक्टर साहब, नमस्कार। आपका 12 अप्रैल 1965 का पत्र प्राप्त हुआ है। मैं आपसे सहमत हूं कि “विवाद-ग्रस्त” शब्द के प्रयोग करने से हमें सावधान होना चाहिये। यह ठीक है कि हमने भूतकाल में कुछ सरकारी कागज़ों में “विवादग्रस्त” का प्रयोग किया है। इसके बदले में जहां तक सम्भव हो भारतीय क्षेत्र जिनके सम्बन्ध में पाकिस्तान ने दावा किया है, शब्दों का प्रयोग भविष्य में कर सकते हैं। मैं इस मामले पर विचार कर रहा हूं और उचित आदेश जारी करूंगा।”

श्री लाल बहादुर शास्त्री ने डा० लोहिया के नाम अपने पत्र में यह बिल्कुल सफाई के साथ कहा कि मैं इस बात को सही तरीके से मानता हूं कि हमको विवादग्रस्त शब्द का प्रयोग नहीं करना चाहिये और उन्होंने मान-नीया, इस बात को माना कि भारत सरकार की ओर से पहले गलती से विवादग्रस्त शब्द

का प्रयोग हो गया है जिसके लिये उन्होंने ख़ुद एक मुज़ाव आगे दिया कि मैं चाहूंगा कि अब ऐसा प्रयोग हो यह भारत की जमीन है, अब पाकिस्तान इस पर अपना अधिकार जमा रहा है...

उपसभापति : अब बस करना चाहिये।

5 बजे के अन्दर समाप्त कीजिए।

श्री राजनारायण : जल्दी जल्दी में समाप्त कर रहा हूं। अब मैं कहना चाहूंगा। क्या हम राष्ट्र भक्त नहीं हैं। मैं अपने उन मित्रों से पूछना चाहता हूं, अनूप सिंह मरीखे, कि जब तिब्बत पर चीन का हमला हुआ, तिब्बत को चीन को दिया गया तो कौन सा इंटरनेशनल ट्राइब्यूनल था जब हमने साढ़े 14,000 वर्ग मील लद्दाख के इलाके में अकसाईचिन की तरफ जमीन छोड़ दी। तब किस इंटरनेशनल ट्राइब्यूनल ने कहा कि ऐसा करो। अब हमने उत्तर पूर्व सीमा अंचल, उर्वशीयम में, चीन की अपनी जमीन छोड़ी थी तो किस ट्राइब्यूनल ने कहा था। अगर एक नारा था बराबर शांति, शांति, शांति, तो मैं श्री भूपेश गुप्त, आपको सलामी दूंगा...

(Time bell rings.)

उपसभापति : अब खत्म कीजिये।

श्री राजनारायण : आप चले जाइये और रूस से कह दीजिये कि साइबेरिया का जो टुकड़ा चीन मांग रहा है, वह उसको दे दीजिये, मैं अनूपसिंह से कहना चाहता हूं वे चले जायें और ब्रिटेन से कह दें कि तुम डोवर को छोड़ दो और इसी तरह से अमेरिका से कहें कि न्यूयार्क तुम से ले लें। मैं सीरेन घोष से कहना चाहता हूं कि हमें तो वह शांति का पाठ पढ़ाना चाहते हैं लेकिन चीन हमारी छाती पर बैठकर हमें जमीन ले रहा है तो चीन को शांति का पाठ क्यों नहीं पढ़ाते हो। हमसे कहते हो : शांति, शांति, शांति। दुर्घटना शांति नहीं है, कायरता शांति नहीं है।

(Time bell rings.)

उत्सभापति : 5 मिनट में खत्म करना होगा । 5 बजने वाले हैं ।

SHRI BHUPESH GUPTA: I assure you if he speaks a little longer, no more territory will be lost. Neither will we get any.

THE DEPUTY CHAIRMAN: Mr. Gupta, you had your say.

श्री राजनारायण : देखिये बीच का समय काट लीजिएगा, बीच में कोई न बोले । तो मैं यह निवेदन कर रहा हूँ कि 1940 में लाहौर में प्रस्ताव पास किया कि पाकिस्तान बने । उन लोगों को मुल्क की क्या चिन्ता है जो हमेशा अपने को गिरगिट की तरह रंग बदलते रहें । राजनीति में उन्होंने यही सीखा । उन्हें मातृभूमि की सुरक्षा की क्या चिन्ता है ? मैं आज सफाई से कहना चाहता हूँ कि देश की, मातृभूमि की, सुरक्षा का भाव उन्हीं लोगों के अंदर हो सकता है जो कि आर्थिक क्रांति में यकीन करते हैं, जो समाज में समता लाना चाहते हैं । जो मातृभूमि की सुरक्षा राष्ट्रभक्त हो कर करना चाहते हैं वही हमारी बात समझ पायेंगे, उसके विपरीत जिनका आचरण होगा वह हमारी बात क्या समझेंगे । क्या अनूप सिंह, स्वर्ण सिंह और इंदिरा गाँधी और सब ने 1947 में जब 14, 15 जून को प्रस्ताव पास हुआ, जिस के मुताबिक भारत और पाकिस्तान, बना, यह नहीं कहा था कि एक मतवा मुल्क का बटवारा हो जायेगा तो भारत पाक एकता होगी, उन में शांति रहेगी । शांति के नाम पर, कम्यूनल शांति के नाम पर कहा गया कि शांति कायम रहेगी अगर मुल्क को बाँट ले । मगर शांति नहीं रही, बटवारे के बाद साढ़े सात लाख जानें गई । उस के बाद सफाई से कहना चाहता हूँ कि ... इन्ट्रप्शन ... अब देखिये आप बीच में न बोलिये । अभी 5 नहीं बजा है ...

उत्सभापति : पाँच बज चुके हैं ।

श्री राजनारायण : देख रहा हूँ । पाँच मिनट में ...

उत्सभापति : 5 मिनट नहीं 5 बजे ।

श्री राजनारायण : उस में आधा समय माननीया आपके इन्ट्रप्शन ने ले लिया । हम क्या करें ?

5 P.M.

तो मैं यह कहना चाहता हूँ कि शांति, शांति कह करके और मुल्क को बाँट कर के शान्ति नहीं होगी । जिस तरह से सरकार ने काश्मीर के हिस्से को देकर शान्ति नहीं की है, जिस तरह से लियाकत नेहरू पैक्ट में शांति नहीं हुई है, जिस तरह से नेहरू नून संधि से शांति नहीं हुई है, जिस तरह से सिंध कैनल एग्रीमेंट से शान्ति नहीं हुई है, ताशकंद समझौते से शांति नहीं हुई है, उसी तरह से इस कच्छ समझौते से भी शांति नहीं होगी । आप इस हवाई एवाइ को इम्प्लीमेंट करेंगे तब भी शान्ति नहीं होगी । उस के बाद फिर काश्मीर का सवाल आयेगा, फिर पश्चिमी और पूर्वी पाकिस्तान को मिलाने के लिए गलियार का सवाल आयेगा । इसलिए मैं श्री भूपेश गुप्ता से निवेदन करना चाहता हूँ कि अगर वे हमारे साथ निरंतर संबंध कायम रखना चाहते हैं, अगर वे इस चीज में शांति चाहते हैं तो भारत और पाक का एक महा-संध बने, एक कॉन्फिडेंशन बने । हमने शेख अब्दुल्ला से तीन चार घंटे बातचीत की थी दिल्ली में और उन को यह सुझाव दिया था कि वे कॉन्फिडेंशन की बात को चलायें । हम ने उन से कहा कि जब वे पाकिस्तान जाय तो वहाँ के नेताओं को कॉन्फिडेंशन की बात को समझायें क्योंकि भारत और पाकिस्तान जो बना है वह हेटरेड की भावना पर बना है । हिन्दू मुसलमानों के बीच अंग्रेजों ने जो नफरत पैदा की है उसकी वजह से ही इस मुल्क के दो टुकड़े हुए और यही चीज इसकी बुनियाद है ।

यह जो नफरत की बुनियाद है वह कभी भी सहज रिश्ता कायम नहीं होने देता है । अगर दोनों मुल्कों के बीच सहज रिश्ता कायम करना है तो उस के लिए एक ही रास्ता है और वह यह है कि दोनों मुल्कों का एक लूज कॉन्फिडेंशन बनाया जाय । एक मर्तबा वहाँ का प्रेजीडेंट बने और यहाँ का प्रधान मंत्री बने और एक मर्तबा यहाँ का प्रेजीडेंट बने और वहाँ का प्रधान मंत्री बने । दोनों की सुरक्षा एक हो और अन्तरराष्ट्रीय विषय भी एक हों । जब हम इस तरह का कॉन्फिडेंशन बनायेंगे तब जाकर शांति हो सकती है ।

मैं श्री भूपेश गुप्ता से ज्यादा अन्तर-राष्ट्रीय हूँ । मैं विश्व बन्धुत्व को मानता हूँ । आज यहाँ पर कोई विश्व पार्लियामेंट बनाई जाये आज यहाँ पर कोई विश्व सरकार बनाई जाये । अगर वह विश्व सरकार और विश्व पार्लियामेंट बनती है और वह ईमानदारी के साथ कोई फैसला करती है तो हम उसको मानने के लिए तैयार हैं । मगर जब तक भारत और पाक का अलग अलग अस्तित्व कायम है तब तक हमारी एक इंच जमीन भी उसको देना कायरता है, देशद्रोह है, दुर्बलता है तथा देश के लिए गुनाह है । श्री भूपेश गुप्ता और श्री निरेन घोष अपने को विरोधी पक्ष का कहते हैं । तो विरोधी पक्ष का यह चरित्र नहीं होना चाहिये कि मौके पर अपनी मतलब की बात कह दें । अगर आज रूस यह कहता है कि कच्छ एवार्ड नहीं माना जाना चाहिये तो उसके संबंध में श्री भूपेशगुप्ता क्या कहेंगे । मैं श्री भूपेश गुप्ता को बतला देना चाहता हूँ कि रूस का काश्मीर के संबंध में रुख बदलने वाला है क्योंकि उसने कह दिया है कि काश्मीर का जो मामला है वह पहले जैसा नहीं रह गया है । उन्हें रूस की बात का कुछ दिनों बाद पता चल जायेगा । इसलिए, हे भूपेश गुप्ता, हे निरेन घोष, हे श्रीमती इन्दिरा नेहरू गांधी मैं तुम से यह कहना चाहता हूँ कि अगर तुम इस मातृभूमि की रक्षा करना चाहते हो, तो हमारी जिन्दगी

लेकर भी इस एवार्ड को ठुकरा दो । तुम मातृ भूमि की रक्षा के लिये अपने हाथ में पिस्टल ले कर हमें मार डालो मगर इसकी रक्षा करो । इसलिये मैं चाहता हूँ कि इस एवार्ड को हरगिज न माना जाय और जो इसको मानने की बात करता है वह देशद्रोही है, गद्दार है और जनता को नरक में ले जाने वाला है ।

श्री सुन्दर सिंह भंडारी : उप सभापति महोदया, मैं सदन के उन सभी सदस्यों का आभारी हूँ जिन्होंने इस प्रस्ताव पर अपने विचार यहाँ रखे । मुझे इस बात की भी प्रसन्नता है कि कुछ माननीय सदस्यों ने इस प्रस्ताव पर विचार करते समय राजनीतिक सीमाओं में अपने को बांधना अनिवार्य नहीं समझा और जो उनकी स्पष्ट तथा शुद्ध भावनाएँ थीं, उसके अन्तर्गत उन्होंने अपने विचार को यहाँ पर व्यक्त किया ।

प्रधान मंत्री महोदया ने भी जो इस विवाद में भाग लेकर सरकार की नीति के सम्बन्ध में कुछ बातें कहीं, मैं समझता हूँ उनसे इस एवार्ड के सम्बन्ध में उन्हें पुनः विचार करने के सम्बन्ध में पुष्टि प्रदान की । सरकार ने यह मत माना कि पाकिस्तान ने जो इक्विडेंस दिये अपने क्लेम को सिद्ध करने के लिये और जिस आधार पर उसने सारी इक्विडेंस दी, ट्राइब्यूनल ने उसके एक भी कन्टेन्शन को स्वीकार नहीं किया । पाकिस्तान ने सब प्रकार के इक्विडेंस इस मामले के ऊपर दिये थे फिर भी ट्राइब्यूनल ने उनको नहीं माना । अर्थात् जो आधार पाकिस्तान ने इस भूभाग को मांगने के लिये दिये थे वे अब समाप्त हो गये हैं और शायद सरकार भी अनहेपी है कि पाकिस्तान के कन्टेन्शन को न मानते हुये भी ट्राइब्यूनल ने कुछ इलाके जो हमारे हैं पाकिस्तान को देना स्वीकार किया ।

श्री भूपेश गुप्ता का यह तर्क है कि जब हम ट्राइब्यूनल के पास गये तो यह मान कर

[श्री सुन्दर सिंह भंडारी]

चलना चाहिये कि 100 फीसदी मामला हमारे पक्ष में तय नहीं होता। मैं नहीं समझता कि उनकी यह बात किसी तर्क पर आधारित है कि जब हम ट्राइब्यूनल के पास गये तो उसको कुछ न कुछ काट छांट कर ही फैसला करना चाहिये। मैं यह तो मान सकता हूँ कि हमारा जो 100 फीसदी का क्लेम था उसको 100 फीसदी मानता या फिर 100 फीसदी रिजेक्ट कर देता। क्या ट्राइब्यूनल में जाने का यह मतलब होता है कि वह अपना डिस्काउन्ट काट कर 70 फी सदी, 80 फी-सदी पर ही फैसला दे। मैं नहीं समझता कि किसी ट्राइब्यूनल के गठन के सिद्धान्त पर यह चीज निहित है। श्री अनूप सिंह जी, ने बीच में एक नया शर्फा छोड़ा कि चूँकि कुछ इन्लेट्स का सवाल था, मामला कुछ गड़बड़ था और इसी वजह से उन्होंने इस क्षेत्र को फारेन टैरिटरी कहा। इसका अर्थ यह निकलता है कि वह हिस्सा न हिन्दुस्तान का था और नहीं पाकिस्तान का था। इस-लिये अगर ट्राइब्यूनल ने इस इन्लेट्स को पाकिस्तान को देने का फैसला किया तो यह बात भी नॉटेशन आफ टैरिटरी की परिभाषा में नहीं आती है। मैं दाद देता हूँ उनके तर्क की। लेकिन पाकिस्तान ने जिस आधार पर विचार किया, यही उसका मुख्य कारण है ट्राइब्यूनल पर आक्षेप करने का।

ANUP SINGH: I just want to make a correction. I do not recall what I said, but I am sure I did not mean this. I was quoting from the text of the judgment itself. What I said was. Nowhere has the Tribunal admitted that the territory belonged to India. Therefore, when they have given it to Pakistan, it cannot be inferred that it belongs to India and now it is being given to Pakistan.

SHRI SUNDAR SINGH BHANDARI: You quoted some word "foreign" in that. What do you interpret by that?

DR. ANUP SINGH: It is not my word.

SHRI SUNDAR SINGH BHANDARI: Your interpretation.

DR. ANUP SINGH: Not my interpretation.

श्री सुन्दर सिंह भंडारी : मेरा निवेदन है कि इस सारे क्षेत्र के बारे में और इस अवस्था में जो कुछ उन्होंने लिखा है, वह पार्टिजन दृष्टिकोण सिद्ध करता है।

"In respect of those sectors of the Rann in relation to which no-specific evidence in the way of display of Sind authority, or merely trivial or isolated evidence of such a character, supports Pakistan's claim, I pronounce in favour of India."

D
R

मैंने शुरू से ही यह बात रखने की कंशिश की है कि ट्राइब्यूनल ने एवार्ड देते समय पाकिस्तान के लिए कौन सी चीज बनती है और कौनसी चीज नहीं बनती है, इस आधार पर सारी बात की है। एक एवार्ड देने वाले ट्राइब्यूनल को जिस निष्पक्षता से अपना रोल अदा करना चाहिये था, जिसे भाषा, एप्रोच से इस प्रश्न का हल करना चाहिये था, वह उसने नहीं किया। उसका यह कहना कि अमुक अमुक हिस्से पर पाकिस्तान ने अपनी एकटीविटीज को साबित किया और चूँकि कच्छ की तरह से उसका खंडन नहीं किया गया, इस वजह से वह हिस्सा पाकिस्तान को जाता है। मेरा यह कहना है कि ट्राइब्यूनल की परिभाषा में, ट्राइब्यूनल की शब्दावली में यह एक पक्षपातपूर्ण दृष्टिकोण है और इसी लिये इस ट्राइब्यूनल के अवार्ड के सम्बन्ध में यह आरोप रहा है कि उसने ट्राइब्यूनल की हैसियत में विचार नहीं किया। जब कि पाकिस्तान के सारे कंटेंशंस को उसने अस्वीकार किया, फिर भी उसने एकपक्षीय दृष्टिकोण ले कर के विचार किया।

एक तर्क दिया गया प्रधान मंत्री की ओर से कि बेरुबाड़ी में एनक्लेव के ट्रांसफर का सवाल था और इसलिये कांस्टिट्यूशन में अमेंडमेंट की जरूरत पड़ी। लेकिन ट्रांसफर न हों, एनक्लेव देना मात्र हों, if it is mutual transfer, दोनों तरफ लेना देना हों तब तो कांस्टिट्यूशनल अमेंडमेंट की जरूरत पड़ेगी और अगर केवल देने का ही फैसला किया जाय तो कांस्टिट्यूशनल अमेंडमेंट की आवश्यकता नहीं होगी, यह तर्क बिल्कुल गलत है, यह तर्क बिल्कुल बेबुनियाद है। इसमें एनक्लेव अगर दिये हैं पाकिस्तान को, तब भी चाहे वह ट्रांसफर या एक्सचेंज न हो परन्तु एनक्लेव देने का फैसला किया है और वे एनक्लेव जो निश्चित रूप से, फारेन शब्द की परिभाषा के मुताबिक हिन्दुस्तान के एनक्लेव हैं वे अगर पाकिस्तान को दिये गये हैं तो कांस्टिट्यूशनल अमेंडमेंट की आवश्यकता है। पाकिस्तान का अगर कोई कंटेंशन वेसिड न होंते हुए 317 स्क्वायर मील का इलाका पाकिस्तान को दिया गया पर पाकिस्तान का कोई आधार नहीं है उसको लेने का। पाकिस्तान के कंटेंशन को उसने नहीं माना है, फिर भी उसकी सारी एविडेंसेज न होंते हुए भी जिस तरह से 317 स्क्वायर मील इलाका पाकिस्तान को उसने दिया, 3,500 स्क्वायर मील इलाका देने में भी उसके ऊपर क्या बन्धन था, क्या रुकावट थी, क्या पाबन्दी थी। जब आवागमन, भेड़ बकरियां चराने का तर्क ले कर 317 स्क्वायर मील इलाका दिया तो 3,500 स्क्वायर मील क्षेत्र भी अगर भेड़ बकरियां चराने के काबिल होंता, वहां पर अगर दलदल न होंता, वहां पर भी अगर घास उगती होती तो इस तर्क पर कि वहां पर 317 स्क्वायर मील जमीन पर केवल वे भेड़ बकरियां चराते थे इसलिये उसको दिया और बाकी जमीन पर वे भेड़ बकरियां चराते नहीं थे या चरा नहीं सकते थे, किस आधार को लेकर के वह हिन्दुस्तान के कब्जे में रह गई। मैं समझता हूं कि यह चीज कि केवल 317 वर्ग मील दिया है, ट्रिब्युनल का कानून और न्याय

के आधार पर तय करते समय यह दलील, कि यह केवल 317 स्क्वायर मील का इलाका है, 90 प्रतिशत हिस्सा हमारे पास रह गया है, 10 प्रतिशत केवल पाकिस्तान को दिया गया है, मैं समझता हूं कि कानून के दायरे में तो एक इंच जमीन भी, और अधिकार के आधार पर, पाकिस्तान अपने किसी कंटेंशन से जिसके ऊपर अपना अधिकार साबित नहीं कर पाया, एविडेंस उसके इस सम्बन्ध में पूरे नहीं दे पाया, उसके आधार पर एक इंच जमीन देना, यह किसी भी प्रकार से ट्रिब्युनल के लिये वाजिब नहीं था। इसलिये ट्रिब्युनल ने जो यह फैसला लिया है वह सबूत पर, पाकिस्तान के किसी कंटेंशन पर नहीं बल्कि दूसरे कारणों पर लिया है।

सरदार स्वर्ण सिंह ने कल एक बात कही कि आखिर इस मामले को कब तक चलायें। मैं उनके इस तर्क के एक वजन का समझ सकता हूं कि आप हमेशा मामला कब तक खुला रखें, हम उसके पास जायें, फिर से झमेला में पड़ें, कम से कम 90 प्रतिशत तो सेटिल हो गया, हम इसी पर समाधान कर लें। मुझे अफसोस है कि अगर इतने वर्षों से यह मामला खुला है, इतने वर्षों से यह मामला डिसप्युटेड रहा है, अगर यह मामला ट्रिब्युनल के सामने 1965 में गया था, 1965 से गया हुआ आज 1968 में अवाई आया है, ट्रिब्युनल के पास तीन साल रहा, तो ट्रिब्युनल में दस वर्ष और कांस्टिट्यूशन चल सकता था। अन्तानी साहब ने कल यह बात कही कि हम खुद उनको आंखों से दिखाना चाहते थे कि सैंड ड्यून्स वहां अनक्वेश्चनेबिल इंटरनेशनल बाऊंडरीज की गवाही देते हैं और शायद ट्रिब्युनल का दिमाग इस बात को देख कर बदल सकता था। आज महज इस वजह से कि वहां पर जा करके यह सवाल फिर खुल जायेगा हम न्याय प्राप्त करने के लिये, हमारे ऊपर जो अन्याय किया गया है उसका घूट पीने के लिये तैयार हो जायें? यह तर्क वाजिब नहीं है। इसलिये मैं समझता हूं कि अगर इंटरनेशनल कोर्ट इस

[श्री सुन्दर सिंह भण्डारी]

सारे मामले को अपने हाथ में ले कर देखें तो हमारा ज्यादा सबूत होगा। लाइन आफ अलाइनमेंट जो हमने अपहोल्ड की है हमेशा से उस लाइन आफ अलाइनमेंट को उसने चेंलेंज नहीं किया है। लाइन आफ अलाइनमेंट पर हमारी मजबूती कायम हुई है। पाकिस्तान के द्वारा दिये गये सब प्रूफ्स ट्रिब्यूनल ने वज्रनदार नहीं माने हैं। हमें इंटरनेशनल कोर्ट के पास जाने के लिये हिम्मत बढ़नी चाहिये। हमारे ऊपर अगर अन्याय हुआ है, हमारी जमीन को अगर छीन कर दिया गया है तो महज यह तर्क दे कर कि हम फिर से इस सवाल को खोलें, यह सवाल फिर डिस्प्यूट का कारण बने, पाकिस्तान ने अगर डिस्प्यूट का कारण बनाया है तो महज इस वजह से कि किसी भी तरह से इसका हलअप करके जल्दी जल्दी सको तय करने की हम कोशिश करें, मैं समझता हूँ कि यह देश के किसी भी व्यक्ति को समाधान नहीं दे सकता। इसलिये मैं चाहता हूँ कि इस सवाल को हम मजबूती के साथ वहाँ पर ले जाएँ।

मेरा यह निवेदन है कि यहाँ पर अनेक माननीय सदस्यों ने अपने विचार रखे। श्री अर्जुन अरोड़ा जी ने कल जो विचार रखा सरकार ने उसकी सफाई करने की कोशिश की है। लेकिन ऐसे तत्व जो इन आधारों पर अपने देश में कुछ कमजोरी का वातावरण बनाना चाहते हैं उनके तरीके से हम कुछ बचा नहीं पाये। हम उनके जो सरप्राइज अटैक थे, उनको रोक नहीं पाये। यह कहा गया कि हम आर्बिट्रेशन नहीं मानते तो क्या करते? प्राइम मिनिस्टर ने इस तर्क का जवाब देने की कोशिश की है कि हम कोई दबाव से नहीं गये, लेकिन इसमें से क्या क्या अर्थ निकल सकते हैं, उन्हीं के दल के सदस्य इसमें से कौन से विचारों का प्रचार करने की ताकत प्राप्त कर सकते हैं इसका वे जरा अन्दाजा लगाएँ।

मेरा यह निवेदन है कि बाउन्ड्री की रक्षा हो। सरप्राइज अटैक्स हुए हैं पिछले दिनों में हम उनका मुकाबिला नहीं कर पाये, लेकिन हमारी उस तात्कालिक, सरप्राइज अटैक का सामना न कर सकने की स्थिति को, कमजोरी के रूप में सामने रखने का प्रयत्न किया गया है। यह सावधानी हमें बरतनी होगी कि अब सरप्राइज अटैक्स भी किसी इलाके पर अगर होते हैं तो हम इतनी तैयारी कर के चलें कि उन सरप्राइज अटैक्स का भी लाभ और उसमें से पैदा की गई परिस्थिति की मजबूरियाँ हमारे सामने कभी पेश न हो पाएँ।

इसलिये मैं निवेदन करना चाहता हूँ कि जो कुछ भी विभिन्न माननीय सदस्यों ने यहाँ पर विचार रखे हैं उसमें से इस बात की पुष्टि हुई है कि यह अवार्ड, नियमों के अनुसार, जिस मतलब के लिये ट्रिब्यूनल बनाया गया था, जो उसका दायरा रहा है उस दायरे पर आधारित नहीं है क्योंकि उस दायरे में हम 100 परसेंट केस जीतते। इस कंटेंशन मातल से कि ट्रिब्यूनल को हमने दिया था उसमें से 5, 10 परसेंट उनको कटौती करनी ही चाहिये, यह लचर तर्क है और यह किसी बुनियाद पर नहीं ठहरती। इस कारण से यह 10 परसेंट जमीन जो हमसे छोनी जा रही है वह हम पर अन्याय है और अन्याय का परिमार्जन करने के लिये हमें कदम उठाना चाहिये और सरकार को यह गलती नहीं दोहरानी चाहिये। यह कहना कि यह केवल बाउन्ड्री का सवाल है और इसमें सेशन आफ टेरिटरी इनवाल्ड नहीं है मैं समझता हूँ कि सब तर्कों ने यह बात सिद्ध की है कि सेशन आफ टेरिटरी इनवाल्ड है। सेशन आफ टेरिटरी इनवाल्ड होने के कारण कांस्टिट्यूशनल अमेंडमेंट के बिना एक इंच जमीन भी किसी दूसरे देश को देना यह इस सरकार के अधिकार में नहीं है। बिना कांस्टिट्यूशनल अमेंडमेंट के इस अवार्ड का कार्यान्वित होना कांस्टिट्यूशन का अपमान है और सरकार जि कांस्टिट्यूशन के अनुसार बनी है उसके प्र

यह गैरवफादारी होगी । यही निवेदन मैं करना चाहता हूँ ।

THE DEPUTY CHAIRMAN: I shall now put Shri Rajnarain's motion to the vote of the House.

The question is:

"That this House disapproves of the Award (February 19, 1968) of the Indo-Pakistan Western Boundary Case Tribunal on the Rann of Kutch."

The House divided.

THE DEPUTY CHAIRMAN: Ayes— 17; Noes—63.

AYES—17

Antani, Dr. B. N. Basu, Shri Chitta. Bhandari, Shri Sundar Singh. Chandrasekharan, Shri K. Chordia, Shri V. M. Das, Shri Banka Behary. Jagat Narain, Shri Khandekar, Shri R. S. Mani, Shri A. D. Murahari, Shri G. Panda, Shri Brahmananda. Patel, Shri Dahyabhai V. Rajnarain, Shri. Reddy, Shri Mulka Govinda. Sarla Bhadauria, Shrimati. Sen Gupta, Shri D. L. Thengari, Shri D.

NOES—63

Abdul Shakoor, Moulana. Ammanna Raja, Shrimati Anandan, Shri T. V.

Annapurna Devi Thimamareddy, Shrimati.

Bhadram, Shri M. V.

Bhatt, Shri Nand Kishore.

Chandra Shekhar, Shri.

Chetia, Shri P.

Devaki Gopidas, Shrimati.

Gilbert, Shri A. C.

Gujral, Shri I. K.

Gupta, Shri Bhupesh.

Gurupada Swamy, Shri M. S.

Hathi, Shri Jaisukhlal.

Kathju, Shri P. N.

Kesavan (Thazava), Shri.

Khaitan, Shri R. P.

Khan, Shri Akbar Ali.

Krishna Kant, Shri.

Kulkarni, Shri A. G.

Kumaran, Shri P. K.

Kurre, Shri Dayaldas.

Lalitha (Rajagopalan), Shrimati..

Maniben Vallabhbbhai Patel, Kumari.

Mary Naidu Miss. M. L.

Mehta, Shri Om.

Mishra, Shri L. N.

Mitra, Shri P. C.

Mohammad, Chaudhary A.

Mookerjee, Shri Debabrata.

Nandini Satpathy, Shrimati.

Paliwal, Shri S. K. D.

Pande, Shri Tarkeshwar.

Panijhazari, Sardar Raghbir Singh..

Patel, Shri T. K.

Patra, Shri N.

Pattanayak, Shri B. C.

Purkayastha, Shri M.

Pushpaben Janardanrai Mehta, Shrimati.

Ramaswamy, Shri K. S.

Ramaul, Shri Shiva Nand.

Ray, Shri Ramprasanna.

Sahai, Shri Ram.

Salig Ram, Dr.

Sapru, Shri P. N.

Savnekar, Shri B. S.
Shah, Shri K. K.
Shanta Vasisht, Kumari,
Sherkhan, Shri
Shukla, Shri Chakrapani.
Shukla, Shri M. P.
Shyam Kumari Khan, Shrimati.
Siddalingaya, Shri T.
Singh, Dr. Anup.
Sinha, Shri Awadheshwar Prasad.
Tara Ramachandra Sathe, Shrimati.
Tariq, Shri A. M.
Tiwary, .

Tripathi, Shri H. V. Upadhyaya,
Shri S. D. Varma, Shri B. B.
Varma, Shri C. L. Yajee, Shri
Sheel Bhadra.

The motion was negatived.

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

The House then adjourned at
twenty-five minutes past five of
the clock till eleven of the clock on
Thursday, the 7th March, 1968.