

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: The Bill is withdrawn.

THE CONSTITUTION (AMENDMENT) BILL, 1966

(To amend the Preamble and article 393)

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRIAL DEVELOPMENT AND COMPANY AFFAIRS (SHRI K. V. RAGHUNATHA REDDY): Madam, I beg to move for leave to withdraw the Constitution (Amendment) Bill, 1966.

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: The Bill is withdrawn.

THE CONSTITUTION (AMENDMENT) BILL, 1966

(Substitution of new article for article 358)

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRIAL DEVELOPMENT AND COMPANY AFFAIRS (SHRI K. V. RAGHUNATHA REDDY): Madam, I beg to move for leave to withdraw the Constitution (Amendment) Bill, 1966.

The question was put and the motion was adopted.

THE DEPUTY CHAIRMAN: The Bill is withdrawn.

SHRI G. MURAHARI (Uttar Pradesh): I would like to know why they are withdrawing all their Bills just because they have become Ministers.

SHRIMATI LALITHA (RAJAGOPALAN) (Madras): Before we start the business I just want a clarification if you would allow me.

Mr. Gujral and Mr. Raghunatha Reddy have withdrawn their Bills and the House has given the consent. But I would like to know, now that they have become Ministers, whether they will press the Government regarding these and at the Government level itself whether they will bring these measures again.

SHRI I. K. GUJRAL: Madam, I do not think any sort of assurance is called for. The conventions are obvious; otherwise we would not have moved for leave for withdrawal.

THE MEMBERS OF PARLIAMENT AND STATE LEGISLATURES (IMMUNITY FROM DETENTION) BILL, 1964—contd.

श्री गौडे मुराहरी (उत्तर प्रदेश) : मैडम डिप्टी चैयरमैन, श्री भूपेश गुप्ता जी ने जो बिल इस सदन के सामने प्रस्तुत किया है उसके बारे में चर्चा तो हुई है, और चर्चा होगी, लेकिन जैसा कि सभी गैर-सरकारी बिलों का होता है, वह भी पास नहीं हो पायेगा। मैं सरकार से यह कहना चाहूंगा कि जो पार्लियामेंट के सदस्यों के कुछ प्रिविलेज हैं, उनके बारे में वे ध्यान से सोचना शुरू करें क्योंकि कई यहाँ पर ऐसे मामले आपके सामने आये हैं जब कि पार्लियामेंट के सदस्यों को किसी भी कानून के अन्दर जब कि पार्लियामेंट का सेशन चालू रहता है, उस समय भी उनको बन्द किया जाता है। मैंने खुद इसे भुगत है, क्योंकि पिछले नवम्बर में जब विद्यार्थियों का एक आन्दोलन चल रहा था और दिल्ली में एक मोर्चा करने की बात थी तो जैसे ही हैदराबाद से मैं प्लेन से यहाँ पहुँचा वैसे ही मुझको यहाँ के हवाई अड्डे पर गिरफ्तार कर लिया, उस वक्त पार्लियामेंट का सेशन चल रहा था। उस समय मेरे साथ कई संसद् के सदस्य इस तरह से गिरफ्तार हुए। यही नहीं, आपको मालूम होगा अभी राजनारायण जी जब लखनऊ

[श्री गोडे मुराहरि]

गए, तो एक ऐसे एरेंट वारंट द्वारा जो दो साल पुराना था, उनको भी गिरफ्तार किया गया। बाद में किसी तरह क्योंकि वहाँ पर गैर-कांग्रेसी सरकार बैठी थी . . .

सरदार रघुबीर सिंह पंजहजारी (पंजाब).
आपकी सरकार ने पकड़ा।

श्री गोडे मुराहरि : गुप्ता जी के किसी पुलिस अफसर ने पकड़ा, बाद में सरकार ने उनको छोड़ दिया, क्योंकि वहाँ गैर-कांग्रेसी सरकार थी इसलिए उसने उनको उसी दिन छोड़ दिया और सदन में वे दूसरे दिन पहुँच गए। इस तरह की चीजें होती रहती हैं। आज यह हो सकता है कि कांग्रेस की हुकूमत है सेंटर में और कई राज्य में उनकी हुकूमत है और कल तक हर राज्य में कांग्रेस की हुकूमत थी, इसलिए गैर-कांग्रेसी लोगों को गिरफ्तार करके इस तरह की बाधा पहुँचाते थे और उनको ठीक तरह से अपना काम पार्लियामेंट में या दूसरी नेजिस्लेचर्स में करने का मौका नहीं देते थे। इसलिए अगर कल जब कांग्रेसी सरकार नहीं रहेगी तो जो कांग्रेस के सदस्य आज बैठे हुए हैं, उनको भी महसूस होगा कि इस तरह की प्रिविलेज का कोडीफिकेशन होना चाहिए। इसलिए मैं कहूँगा कि वे श्री भूपेश गुप्त का जो बिल है, उसके बारे में बुनियादी तौर से सोचें और हो सके तो मैं सरकार से कहूँगा कि उस बिल को स्वीकार कर ले और पास करा दें आज।

अगर हम इनड की मिसाल ले—
अक्सर जा कोई व्यवस्था का प्रश्न उठता है, तो 'ग्नेड' की पार्लियामेंट का नाम लेकर वहाँ की व्यवस्थाओं को हम अपनाते हैं, ब्रिटिश पार्लियामेंट को एक मॉडल मानते हैं, तो मैं चाहूँगा कि वहाँ जा भी प्रिविलेज है पार्लियामेंट के मेम्बर की उसके बारे में देखेंगे तो पाएँगे वहाँ इस तरह का प्रिविलेज है कि कोई भी पार्लियामेंट का सदस्य हो जब तक सेशन चला रहता है, उसको गिरफ्तार नहीं किया जाता

है। मैं 'मज पार्लियामेंटरी प्रेक्टिस' में पढ़ना चाहता हूँ। उसमें यह कहा गया है —

"It has been stated above that parliamentary privilege originated in the King's protection of his servants but is now claimed as an independent right. The privilege of freedom from arrest or molestation of members of Parliament, which is of great antiquity, was of proved indispensability, first to the service of the Crown, and now to the functioning of each House:

"In connection with most early assemblies that were in any way identified with the King, is to be found some idea of a royalty sanctioned safe-conduct; the King's peace was to abide in his assembly and was to extend to the Members in coming to it and returning from it. Naturally, these royal sanctions applied to Parliament. But as time went on, molestation of Members was more likely to be through some process of law than through direct bodily injury or restraint. Unless Parliament could keep its membership intact, free from outside interference, whether or not the interference was with the motive of embarrassing its action, it could not be confident of any accomplishment' (While Eng. Const p. 439) "

इसमें इन्होंने साफ कहा है कि चाहे उसका मोटीवेशन कुछ भी हो चाहे मोटीवेशन लीगल प्रासेस का हो, चाहे किसी मेम्बर को अपना काम करने में रोकने का मोटीवेशन हो, लेकिन उनको पार्लियामेंट में बचि़त करने का जो कार्य है, उसके खिलाफ इस तरह की प्रिविलेज वहाँ पर चालू की गई।

"The principal reason for the privilege has also been well expressed in a passage by Hatsell:—

'As it is an assential part of the constitution of every court of

judicature, and absolutely necessary for the due execution of its powers, that persons resorting to such courts, whether as judges or as parties, should be entitled to certain privileges to secure them from molestation during their attendance; it is more peculiarly essential to the Court of Parliament, the first and highest court in this kingdom, that the Members, who compose it, should not be prevented by trifling interruptions from their attendance on this important duty, but should, for a certain time, be excused from obeying any other call, not so immediately necessary for the great services of the nation. It has been therefore, upon these principles, always claimed and allowed, that the Members of both Houses should be, during their attendance in Parliament, exempted from several duties, and not considered as liable to some legal processes, to which other citizens, not intrusted with this most valuable franchise, are by law obliged to pay obedience' (1 Hatsell, pp. 1-2)."

तो इसमें यह साफ है ।

हम इस चीज के विरुद्ध है कि पार्लियामेंट के मेम्बर के लिये कोई स्पेशल पावर्स हों या स्पेशल प्रीविलेज हों । बार बार यह दलील दी जाती है कि जो साधारण सिटीजन हैं, साधारण नागरिक हैं उनका जो प्रीविलेज है उससे ज्यादा पार्लियामेंट के मेम्बर को क्यों देना चाहिये । मैं यह मानता हूँ कि उनको स्पेशल प्रीविलेज की जरूरत नहीं है, लेकिन जब पार्लियामेंट चलती हो, उस समय उसकी कोई रेस्पॉन्सिबिलिटी है, इन्कॉरेटेड के प्रति उसकी कुछ ड्यूटीज है, उन ड्यूटीज में बाधा पहुंचाने की जो कार्यवाही होती है, जो एरेस्ट करते हैं या उसको रोकना चाहते हैं वह सही नहीं है । मैं समझता हूँ कि पार्लियामेंट होने के बाद यदि कोई ऐसी

प्रोसेस आफ ला सर्व होती है उनको एरेस्ट किया जाता है, तो दूसरी बात होती है ।

साथ साथ मैं यह भी जानता हूँ कि कई क्रिमिनल आफेंस होते हैं । पार्लियामेंट का सदस्य किसी का खून कर दे, ता पार्लियामेंटरी इम्युनिटी नहीं हो सकती । इस तरह के कई ऐसे आफेंसेज हैं, जिनके बारे में एग्जैम्पशन कर सकते हैं । इस तरह का प्रीविलेज वहां पर लागू नहीं होगा । लेकिन आमतौर से आजकल होता यह है कि किसी भी ओपोजीशन के पार्लियामेंट के सदस्य को किसी भी बहाने पर एरेस्ट करके अन्दर कर दिया जाता है । इस चीज को ठीक करने के लिये इस तरह का प्रीविलेज होना चाहिये । जब तक पार्लियामेंट के मेम्बर को इस तरह का प्रीविलेज नहीं मिलता तब तक कोई छोटा-मोटा अफसर पार्लियामेंट के मेम्बर को अपना काम करने से वंचित कर सकता है । कई जगह ऐसी होती है कि सरकार को पता नहीं रहता, कहीं पर झगड़ा हो जाता है प्लेटफार्म पर, किसी दूसरे आदमी को पकड़ते हैं, पार्लियामेंट के मेम्बर को भी एरेस्ट कर लेते हैं और जेल में कर देते हैं । इस तरह की छोटी-मोटी चीजें होती हैं । कभी-कभी प्रिवेन्टिव डिटेन्शन में किसी को पकड़ लिया जाता है । इस तरह की चीज नहीं होनी चाहिये और जो पार्लियामेंट का मेम्बर है, उसको पूरा मौका मिलना चाहिये, पहले पार्लियामेंटरी ड्यूटी करे, बाद में जो भी प्रोसेस आफ ला है, वह पार्लियामेंट का सेशन खत्म होने के बाद की जा सकती है । इसलिये मैं जो श्री भूपेण गप्त का बिल है, उसका पूरा समर्थन करता हूँ ।

साथ साथ मैं यह भी कहना चाहूंगा कि आज देश में जिस ढंग से लोगों को गिरफ्तार किया जाता है, खास करके पार्लियामेंट के मेम्बरों को, उससे ऐसा लगता है कि प्रिवेन्टिव डिटेन्शन एक्ट और डिफेंस आफ इंडिया रूल्स—आजकल उसका आपरेशन बहुत कम हो गया है, कहीं-कहीं लागू है—के अन्तर्गत

श्री गोडें मुराहरि]

कई लोगों को बहुत ही फिल्मजो ग्राउन्ड्स पर एरेस्ट किया जाता है, कभी-कभी तो सिर्फ सस्पेंशन पर; किसी पर शुबहा हो गया, उसको गिरफ्तार कर लिया। इस तरह की चीजें होगी ही, क्योंकि अफसरो को पता नहीं रहता कि किन मौके पर क्या किया जाय, सबसे आसान है कि इनको अन्दर कर दो, बन्द कर दो, कोई हल्ला नहीं होगा। कोई मीटिंग होने वाली हो, कोई प्रदर्शन होने वाला हो, तो लोग सोचते हैं कि सबसे अच्छा तराका यह है कि जो उनका कार्यकर्ता है, जो उसके मूल सयोजक है, उनको पकड़ कर अन्दर कर दो, बाद में कुछ होगा नहीं। इस तरह का वातावरण जो हिन्दुस्तान में है, उसमें यह लाजिमी हो जाता है कि जो पार्लियामेंट का मेम्बर होगा वही इस तरह की चीज करता रहेगा, क्योंकि पार्लियामेंट का मेम्बर होने के नाते उसको अपनी कास्टोडियन्सी में भी और देश में कई ऐसे कार्य करने पड़ते हैं जो सरकार के खिलाफ हो सकते हैं, पापुलर फोल्डम को उभारने के लिये और सरकार को दिखाने के लिये कई ऐसी चीजें करनी पड़ती हैं, कभी पब्लिक मीटिंग करनी होती है, कभी-कभी सेक्शन 144 को तोड़कर मीटिंग करनी पड़ती है, कुछ ऐसे प्रदर्शन भी करने पड़ते हैं, जहाँ पुलिस की रूकावट हो। इन सब चीजों में पार्लियामेंट के मेम्बर का एरेस्ट करके अन्दर कर देते हैं, इन सबसे बाधा पहुँचाते हैं। इसलिये मैं चाहूँगा कि ऐसी इम्प्यूनिटी होनी चाहिए। ऐसी इम्प्यूनिटी होगी तो फिर पार्लियामेंट का मेम्बर अपना जो काम है कास्टोडियन्सी के प्रति प्रत्येक देश के प्रति वह ठोक से कर सकता है। साथ साथ कुछ ऐसे आफ्फेन्स भी हो सकते हैं कि किसी से उधार लिया हो या किसी से पैसा लेकर वापस न किया हो, ऐसे छोटे-मोटे आफ्फेन्स में एरेस्ट वगैरह हो जाते हैं, तो इमलिये मैं यह चाहूँगा कि इस तरह को एरेस्ट पर भी तब तक रोक होनी चाहिये जब तक कि पार्लियामेंट का मेशन चालू है।

प्रश्नी कुछ महीने पहले पार्लियामेंट के मेम्बरों पटना गये थे, उस वक़्त वहाँ पर कांग्रेस की सरकार थी और उनको बिहार के अन्दर आने ही नहीं दिया गया, श्री मधु लिमये, श्री त्रिदीब चौधरी और कुछ लोग वहाँ पर गये थे, तो पार्लियामेंट के मेम्बर को हिन्दुस्तान के एक हिस्से के अन्दर जाने का अधिकार भी नहीं रहा था, उनको वहाँ से डिफेंस आफ इंडिया रूल्स और बाकी जो सेक्शंस हैं, उसके अन्दर एरेस्ट कर के फिर से जा कर के मुगलसराय में छोड़ दिया गया। तो मैं कहूँगा कि सिर्फ एरेस्ट से ही नहीं बल्कि पार्लियामेंट के सदस्य को हिन्दुस्तान के किसी भी हिस्से में जाने में बंचित नहीं किया जाना चाहिये, उसको पूरा फ्रिविलेज होना चाहिये कि हिन्दुस्तान का कोई भी हिस्सा हो, वहाँ बिना कोई रूकावट के वह जा सके और अपना कार्य कर सके। तो इन सब चीजों को आपके सामने लाना चाहूँगा।

साथ साथ मैं जानता हूँ कि कभी कभी सरकार को कोई ऐसी परिस्थिति पार्लियामेंट या असेम्बली में आ जाती है जब कि कुछ मेम्बरों को अन्दर रखने में अपना उल्लू सीधा कर सकती है, तो सरकार ऐसा भी करती है कि कुछ मेम्बरों को पकड़ कर के अन्दर कर देती है, अगर कांग्रेस का बहुमत नहीं है या बहुत कम बहुमत है, तो अपोजीशन के 0, 1, 2 प्रादमियों को एरेस्ट कर के अन्दर कर दिया तो उनकी मेजारिटी हो जाती है। इस ढंग की चीजें भी होती हैं। मैं जानता हूँ कि कभी कभी सरकार लोगों को बन्द कर देती है जब कि वह कोई प्रश्न पार्लियामेंट या असेम्बली में उठाने वाले हो जो कि सरकार के लिये ठीक न हो या जिस मामले को ले कर के सरकार को तकलीफ होनी हो, तो फिर उस मेम्बर को बन्द कर देते हैं। कई दफा डा० राम मनोहर लोहिया को बन्द कर दिया गया, मैं जानता हूँ आगरा में भी किया गया और कई दफा कोर्ट में जा कर उनको रिहाई भी मिली है। यह सारी चीजें अगर देखी

जाय, तो यह साफ हो जायगा कि जब तक कि पार्लियामेंट के मेम्बरों को इस तरह बन्द करने की जो व्यवस्था है उस पर हम कोई रोक नहीं लगायेंगे और पार्लियामेंट के मेम्बरों के प्रिविलेज का कोडिफिकेशन नहीं करेंगे तब तक कोई उचित व्यवस्था नहीं होगी और पार्लियामेंट के मेम्बर देश के प्रति और कांस्टीट्यूंसी के प्रति अपने कर्तव्य का ठीक तरह से निर्वहण नहीं कर पायेंगे।

इसलिये मैं साबुत हूँ कि श्री भूपेश गुप्ता का जो विन है उसको सरकार को तुरंत मंजूर कर लेना चाहिये। उसको अगर आज मान लेते हैं तो बहुत ही अच्छा होगा; क्योंकि कम से कम पहला बार जा एक नान-ऑफिशियल बिल है, उसको सरकार मानेगी और यह उसी के फायदे के लिये होगा; क्योंकि छोटे जाकर कांग्रेस की सरकार ने तो इन केन्द्र में रहने वाली है और न दूसरे प्रांतों में रहने वाली है, तो जो भी प्रिविलेज पार्लियामेंट के मेम्बरों या असम्बला के मेम्बरों को मिलने वाले हैं, वह ज्यादातर उनका फायदे के होते, इसलिये मैं चाहूंगा कि सरकार इस बिल को मान ले।

SHRI P. N. SAPRU (Uttar Pradesh): Madam Deputy Chairman, I am rather surprised at the language of Mr. Bhupesh Gupta's Bill. That leaves me with no alternative but to oppose it completely and wholeheartedly. What Mr. Bhupesh Gupta says is that notwithstanding anything contained in any law for the time being in force, no Member of Parliament or a House of Legislature of a State shall be detained in custody without trial. Madam, I may assure you and the House knows it very well that I am not in favour of detention without trial. I do not want anyone, be he a Member of Parliament or be he an ordinary chowkidar or a jamadar, to be detained without trial. I think detention without trial is something horrible. But I cannot accept the view that Members of Parliament or Members of a Legislature should enjoy any

special privilege. That concept is against the very concept of the rule of law, and I would like therefore to invite Mr. Bhupesh Gupta's attention to an eloquent passage, on this question, of Professor Dicey. I would like him to hear this passage carefully. He is speaking with reference to England; that can also apply to India:

"In England the idea of legal equality or of the universal subjection of all classes to one law administered by the ordinary Courts has been pushed to its utmost limit. With us every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen. The Reports abound with cases in which officials have been brought before the courts and made in their personal capacity liable to punishment or to the payment of damages for acts done in their official character but in excess of their lawful authority."

Then he goes on to elaborate this point.

I would therefore like to say that what Mr. Bhupesh Gupta seeks to do by the form in which he has presented this Bill is to create a special class of citizens known as Members of Parliament or Members of Legislatures.

SHRI BHUPESH GUPTA (West Bengal): May I explain? I certainly understand your sentiment. I do not wish to create any special class whatsoever. I am also like you, being a victim of detention without trial. All that this Bill wants is this. Members of Parliament recently, as you know, had been detained without trial and they could not come and represent their constituencies as Members of Parliament. Many of them are now Ministers, Deputy Chief Ministers, and so on. They had been detained. I say this situation should end. It is not justified. We get Rs. 31; we get certain other things; we can say something here. For example, I can make a speech here and make a defamatory statement according to the ordinary

[Shri Bhupesh Gupta]

law or say something which is privileged, which cannot be prosecuted against, outside. This is necessary to enable Members of Parliament to discharge their responsibility. For example, Mr. Sapru, if you name a person and criticise him here, you are protected by an Act of Parliament. But if you say the same thing outside, you may be liable to prosecution and conviction. This Act of Parliament was passed with a view to enabling Members of Parliament to discharge their responsibility in Parliament in a particular way. Similarly I wanted only to ensure by this Bill that Members of Parliament and State Legislatures are not detained without trial so that they are in a position to come and represent their constituencies in Parliament. That does not take away any other thing. For example, I think Mr. Sapru is a jurist; suppose there are three batches of people and a murderer; one batch women, another children, and the third old men; someone in the old crowd says, "I want to protect myself". That does not mean that he wants the children to be attacked or the women to be attacked. So, that does not mean that I want to place myself in a special category. Here, as Members of Parliament, we have to have our own shield also in order to discharge the responsibilities. Madam, Mr. Sapru knows that Mr. Namboodiripad was in detention, Mr. Jyoti Basu was in detention, Mr. Karpuri Takore, the Deputy Minister of Bihar, was in detention without trial. Members of Parliament were in detention. We could not get them out at all. That situation at least we want to modify, change and remedy. I entirely agree with the basic large-hearted concept that you have. Therefore, I would say, you support the old people from not being attacked by the wolves of the ruling Congress Party.

THE DEPUTY CHAIRMAN: It is one of the clock. The House stands adjourned till 2.30 P.M.

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

The House reassembled after lunch at half-past two of the clock. THE VICE CHAIRMAN (SHRI M. RUTHNASWAMY) in the Chair.

THE VICE-CHAIRMAN (SHRI M. RUTHNASWAMY): Mr. Sapru will continue his speech.

SHRI P. N. SAPRU: Mr. Vice-Chairman, my friend, Mr. Bhupesh Gupta, referred to the fact that preventive detention had been used against Mr. Jyoti Basu and Mr. Namboodiripad and so many other patriotic men. Now, he knows that so far as I am concerned, I have been a consistent opponent of this preventive detention and I look upon, speaking for myself, Mr. Jyoti Basu or Mr. Namboodiripad as patriotic as anyone on this side of the House. It may be that our views do not in all cases agree with their views. But life would not be worth living if there was uniformity of views. So, I think I cannot be accused of any bias against Mr. Namboodiripad or Mr. Jyoti Basu. What I was emphasising was that there is such a thing as equality before law. And if you look at this Bill, it violates the principle of equality before law. It places Members of Parliament and Members of the Legislatures in a separate category. I think it is not right for any particular class to be looked upon as a privileged class. I certainly think that Members of Parliament and Members of the Legislatures should have reasonable opportunities of discharging their difficult functions, and for that purpose it may be necessary for us to codify the law of privileges in this country.

THE MINISTER OF STATE IN THE DEPARTMENTS OF PARLIAMENTARY AFFAIRS AND COMMUNICATIONS (SHRI I. K. GUJRAL): Should we codify?

SHRI P. N. SAPRU: If you deem it desirable. I am not expressing a definite opinion. I will tell you my

difficulty, because I committed myself to the view that the law of privileges should not be codified, that it was best for us to retain the form of article 194 as it is today. It refers to the privileges of Members of the Legislatures being the same as those of Members of Parliament. And the argument which appealed to me was that if the law of privileges was codified, then the law codifying the privileges would come within the clutches of the fundamental rights guaranteed in the Constitution. But in view of certain recent developments, I have come to the conclusion that it may perhaps be wise or desirable to codify the law of privileges because we have come across cases where people say that they do not know what the privileges are and that therefore they must not be deemed to be guilty of any breach of privilege. It may, from that point of view, be desirable to codify the law of privileges. I certainly think that it should be possible for you to provide for attendance of Members who are even under preventive detention so that they should be able to participate in the functions of Parliament or they should be able to participate in the functions of the legislatures. They may otherwise be detained. I do not hesitate to say that States can function without preventive detention. There is no law of preventive detention in the United States. And an American lawyer would be shocked to hear that there is anything like preventive detention in India as in any non-democratic countries. There is no law of preventive detention, normally speaking, in Britain, and Britain has an admirable system of government.

SHRI I. K. GUJRAL: During the war it was so.

SHRI P. N. SAPRU: Well, that is a different thing, that is a different story. But we seem to be involved all the time in emergency. The difficulty is that the emergency in this country is a permanent emergency. We had an emergency—let me just say. When

I entered the Indian Legislative Council in 1934, then the second speech which I made in the Council was on the Criminal Law (Amendment) Act. And I pointed out then that the emergency which faced the British Government was a permanent emergency. I opposed it. Well, I find that the emergency which the Congress Government has, is itself a permanent emergency. But I do not believe in these permanent emergencies.

SHRI I. K. GUJRAL: Is it our choice?

SHRI P. N. SAPRU: I think, it is certainly our choice. To a certain extent it is our choice. I think there is no more that spirit of freedom which characterises democratic parties. We are lacking in a sense of real love for democracy. I do not know where we have got our ideas from, but I am clear in my mind that we need to fortify ourselves by occasional readings in, what I call liberal literature, radical literature. I think it is a serious reflection on persons occupying distinguished positions in life that they are not concerned very much with the liberty of persons. Take, for example, the case of Sheikh Abdullah. Here is a man who has been in prison or in preventive detention for nearly 14 years. Had he been convicted for murder, then he would have been released by this time.

SHRI I. K. GUJRAL: He came and went many times.

SHRI P. N. SAPRU: Well, that is only begging the question. There is no concept in regard to these matters because I have heard people say that we shall keep the fellow in detention until the emergency disappears. And the emergency is a permanent emergency. Therefore, I think there should be a frontal attack on preventive detention and all that it stands for.

I am sorry that the founding fathers in their wisdom found a place for preventive detention in the Chapter on Fundamental Rights.

SHRI BHUPESH GUPTA: We are now left with the wayward children of many of the founding fathers.

SHRI I. K. GUJRAL: Who are sitting opposite.

SHRI BHUPESH GUPTA: And in children I include daughters also.

SHRI P. N. SAPRU: I include in these wayward children Mr. Bhupesh Gupta also.

SHRI BHUPESH GUPTA: My father was dead before the Constitution came, in 1930. Founding fathers mean those who founded the Constitution, and their children we have in mind. We have got plenty of them here.

SHRI P. N. SAPRU: I am speaking seriously. I have never been able to reconcile myself to preventive detention. I have not been able to reconcile myself to the variations of preventive detention. We have not kept to the letter and spirit of the safeguards provided in the articles on preventive detention.

SHRI BHUPESH GUPTA: You are among the few sensible men sitting on that side of the House.

SHRI P. N. SAPRU: And I am sure that the Defence of India Rules, as framed by us at present, will not stand the scrutiny of our law courts. Thanks to the great judgment of Chief Justice Subba Rao, a place has been found for fundamental rights in the Constitution, and it will not be hereafter easy for Governments, whether of the right or of the left to tamper with these fundamental rights as and when they choose. I will, therefore, welcome a more comprehensive Bill on the part of Mr. Gupta.

SHRI BHUPESH GUPTA: But accept this and then I shall bring another comprehensive Bill.

SHRI P. N. SAPRU: As it is, I find that the Bill is one which I cannot support.

SHRI BHUPESH GUPTA: Is it the hon. Member's contention that when he is hungry I serve him with food but because he also wants soup he will not take this food?

SHRI P. N. SAPRU: So far as I am concerned, it will always depend. I support any radical measure which does away with preventive detention.

SHRI BHUPESH GUPTA: If you do not support it people will feel that Dr. Sapru did not support it and so he wants us to be detained without trial.

SHRI P. N. SAPRU: I do not want you to be detained without trial. I do not want any one to be detained without trial. I think it is a shame that people have been detained or are being detained in this country without trial. It is not a thing of which the Administration can be proud. I have got high regard for Mr. Nambudiripad. I have got a great regard for Mr. Jyoti Basu. I look upon them just as I look upon any patriotic Indian. It may be that they are Marxists in their ideology. But being a Marxist in one's ideology is not a crime. It cannot be a crime in our democratic society.

SHRI BHUPESH GUPTA: I want your support. You have to vote with us.

SHRI P. N. SAPRU: But I cannot support.

SHRI BHUPESH GUPTA: Why?

SHRI P. N. SAPRU: I cannot support the Bill in its present form.

SHRI BHUPESH GUPTA: Give your amendment and whatever your amendment I will accept. We want your support.

SHRI P. N. SAPRU: I am only concerned with the Bill as it is before me. And so far as the Bill as it is before me is concerned, I cannot give it my support though at the same time I must make it clear that I am opposed without any ifs or buts, to preventive detention.

श्री निरंजन वर्मा (मध्य प्रदेश)
उपसमाध्यक्ष महोदय, मुझे इन बातों पर बड़ा आश्चर्य हुआ कि श्री हमारे मित्र श्री सप्रू जी ने इस बिल का विरोध किया। उन्होंने अपने सम्भाषण में अपने को बड़ा रेडिकल चेन्ज वाला माना और उन्होंने श्री ज्योतिबामु की नीति की दुहाई दी। उन्होंने प्राजापति के युग में इस बात का भी माना कि डिटेन्शन जैसा पुराना कानून नहीं रहना चाहिये और अतः, जब बिल का समर्थन करने का मौका आया तो उन्होंने उसका विरोध किया।

श्री प्रकाश नारायण सप्रू मैंने तो सिर्फ यह कहा कि जो यह बिल है वह डिफिक्टिव है और इसी वजह से मैं इस बिल का सपोर्ट नहीं कर सकता हूँ।

श्री निरंजन वर्मा : लेकिन हमारे भाई श्री भूपेश जी ने यह बात पेश की कि श्री सप्रू साहब जो भी अमेन्डमेंट देगे, वे उनका मान लेंगे और तब भी आप उसके लिये तैयार नहीं हुए। कहने का तात्पर्य यह है

SHRI P. N. SAPRU: It will have to be carefully done if you want it to go through.

श्री निरंजन वर्मा : सबसे बड़ा आश्चर्य श्रीमान्, हमें इन बातों पर होता है कि अगर इस सदन का कोई और सदस्य इस बात का विरोध करता तो ठीक था, लेकिन एक ऐसे बड़े व्यक्ति द्वारा, जो कि हाई कोर्ट का जज रह चुका हो, वह डिटेन्शन के बारे में विरोध न करे, उसका समर्थन करे

श्री प्रकाश नारायण सप्रू : यह बिल्कुल गलत बात कही गई है कि मैंने प्रिवेन्टिव डिटेन्शन एक्ट का समर्थन किया था। अगर आप ऐसा समझते हैं तो बिल्कुल गलतफहमी में हैं और इन तरह से आप मेरे व्यूज का डेलाबरेटली मिसरिप्रिजेंट कर रहे हैं।

श्री निरंजन वर्मा : क्या आप इस बिल का समर्थन करते हैं ?

श्री प्रकाश नारायण सप्रू : जिस तरीके से वह है, उस तराके पर मैं उसका समर्थन नहीं करता हूँ।

श्री निरंजन वर्मा : आप बिल का समर्थन करते हैं या विरोध करते हैं ?

श्री प्रकाश नारायण सप्रू : मैं बिल को सपोर्ट नहीं करता हूँ और उनका रोजन दूसरा है। लेकिन जो आपने यह कहा कि मैं प्रिवेन्टिव डिटेन्शन एक्ट का सपोर्ट करता हूँ, यह बिल्कुल झूठ है। इस वक्त मैं कह सकता हूँ कि सन् 1944 से लेकर आज तक मेरे यही व्यूज रहे और मैं आपके नार्ज का नहीं मान सकता हूँ।

श्री निरंजन वर्मा : श्रीमान्, मैं नम्रतापूर्वक निवेदन करूंगा कि कुछ न कुछ मनुष्य के हृदय में जो भावना होती है वह दर्पण की तरह सूरज के सामने आ जाता है। हमारे मित्र, सप्रू साहब के चाहे कितने अच्छे शब्दों में भी और जोर-शोर से अच्छी भाषा में वे क्यों न बोलें कि मैं इसका विरोध नहीं करना चाहता, लेकिन उन्होंने इस फोरम पर इसका विरोध किया है।

SHRI P. N. SAPUR. No, you are misrepresenting me.

श्री निरंजन वर्मा : तब भी हम समझते हैं कि इस युग में इस प्रकार के कानून के लिये जाने की अत्यन्त आवश्यकता थी और हमारे मित्र भूपेश गुप्त जी ने उन कमी को पूरा किया। इस युग में जब कि कांग्रेस पूरी तरह से देश भर में अपनी सत्ता को छोड़नी चली जा रही है और ऐसी भी सम्भावना है कि बाद में कहीं-कहीं, किसी प्रदेश में कांग्रेस जब अपना बहुमत खोये तो किसी लैजिस्लेचर के सदस्य को, किमा पार्लियामेंट के सदस्य का इस कारण कि वह बहुमत बनाने में मदद न दे सके, नजबन्द रखने के लिये वह लालायित हो सकती है।

[श्री निरंजन वर्मा]

कई वर्ष पहले इंग्लैंड में भी यह परम्परा थी कि इंग्लैंड में जब राजाओं का और प्रजातंत्र वालों का आपस में युद्ध हुआ तो राजतंत्र वाले हमेशा यह किया करते थे कि लोगों को पकड़ कर के नज़रबन्द कर देते थे और उस समय प्रजातंत्र वालों ने एक मत से हैबियस कॉर्पस एक्ट के नाम से एक नये कानून को जन्म दिया जो राजतंत्र के ऊपर एक कुठाराघात था और राजा जैसा चाहता था वैसा न कर सके, इसके लिये पार्लियामेंट को लेजिस्लेशन बनाना पड़ा। आज उसी स्थिति में हम यहां पर खड़े हैं। अपने देश में किसी आदमी को बिना ट्रायल के नज़रबन्द करना, जितनी भी बुरी बात दुनिया में हो सकती है, उतनी बुरी बात है।

डा० एम० एम० एस० सिद्धू (उत्तर प्रदेश) : क्या माननीय सदस्य को मालूम है कि उत्तर प्रदेश गवर्नमेंट, जिस में आप का ज्यादा बहुमत है, उसमें क्या राजकर्मचारियों को प्रिवेंटिव डिटेंशन एक्ट में अभी चार-छः रोज पहले गिरफ्तार किया है !

श्री निरंजन वर्मा : संस्कृत में एक कहावत है :

“महाजनो येन गतः स पथः”

जिस रास्ते पर आदमी जाते हैं, उस पर हम चल रहे हैं। हम आपसे कहते हैं कि आप हमारे अभिगामी हैं। आप गलतियां क्यों दोहराते हैं ? अपनी जगह पर आप यह कहें कि हम यह काम नहीं करना चाहते और दूसरों को आप उपदेश दें और अच्छी-अच्छी सीठी बात आप रख लें और दूसरों के लिये कड़वी बात बतायें, तो इसमें चिन्तित नहीं कहा जा सकता।

इन बीस वर्षों में कांग्रेस ने प्रत्येक विरोधियों को एक से ज्यादा समय पर नज़रबन्द किया है। कांग्रेस की इस कठोर, कुटिल

और बराब नीति के कारण कम से कम छ. बार नज़रबन्दी का शिकार हम भी हो चुके हैं। उसका कोई कारण नहीं था और इसी लिये हाई कोर्ट से हम बार-बार छोड़े जाते रहे। हम तो एक स्थान के वकील हैं और हमें मालूम था कि किस तरह से बर्बराना के साथ अधिकारीगण इस कार के कानून का दुरुपयोग करते रहे और अंत में उनको असफल होना पड़ा। एक वकील होने के नाते से मैं कांग्रेसी मित्रों के सामने इस तथ्य को रखता हूं। बीसवीं शताब्दी में, प्रजातंत्र के युग में अगर आप यह चाहें कि किसी को बिना मुकदमा चलाये जबरदस्ती नज़रबन्द कर दें, तो इससे ज्यादा शर्मनाक बात दुनिया में कोई हो नहीं सकती।

यहां पर पिछले समय में इस प्रकार के कई कानून बनाये गये और रियासतों ने देन्ड की देखादेखी कई प्रकार के कानून और बनाये और उसके बाद जब उन पर दबाव पड़ा, तो उनको रोकने के लिये, उनको हटाने के लिये बार-बार घोषणाएँ की गईं, लेकिन उन घोषणाओं पर कोई अमल नहीं हुआ और उसका परिणाम यह हुआ कि अपने देश में इस प्रकार के नज़रबन्दी के कानून आज तक जारी है।

हमारे मित्र श्री भूपेश गुप्त जी यह बिल लाये हैं, यह बड़ा निष्कपट, बहुत सरल और दो तीन लाइनों का बिल है। इसमें यह कहा जा रहा है कि हम कांग्रेस सरकार से कोई बड़ी भारी किसी प्रकार का रियायत चाहते हैं, हिमायत चाहते हैं या किसी प्रकार का प्रेरोगेटिव चाहते हैं। कहीं पर यह नहीं है। अगर हम कोई बरा ब्रुत्य करते हैं तो उस के लिये आप को सजा देने का अधिकार होना चाहिये। इंडियन पेनल कोड संरक्षित आप के पास बड़ा भारी कानून है, जिसमें भाषा के गलत व्यवहार से लेकर कत्ल तक के बीच के सब मामलों पर मुकदसा चलाया जा सकता है और चलाया जाता रहा है,

फिर मेरी समझ में नहीं आता कि आप इनका क्यों विरोध करने हैं। आप जानते हैं कि विरोधी दल वाले बहुत थोड़े से हैं, और अगर आप यह समझते हैं कि उन के पास ताकत नहीं है, इस लिये आप इस प्रकार के अनियंत्रित कानूनों को लाकर के विरोधी दलों का या आप के विरोध में जा बान करने है उनका गला काटने पर तुले हुए है, ता इस प्रकार के कानून लाया जा सके कि युग में कभी भी प्रच्छन्न नहीं कहा जा सकता।

इन कानूनों के उद्देश्य में और इनके स्टेटमेंट में आशयपूर्ण गुप्त जाने से स्पष्ट बताया है कि इन बिल को लाने की क्या आवश्यकता पड़ी और इन समय इसको क्यों आवश्यकता है। इस पर बहुत विवेचन भी हो चुका है, मगर हमारे कांग्रेस पक्ष की तरफ से अभी तक एक मित्र ने इसका संशुलित उत्तर नहीं दिया कि ऐसे कानून का क्यों आवश्यकता है। अगर आप कहते हैं कि बहुत सा बाहर का शक्तिशाली के दबाव में हमारे देश में व्यापक अपद्रवों का तैयारी है, हमारे देश के कानून कारखानों का नुस्तान पड़ सकता है, हमारी राष्ट्रियता पर आघात हो सकता है, हमारे देश का खंडित करने का तैयारी हो चुकी है, इस लिये ऐसे कानून को रखने का उद्देश्य है, तो अपने मित्रों की कमियों का भा हम बता दें। हमारे मित्र बीस वर्ष के राज्य में आज तक कोई देश का कानून नहीं बना सके। संसार के सभी देशों में देशद्रोह पर कानून बने हुए हैं। आप भा देशद्रोह पर कानून बनाये प्रार उठाकर बतायें कि आपने देशद्रोह किया है और फिर उठाकर आप फाँसी पर लटका दीजिये, उन का भारत से बाहर कर दीजिये, ता उस पर हम का और हमारे मित्रों का कोई आपत्ति नहीं हो सकती। लेकिन आप ऐसा कानून बना कर के, अपने विराधियों का दमन करने के लिये, अपने बहुमत की सत्ता को बनाये रखने के लिये, यह राते हुए, अस्वस्थ, मैले और प्रगतिशील

से हरे हुए कांग्रेसी राज्य का स्थिति रखने के लिये, अगर आप इस प्रकार के कानून बनाने हैं, तो आप जानते हैं अपने प्रोग्रेस मित्रों से निवेदन करना कि कभी आप बलपूर्वक नहीं जाना कि प्रोग्रेस तक कानून के लिये जागे बनेंगे। हम वास्तव में ही कह सकता है जब तक कि आप की सत्ता इस प्रकार के किकम्मे और भ्रष्ट कानून का आश्रय लेती है। हम आप के द्वारा कांग्रेस के मित्रों से यह निवेदन करेगे कि हम यह बात मानने का तैयार है कि कांग्रेस के पक्ष में बहुत से विद्वान मित्र हैं, बुद्धिमान सोचने वाले उनमें शक्ति है, वे कानून को क्षमता और अक्षमता को भी जानने वाले हैं, लेकिन चावुक जब उन पर मवार हा जाता है तो अच्छी बातों के विरोध में भा वे कुछ न कुछ कहने के लिये विवश हो जाते हैं। बहुत से मित्र जा हमारा साथ देना चाहेंगे और जो इस बिल का समर्थन करने की भा बात कहेंगे, वे कांग्रेस की शक्तिशाली बात का निभाने के लिये आर कांग्रेस का साथ देने के लिये इस निष्कपट और सरल बिल का विरोध करने के लिये तैयार होते नजर आयेगे। ऐसे मित्रों से मेरा निवेदन है कि याद साहस रखो और सच बात को कहने की क्षमता प्राप्त करो। आप देश में शासन चला रहे हैं, लेकिन जिन के ऊपर आप शासन चला रहे हैं, उनका भी आप खाल कीजिये। एक-एक लाख पर जो व्यक्ति जनता के विश्वास का सम्पादन करके लेजिस्लेचर में आते हैं, आठ आठ और दस दस लाख आदमियों का विश्वास लेकर के जो पार्लियामेंट में सदस्यगण आते हैं, अगर ऐसे व्यक्तियों को भी नजरबन्द करने के लिये तिरकुश कानून बना चुके हैं जिन में कही ट्रायल की व्यवस्था नहीं है, तो ऐसे कानून से आप बाज आइये। अगर आप समझते हैं कि आप का पक्ष प्रबल है, अगर आप समझते हैं कि आपकी बात तर्कमंगत है, अगर आप समझते हैं कि अच्छाई के लिये आप यह कानून बना रहे हैं, तो ट्रायल होने की बाधा आप

[श्री दिरंजन वर्मा]

मैं तो दाल देते हैं, आप उसको न्यायालय में जाने दीजिये और न्यायालय से जो कुछ भी निर्णय होगा, उस पर दाम्त नहीं हो सकते। लेकिन ऐसे लंगड़े लूले कानूनों को बना कर के कांग्रेस द्वारा देश को सत्ता हथियाने के लिये, उसको स्थिर रखने के लिये जो परिपाटी चलाई जा रही है वह बहुत बुरी परिपाटी है और उन कानूनों को अवैध करने के लिये, उन के विस्तार और फैलाव को रोकने, समाप्त करने के लिये हमारे मित्र, श्री भूपेश गुप्त जी द्वारा जो यह बिल लाया गया है, यह बहुत अच्छा बिल है और इसका हम हृदय से समर्थन करते हैं।

3 P.M.

SHRI A. P. CHATTERJEE (West Bengal): Mr. Vice-Chairman, I rise in support of the Bill. I must also say with great respect to Mr. Sapru that he belied my expectation and I think the expectations of many of us. We expected Mr. Sapru, wedded as he is to the concepts of civil liberties and inviolability of persons, to support this Bill and I know what Mr. Sapru had said. I have heard him through.

SHRI P. N. SAPRU: Are you satisfied with the Bill that it will not create a privileged class? I started by quoting a passage from Dicey where he says 'From the Prime Minister downwards'. That is the concept of the rule of law.

श्री निरंजन वर्मा : सप्रू साहब प्रगतिशील हैं, इसलिए उनका विरोध करना बुरा लगता है। अगर कोई और विरोध करता है तो हम समझ सकते थे।

श्री प्रकाश नारायण सप्रू : अगर मैं विरोध न करता तो मैं समझता कि मुझ में कोई यमझ हो नहीं है।

SHRI A. P. CHATTERJEE: Mr. Sapru's opposition to the Bill has lacerated our hearts. We expected him to support this Bill but he has

given certain reasons which do not stand. He said that he is against preventive detention as such. If he is against preventive detention as such, why should he not be against preventive detention of Members of the Assembly? He says that he is for the highest thing. If anybody asks not the highest but a little less than the highest and if he refuses that to us, if he denies that to us, will it not be, if I may say so with respect to Mr. Sapru, tantamount to playing hypocrite with one's ideas? I think that it is not a question of getting the highest or desiring the highest or aspiring for the highest. If we do not get the highest, that does not prevent us from asking for a little less than that and if we aspired a little less than that, then we shall not betray our ideal for the highest. Mr. Sapru's ideas that there should be nobody under preventive detention is certainly to be praised and I give credit to him but with all his ideals, and bating not a jot of it he could have supported this Bill and if he had supported then it could not have been said that his ideal, which is certainly to be complimented—an ideal that nobody should be under preventive detention would have weakened or his ideals would have fallen from the high pedestal on which he has kept it. This is a kind of a petty bourgeoisie stance which always keeps itself in the ivory tower of untouchability and continues in the ivory tower of untouchability by refusing to come down to the level of reality and these bourgeoisie intellectuals often do more harm than even the thorough-bred autocrats. Mr. Sapru will excuse me for these words but I think the time has come for being a little exacting on those persons from whom we can demand. Mr. Sapru is a man of that rank from which we have been demanding a lot and from which we can still demand a lot and I am quite sure that people of his ilk will rise above those prejudices, those lady-like chastity of ideals, that kind of chastity which thinks that just by a kind of touch or a wink, by a kind of glance the chas-

tity goes away. What shall we do with those ideals? That is the sort of idealism which I do not understand. Let him keep his ideals in the ivory tower. Let him keep his ideals in the air-conditioned chamber but let him also come out in the midst of reality and let him try to give something which we can get even now. Trying not to give what we can get even now, immediately at this moment and asking for what we cannot get just at this moment is merely making impossible even the little gains which we can have, for the sake of the highest ideal which we shall keep in view. Therefore with great respect to Mr. Sapru, I really have not been able to understand this type of attitude which I, with great respect, will say smacks a little of philistinism—excuse my word, Mr. Sapru.

Really here is a problem which has been raised by this particular Bill, the problem which we must take by the horn because it is not a question of any privileged class. If you are for parliamentarianism, if you say that parliamentarianism is the corner-stone of democracy, it is no use saying that those who are coming to Parliament are a privileged class. If we begin to look at everybody as a privileged class, that will be obliterating the distinction between the really privileged class and the class which is not privileged. That is also a way of confusing the entire thing. We know who are the privileged class and Mr. Sapru knows it very well. Here in this House we have been discussing the Hazari report. We have had the report of the Monopolies Inquiry Commission. We know who are the privileged class. We know who are the 75 families who are keeping the wealth of the nation in their moneybags, in their personal privy purse, so to say. We know those 75 families who are keeping the nation under ransom. Are they privileged or the 700 M.Ps., some of them even I understand from the papers, are coming to the House without wearing shoes in

order to make a protest against the rising prices of shoes? Are they privileged or are those 75 families? If we begin to call the M.Ps. privileged, then it will be obscuring the real horrid sight of those really privileged persons who are sitting behind the palaces and who are pulling the strings from behind the present-day Government and you are merely trying to shield those persons by making everything privileged, by making everybody privileged. That is also a very well-known way of shielding the privileged persons. I do not of course want to say that Mr. Sapru consciously did it but decades of a particular way of training, decades of bourgeois propaganda and heavy sermoning spread through newspapers and various means of public propaganda have made the intellectuals impervious to the real light or reason. And that is why, even though we do not want it, even though we may not consciously do it yet, sub-consciously we shall be supporting the obscurantist forces of reaction by indirect methods, by reasoning, which ultimately is tantamount to supporting them, by reasoning, which will ultimately shield them from the public eye by calling all members privileged. I know those particular lines of reasoning; when you catch a thief and you want to send him to prison, what does the thief say at first in answer to your questions? "Saheb, everybody is a thief. Why are you catching me?" That is the particular logic of the thief. When you call these monopolists a privileged class, well, immediately they will say: "These parliamentarians are discussing the monopolists. Well, you are also privileged. If, for example, a citizen calls a meeting in a public hall and tries to censure a monopolist as really belonging to a privileged class, he will begin to say: "Everybody has privilege. Everybody benefits from some privilege or other. Why spit at me? Why strike at me?" That is the way of argument of all monopolists, of all privileged classes. Therefore, Mr. Vice-Chairman, Sir, let us not talk of privileged

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classes and all that. We know who the privileged classes are.

Mr. Vice-Chairman, Sir, talking about privilege, trying to obscure the issues, trying to confuse the issues, let us not lose sight of the main fact, the glaring fact. It is this that at the present moment we parliamentarians are now subject to a very great handicap. It is this that under the Preventive Detention Act, under the Defence of India Rules, which you have even now in existence, we have been subjected to ignominious detentions without trial. Well, if you believe in parliamentarianism, of course, you will have to do something about it. I am a Marxist and I know what parliamentarianism is. If you ask my opinion on it, as a Marxist I will say that parliamentarianism is a bourgeois method of misleading the people. Lenin has said, "What are bourgeois parliaments except talking shops? Nothing can be done there."

SHRI P. N. SAPRU: Do you believe in the parliaments of democratic countries?

SHRI A. P. CHATTERJEE: That is a different question, but if you believe in parliamentarianism . . .

SHRI P. N. SAPRU: You do not believe in democracy.

SHRI A. P. CHATTERJEE: Mr. Sapru, I am not raising that question whether I believe in it or not. That is not the question. I am a Marxist and I could say that parliamentarianism is a bourgeois method of misleading the people. But if you believe in parliamentarianism—I think you do—if you believe in parliamentarianism—many of you do believe in parliamentarianism—then you must protect Parliament; you must protect the Members of Parliament. You cannot run with the hare and hunt with the hound. You will say that parliamentarianism is the corner-stone of democracy; you will say that; you will make a big boast, through your pro-

paganda machines, through your radios, through your press, and all that, that we are the biggest democracy. How is it the biggest democracy? To that you say that some nineteen crores of people or twenty crores of people go to cast their votes. Well, at the time of Hitler, 95 per cent of people went to vote for *anschluss* of Austria with Germany. But everybody knew that it was all sham voting. And sham voting does not mean that there is democracy. Because people go to the ballot box, therefore it does not mean that there is democracy. Democracy has a concept. Democracy has a meaning. Democracy does not mean only this that millions of people are shepherded to the polling booths and millions of people are allowed to vote and that, therefore, there is democracy. I know that certain Congress people, not all, are not so foolish as to subscribe to this view. But some people, no doubt, will try to say that, 'well, because we go to the polling booths, because we are allowed to vote, therefore we are the biggest democracy.' And this has been so said, Mr. Vice-Chairman. Have you ever seen a democracy like this, Mr. Vice-Chairman, that, when Kerala, in the last elections, . . .

SHRI BHUPESH GUPTA: Do you mean to say that the greatest men in the biggest democracy will be found in the Gymkhana Club of Delhi?

THE VICE-CHAIRMAN (SHRI M. RUTHNASWAMY). Let us get down to preventive detention.

SHRI BHUPESH GUPTA: Now the hon. Member said that merely because millions of people went to cast their votes, therefore it cannot be called a democracy, and so I put it to him whether he meant to say that the greatest men in this democracy of ours will be found in the Gymkhana Club of Delhi?

THE VICE-CHAIRMAN (SHRI M. RUTHNASWAMY): your Bill will not be disposed of if Mr. Chatterjee goes on at this rate.

SHRI A. P. CHATTERJEE: I am just finishing; I won't take long. Now, Mr. Vice-Chairman, I was a little hurt, was wounded in the heart, so to say, by what Mr. Sapru said. That is why I digressed a little. Now, if you say that parliamentarianism is the cornerstone of democracy, you have to protect Parliament. Mr. Vice-Chairman, you know that that was the reason why the concept of freedom from arrest was developed in the British Parliament, by the British House of Commons. You know that in the seventeenth century, when there was the titanic struggle between the Members of the House of Commons, between the British Parliament and the British Monarchy, well, the House of Commons said that when the House of Commons was in session, then no man could be arrested. It is true that the House of Commons had watered it down later. But, Mr. Vice-Chairman, you should also know this that those halcyon days of capitalism were over with the concept of freedom from arrest. Even in 1870 Engels said that Britain and America were two of those countries where perhaps socialism could come by peaceful means, by parliamentary methods. But in 1917 Lenin had to say that Britain had passed the halcyon days of capitalism. Now it is shackled by the chains of the military machine and the bureaucratic machine and when the military machine and the bureaucratic machine shackle and chain up a particular country, then you cannot break those shackles, you cannot break those chains except by a violent revolution. That is why Lenin said so in 1917.

I am referring to this, Mr. Vice-Chairman, because of this that till the end of the nineteenth century the British people evolved the concept of freedom from arrest when the parliamentarians wanted to be in the House

of Commons free from the mischief of arrest, free from the intimidation of arrest so that they could do their parliamentary business properly and with due propriety. But then, after the nineteenth century was over, from the beginning of the twentieth century, Mr. Vice-Chairman, Sir, we have found that Britain has passed those days, and therefore we find that in Britain, also, in 1939 and 1940, when under the Defence of the Realm Act a Member of the House of Commons was arrested and the question arose, the question of privilege arose whether a Member of the House of Commons could be arrested when the House of Commons was in session, even for preventive detention under the Defence of the Realm Act, it is a shame to see that the Mother of Parliaments then said, "Well, there was no breach of privilege." That was in 1939 and 1940 when monopoly capitalism was already at its zenith in Britain and British capitalism had passed the days of liberalism, had passed on to the stage of imperialism, and Britain was no longer the ideal of democratic liberties. I must say that when our Constitution came in 1950, on the 26th

of January, it has been stated that we have the same privileges which were there for the Members of the House of Commons at the beginning of the Constitution. Thereby a mistake was made. Thereby those concepts of privilege of the Members of the House of Commons were brought into being as far as India was concerned, which were existent in England at the time of monopoly capitalism, at the time when liberalism, at the time when Britain lost its liberal spirit. Mr. Vice-Chairman, since the 26th of January, we have been following the reactionary footsteps and we have been saying that freedom from arrest is not a privilege which extends to freedom from preventive detention, freedom from statutory detention, even though it is detention without trial. So this is the

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position so far as this country is concerned because we have been following all along the British tradition. Therefore, Mr. Vice-Chairman, I submit that Mr. Gupta's is a timely Bill. It is a Bill which should have come long before. It is a Bill which has not come a day too soon and this is a Bill which should get the support of every liberal-minded person, of every liberal Member of this House.

Mr. Vice-Chairman, you will please look at the mischief that has been committed by preventive detention in India. You know that in the State of West Bengal—I shall refer to my State of West Bengal—in 1966 the food movement was going on and M.L.A. after M.L.A., one Member after another, were taken into preventive detention under the Defence of India Rules and ultimately when almost all the Members of the Opposition in the Bengal Assembly were under custody under the Defence of India Rules, the remaining Members though it was no use continuing in the Assembly and therefore they walked out and boycotted the Assembly. Mr. Vice-Chairman, I may also refer to the report of the non-official commission of enquiry which was set up by the Bar Association of India, West Bengal Regional Centre, presided over by three eminent ex-judges of High Court. This non-official enquiry committee reported that in 1966 Mr. P. C. Sen had converted the Assembly into a one-party parlour by putting M.L.A. after M.L.A. in prison under the Preventive Detention measure.

And now, Mr. Vice-Chairman, let me also add that this preventive detention has acted as a boomerang and, therefore, I say, not merely for our sake, but I say, Members of the Congress Party, not merely for our sake but for your own sake, this Bill is very necessary. We say this because history is a very hard taskmaster. Whether you like or not,

whether you support this Bill or not, history will teach you a lesson as you have been taught a lesson in West Bengal. The people of West Bengal had given the Congress there a hard knock when they found that democracy was being travestied. When the people of Bengal found that the Congress Ministry there was giving the go-by to democracy, they defeated the party at the polls and they defeated them quite miserably. You know what is the fate of the Congress there. The Congress cannot even hold a public meeting boldly in any of the towns or cities of West Bengal. This is the position there. Therefore, not merely for our sake but for your own sake, for your spiritual and material welfare, I ask you to support this Bill. We are not beggars asking for charity from you when we ask you to support this Bill. This measure is positively for your own good. Remember we are not beggars begging for your support to this Bill. It is for your own good. Also if you do not support this Bill, history will not forget you. You will be accused at the bar of history and the bar of history will condemn you. The bar of history will condemn you as reactionaries and throw you into the dust-bin where all reactionaries of history do belong. Therefore it is very necessary for you to support this.

THE VICE-CHAIRMAN (SHRI M. RUTHNASWAMY): This is a good place to end your speech.

SHRI A. P. CHATTERJEE: I am just on my ending note Sir. I only want to give another example. Look at the 1965 elections in Kerala. In the 1965 elections in Kerala we found that the Opposition had won the majority of the seats there. In the 1965 elections the Opposition had won the majority of the seats. So under the Defence of India Rules the Members of that State Assembly were being put behind the bars and thus an artificial majority was created for the Congress Party in the Kerala Assembly. In this

way the Congress party stifled democracy there. The party or parties whom the people wanted there to govern them, that party or parties were prevented from forming a government. Therefore, this Bill is necessary from the point of view of democracy. It is not a question of safeguarding any privileged group. It is a question of safeguarding democracy. If you believe in democracy. I request you to remember that one essential concept of democracy is that the Members of Parliament, the Members of the Legislatures must have free access to the Houses of Parliament. must be allowed free access to the Houses of Legislature in order to carry on their parliamentary functions in a free and untrammelled atmosphere so that the people may have the government of their choice. This is the purpose and this is the concept of the parliamentary system and this concept will be killed, and democracy of your own brand will be killed if you do not have this measure. I am speaking of your own brand of democracy, not the Marxist brand. I am not speaking to you about the Marxist idea of democracy, that is beyond your depths. I am not going to preach to you the Marxist idea of democracy, that democracy will be taught to you in the streets, by the working classes, by the peasantry who may or may not take up arms according to their choice. I am talking of parliamentary democracy, the bourgeoisie democracy in which you believe, even that form of democracy cannot function if you really do not protect the Members from arrest under preventive detention measures. Therefore, I am supporting this Bill

SHRI BIRA KESARI DEO (Orissa):
Mr. Vice-Chairman, the Bill that Mr. Bhupesh Gupta has brought in is a very timely one and it is a necessity. Sir, you will notice that up till now we have got no codified rules of our own and similarly all the Legislatures in the States have none of their own. So whenever an occasion arises we and the State Legislature have always

to depend on the British practice. that is to say May's Parliamentary Practice. As you know, this May's Parliamentary Practice is the British practice and in the changed circumstances of our country this practice. May's Parliamentary Practice is not the correct one to be followed. I will refer only to one case that happened in the Uttar Pradesh Vidhan Sabha. There in the U.P. Vidhan Sabha, Mr. K. R. Karanjia of 'Blitz' was accused and brought to the bar of the U.P. Vidhan Sabha and as per the verdict of the U.P. Vidhan Sabha he had to be confined. But May's Parliamentary Practice says if the House will confine any Member he will be confined only in the Tower of London. So I suppose—I do not know—the U.P. Vidhan Sabha must have painted on the cell "Tower of London" and then confined M. Karanjia there. Sir, you will find that all along many Members of the Opposition have been put to trouble only for their political convictions. I know of a particular case because it came before the Privileges Committee of the Orissa Legislative Assembly. There a Member of our party was confined over a civil matter. It was a very petty civil matter. He could not pay his dues to the Government in time and so he was put behind the bar, even though there were many rules under which his dues could have been realised. Then we brought the matter before the Privileges Committee because that Member was a Member of Select Committee and the Secretary, Orissa Assembly had given notice to that Member to come and attend the committee. Then, Sir, after a lot of discussion it was decided that a Member coming to attend a committee has a privilege. And May's Parliamentary Practice says that a Member cannot be detained 40 days before a sitting or 40 days after a sitting, but in a vast country like India where it takes 10 days to come and 10 days to go back, this immunity of 40 days is not enough guarantee. And particularly with the Preventive Detention Act pending in the country like a black law this Bill of Mr. Bhupesh Gupta is a very timely one and I hope each

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and every Member of the House will support it and enable it to be passed without any further amendment. Now, I do not know of Parliament because I am a new Member here but I was a Member of the Assembly for long and you will find that in the Assemblies many of the ex-Chief Ministers of the Congress had put the Opposition Members in a lot of trouble even for petty things. Unless this Bill is passed, no Chief Minister will come to his senses because all the Assemblies base their rulings on the rulings of the Lok Sabha. Therefore I support the Bill of Mr. Bhupesh Gupta.

SHRIMATI YASHODA REDDY (Andhra Pradesh): Mr. Vice-Chairman, Sir, I am sorry to find that Mr. Chatterjee is not here at the moment but anyway I would like to say a few words about Mr. Chatterjee's support to the Bill. Let me at the very outset tell the House that I oppose the Bill and I will give my reasons for it.

Now, Mr. Chatterjee started waxing eloquently and went on to give us a sort of lecture on his ideas about democracy and I was just reminded of the saying, Devil quoting the scriptures. Here was a gentleman who went on for full half an hour or so telling this House and hon. Members especially of our side that he does not believe in parliamentary democracy and that only we believed in parliamentary democracy.

AN HON. MEMBER: It was not only he; others also.

SHRIMATI YASHODA REDDY: Let us leave others now, at least they have been more reasonable. Now, if you don't believe in parliamentary democracy why have you people come here? If you don't believe in parliamentary democracy why should he want to be a Member and why does he want to give a lecture about Leninism and Marxism? As the Chair was correctly pointing out, he never

came to the Bill. He was trying to give us a sort of a lecture about his political approach about his religious approach to politics and he was trying to convert people apart from the political speeches outside—even in Parliament to his way of approach to democracy. Certainly I would like to tell him that he need not give lectures about democracy.

SHRI BHUPESH GUPTA: The Devil has come.

SHRIMATI YASHODA REDDY: He is a gentleman; he also told me that he would be very glad to listen to me.

SHRI BANKA BEHARY DAS (Orissa): At least he was not a hypocrite.

SHRIMATI YASHODA REDDY: One thing I can tell you. I may agree with a Member or not but I have never doubted his *bona fides*. Never would I call any Member a hypocrite. Whenever a Member of Parliament speaks here I take it that he speaks with a sort of honesty; at least let us believe that they speak with honesty. I have never said anybody is dishonest. (Interruptions) When does their guilty conscience prick? I honestly believe that when they speak, they speak with honesty. (Interruptions) I tell you if I have to learn anything about honesty I will not go to these people. Of course, if I have to learn about hypocrisy maybe I may go to Mr. Chatterjee. But I do not want to be a hypocrite; that is a different matter. (Interruptions)

Sir, if they are disturbing me like this; I seek your protection.

SHRI A. P. CHATTERJEE: Sir, a lady seeks protection.

SHRIMATI YASHODA REDDY: Of the Chair. Why should I not. If a lady happens to be an hon. Member of this House could she not seek the protection of the Chair? I do not understand how Members could sometimes be so irrelevant.

SHRI I. K. GUJRAL: That is his concept of democracy.

SHRIMATI YASHODA REDDY: His conception of democracy is Marxist—Leninism. He does not believe in this parliamentary democracy. I am sorry that he is here. He says he does not believe in this parliamentary democracy but still he wants to be here.

SHRI BHUPESH GUPTA: Let us hear something of Brahmanandaism.

SHRIMATI YASHODA REDDY: In one thing I would like to correct Mr. Chatterjee; of course he can always contradict me. Now we have been following the House of Commons in regard to many things concerning parliamentary privileges etc. If I understand the position correctly I would like to tell the hon. Members of this House that even in the House of Commons the Members of Parliament are not immune from any offences other than civil offences. If the offence did not pertain to any civil matter, if it was detrimental to the defence of the country or to national security or to any such allied matters, no Member of Parliament had any immunity or any sort of special privileges other than the privileges of an ordinary citizen of the country. So it is not correct to say that the House of Commons had provided some immunity but that we, though following the British system, are going in a reactionary way by not giving similar privileges because we are a Congress Government; it is very misleading. I may tell the hon. Mr. Chatterjee that a Committee which was appointed . . .

SHRI A. P. CHATTERJEE: You may call me as common Mr. Chatterjee; you need not say hon. Mr. Chatterjee.

SHRIMATI YASHODA REDDY: If he does not want to be honourable, he is the best authority on himself.

He should know more about himself than anybody. I am quite prepared to accept what he says.

SHRI BHUPESH GUPTA: You called him a Devil before. Therefore he said how a Devil could be honourable.

SHRIMATI YASHODA REDDY: I never said he is a Devil. With all the intelligence of Mr. Bhupesh Gupta, I have found after six years of lapse instead of becoming wiser and more intelligent, he seems . . .

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, she said, after six years of lapse; lapse of what?

SHRIMATI YASHODA REDDY: I am sorry; lapse of my presence in this House. After six years of my absence from this House when I come back here; that is what I meant. It is said, with age comes wisdom, but in some people age seems to be coming all alone; I do not know why it is so.

Anyway, Sir, the Committee which was appointed by the House of Commons in 1938-39 came to the specific conclusion that if a Member of Parliament is detained for any offence other than civil matters and if the offence related to the defence of the country or foreign affairs or the security of the country, he need not have any special privileges other than those enjoyed by other ordinary member of the society. If Mr. Bhupesh Gupta had contended that the Preventive Detention Act itself or the Defence of India Act and Rules are not necessary because they have been there for a long time or that the Government had misused them or that the Government had been taking powers beyond the limits sanctioned by Parliament, may be I would have said, yes but why are these people, who all the time preach about equality, liberation, democracy; and all these things, interested in creating a privileged class? Here my hon. friend. I would still consider him honourable in spite of his own certificate—Mr. Chatterjee said that they knew who will be the privileged

people, people like Birlas. How do Birlas and Tatas come here I do not understand. Even if you consider Birlas and Tatas as privileged class because they are very rich, why does he want to add another privilege class of Members of Parliament? The simple thing is, a Member of Parliament is first and foremost a citizen of India and if he is a citizen of India then everything else is subject to the law of the land. We can give them some privileges for the purpose of their functioning but when it is a question of national security, when it is a question of our defence, when it is a question of the common good of the country, I think nobody either on this side or that side would say that any particular person is above the country. The country comes first always. Whether you are a Member of Parliament, whether you are a Minister, whether you are anybody else, the country comes first.

SHRI BHUPESH GUPTA. The country comes first and Mrs. Yeshoda Reddy comes next.

SHRIMATI YASHODA REDDY: I will be very proud if I happen to be next to the country. After all the country is most important to me and after the country if I am that much important I will be only too glad to do my bit to build up the country. But where does Mr. Bhupesh Gupta come? I do not think he has ever tried to build up anything. He is so busy breaking down things that he is never prepared to build up either for himself or for the country.

SHRI A. P. CHATTERJEE: On a point of information, Sir. What does she mean when she says that he is not building up for himself? For the country I can understand but what does she mean by saying building up for himself?

SHRIMATI YASHODA REDDY: Certain things are so obvious and the hon. Member himself knows what I

mean and so the less said about those things the better.

SHRI A. P. CHATTERJEE: Why cannot you explain it?

SHRIMATI YASHODA REDDY: I will give an explanation at some other time. What I was trying to say is this. If we are having a law, let us have it for everybody. Let not Members of Parliament become a privileged class. The hon. Member who spoke just a few minutes back said: "Let the hon. Members of the Congress learn the lessons of history. They will be named by the future generations as reactionaries. You will not be always there. You yourself will suffer the consequences." Yes, Sir. If we pass a law, certainly we are going to suffer the consequences. I am glad in a way that this time—let me confess that—some of the State Governments have gone non-Congress. I am glad of that for more than one reason. Power corrupts and absolute power corrupt absolutely. Sometimes I do agree that we have been ruling the country far too long, not because of our fault. It is because of your inefficiency and because of your incapacity. You do not have even one party to take over the government. Even in the States, what is happening? I do not want to say it, but he challenged, let the Congress have even one meeting in West Bengal. Oh, the public will not tolerate it. But my information also is that they will not tolerate them. . . .

SHRI A. P. CHATTERJEE: You have the Morarji faction and other factions. There are many factions.

SHRI SHEEL BHADRA YAJEE: (Bihar): You have got right faction and left faction.

SHRIMATI YASHODA REDDY: I anticipated this. When Mr. Chatterjee was speaking I refused to interrupt him. I expect him to show me the same courtesy which I had shown him. He need not be convinced. I

have got some information. If today any CPI meeting is held there, I do not know what is going to happen. If they go to the polls tomorrow, I do not know what will happen. It is also good for the country. The Congress may have done something bad, sometimes they may not have been good, but they will also learn how the other Governments are also proving themselves, whether in Kerala or West Bengal. It is good for the country, good for the Congress and it is good for everybody. Now, just as they are ruling some of the States, they are ruling the States with the powers which the Congress majority Government had passed. Those rules are there and those powers are there in the States. If they are now going to apply them against the Congress people, I do not think anybody is going to prevent them or protest. As he challenged, tomorrow if you are going to use them against us, certainly do, but use them as we are using.

SHRI BHUPESH GUPTA: Atulya Babu is being chased by Congressmen.

SHRIMATI YASHODA REDDY: I am not here either to defend Atulya Babu or anybody else. You can have a talk with Atulya Babu either here outside the House or in West Bengal. You have ample time. All that I am saying is when we pass this law next time or when we come for an extension next time, or when the Government of India comes before the House, let Mr. Bhupesh Gupta oppose it. There may be some Members of Parliament on this side of the House also who may get an opportunity to learn how the Preventive Detention Act has been misused. I humbly appeal to the Members to see that this by passing will be creating a sort of discrimination against the citizens of India and maybe even it will come under article 14 of the Constitution itself. I do not want to go into that. It may be discriminatory. We should not create a privileged class. Members of Parliament are first citizens.

India's security and the defence of the country comes first and foremost. For these reasons I think this Bill could not be supported and I hope the Members of the House will oppose it. (Interruption). I appeal to you. For the last four days neither reason nor rhyme was there as far as Mr. Bhupesh Gupta is concerned, but still I would appeal to him that he should withdraw it. If he still persists in putting it to vote I am sure that this House will not accept it. Thank you.

SHRI D. L. SEN GUPTA: (West Bengal): Mr. Vice-Chairman, I do not like to join in the punged fun of Mr. Arun Prakash Chatterjee and in the sweetness of the hon. lady Member. That is between the lady Members and Mr. Chatterjee. We are concerned with the Bill. There was a lot of fun going on between Mr. Bhupesh Gupta, the lady Member and Mr. Chatterjee. We were just listeners. I will come to the Bill straight. Much has been argued from that side that it will lead to a privileged class, that it will lead to discrimination and all that. I heard their eloquence but found little sense in the long speeches from the other side. To say that I am a Member of Parliament is not to discriminate me from others. It is fact. When I say I am a legislator, thereby I distinguish myself from the others. That is neither discrimination, nor is it a privilege. Our sitting here in an air-conditioned House is not privilege. Things have got to be seen from that aspect. We are what we are, what others are not. We have been voted here and that is a right and because of that right we can do many things, including passing a Bill. We can settle amongst ourselves what should be our right. We have passed here Bills saying what our salaries should be and what our amenities should be. We are only saying that because of the absence of a sensible provision like what has been suggested by my very experienced friend, Mr. Bhupesh Gupta, there was misuse of authority. A man like Dr. Ram Manohar Lohia was arrested in Bihar

[Shri D. L. Sen Gupta]

and we had to file a habeas-corpus petition. He had to secure his release from the Supreme Court. Is that desirable? Can a man concentrate himself on Parliamentary job either here or in a State Legislature, unless he is assured that he has a certain protection? Neither Mr. Bhupesh Gupta has envisaged nor the Bill ever suggests that for reason, a person shall not be committed to trial. He says, try me. Had he said there should be no charge for reason and no trial because one is a Member of Parliament, I would have opposed his Bill. Mr. Bhupesh Gupta or the Bill does not suggest that for a moment. I am a common citizen and I am liable to all the other provisions, except, i.e., detention without trial. Is it too much? We talk of the separation of the legislature from the executive. Democracy means that these forces should be divided and not concentrated. Concentration would breed danger. Now, we have Ministers who are at the mercy of the kind executive. If they so think, tomorrow they can put any of us in detention. That danger has been created by this Bill. Nothing has been done. The point is, the House is whether the Bill and ensure the safety or should themselves to be harassed at their whims. The point. If anybody has a attitude that he shall be governed by the executive, though he is a Member of Parliament, I am not with him. It means too much of dependence and too much of respect for the executive. That is an undemocratic attitude. That is unbecoming of a Member of Parliament. So, I submit that this innocuous Bill should be passed and should be passed unanimously so that we can place on the Statute Book a piece of legislation to be followed by other Parliaments elsewhere. We are not to be governed by what the British Parliament does. We are an independent

country and ours is a sovereign Parliament. Why should we choose today twenty years after our independence what is there in the House of Commons, what are the rights of the Members of the House of Commons? That is absolutely irrelevant. We are going to make our own laws. We are going to make our laws in the perspective of the social changes, in the perspective of the modern outlook on life, liberty and property. Why should we not think straightway forward and declare here and now that Members of Parliament and Members of the Legislatures are no longer to be detained without trial?

Now my friend, Mr. A. P. Chatterjee, has been quoted by the lady Member on the other side. I do not always agree with what Mr. Chatterjee might say, but what has he tried to place here? He has placed the democratic attitude as placed by Shri Bhupesh Gupta. The real theme of his speech has got to be appreciated. What Marx says or what Lenin says is literature; one may or may not agree with that; the attitude of democracy or democratic temperament as envisaged by Mr. Chatterjee may be there or may not be there. The point is, is there anything wrong in saying that a Member of Parliament should not be detained without trial? There is, nothing more and nothing less. I hope we shall rise above that. If we shall rise above that, we shall rise above our conception of British rights and privileges for Members of Parliament. We are not asking for any extra privilege. Members of Parliament stand as a class by themselves. They are legislators, they legislate; others do not. Because of that right of ours, because of the special position of ours, if we ask for certain extra rights, that is not discrimination, that is not a privilege. If between Members and Members of Parliament. Members *inter se* any right was being claimed—"give us this right and do not give it to the Congress members"—that was discrimination. It was discrimination if it was given to us and not to the

Swatantra Party. We want this right for all Members of Parliament; we want this right for all Members of the Legislature. There is no extra privilege, there is no discrimination. We make no invidious discrimination. It is just and fair discrimination because we are Members of Parliament, because we are members of the Legislatures, we stand as a class by ourselves. People may think that we are in the opposition and we are in the movement of the people and so we are wanting a certain right for ourselves alone. That is not so. You must remember the writing on the wall. We are preserving this right as much for ourselves as for yourselves. Today we are on this side. Tomorrow you may be on this side, tomorrow you may have to be detained without trial. This is a law which you are opposing and you may have to suffer under the pangs of that. So, what is the right attitude? Let us take a dispassionate view of the whole thing, let us take a statesman-like attitude. Try anybody and everybody on a charge of treason or any charge you like, but do not detain them without trial.

I request the House to accept the Bill.

SHRI I K GUJRAL: Sir, it is not by chance that I on behalf of the Parliamentary Affairs Department am rising to intervene in this debate. If the issue were regarding the merits or demerits of detention as a principle, then this Bill probably would have been dealt with by the Minister of Home Affairs. I think most of the debate has gone away from the real

essence of the Bill itself, and rather than discussing the merits and demerits of the privilege that is demanded to be added to our privileges, we have gone on discussing whether there should be detention or no detention. As a principle I do not think there is anyone on this side of the House including myself who is insisting that there should be detention without trial. We do feel and we agree that there should not be in a democratic method of functioning any situation which should involve detention without trial and much less detention without trial of an hon. Member of this sovereign body. Is that the issue? That is not the issue. That is why Mr. Sapru who is well known for his judiciousness and fairplay and balanced judgment of facts was opposed to the Bill itself. It was not because he was in favour of detention without trial but it was because he felt that this Bill would introduce a new class in our society which would not be in our interest.

Many Members speaking from the opposite side have tried to tell us and tomorrow we may not be on this side. It is not that we should pass the Bill lest tomorrow we may not be on this side and we may be also detained. The issue is not that. The issue is whether in this country Members of Parliament and MLA's and MLC's should be given this privilege irrespective of the method they use to subvert democracy, irrespective of their activities, irrespective of the anti-national role which anyone might at any given time like to play. Should he be stopped or should he be not stopped? That is the issue. Whether we are on this side or that side of the House, I assure you that I would be the last to support anyone who does not stand by the basis of the Constitution and by the nation as a whole. If anyone dares to subvert

[Shri I. K. Gujral]

freedom, if anyone dares to subvert the nation, to undo the Constitution, he should be liable under the Act as it stands. We have always said and we have felt—and if any proof was needed, we gave it—that we do not want to use that for political purposes. It has not been used. If any proof was needed, that proof has been provided by the elections alone. The fact that Congress has gone out in some States and Congress has reduced its majority at the Centre is also proof of how deeply we are wedded to the concept of democracy. Even when these powers did exist even when these apprehensions have been expressed by the Opposition, whether now or earlier, can they cite a single case when we tried to use these powers to take political advantage of a situation? We never did so. We never shall do so. Our attitude is not that. I think there would be other occasions when again the Detention Act and its merits and demerits can be discussed, the situation can be discussed.

In today's context I believe Mr. Bhupesh Gupta's Bill has lost much of its relevance. Mr. Bhupesh Gupta moved the Bill about three years ago, I think it was in 1963 or 1964. Today the debate continues, and with his usual dogmatism he refuses to understand that history has passed on and history changes many things. He does not realise that three to four years is a long time. He does not wish to realise that the equation of politics changes. He does not want to face facts, that the political situation can be very different from what it is today. Unfortunately, Mr. Bhupesh Gupta has one constant factor. That one constant factor is that when he introduced the Bill, he was obsessed by the bullying tactics of the Left Communists. That obsession still continues. Unfortunately the Left Communist Party or the Marxist Party, whatever name they choose to call themselves by, have continuously for

the last three or four years bullied Mr. Bhupesh Gupta's party consistently, and their only approach is therefore the approach of 4 P.M. compulsive politics. Mr.

Bhupesh Gupta and his friends unfortunately not able to stand on their own, face the country with positive politics of their own. They are all intelligent men; they are all honest beings. But unfortunately sometimes bullies have an upper hand and in case . . .

SHRI BHUPESH GUPTA: I should have thought that all honest people have joined the Council of Ministers

SHRI I. K. GUJRAL: Actually, the bullies are still having an upper hand. I would only like to choose a passage of the 14th May, 1967 he says and I quote. He is referring to the Left Communist controversy:

"The latest exhibition of its shamefacedness is the journal's front-page editorial in the issue of May 7, captioned—REVISIONISTS SHOW THEIR REAL FACE. In its usual spiteful way the editorials embark on evaluating the conclusions of the recent Calcutta session of the National Council of our Party. But this is only a pretext for returning to the old vomit."

I do not like to use the word; Mr. Bhupesh Gupta is using the word. This is unfortunately the situation.

When Mr. Bhupesh Gupta introduced the Bill earlier, Sir, his friends on the left left him alone and they had gone to jail. They had gone to jail not because any principle was involved; they had gone to jail because they had felt that an opportunity for them had come when they should side with China and not act in the interests of the nation. It was, unfortunately, at that time, when the nation's entire solidarity, its entire integrity, its entire Constitution was in danger, that we had to choose to detain some of them. Mr. Bhupesh

Gupta, if he had the moral courage at that time, should have come forward and supported us. No, he was afraid of them; he knew this thing that those people sitting in jails might become martyrs outside, and he was being obsessed by them. Therefore, he had to justify it and in that process of justification, he brought forward this Bill. He and his party have been branded by Mr. Chatterjee and his friends as revisionists. I do not know whether it is a compliment or not. But, they have sought to revise what? I do not like to plead the case of Mr. Bhupesh Gupta. But I do understand this thing that Mr. Bhupesh Gupta has faith in democracy now and in parliamentary functioning and that is why it is being called as 'revisionist'. And Mr. Bhupesh Gupta has also developed a faith that democracy and its institutions can be used to usher in social changes. That is what Mr. Chatterjee and his friends do not like. Mr. Chatterjee has just told us—and I am glad that he was very frank—that after all, the revolution will be in the streets and also will be through violence. Whatever was in doubt, whatever illusion we had about his *bona fides* as a man who has taken the oath on the Constitution, that was really dispelled, and I am sorry for this.

Sir, the other thing which Mr. Bhupesh Gupta's revisionism implies is that even in Communist States like the Soviet Union and China, Mr. Bhupesh Gupta believes in debate to substitute purge and that is why he is being blamed again and again. He is being blamed because he has tried to come to Parliament; he is being blamed because he believes in elections; he is being blamed because he believes that through democracy many changes can be brought about. Mr. Chatterjee and company do not like it; and since Mr. Chatterjee and company do not like it, Mr. Bhupesh Gupta unfortunately lacks courage; he lacks a sense of conviction. Therefore, he goes on again and again doing something which leads them to bully him and he is

being bullied. This Bill, therefore, I submit, Sir, is a product and an effect of his being bullied; it is a Bill brought here by a weak man; it is a Bill brought here by a man who lacks conviction; it is a Bill brought here by a man who does not have the courage to stand on his own hind legs and face the Left Communists and tell them what he thinks of them. Unfortunately, he only goes on responding again and again.

These Left Communists, from the very beginning, since 1947, had a particular attitude towards this country. When freedom came, they openly came out and talked that freedom had not just come, it was only the other variation of colonialism.

SHRI A. P. CHATTERJEE: Mr. Gujral had been sleeping like Rip Van Winkle. In 1947, the Left Communists had not emerged as a party as such; I think in 1947 the party was united.

SHRI I. K. GUJRAL: Mr. Chatterjee believes too much in clothes, I believe in content. It was his friend, Mr. Randive and company who are still the leaders of his party. Does he deny it when they said, again and again, that this country was not free? Does he deny it, again, that it was Mr. Randive and company who brought the Telengana trouble and it was that Telengana spirit which tried to subvert the freedom of this nation and which still continues among the Left Communists? It was . . .

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, only one enquiry. Has there been an arrangement that some CIA teacher should take up classes for all the hon. Ministers of the Kitchen Cabinet?

SHRI I. K. GUJRAL: If Mr. Bhupesh Gupta is thinking of the CIA of somewhere else, I think he might look behind himself also, and he will find very good company there. Therefore, my sympathy is all with Mr. Bhupesh Gupta.

SHRI A. P. CHATTERJEE: It is interesting to hear of these things about the Left Communists from persons who are in a Cabinet in which obviously and admittedly people are in the pay of the Bir as.

SHRI I. K. GUJRAL: Sir, you can only hear about the Left Communists from us who have studied them; you can only hear about Left Communists, their tactics, their approach and of their subversion and, their lack of faith in the Constitution from us who know them well, who have studied them well. And if you wish, I will quote from the latest 'People's Democracy'. I am quoting from 'People's Democracy'. Mr. Chatterjee's paper, from its issue dated May 7, 1967 which criticises Mr. Bhupesh Gupta and very interestingly, the caption being 'Revisionists show their real face'. But the real face of Mr. Chatterjee and his company is shown here. I will quote only one paragraph which will reveal to you what is the danger to the nation. It says, and I quote—

"Can any one in his senses talk of alleviating the sufferings of the people without applying the axe to the outrageous defence expenditure? Can any one seriously talk about fighting American penetration unless this heavy commitment of India's resources to military, expenditure is drastically reduced."

And please note—

"Can any party calling itself Marxist advocate a Government which continues the present policy of containment of China?"

Therefore, the containment of China is the crux of the whole problem. But to Mr. Chatterjee and company China must not be contained; to Mr. Chatterjee and company, China has a right over its neighbouring country; to Mr. Chatterjee and party it is absolutely natural for the Chinese to come into India, to go into any other country that happens to surround them so that Mr. Chatterjee and his friends

are happy here. Sir, in this country, unfortunately . . .

SHRI A. P. CHATTERJEE: Where do you get all these things from imputing all these things to me?

SHRI I. K. GUJRAL: Whatever I have said, I have quoted from your paper and I stand by them.

SHRI A. P. CHATTERJEE: I am quite sure you have not studied it well.

SHRI I. K. GUJRAL: I have satisfied myself before I quoted it. Therefore, the main issue is that whenever some part of the liberty of the people or of the Members of the Legislature has to be contained or limited, it has to be justified by the circumstances. We do believe, and we are convinced, that democracy is a Government by checks and balances. And I shall do nothing here but to quote Burke on it. And if Mr. Sapru were here, he would have been very happy to listen to what Burke says:

"To make a government requires no great prudence. Settle the seat of power, teach obedience, and the work is done. To give freedom is still more easy. It is not necessary to guide; it only requires to let go the rein."

Mark these words:

"But to form a free government, that is, to temper together these opposite elements of liberty and restraint in one consistent work requires much thought and deep reflection."

It is this deep thought and much reflection that we are now talking about. And that is why I think, Sir, when the Members of the Legislature, particularly of a sovereign body like Parliament discuss the privileges and more so, their own privileges, they should better be more restrained. Let us not be accused tomorrow that since we had a sovereignty vested in ourselves, we used it only to our advantage; let it not be said of us when

we go out tomorrow after passing the Bill of Mr. Bhupesh Gupta, that here were a set of people under the misguided leadership of Mr. Bhupesh Gupta who only gave all privileges to themselves, who were not concerned about whether an innocent citizen is detained or not, who were not concerned whether this country is saved or not, who were not concerned whether the Constitution is subverted or not but they were bothered that their own rights must be safeguarded, that they must not be detained under any circumstances, that their own actions must be remain free and unrestrained by any law. Let us not be accused of that. Let us not be accused of that that those who are in power today also looked after their future, as Mr. Chatterjee warned us; tomorrow we may be on the other side. No, Sir. We have to be more responsible. We have to prove today that we are not only interested in democracy as it stands but we are also interested in democracy as a spirit, as a substance, as a movement, as an approach. We have also to prove to the people that democracy to us is a very big trust which the people of this nation have placed in our hands. We have to prove to the world and to the country as a whole that we are not here interested in creating a new class. We do not want to give all privileges to ourselves. We do not want that we should be bubbled off. We do not want that there should be some such thing as a new class of 750 people sitting in Parliament enjoying all liberties, all rights, all freedoms. We do not want this Parliament tomorrow compared with the Senate of the Roman Empire days. We want to stand as common citizens, representing common citizens, subject to common laws, bearing our responsibilities in a common way as other citizens do. Therefore, all the privileges that we choose to give to ourselves should be fundamentally conditioned from this fact. Does it strengthen or does it weaken democracy as an institution? It should be conditioned from the fact whether we take advantage of our situation here

or we do not. It should be conditioned from the fact that when we were given responsibility did we discharge it with a sense of responsibility or not? In our liberal thinking, we are all not only liberal in thinking, not only are we wedded to democracy as an institution and as a thinking although Mr. Chatterjee may not, but we all are, and since we are wedded to this thinking, to this basic philosophy, we would like this basic philosophy to be translated into action, and that action is that we shall try to safeguard the liberties of the nation, we would like every one in this country to have complete freedom of thought, action and speech as laid down in our Constitution. Also, at the same time, we shall maintain, retain and sustain our vigilance in spite of those who may be misguided at a given time by people like Mr. Chatterjee who, unfortunately, continue to be misguided.

Many points have been made, Sir, giving some sort of references to various things elsewhere, and rightly so. Perhaps more references have been made to the House of Commons and some quotations have also been given. I will only start with the one in the May's Parliamentary Practice which says:

"Privilege of Parliament is granted in regard to the service of the Commonwealth and is not to be used to the danger of the Commonwealth."

This is the basis of the privilege. The privilege is enshrined basically in this fact that while we are all given to the service of Parliament, this is meant to be service of Parliament and not to subvert Parliament. And those like Mr. Chatterjee who are committed to subverting Parliament cannot enjoy this privilege also. We cannot and we shall not give any one this right that he should stand here, claim all privileges under our Constitution and also subvert it. Therefore, May's Parliamentary Practice has rightly spelt this out. It has rightly laid down that all the claims

of privileges shall be for the service of Parliament and not for the subversion of Parliament.

Something more has been said, Sir, about freedom from arrest which is being put along with the privileges in the House of Commons. I have perused a good deal of the May's Parliamentary Practice and I am unable to understand how out of context quotations were given. The freedom from arrest in the House of Commons is completely laid down by the Committee of Privileges. I could quote from chapter to chapter to prove that only from the civil suits these privileges flow. Even detention without trial is not a part of the privilege when emergency existed there. During the war, you would kindly recall, there were cases—there was at least one case which is quoted here, again, by May's Parliamentary Practice. May I quote with your permission, and it says:

"The detention of a Member under Regulation 18B of the Defence (General) Regulations, 1939, made under the Emergency Powers (Defence) Acts, 1939 and 1940, led to the Committee of Privileges being directed to consider whether such detention constituted a breach of the privileges of the House; the Committee reported that there was no breach of privilege involved."

And, therefore, the question of breach of privilege does not arise.

There was a case in British history. A gentleman, by the name of Capt. Ramsay, was detained. Captain Ramsay's case is a very historical one. Captain Ramsay had claimed privileges in the Privilege Committee of the House of Commons that he should be given privilege as a Member, that he could not be arrested and detained without trial. The Committee of Privileges went into details. I will here quote only a few lines from the Law of Parliamentary Privileges in India by V. G. Romchandran. At page 336 it says:

"... investigation was not in respect of the detention but whe-

ther his detention constituted a breach of the immunity from arrest enjoyed by members of Parliament or of any other privilege enjoyed by them in their capacity as such members."

And the Committee, therefore, concluded:—

"Precedents lend no support to the view that members of Parliament are exempted by privilege of Parliament from detention under Regulation 18-B of the Defence (General) Regulations, 1839. Preventive arrest under statutory authority by executive order is not within the principle of cases to which the privilege from arrest has been decided to extend. To claim that the privilege extends to such cases would be either the assertion of a new parliamentary privilege or an unjustified extension of an existing one. No question of any infringement of the privilege of freedom of speech arises."

Sir, I have tried to put before this worthy House the fact that as our situation stands today it has been clearly laid down that there is no such privilege in favour of the Members at the moment. Mr. Bhupesh Gupta wishes to add this privilege. This privilege is not available in the House of Commons, as I have already proved and, therefore, the main point arises. Should we do such a thing to give ourselves a privilege which is something different than the common citizen's which gives us an advantage compared to the common citizen, which gives us a privilege and creates a privileged class as the word is commonly used? I think none of us would agree that we should. Mr. Bhupesh Gupta's politics is his own, his compulsion are his own, his confrontations are his own. This Bill has many facets, and one facet is that he wants to justify his left Communist friends. The other is that he wants to justify his democratic views. The third facet is that he wants to create a class which has all the privileges and no responsibility. Thank you.

SHRI BHUPESH GUPTA: We have been treated to a speech by the member of Shrimati Indira Gandhi's Council of Ministers speaking on a subject which he has partly understood, partly misunderstood and partly he has not understood anything at all. Now, we have here an exhibition of the utterest confusion that one can think of in the speech of the hon. Minister and I wonder how emptiness could make so much sound.

Now, Mr. Vice-Chairman, what did he say? First of all, I am very glad to hear that although he belongs to the usually ignorant crowd, namely, the Council of Ministers, he does read some Opposition journals. It is good news to me. But I find that even in this respect there is less of digestion and more of indigestion.

The quotations that he has given from the journals show that he has the power of reading, but not the power of assimilation. That is the trouble with my friend, Mr. Gujral. But it does seem that he is being very promptly assimilated in the Council of Ministers since its formation. That is not a very good news as far as I am concerned. Now what did he say? First of all, he made much of our two parties, as if I have brought in this Bill here because there are two parties. Now, as you see, what is contemplated in the Bill is "immunity from detention without trial for all Members of legislatures irrespective of party consideration". Mr. Atulya Ghosh will get immunity in the same measure as I would get. You would get immunity from detention without trial even for corruption and blackmarketing. Now, as far as I am concerned, we are, of course, always charged with certain political offences, real or imaginary. Therefore, it applies to all. The question of party does not come in here.

Now he has said that this Bill has three facets. It has only one facet, one face, and that face is to save India's nascent Parliamentary institution from being degraded, from being humbled and humiliated, from being

destroyed ultimately by the Congress Party, whose profession of Parliamentary democracy is the greatest kind of hypocrisy that one can come across in this world. Now, even after the Fourth General Elections, they do not understand it. Mr. Vice-Chairman, I sponsored the Bill in 1964 when the Defence of India Rules were rampant in their operation, when the Opposition Members, belonging not only to one party, but belonging to many other parties, were being detained without trial at the will of the Congress Government. Among them were not only members and leaders of the Communist Party (Marxist), but members of our party were also there. Two of them are now Ministers in the West Bengal Government—Mr. Viswanath Mukherjee and Mr. Somnath Lahiri. Among them were members of the Jan Sangh, were members of the Samyukta Socialist Party, were members of the D.M.K., including for a while, Mr. Annadurai, who again is the Chief Minister of Madras. Among them were members of the Republican Party. Members of many other parties and groups had to suffer under the D. I. R. and were arrested and detained without trial even though some of them were very prominent Members of Parliament and State legislatures. It is in that context of wild arrests and detention of Members of Parliament and legislatures, without trial, that I came forward with this Bill in order to protect them and protect parliamentary institutions from being treated in the manner in which it has been treated. There was no question of partisan approach. The Congress Party was ruling all the States at that time and hence they were the arresting authority. Nobody could arrest them, not even for profiteering and blackmarketing. As you know, it took years and years to get arrested Sunil Das who was working in the A. I. C. C. Office on a charge of espionage for Pakistan because he had very good connections with the ruling circles in the Congress Party. The D. I. R. could not reach out to him and snatch him away from the lap of Mr. Kam-

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raj and Mr. Atulya Ghosh. That is how it happened. But later on the scandal became so well-known that even this Government had to order investigation and get him arrested. Now he is under trial or some such thing. That was the situation at that time. To-day three years have passed, but during these three years I could not get this Bill passed and I have my doubts whether, with the Congress majority on that side mobilised for no reason against this Bill, I could succeed in getting this Bill passed. Now cut out all those party considerations here.

Mr. Gujral wanted to be a little smart and I must concede that he happens to be one of the smartest Ministers in Indira's Cabinet. But his smartness is undergraduate smartness. This smartness is not that of a matured man. He is just smart and being youngish he has to be smart and hence he is smart. This smartness comes by cultivation. This smartness comes of imitation, not by acquisition. Naturally he has assumed things. For example, he has said "If we are going to give ourselves all privileges, what the common man would feel? What a wonderful concern for the common man? His heart is bleeding; Mr. Gujral's heart is bleeding for the common man and he would not like these privileges to be given to the 3,000 odd members of the State legislatures—well, 4,000-odd altogether, if you take the Councils also—and to the 700-odd Members of Parliament, because in that case, he says "What the people will feel?" as if they would be scandalised by it. Well, this thing coming from a Congress Minister is the most laughable stuff I can imagine. The Congress Ministers of our country have been pastmasters in grabbing privileges. They grab privileges from Americans; they grab privileges from the Birlas; they grab privileges from each other; and when they cannot grab privileges from each other, they grab privileges from the Opposition. And these are the Ministers who are telling us that

if we pass this law, we shall be accused of investing ourselves unjustly with all kinds of privileges thereby making ourselves open to very serious charges in the public eye. I cannot imagine a more infantile statement than this, Mr. Vice-Chairman. May I ask Mr. Gujral: "Don't we have privileges?" Let him forget that he is a Minister. His privileges are many, we know—privileges open and privileges secret, privileges overt and privileges clandestine. He has got many. I am not going into that. Let us talk about the open, known privileges of Members of Parliament . . .

SHRI I. K. GUJRAL: You are a partner in those privileges.

SHRI BHUPESH GUPTA: No, I am not a partner of those privileges. Your privileges are dark privileges. . .

(Interruption)

SHRI I. K. GUJRAL: In Bengal, you have the same thing as we have here.

SHRI BHUPESH GUPTA: It is a privilege I think that you have here. That is another privilege you have grabbed. Now, have we not got, as Members of Parliament, privileges? First of all, you see, we are citizens of the country. The railway fares have gone up. But our Red Card remains in our pocket . . .

SHRI I. K. GUJRAL: Why does he not surrender his card?

SHRI BHUPESH GUPTA: I do not wish to surrender my card. Then you will sell it to the Birlas again. Now, have we not got privileges? Yes, we have got privileges. That is why I say he was needlessly smart. His smartness is of the adolescent type. Now the railway fares have gone up. The citizens will be called upon to pay higher fares. We do not pay anything at all. We travel all over the country and the card entitles us to certain other privileges also apart from free travel. The second privilege is—well, that is also under the law—we can make speeches here, and

we are privileged and protected. Mr. Gujral can say so many things against the Left Communists or against us or against anybody. We cannot prosecute him. Mr. Gulzarilal Nanda, on the floor of the House, told month after month, lies and lies. We could not prosecute him, because he had been protected by privileges. We have privileges. Suppose we make a speech which is published in the paper and which is open to the law outside, nothing can be done because it is covered by the privileges of Parliament, under an Act of Parliament. A Congress Member sponsored that particular Bill and it was passed into an Act with the support, naturally, of the Congress Party. Therefore we do have that set of privileges. We have many other privileges for the simple reason that we run a Privileges Committee. The Indian citizens do not have a Privileges Committee. In the Talukas you do not have a Privileges Committee. In the Municipalities you do not have a privileges Committee. In the mohallas you do not have a Privileges Committee. At the Bar and in the medical profession you do not have Privileges Committees. But the two Houses have Privileges Committees. Does it mean that the Privileges Committees should be abolished because people may think that we are a privileged people and we have a Privileges Committee to watch our privileges? Mr. Gujral still thinks that we are of the same category in all matters with the common people and that if we pass this Bill we shall invest ourselves with certain powers or authority or privileges which would make us unwelcome to the people. It is entirely wrong. Parliamentary institutions are based on certain concepts.

SHRIMATI YASHODA REDDY: We do have privileges. The only difference is so many people have so many privileges but these privileges are subject to the security and defence and the country's interest. We do not deny the privileges to the Members of Parliament but it is under one condition that with regard to the question

of the country's security and defence, we should not have any privilege.

SHRI BHUPESH GUPTA: I will not spare the lady.

SHRI SHEEL BHADRA YAJEE: Because you are a bechelor?

(Interruptions)

SHRI I. K. GUJRAL: Now the hon. Member has been having enough of privileges and now he wants a licence also.

SHRI BHUPESH GUPTA: The smartness is becoming a school-boy's smartness. That is not smartness. What Mr. Gujral says with smartness, Mr. Yajee says with vulgarity. Here I do not want anything. I am asking you to save the parliamentary institution. First of all Mrs. Reddy raised certain points and I have no intention of sparing her, but let me deal with our little Minister first. Let us be clear that we have privileges and here I am not asking for any privilege. I am asking for something else. I am asking for a kind of immunity. Why, I will tell you. That point, I hope, is clear that the parliamentary institutions are based on concepts of privileges. Can you show me any parliamentary institution anywhere which does not have a set of privileges because that is how the Members of Parliament and the institutions arm themselves to function in a particular way in a society. As far as the British Parliament is concerned, it is based on many privileges. As far as the French, Italian and Japanese Parliaments are concerned, they have many privileges. As far as the U.S. Congress is concerned, the privilege is enjoyed in many ways and advantage is reserved including material advantages. I am not going into that. Therefore I do not know why the Minister of Parliamentary Affairs should not be informed of these elementary facts of parliamentary history. He should have been aware of it. Is it not a fact that in the constitutional history of England the fight ranged over the privileges of the Members of Parliament for not only 10 years or decades but

[SHRI BHUPESH GUPTA.]

for centuries and that as a result of this fight certain privileges had been enshrined in the way of the constitutional life of the United Kingdom and that the parliamentary institutions of England had built themselves up on the basis of the acknowledgment of and respect for such privileges? These are facts of constitutional history. I think he has only read certain parts of May's Parliamentary Practice, not the whole of it. If he goes through May's Parliamentary Practice, he will find in many places how directly and indirectly the question of respect for the Members of Parliament, their rights and privileges, have played an important part in the shaping and evolution of the British parliamentary institutions. Evidently it will take a little more time for him to understand all these; but I believe he is making an honest effort. Therefore let us not go into that.

Now he said that we are creating ourselves into a new class—another borrowed phraseology from somewhere, I know. It is borrowed. What new class we have here?

SHRI I. K. GUJRAL: I hope you know the word.

SHRI BHUPESH GUPTA: Yes, I do because I know this word before you knew. You always borrow, you borrow from America, you borrow from the Soviet Union, you borrow from fascism, you borrow from communism, you borrow from Birlas.

SHRI I. K. GUJRAL: I concede one point that whereas I have borrowed the word from another place, I give Mr. Gupta full credit that his party created this new class.

SHRI BHUPESH GUPTA: I was sure you would be saying that. Yes, we are creating a new class. Who created this new class? The new class is sitting here, the discredited class, the despised class, the hunted class, the changed class, the class *per excellence*, so dishonest and disliked by the entire people—you are

there. Have I created you? Have I made you, Mr. Gujral, the Minister of State of Parliamentary Affairs? How do you say that I am creating a new class? You have a Council of Ministers, which in its combination in the Congress section, constitute a new class. This is something which is uttered in the A.I.C.C. meeting, uttered in your Party Congresses, uttered sometimes in your A.I.C.C. journals and even in the Working Committee and you accuse me of having created a new class. Anyhow you are fortunate enough to belong to that class now, but it is our misfortune that you have fallen to-day into that class.

Therefore it is not a new class at all. We are Members of Parliament. We are here, all of us, wanting this privilege. This privilege is not only for just an individual Member of Parliament. Here just as we are entitled to this Card, protected by law, similarly we should be in a position to come here and function, again protected by certain immunities, all the more so when the Congress Government attacks those immunities for narrow partisan ends. Now I shall come to 'why'. I have been elected, we have been elected directly or indirectly by the people of our country. Those who have been elected to the Lok Sabha or the Assemblies have been elected directly by the people of our country and are supposed to represent the electorate but what happens? You prevented them from going to attend the Sessions of the Legislatures. When the Governor issued summons, the summons were delivered in the jails. When they wanted to come even from the jails, under police escort, to fulfil their functions as the representatives of the people, they were not allowed to come. You prevented Members of Parliament from coming to the Parliament to participate in the debates and fulfilling their functions, the functions given to them under the Constitution and hence you committed a treason against the parliamentary institutions. This is denial

of the representation to the people. Remember that when you detain, say 30 people of a State Assembly in West Bengal, you are denying representation to a great section of the Bengali population. When you detain in Kerala or in any other place a large number of Members of the Legislative Assembly without trial, then what you are doing is not that you are only depriving the personal freedom of those people but you are also at the same time punishing the electorate, punishing the constituencies which have elected them. There is a principle in America: 'No taxation without representation', the idea being that we shall not be taxed unless we have been heard. What happened in this country? During the emergency and otherwise, Budgets are passed with a large number of the Members of the Assembly including the Leader of the Opposition, being detained without trial. Thus they have been denied the right to come and represent their constituencies and their people.

Well, this is democracy, or this is subversion of democracy. Therefore I think we need protection, and the protection we need for the simple reason that without some protection, knowing as we do, the Congress Government, which has the authority, will not behave and will not put obstacles in the way of the normal and smooth functioning of our parliamentary institutions. What did you do? In Kerala, in 1965, what happened? Well, you, first of all, did not allow the candidates to come out and contest the elections. When they were elected, 28 of them were in detention without trial. You did not allow them to come out and explore the possibility of the formation of an alternative non-Congress Government. You utilised your power of detention without trial to frustrate the processes of the Constitution and, ultimately, to dissolve the elected Kerala Assembly even without summoning it to meet once. That is the simple reason. What did you do in Kerala earlier when the Sankar

Ministry was facing difficulties and a no confidence motion? You arrested under the D. I. R. and detained those people, eight or nine M.L.As. without trial in order to save the Sankar Ministry from the no confidence motion. It was not security of the country which was in danger at that time. It was the security of the Congress Government which had to be saved by you by such methods, monstrous and foul, and hence you behaved in this manner. Therefore let us not talk about all that kind of thing.

Mr. Vice-Chairman, the issue today is why our people should be denied the right to representation in this manner. I am not asking that Members of Legislatures should be immune from the normal processes of law. I am only asking that they should not be detained without trial. Herein comes the question of England. In England you do not have, in peace time, any provision for detention without trial at all; it would be shocking. For centuries they don't have such laws. Some centuries ago they have done away with this kind of provision, for detention without trial in times of peace. Yes, in war time detention without trial is provided for. He referred to the case of Ramsay. I was at that time present in England.

SHRI SHEEL BHADRA YAJEE: Even today India is at war with China and Pakistan since thousands of square miles of our territory are in their possession. We are still at war with them and so we need this provision.

SHRI BHUPESH GUPTA: That is old story. How long will you go on with this plea? You address this appeal to the other people who are Ministers. They will answer. How long you will go on harping on this theme?

SHRI SHEEL BHADRA YAJEE: I want to make you a patriot.

SHRI BHUPESH GUPTA: I am coming to that. As far as you are concerned, you did not speak. I expected to hear you.

Now I shall tell you what happened in England, because Mr. Gujral has sought to demonstrate his learning by citing the case of Ramsay. I was at that time present in England, when Ramsay was arrested—but he had got to say a few things in this connection. War started in 1939, exactly on the 3rd of September. The Defence of the Realm Act came into force. Ramsay was not arrested then. Ramsay was arrested about two years later, or one and a half years later. I believe he was a fascist. He was openly propagating for Hitler. He was a member of the fascist party, of Mosley's party. And then what happened? After that following strong criticism, the matter went to the Privileges Committee—which he has mentioned—and he was not detained following on this. Only one man from the entire political forces in parliament was arrested and that was Ramsay, the fascist. He was arrested. Well, it is true that he was arrested. But how they handle such matters when anybody is arrested under the Defence of the Realm Act in England in time of war? The matter goes directly to the Minister. The Minister himself takes the decision in regard to individual cases, and makes a statement in parliament, and I may inform the House—you will remember—those who are here, that I got from England exactly how things were handled—when the D.I.R. was discussed—and I read it out in the House itself. I got this from the British High Commission by making the request that "send me exactly how things are handled". Now here what happens? People are arrested for nothing. The Defence of India Rule has been applied not only to put under detention people against whom they have certain types of charges, but also others. It has also been applied to put under detention, in

some cases, even the INTUC people, because they were carrying on certain struggles against the employers for the redressal of the grievances of the workers. Detention, well, Dr. Lohia would not be put in the same category as many of us, or the Jan Sangh people would not be put in the same category as many of us as regards the border dispute cases. But then, we are arrested under the D.I.R. and put under detention, as you know; it is not as if you were even guided ostensibly, in all cases, by certain considerations, by the consideration of defence of the country, which of course in your case in an entirely bogus argument; people have rejected it.

Now, therefore, let us not bring in this kind of argument. Here you have used the D.I.R. for suppressing the political opposition, for saving your Government, for suppressing the labour movement, suppressing the teachers' movement, suppressing the student movement, and so on. And you have not hesitated to put under detention Members of Legislatures in your adventure against the popular democratic movement of the country. In 1965 and 1966 what happened? In 1965, in Bihar, many, practically the entire group, the Communist group, the group, of our party, barring one member, was in detention without trial. When I met Mr. K. B. Sahay, the Chief Minister, and demanded their release, what did Mr. K. B. Sahay say: If Nandaji could put some people in detention, I can also put some people in detention. Therefore it was a competition between Mr. K. B. Sahay and Mr. Gulzarilal Nanda to put people in detention. Well, one uses the argument that detention by others is an excuse for detention on his own part. That has happened. I am telling this thing on the floor of the House and I still recall the profound utterance of Mr. K. B. Sahay when he said that he could do it because Mr. Gulzarilal Nanda had done it. If Mr. Gulzarilal Nanda had

the privilege of detention, why as the State Chief Minister he should be denied this privilege of having his own detentions, his victims, and so on? Now, therefore, let us not go into this thing.

The story of detention without trial of Members of Parliament and Members of Legislatures is a scandalous story, a story of shame and dishonour. It is a story for which you should be ashamed all your life, and your children will be ashamed, I have no doubt in my mind because, in the last three or four years, what you have done is something which is unthinkable in a parliamentary set-up. Your Supreme Court has condemned you, your High Courts have condemned you, your jurists have condemned you, your Attorney-General, after his retirement as the first Attorney-General of India, who is now a Member of this House, has condemned you for using this kind of thing, and he has said:—I again recall his words—"The Government was tending to become a constitutional dictatorship." The Supreme Court struck notes of warning time and again against the manner in which you were applying the law of detention against Members of Parliament and against others as well.

Now that is how we have been treated. Therefore, I say, do not try to confuse the issue. The question arises whether a Member of Parliament should have immunity. Yes, a Member of Parliament should have immunity. Why not? If I commit a crime, punish me. If I commit a crime, put me under trial. But you have no right and the Executive should not have the right to decide by itself by passing all the processes of law, to put me behind prison bars. Today you may do so. But tomorrow another Party may do so. What happens to protection then? Then we get the parliamentary system practically ruined by such practices and methods. That is what I am

telling you. Today fortunately things have changed. Last time when I moved this Bill, we were the victims in your State. Today when I am moving this Bill I am glad to say, our moving this Bill I am glad to say, our of the sixteen States of India, not a small gain in one single election. Today this humble man, who is speaking here, speaks as a member of a party which is participating in eight State Governments. In 1964, when I was speaking here my comrades, some of whom are now Ministers, were under detention without trial. Now things have changed. Therefore you will see a little the writing on the wall and talk a little sense. But Mr. Gujral is incapable of cultivating the habit of common-sense.

THE VICE-CHAIRMAN (SHRI M. RUTHNASWAMY): Mr. Gupta, at five o'clock there is another item of business.

SHRI BHUPESH GUPTA: Yes, Sir, I will go on. Now I have got a chance to say something to our Ministers here. He said that there is detention in Britain and that according to May's Parliamentary Practice there is detention. But that is when there is danger to the Commonwealth. Then there is detention, and only in war-time. Only in war time the question arises. In peace time there is no question of detention without trial, danger to Commonwealth or no danger to Commonwealth.

SHRI I. K. GUJRAL: There are no Left Communists in the British Parliament.

SHRI BHUPESH GUPTA: And that is why you are putting us in detention? But the trouble is, your detention helps us, anyway. The Left Communists you detained and made speeches. You recall the speeches that you made against the Left Communists and now you see Shri Namboodiripad sitting there as the Chief Minister of Kerala, along with others.

SHRI I. K. GUJRAL: That is your weakness.

SHRI BHUPESH GUPTA: No, that is our strength. Another two Members, Shri M. N. Govindan Nair and Mr. Thomas, they were in detention and they are now Ministers.

SHRI I. K. GUJRAL: Still you keep on condemning others.

SHRI BHUPESH GUPTA: That does not matter. Your wife condemns you, but you don't divorce her.

SHRI I. K. GUJRAL: Not my wife, may be yours.

SHRI BHUPESH GUPTA: Your wife. I am sure, is a good lady, but I am certain she must be condemning you, privately, of course. And there is no question of your divorcing her or of her divorcing you.

Another point very often has been raised. The Bengal people were condemned here. Well, now Mr. Jyoti Basu is the Deputy, Chief Minister there. And Shri Harekrishna Konar is a Minister and also Shri Somnath Lahiri of our party is another Minister. And then Shri Niranjana Sen who was also in detention is another Minister. In fact, the entire West Bengal Cabinet, minus two or three, have been under detention in this period. Minus two or three, most of them have been in detention during this particular period. Therefore, let us not go into that. Well, Shri Gulzarilal Nanda.

SHRI M. N. KAUL (Nominated): May I ask one question? I have been following closely what the hon. Member has been saying. I want to ask him one question in order not to obstruct but to be helpful. The question is whether the matter he has raised is one of privileges or of immunity. I think it is one of immunity, not one of privileges. That is quite clear. We are following the

English system and our immunity is equated with that of the House of Commons. In the case of immunity through a long process of history, in the House of Commons, as the hon. Member knows they have no immunity in these matters as the case of Ramsay shows. If the hon. Member wants to proceed in this matter—and I think he has a case and in the circumstances in India where this detention law has lasted for a long time by a process of renewal and there may be political considerations for having a special law on the subject—he should consider various courses. In my opinion there are two courses open to the hon. Member. He can pursue this further if this Bill is rejected, by another process. He can bring in a Bill codifying the privileges and in that Bill he can include the provisions in regard to detention of Members of Parliament. That is one way of doing it. Another way of doing it will be to amend the Preventive Detention Act I feel there is a case and as I have said I have sympathy for his point of view. Following the continental system there is a case for limited immunity in this matter, limited in the sense that although I do not go as far as the hon. Member, I am prepared to go so far as to say that so far as Members of Parliament are concerned, since their service to the House is involved, there should be a special provision, that is to say, if a Member of Parliament is to be detained under a law so long as it exists on the Statute Book, the Prime Minister should consult the Speaker or the Chairman, as the case may be, and place the matter before him and the Speaker or the Chairman should be advised by an Advisory Committee. It will not be the Advisory Committee at present set up under the Detention Act, but it will be an Advisory Committee set up by the House. That type of distinction between Members and other citizens would be perfectly legitimate under the law. I think this will help the hon. Member to pursue this matter.

SHRI BHUPESH GUPTA: I am thankful to the hon. Member. I may say that I am a multi-purpose man and I move all kinds of Bills. This is one such Bill. All these things I have done. As you know, when the Preventive Detention Act came, we opposed it and we gave amendments to it. We do not want detention without trial at all. That is one part of it. The hon. Member has made certain suggestions and certainly they can be considered. But they will have to consider them. He refers to the Prime Minister. Well, we did not get any relief from any Prime Minister. We had two or three Prime Ministers but we could get no relief when the Home Minister arrested us. By Home Minister I mean the Police and the C.I.D. who arrested us. Then the Prime Minister did not do anything in those cases. Therefore, we do not trust the Congress Prime Ministers at all. No such Prime Minister will be trusted. You do not trust us also if we have Prime Minister. So you should have an Act of Parliament to protect you. If you ask for protection under the aegis of the Prime Minister, why not ask for protection under the aegis of an Act passed by Parliament itself?

SHRI M. N. KAUL: The protection is that of the Speaker and of the Committee of the House. The Prime Minister will only place all the facts before the Speaker and he will commit the matter to the Committee that I referred to.

SHRI BHUPESH GUPTA: Our experience of Speakers and all that—I do not want to name anyone—has not been a happy one either. So let us not drag in all that. You know very well what I mean. I have said that this is immunity. But Mr. Gujral says that this is privilege. What can I do? This shows the unlearning on that side. When I say it is immunity, Mr. Gujral says it is privilege and when I say it is privilege he says it is immunity. This will be by means

of an Act of Parliament. That does not preclude that other methods should not be adopted. Many other methods can be adopted. The niceties of it, we can discuss later on. Do you mean to say that the country will oppose it? Do you mean to say that we who represent here 60 per cent of the electorate, are coming here to take a stand which will be negated by the people? No, we are not. Would you like to have it passed in every State Assembly?

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

I say that the people are with us. We are speaking for the people. They on that side represent only 40 per cent of the people. We represent 60 per cent and we who have spoken here have made it abundantly clear that we want this thing to be passed. If we mislead the people in this matter, let us be condemned by the people.

But, mind you, in 1964 I moved that Bill and you see how the people have reacted towards us by making us victorious in the elections and by defeating the Congress because the Congress was opposing these things and other similar measures. Therefore the mandate of the people is clearly on our side and we are acting on behalf of the people.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Mr. Bhupesh Gupta, you can continue on the next day.

SHRI BHUPESH GUPTA: Yes; I have a lot of things to say about Mr. Gujral.

HALF-AN-HOUR DISCUSSION REGARDING MANUFACTURE OF SMALL CAR

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): I have a lot of names before me. I shall allow every one of them to put questions and the first speaker will get five minutes.