

THE DEPUTY CHAIRMAN: The question is:

"That Sardar Baint Singh and Shri Mahendra Pratap Singh be released at 5-00 P.M. today."

The motion was adopted.

THE DEPUTY CHAIRMAN: And they will be released. We are directing the Secretary to send the order forthwith.

Now, we go to the next clause, clause 6 . . .

(Interruptions.)

THE UNLAWFUL ACTIVITIES (PREVENTION) BILL, 1967—continued.

THE LEADER OF THE HOUSE (SHRI JAISUKHLAL HATHI): We shall have to sit through the Lunch Hour. Otherwise, we will not be able to finish it. We have to do it.

SHRI BHUPESH GUPTA: We will sit till 8-00 P.M. also. Are you ready?

SHRI AKBAR ALI KHAN: Mr. Bhupesh Gupta, you are mistaken.

SHRI JAISUKHLAL HATHI: Yesterday, the leaders said that we shall be finishing it by 5-00 P.M. . . .

(Interruptions.)

THE DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, you were not here then.

SHRI NIREN GHOSH: I say that all the names . . .

(Interruptions.)

SHRI JAISUKHLAL HATHI: Mr. Banka Behary Das suggested that as a compromise and we agreed to that compromise.

SHRI BHUPESH GUPTA: What is that compromise?

SHRI BANKA BEHARY DAS: I said that it would be finished today. I have not given any time-limit.

(Interruptions.)

SHRI BHUPESH GUPTA: Mr. Akbar Ali Khan, why are you standing. You are not the Government.

(Interruptions.)

श्री राजनारायण (उत्तर प्रदेश): माननीया, सब मामला गड़बड़ है। मैं आपको बता दूँ, आप यहां नहीं थी इसलिये मैं आपको जानकारी करा दूँ . . .

उपसभापति: मुझे जानकारी हो गयी है।

श्री राजनारायण: आज यह विधेयक पास होने को है लेकिन आज तो 12 बजे रात तक है।

THE DEPUTY CHAIRMAN: That is all right. Now, we go to clause 6.

Clause 6—Period of operation and cancellation of notification

THE DEPUTY CHAIRMAN: There are two amendments in the name of Mr. Kumaran, amendments Nos. 38 and 39 and one in the name of Shri Niren Ghosh, amendment No. 79.

SHRI P. K. KUMARAN: Madam, I move:

38. "That at page 5, line 16, for the words 'two years' the words 'six months' be substituted."

39. "That at page 5, line 16, for the words 'two years' the words 'one year' be substituted."

SHRI NIREN GHOSH: Madam, I move:

79. "That at page 5, line 16, for the words 'two years' the words 'six months' be substituted."

The questions were proposed.

SHRI BHUPESH GUPTA: I move also amendment No. 38.

THE DEPUTY CHAIRMAN: It is the same as Mr. Kumaran's. You may speak later. You should not quarrel between yourselves.

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

SHRI P. K. KUMARAN: Sir, you have all rejected all amendments to clause 5. That means that the Tribunal will consist of one person. Now, this clause 6 says 'two years'. My amendments seek to reduce the period either to six months or to one year. It is criminal on the part of the Government, especially on the part of a one-man Tribunal, just to come and pass an order against an organisation or individual or association or a political party, for the disability imposed by that order. So the two-year limit is too excessive, and I hope there will be no difficulty for the Government to accept this amendment. There is one man on the Tribunal. On the subjective satisfaction of an officer authorised by the Government action is taken against an organisation. That means for two years that organisation is subjected to disability. They have no fundamental right, no right of speaking, no right of thinking, no right of conversation, no right whatsoever. Whatever the property or the money which has been confiscated because of the orders passed by the Government will be held for two years. Therefore, I appeal to the Government to accept the amendment.

SHRI NIREN GHOSH: I say that for "two years" this period should be substituted. Now, Mr Vice-Chairman, the one difficulty I would like to point out is this. The Minister, Mr Shukla has no brief from Mr Chavan to alter or accept anything even if any reasonable argument is given. That is the trouble we are in.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): That is not correct.

SHRI BHUPESH GUPTA: On a point of order. What is not correct?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): What he has said is not correct. Whoever sits here has an open mind.

SHRI BHUPESH GUPTA: That is all right. Now it is correct.

SHRI NIREN GHOSH: So we are in difficulty. Even if there is a reason-

able argument and he is tempted to accept it he cannot accept it. That is our doubt. So I would like to say that this two years is vindictive. It is vengeance and vindictiveness. "To create panic, to terrorise", all those words can go along with the sentence of "two years". Therefore, the purpose is not to remedy the situation. The purpose is to terrorise the persons, individuals and groups. If that is the purpose, then instead of two years they should make it a life sentence or a sentence for fourteen years. That would be quite appropriate. Therefore, I feel that it should be six months and he should not have any objection to accepting that. The Government, parrot like, is disinclined to accept it. And their argument is that they are not inclined to accept. One does not understand why the Government is taking this line and making a laughing stock of itself. It has to go before the entire press and the entire world and they should consider it making six months. But I know that he cannot accept the suggestion he cannot accept an argument because he has been told not to accept it. That is the trouble. However, we have the duty towards the country. So we oppose it.

SHRI BHUPESH GUPTA: Mr Vice-Chairman, my friend, Mr Kumaran, appealed to the Government. I have asked him not to appeal to this Government but appeal to this House because it is pointless to appeal to this Government which is so faithless in its attitude towards democracy. I think it may be as well and as good not to make an appeal to this Government but, if he wants, he should appeal to the House. I have just to say this much.

My friend, Mr Niren Ghosh, has spoken on this thing. Why we have suggested six months is that between the two sessions of Parliament there can be a gap of six months and no more. We are not prepared to give this Government greater latitude than an inter-session period provided for. That is the idea.

Secondly, six months should be enough. And then if it is thought that this is not enough, then this matter should be discussed again and a new

[Shri Bhupesh Gupta]

order may be considered. But there should not be a blanket order for two years. Two years is a long time. We in our Constitution have a provision for election every five years. Nearly half the period of this five years or two-fifths clearly you are taking away. Therefore, it is quite possible for this Government to declare a party illegal two years before the election and create difficulty for them. Obviously, they are not going to do it six months because they would not like to go to the electorate with such a record as this just on the eve of the election.

Besides, what are we discussing here? Who is threatening the integrity of the country in this manner? If anybody is threatening the territorial integrity of this country, Mr. Vice-Chairman, and undermining the sovereignty of the country, it is this Government which is doing it. It is this Government which has bartered away our sovereign honour when it submitted to the Americans on the question of devaluation and other things. Now, I know that sovereignty and territorial integrity, after the amendments, go together. But this Government which is undermining everything, specially the sovereignty, is being made a mockery of in the manner in which it has been functioning in relation to the Americans and their pressure. Therefore, I say that this Government should not be given such a power.

Six months is a sufficient period. Why I say this thing is this because in six months you will have the chance of observing the activities of that party. You say six months. I say even for a day a party should not be declared illegal. Now, one may have views. Views do not alter historical facts. Suppose somebody has particular views, why should he be prosecuted unless he acts on these views and commits certain crimes under the ordinary law? For example, in England or in the United States of America they can say anything they like. They can say, let a part of Wales go. But the British are not upset by this kind of thing. They are stabilised that way. They do such things with a political motive, with a political conspiracy . . .

SHRI SHEEL BHADRA YAJEE: This Bill applies only to those who preach disruption to the unity of the country.

SHRI NIREN GHOSH: You are a lost man. You have forgotten even your Netaji.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, my friend, Mr. Yajee, remembers nothing. The question of forgetting does not arise in his case. One forgets even his principles. Therefore the question does not arise. Be charitable to him. Do not credit him with the capacity to remember things so that he can forget.

Here you are providing two years' prosecution. You are making an organisation illegal under certain processes which are a gloated abortion of judicial processes, if I may say so. This is not a judicial process at all. It is an abortion of such processes, and under that thing a party or an organisation has to be held as illegal for a period of two years. Well, after a lapse of five years we go in for elections. As I said, if you have six months, you are in a position to judge as to what they are doing.

Mr. Vice-Chairman, my opposition to this Bill arises on principle. And even in regard to this particular clause also it arises from principle. Are we now heading for some kind of authoritarian dictatorship, or do we still believe that there is some semblance of democracy? If there are wrong notions in the country, they have to be met by sound, good opinions. We are confident that the people will not be carried away by wrong opinions of that type, opinions that disintegrate the country or undermine the sovereignty. On that all of us are agreed. Public life in this country is more or less agreed on one point that the sovereignty of the country has to be maintained, and the integrity of the country has to be also maintained. There is no disagreement on that. But there are other things. Suppose Sheikh Abdullah says that there should be some kind of arrangement on the basis of the cease-fire line or some such thing and he sets up an organisation after his release. He suggests settlement

on the basis of the cease-fire line, cease-fire line being the international line between India and Pakistan. Are you going to ban that party? Are you going to shut him out? Are you going to prevent it? Or are you going to argue it if you have a case? Even in that case if he quotes Jawaharlal Nehru what would you do? Jawaharlal Nehru made a statement publicly at the Ram Lila Maidan that the Pakistan-India border question can be settled on the basis of the cease-fire line being made the international boundary between the two countries with minor adjustments. Minor adjustments presupposes some give and take here and there of territories. Also when you accept the cease-fire line it means that the territory which is technically and legally ours but which is in the possession of Pakistan is sought to be given up for a settlement. Am I to understand that that organisation is going to be banned for two years on account of that? Therefore, you are actually helping Ayub Khan. You are actually helping people in Pakistan who propagate against India. That is why I saw in yesterday's papers that Pakistan propagandists have started assailing this particular Bill and saying "Look at this Bill. What do they want?" Well Mr Vice-Chairman I say malice permeates every part of this horrid measure. And they want to prosecute for two years. Who are you? Who says you are going to last for two years? Well I do not know. I hope they may not last two years. To-day they have a tenuous majority of 40 in the other House. They have been rejected in a large number of States by the people in the elections. And this party, this Government comes here with a measure of this kind in order to say that they will have the authority to declare a party illegal or an organisation illegal and prosecute people in this manner. This is absolutely an affront the worse type of affront one can think of to constitutional principles and public life. Therefore, I have moved this amendment. I know they would not accept it. But I am appealing to the hon. Members opposite again and again, I am appealing only to those who are not in the treasury benches despite my differences with them. I know many of

them disagree with me violently. But on a matter like this, since they are not occupying the treasury benches, I think it stands to reason that we extend our appeal to them and ask them to think over it. What are you doing? These treasury benches by their cussedness, by their arrogance by their anti-democratic posture and attitude and by their attack constantly on democracy, fundamental rights and civil liberties, have not only brought the country to the brink of ruin, but have smashed the Congress Party itself. To-day as Congressmen it is very necessary to raise your voice against this kind of attitude on the part of the Government. I understand Members make petitions to the Prime Minister. But why are you not speaking up? I am told that there are progressive Congressmen sitting opposite. Where are they? Why are they not raising their voice against such a Bill? Why are they keeping quiet? Mr Vice-Chairman in British Parliament when a militant or progressive section of the Labour Party felt that the Labour Government was going wrong, they came out openly, made public statements, appeared on public platforms and spoke in the House of Commons against the leadership of their party. You know there was the case of Stafford Cripps who even faced expulsion from the Labour Party although he was a big shot. We have young Turks, old Turks and middle-aged Turks. But somehow or other, all of them try to settle down to the *status quo*. They centre around the Prime Minister like satellites and ultimately support everything. This is not progressivism. Progressivism to-day is not a matter of sentiment or emotion. It must be shown in practical deeds, here in Parliament.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) You are speaking on the amendment.

SHRI BHUPESH GUPTA We will sit through the Lunch Hour.

SHRI G. MURAHARI Let us at least have half-an-hour for Lunch.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Well, I am prepared to consider that request if the House fixes the time for the passing of the amendments and the Bill. For the amendments to be considered, let us fix 3-30 and for the Bill, 5 o'clock.

SHRI BHUPESH GUPTA: No, Mr. Vice-Chairman. You will appreciate our position. Mr. Vice-Chairman, you are an experienced Parliamentarian. But you are in the unfortunate position of being in the Chair at the moment. You quite understand that normally we would like to accept your suggestions. But here this Bill has to be fought tooth and nail. Every syllable of it has to be resisted. The nation demands it. Therefore, we feel that if these people are not in a position to respect, or do not want to respect, the wishes of the nation, we in the Opposition, who represent 60 per cent of the electorate, consider it our duty to register our protest at every point, at every sentence in every paragraph of this Bill. It should be known that this Bill has emerged from the House in the face of relentless opposition by people who represent the majority of the country and that it has been passed by a brute majority in the House, which is a minority in the electorate of the country. This outstanding fact should be known. Therefore, we will keep your suggestion in mind. But do not appeal to us because we do not want to disrespect your suggestion. We will keep your thing in mind.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The House stands adjourned till 2 p. m.

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

The House reassembled after lunch at two of the clock, THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) in the Chair.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Shukla.

SHRI VIDYA CHARAN SHUKLA: Mr. Vice-Chairman . . .

SHRI BHUPESH GUPTA: Sir, I have to continue.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Before we adjourned for lunch . . .

SHRI BHUPESH GUPTA: You thought I had finished. I had not finished but since you thought I had finished, it is all right.

SHRI VIDYA CHARAN SHUKLA: Mr. Vice-Chairman, I wish I could find some arguments in the long speech that Mr. Bhupesh Gupta gave on this clause. But unfortunately I cannot meet a political harangue by a political harangue. But I have just to confine myself to the facts and the arguments. The only point he made was about the limitation of two years that has been given in this Bill. As the hon. Member, Mr. Bhupesh Gupta, might remember, in the Select Committee originally the period was much less but during the discussion in the Select Committee it was extended from the period that was given there to two years. In the earlier provision that was put before the Select Committee the Government was being given power to extend the operation of this order from time to time which was objected to by the hon. Members and as a compromise this two years' time limit was put in this Bill by the Select Committee.

As far as the general charges of vindictiveness, etc. are concerned, I would not go into detail because I have already stated in reply to the clauses as well as in reply to the general debate that these are unfounded suspicions and none of the Members of the Opposition or the Opposition Parties in particular should entertain any doubts about the *bona fides* of the Government as far as this measure is concerned. I want to emphasise and repeat that there is no vindictiveness and there is no question of terrorising any party or any Opposition Members. For these reasons the Government is not in a position to accept any of the amendments that have been moved by the hon. Members.

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) The question is

38 That at page 5, line 16 for the words 'two years' the words 'six months' be substituted "

The motion was negatived

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) The question is

39 'That at page 5 line 16 for the words 'two years' the words 'one year' be substituted "

The motion was negatived

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) The question is

79 That at page 5 line 16 for the words 'two years' the words 'six months' be substituted "

The motion was negatived

THE VICE-CHAIRMAN (SHRI M P BHARGAVA) The question is

"That clause 6 stand part of the Bill "

The motion was adopted

Clause 6 was added to the Bill

Clause 7—Power to prohibit the use of funds of an unlawful association

SHRI P K KUMARAN Sir I move

40 "That at page 5 lines 31-33 the words 'or with any other moneys securities or credits which may come into his custody after the making of the order' be deleted "

41 "That at page 6 line 10 the words 'or are intended to be used' be deleted "

SHRI NIREN GHOSH I beg to move

80 "That at page 6 lines 26 to 28, for the words 'to establish that the moneys securities or credits in respect of which the prohibitory order has been made are not being used or are not intended to be used the words 'the Central Government have to establish that the moneys securities or credits in respect of which the prohibitory order has been made are being intentionally used or are intended to be used intentionally' be substituted "

SHRI A P CHATTERJEE Sir, I move

117 "That at page 6 after line 30 the following proviso be inserted, namely —

'Provided that an appeal shall lie to the High Court from any decision or order of the Court of the District Judge within ninety days of the date of such decision or order' "

The questions were proposed

SHRI P K KUMARAN Mr Vice-Chairman this clause deals with the power to prohibit the use of funds of an unlawful association My amendment seeks to remove the words 'or with any other moneys securities or credits which may come into his custody after the making of the order' Now supposing the Communist Party is banned and I am a Member of the Communist Party If my father dies after that and if some property comes to me or in any other way I get some money, I am not able to use it This is absurd and obnoxious

Again Amendment No 41 I am suggesting that the words 'or are intended to be used' be deleted This is too sweeping a phrase These are all silly phrases which can be used by anybody with considerable damage to the individuals or organisations concerned I hope the House will agree that these are very sweeping powers I have said that these powers are likely to be misused I therefore hope that the House will accept my amendment

SHRI NIREN GHOSH My amendment seeks to substitute the words 'the Central Government have to establish that the moneys securities or credits in respect of which the prohibitory order has been made are being intentionally used or are intended to be used intentionally' for the words 'to establish that the moneys, securities or credits in respect of which the prohibitory order has been made are not being used or are not intended to be used' That means that after the Government issues that order that order cannot take effect The Government should go before the Court of the District Judge and they should

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plead their own case why this money should not be used by the person concerned. Why do they suspect that it is intended to be used for unlawful purposes? It is for the Government to go to the court and if the court is satisfied that the Government is justified, only after that the prohibitory order can take effect. It may be set aside by the court itself; it may or may not. So no prohibitory order should take effect upon its declaration. They can go to the court and if the court upholds the Government's view, then only that prohibitory order can apply, otherwise not. This is the minimum absolute principle of natural justice. Otherwise in an arbitrary way they will seize moneys and the citizens will be put to limitless difficulties. And since it concerns their livelihood and other things also, it will affect them seriously. So I think the Government should revise the provision and accept my amendment. The House should see that unnecessary difficulties are not put in the way of citizens using their moneys. So my amendment should be accepted.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Have you to say anything on Amendment No. 117?

SHRI A. P. CHATTERJEE: Yes. 117 and 118

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA) : 118 is in respect of another clause.

SHRI A. P. CHATTERJEE: I am sorry. As far as amendment No. 117 is concerned, I submit before you and before this hon. House that really judicial determination of a particular question is never finalised unless there are provisions for appeal from the decision to the highest tribunal. As I have pointed out in the case of amendments to other clauses, if you give a tribunal and if you say that the tribunal has been provided for because there must be a judicial or quasi-judicial determination of the question, then I submit that the judicial or quasi-judicial determination of the question can never be complete and can never be satisfactory to the people affected if you do not also

provide for appeal from the decision of the District Judge which has been provided for in clause 7 of this Bill. (Interruption) An appeal should lie to a higher court.

SHRI BHUPESH GUPTA: Here is again a preposterous clause. I say it is preposterous because we know how this clause, or rather this provision is going to be operated. Now, the British also had similar provisions. When a party was declared illegal, there was a law whereby they could deal with the properties intended to be used for illegal purposes or for unlawful purposes. The result was that the law was utilised not only to persecute that person in respect of that property but also the entire family and all their property and sometimes even to starve the family. That is what happened. In Bengal, Mr. Vice-Chairman, as you know, certain parties in those days of the swadeshi movement were declared illegal and they were accused of unlawful activities and there were some provisions for dealing with the properties of persons alleged to be members of those organisations or associations declared unlawful. What happened? Unnecessarily the British police went to their homes, searched the houses and seized properties, not only their properties but the properties of their brothers and even sisters. It is not always as if the property inherited by the person who has come under the operation of the law alone is seized; under some pretext or other the property of the entire family was seized. Here also the same thing might happen. Here it says "... person has custody of any moneys ...". What does this mean? Suppose I have in my custody some valuables, why should that be affected by this? It does not say if the person owns any money; it says if he has any money in his custody. Suppose I run a particular family business and I have come under the operation of this law, my family business may be affected on the ground that I have got in my custody that money and it may be seized or frozen by the Government. Here it says if he has moneys, securities or credits which are being used or are intended to be used. It is not necessary always for the Government to show

that they are being used. If the Government were to say that according to them they are intended to be used, this kind of assertion on the part of the Government cannot be questioned in a court of law through the normal processes of law. Certainly somebody can do something but as you know the aggrieved party will always be handicapped under this Act. Why should it be so? I should like to know. Now it further says that the Central Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys. Now this Government is taking such wide powers. They are allowing the profiteers and the blackmarketeers to go scot-free with their ill-gotten black money, they do not touch them at all but they are taking these powers in their hands in order to persecute the people because we know in other cases how they behave. Where they have powers they do not use them because of vested interests but they are going to use these powers against parties, organisations and individuals whom they want to persecute for political reasons. It is entirely wrong. Personally I am opposed to this clause as such because there is no safeguard whatsoever in it. Where are the Judges? The Judges are not here now, otherwise they would have perhaps told us that there is no safeguard whatsoever in this clause. This is exactly what the British did also. That is why I say this measure is an exact copy of the measure of the British days. You look up the Bengal Criminal Law (Amendment) Act; I have been a victim of that Act, I started becoming a victim of that Act from 1929. You study this Bill and you will find that Sir John Anderson used to have this kind of thing, Bengal Criminal Law (Amendment) Act and other measures, whereby people were detained, properties were seized, houses used to be searched and the whole family persecuted. And that is what they propose to do now with this Bill.

Now, Mr. Shukla says that they do not have any such intentions. I must tell my friend, Mr. Shukla, in all humility, after all, he may not be here, assuming

that Mr. Shukla does not have such an intention. What makes him think that he will always be here? These Treasury Benches have seen the rise and fall of many people. Mr. Nanda rose here and fell here. So also . . .

SHRI AWADHESHWAR PRASAD SINHA (Bihar): That applies to my friend, Mr. Bhupesh Gupta, also. He might be here.

SHRI BHUPESH GUPTA: If Bhupesh Gupta is there by any chance—I am very glad you have given me an opportunity to make another point—he would cancel this measure immediately just as in West Bengal when the new UF Government came to power they annulled the West Bengal Security Act, a measure of this kind, passed by the hated Congress regime and kept on the Statute Book as a disgrace to the country's legal system for a period of 20 years. I don't think they took even 20 hours to cancel it. Therefore you can understand what Bhupesh Gupta would be doing if by chance he comes to be there. Mr. Shukla should realise that it is not a question of anybody's personal intentions. Mr. Shukla is liked by the Prime Minister. I know and therefore he may think that we should also like him, that others also should like him. I can understand that. After all, why should we go for you? You may not be there, Mr. Chavan may not be there. By that time Mr. Chavan may not be anywhere; or he might have become the Prime Minister of the country, if not a dictator or something like that. He is heading for that. That is what the people are asking in the south. When is Mr. Chavan becoming the dictator of the country? It is a serious question asked by the people, not in jest. They have got that feeling that Mr. Chavan is taking more and more powers in his hands in order some day to project himself as a dictator. Now, it may or may not be true. Therefore it is not a question of individual intentions. Mr. Shukla, you are arming a particular system, you are arming the bureaucracy, you are arming the other agencies of repression, with such extraordinary powers which are liable to be used in a particular way and from our past experience we cannot tell that it would

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not be done. Mr. Vice-Chairman, how long have you been here in this House? Quite a long time I hope and you have seen what kind of mellowed assurances were given by the Home Minister when they sought extension of the Preventive Detention Act. Assurances came from Nehru, assurances came from Katju, assurances came from Mr. Gopalaswami Ayyangar, assurances came from Mr. Govind Ballabh Pant and others and they were men of higher stature in their own sphere but what happened to those assurances? Is not the Preventive Detention Act, despite all these assurances, being used to persecute the people, to persecute anybody, any legitimate movement? Even now a thousand people are in detention under the Preventive Detention Act in Bengal for having protested against this Government, for having tried to protest against the installation of the illegal Ministry. Is it not being done? Have we not suffered? Here sits an hon. Member in this House who suffered under that Act and who has suffered recently also. Even as a Member of this House he was held in detention without trial for a number of months.

SHRI NIREN GHOSH: For more than two years.

SHRI BHUPESH GUPTA: Yes. There were others also. Mr. Nambudripad, our Chief Minister; wasn't he held in detention? We were told that it will not be used against anybody. I just gave same names; they were only illustrative, not exhaustive. Political workers have been persecuted. Dr. Lohia and many other political leaders of the country have been prosecuted under the P.D. Act despite the assurance given solemnly by people of a much higher stature than the hon. Ministers here. Why then you ask us to believe in what you say? One thing we must continue, i.e., never to trust you. It is the eleventh Commandment of the Bible. If the Bible were to be re-written, if Jesus Christ had been alive, he would have written the Eleventh Commandment "Thou Shall not trust a Congressman, especially a Congress Minister." Now, I am saying this almost immediately after Christmas, in the Christ-

mas week. Now, these are the people. How can they ask that we should trust them? There should be a limit to tomfoolery. There should be some sense of proportion. They have betrayed everything, betrayed their party, betrayed all their past assurances, thrived on a series of betrayals year after year, having traded on treachery and betrayal especially in matters like this. How do they dare ask us to trust that this will not be misused or abused. It is meant to be misused. It is meant for persecution. It is inherent. The element of abuse and misuse and improper use is a built-in feature of this measure, as a whole. Therefore, I would ask Mr. Shukla without having anything personally against him to consider this. I hope Mr. Shukla will be liberated from those Benches or we shall liberate him or somebody else will liberate him. It is not his place in the Congress set-up. I am very sorry for him, because I see many young people like him, otherwise talented, there. As a matter of fact, they are being weaned into the Treasury Benches under this Government. I do not know, by the time he becomes sixty, what will be left. Therefore, I hope Mr. Shukla is not aware where he is sitting. He is ruining himself. Therefore, he should not say such things. Therefore, I support all that has been said. Only I again say, do not ask us to accept any kind of assurances by you. They are not worth the paper on which it is written. They are not even listening to us. As far as this measure is concerned, it is intended to be and, in fact, it will be used to prosecute not only a person whom you want to hold, in the first instance, but also his family. The whole thing is a scheme of intimidation and terrorisation and that is why you have put it there.

SHRI B. K. P. SINHA (Bihar): Mr. Vice-Chairman, after the speech of the modern Christ, my task is a bit difficult. I am reminded of that, when President Wilson, after the end of the first world war came to the Versailles peace conference, after proclaiming his fourteen points, Tiger Clemenceau said: "God Almighty could think of only ten. Mr. Wilson thinks of fourteen." My hon

friend falls slightly short of President Wilson today. I do not know, after some time he may be an aggravated Wilson and may think of many more Commandments.

Sir, the short point has been made by Mr. Chatterjee and the hon. Member there that this Bill is defective, because no appeal is provided. Mr. P. N. Saprú, who was very critical of this measure, admirably explained yesterday that this Bill or for the matter of that no law can shut out the jurisdiction vested in the High Courts by articles 226 and 227 and in the Supreme Court by article 32. Even if a Bill shuts out the jurisdiction of the courts, the jurisdiction conferred on the High Court by articles 226 and 227 cannot be taken away and by virtue of that jurisdiction, the High Courts are free and are competent to interfere with the decision of the tribunal contemplated by this law. You remember that ten years back when the election law was framed, no appeal was provided; rather court proceedings were shut out. The High Courts and the Supreme Court took the view that what is conferred by the Constitution cannot be taken away by any legislation. Therefore, they intervened even in election matters at that stage. Therefore, by way of jurisdiction the Constitution itself gives them a right of appeal and when the matter goes to the High Court, it is not difficult to see that the matter can go on appeal to the Supreme Court also. Therefore, on that ground the criticism, in my opinion, is not a proper one.

I would be very brief in referring to the fears of the hon. Member. This Bill is not directed against all unlawful activities. This Bill is directed against only one type of unlawful activity, i.e., preaching or advancing the cause of secession or cession . . .

SHRI BHUPESH GUPTA: I understand it Mr. Sinha, but is it not a breach of prohibition which you commit all the time?

SHRI B. K. P. SINHA: And one has not come across a single speech in which hon. Members of the Right Communist Party have advocated secession

or cession, nor have the gentlemen of the Left Communist Party, so far . . .

SHRI SHEEL BHADRA YAJEE: Sometimes.

SHRI B. K. P. SINHA: Please. They have not preached secession or cession. In the circumstances, their fear, in my opinion, is wholly unjustified.

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

SHRI B. K. P. SINHA: I am not yielding.

SHRI BHUPESH GUPTA: What do you mean by Right Communist Party and Left Communist Party? Can I call you, Mr. Vice-Chairman, as Mr. Bhargava Sharma? I cannot call you that. I cannot call Mr. Hathi as Mr. Hathi Choudhury. Will you like it? You have a name and we have a name.

SHRI B. K. P. SINHA: C.P.I. Marxists . . .

SHRI C. D. PANDE (Uttar Pradesh): C.P.I. Russia and C.P.I. China.

SHRI BHUPESH GUPTA: Shall I say Mr. C. D. Pande is an American?

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Order, order.

(Interruptions.)

SHRI NIREN GHOSH: There was once a man called Shri Sheel Bhadra Yajee. Now, he is lost somewhere. We are seeing his apparition.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Order, order.

SHRI B. K. P. SINHA: Therefore, the fears of the hon. Members are unjustified. They have been protesting too much. I am reminded of the saying: "Lady, thou doth protest too much." There is a Hindi proverb which says: "Chore Ke Dhadi me Tinka". I do not know what they have in mind . . .

SHRI NIREN GHOSH: One word, Mr. Sinha. You said that the lady protests too much. Why is Mr. V. C. Shukla protesting so much, giving categorical assurances? What are all those protestations for?

SHRI SHEEL BHADRA YAJEE: He is convincing you.

SHRI B. K. P. SINHA: My short reply is that Mr. Shukla is a gentleman and not a gentle lady. Their fears on the basis of their past and present are unjustified. But if they have something in their mind and in their hearts which gives them an idea that in future they may launch into action which may bring their action within the mischief of this Bill, I am afraid nobody will be prepared to help them.

SHRI VIDYA CHARAN SHUKLA: Several comments have been made on clause 7. The main argument that Mr. Bhupesh Gupta and Mr. Niren Ghosh advanced is regarding the provision for the confiscation of property. May I say that if anybody reads this clause with an open mind, without any prejudice or without any doubts in his mind and in a proper manner, he will find that it relates only to the use of funds for unlawful associations. It does not apply to any other funds.

SHRI BHUPESH GUPTA: I say it is intended to be used.

SHRI VIDYA CHARAN SHUKLA: It is only for unlawful association, not for anything else. It does not relate to any other funds. As Mr. B. K. P. Sinha very ably explained, after the appeal is made to the District Judge, although this Bill does not say anything about the appeals, appeals could be possibly made to the High Court and the Supreme Court.

SHRI BHUPESH GUPTA: Intended. I agree. You have provided for here "intended for unlawful association or unlawful activity". This is what it is for the Government to see. I give a personal case of mine. In 1930 I was a student, I was arrested. My father was told by the British Magistrate that his entire property would be forfeited. You can imagine a boy of 15 does not have control of his father's money. He thought that his funds were being utilised for what they called terrorist activities. Houses were searched and so on.

SHRI VIDYA CHARAN SHUKLA: You forget that the British are not ruling now. It is a party which has been elected by the Indian people, by democratic methods, which is ruling India.

SHRI BHUPESH GUPTA: You are worse.

SHRI VIDYA CHARAN SHUKLA: I am not concerned with these arguments of Mr. Bhupesh Gupta, British rule, this rule and that rule. It is very unfortunate that he wants to confuse the issue by bringing all these extraneous matters into this discussion. Actually I tried to convince Members, but they have made up their mind not to trust any Congressman. If their mind and their thinking have undergone a pathological change, no amount of arguments in this House will convince them about anything. But I must put on record that this is not a question of assurances or any expression of intention, and it is not a question of individuals. On behalf of the Government I am indicating the policy of the Government. I am not giving assurances as such, I am indicating the policy. The policy is that none of those provisions of this Bill is intended to be used . .

SHRI BHUPESH GUPTA: All that you have said.

SHRI VIDYA CHARAN SHUKLA: You must know that this is our policy. We do not want to use it against our political opponents. It is not a question of assurance. This will be only used against associations or individuals who indulge in unlawful activities. In case Government ever errs or there is a mistake or any wrong action is taken, even if you argue for argument's sake, then there is a sitting Judge of a High Court who will go into it. That safeguard is provided. But we have no means of convincing people who have decided not even to believe anything that is said here on behalf of the Government with full authority in this august House. I cannot really help that kind of thing. Therefore, Sir, certain personal remarks about ruination and all that, I am not concerned about all that. I am here to serve the cause of the nation.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

40. "That at page 5, lines 31-33, the words 'or with any other moneys, securities or credits which may come into his custody after the making of the order' be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

41. "That at page 6, line 10, the words 'or are intended to be used' be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

80. "That at page 6, lines 26 to 28, for the words 'to establish that the moneys, securities or credits in respect of which the prohibitory order has been made are not being used or are not intended to be used' the words 'the Central Government have to establish that the moneys, securities or credit in respect of which the prohibitory order has been made are being intentionally used or are intended to be used intentionally' be substituted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

117. "That at page 6, after line 30, the following proviso be inserted, namely:—

'Provided that an appeal shall lie to the High Court from any decision or order of the Court of the District Judge within ninety days of the date of such decision or order'."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The question is:

"That clause 7 stand part of the Bill."

The motion was adopted

Clause 7 was added to the Bill

Clause 8—Power to notify places used for the purpose of an unlawful association

SHRI NIREN GHOSH: I move:

81. "That at page 7, lines 3 to 5, for the words 'may, by notification in the Official Gazette, notify any place

which in its opinion is used for the purpose of such unlawful association' the words 'shall make an application, to declare any place which in its opinion is used for the purpose of unlawful activities, to the Court of the District Judge of local limits in whose jurisdiction the place is situated' be substituted."

82. "That at page 7, lines 6 and 7 be deleted."

83. "That at pages 7 and 8, lines 8 to 58 and 1 to 17, respectively, be deleted."

In this clause it is said on page 7 line 3:

"the Central Government may, by notification in the Official Gazette, notify any place which in its opinion is used for the purpose of such unlawful association".

Instead of that "may" I want to substitute 'shall make an application, to declare any place which in its opinion is used for the purpose of unlawful activities, to the Court of the District Judge of local limits in whose jurisdiction the place is situated'.

Then the second is, in line 7 they have given "place" includes house, building, vessel, and what not. That I want to be deleted.

Then the entire explanatory note that they have given following that—how the District Magistrate can authorise anybody, even a sub-inspector, to search at any time any person—all those things are there—I want that to be deleted.

So, my first amendment is this. The Central Government as soon as it is pleased—like our august President, if the President is satisfied—the course of action follows. If the Government is satisfied in its opinion, a place is notified. I want to prevent that sort of thing. It should not depend on the subjective wish, pleasure or assessment of the Government itself. If the Government has come to the conclusion regarding notification of any place, they should

[Shri Niren Ghosh]

go to a Court and secure its approval that such a place should be notified, that the place is being utilised for unlawful activities. After the Court gives the permission, then they can notify the place that as a place it is being used for purposes of unlawful activities, but not before that. Here it is said that if the aggrieved has any cause, he could go to the Court, etc. You know, Mr. Vice-Chairman, you are in the profession also, and Mr. B. K. P. Sinha—he is not here—would have known that for the ordinary citizen to bear the cost of judicial process is almost prohibitive. It is well nigh impossible, and sometimes it becomes impossible to appeal to the High Court because of the expenses that are involved. We have known such cases that they could not go simply because there was no fund or money for that purpose. Why are they afraid? If they think that whatever information is there is correct, let them go to the Court. Let the aggrieved person come to the Court. After the Court gives its finding, then only that place can be notified. Otherwise it opens the door wide for arbitrary action by the pleasure of certain District Magistrate or certain police official who makes such a report, and the Government is usually satisfied. We know Upananda Mukharjee used to fabricate and concoct stories and reports. He has been found out later on that he was doing so. That is why they said that before November 30th the Ministry must go, otherwise that Upananda Mukherjee and his blessed conspiracy would come out into the open. We know those things. This arbitrary action should be stopped

Then it is said:

“Any police officer, not below the rank of a sub-inspector, or any other person authorised in this behalf by the Central Government may search any person entering, or seeking to enter, or being on or in, the notified place and may detain any such person for the purpose of searching him.”

Sir, it may be that a residence of a person is his own property. Government

in its wisdom may declare it a notified place and place the family in such a position that they will be deprived of all means of livelihood because it would become almost a quarantine place, a prison outside prison, house arrest so to speak. Relations out of fear will not come to them. They will not be able to reside in their own house. The entire family will go to ruin. That is the real apprehension. What happened under the D.I.R.? Thousands of cases have occurred where sub-inspectors and inspectors have gone beyond the scope of the D.I.R. for no purpose and harassed innocent persons, put them in jail, and what not. All those things are there as regards the notified place Preventing, persons to from entering, then searching, then anybody in that notified place being subject to arrest—this is almost a prison, a prison camp outside the prison. Perhaps they want to turn the entire India into a vast prison. Mahatma Gandhi once said: “What is it to be in a British jail? India is a vast prison”. India is fast becoming a vast prison. I do not know if they have any sense. They do not listen, they do not see reason. It is also true that millions and millions of our countrymen, new countrymen, are there. Those who are already suppressed I do not take them into account. Now millions are bound to get suspicious about the intentions of the Government and they are bound to lose their faith increasingly in this Government. You were saying eloquently that you were speaking on behalf of the Government. We know; whenever a Minister makes a statement, he is supposed to make it on behalf of the Government at least. We have heard those statements and assurances a long, long time ago. And if you want; we can give a catalogue of them. The policy of the Government which they chose to enunciate on the floor of the House, they violated.

That is why I say that my amendment should be accepted and Government should modify this clause accordingly.

The questions were proposed.