THE WAKF (AMENDMENT) BILL, 1965

THE MINISTER OF IRRIGATION AND POWER (SHRI FAKHRUDDIN ALI AHMED): Madam, I move:

"That the Bill further to amend the Wakf Act, 1954, be taken into consideration."

So far as the Wakf Act is concerned, it was enacted in the year 1954 to provide for the better administration and supervision of the *wakfs*. It is in force all over the country except a few States such as Bihar, U.P., West Bengal, parts of Gujarat and Maharashtra. This Act was amended again in the year 1959 following the acceptance of the recommendation of the States Reorganisation Commission, and then again in October, 1964, with a view to making the working of the State Wakf Boards set up under the Act more effectively. So far as the present amendments are concerned, we are placing for consideration amendments of four provisions of the Act. Two of these amendments are substantive amendments and the other two amendments are of a consequential nature. Hon. Members will please see that under clause 3(g), the net income has been defined as the total income less any land revenue, cess, rates and taxes payable to the Government or any local authority.

THE DEPUTY CHAIRMAN: I think you can continue tomorrow.

REFERENCE TO DETENTION OF SHRI INDULAL YAGNIK, M.P. AND OTHERS BY THE COMMISSIONER OF POLICE, AHMEDABAD

THE DEPUTY CHAIRMAN; The Minister of State for Home Affairs. Have you a statement to make? Mr. Hathi, have you anything to say?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND ALSO MINISTER OF DEFENCE SUPPLY IN THE MINISTRY OF DEFENCE (SHRI IAISUKHLAL HATHI) : About the arrests in Gujarat?

SHRI BHUPESH GUPTA (West Bengal): As if you do not know it. You have come. You have been asked to come here. For what?

SHRI IAISUKHLAL HATHI: Madam, what I have to say is that Mr. Iiniulal Yagnik; M.P. and others have been detained by the local authorities under the Preventive Detention Act. I do not know on what ground Mr. Bhupesh Gupta wants us to make a statement.

SHRI BHUPESH GUPTA: Shall I ex plain the ground? The ground is that the State authorities have arrested them. It is quite clear from the report. The ground is that the Preventive Detention Act has been invoked in this case. As far as the Preventive Detention Act is concerned, it stands on its own footing. If you go through the debates of 1952 when the Pre ventive Detention Act was passed, you will find the 'Government making not only cer tain oral commitments but certain other things were also incorporated by way of decisions of the House, namely that the Preventive Detention Act although used by the States should be a subject-matter of discussion here in so far as its working goes. Annual reports of the Preventive Detention Act used to be presented to this House and on many occasions we had discussed it. We had dealt with the actions of the State Government in the matter of the use of Preventive Detention Act. The question that the Preventive Detention Act was being used by the State Government did not come in the way of either the pre sentation of the report to the House or of the discussion, sometimes for a whole day and a half on this matter. Now-a-days, of course, the report is not even properly given. I only stress this thing in order to point out that the use of the Preventive Detention Act is something of which Parliament can be well seized not only according to the conventions that we had followed but also by the practice that wc have followed.

Secondly, the hon'ble Minister gave an assurance, when the question about civil liberties and fundamental rights was raised that the Defence of India Rule? would not be used in so many States except in certain States. We are not going into that

mutter. We were clearly given to understand that in so far as the States are concerned, the fundamental rights would be respected and that the Defence of India Rules would not be invoked. Now, Madam, if you look back in the past several years, you will find that the Preventive Detention Act had been used for comparable purposes. Today it is quite clear that they are riot in a position to use the Defence of India Rules, the Rules having been debarred somewhat by their own assurances, they are taking recourse to the Preventive Detention Act, in otKer words, the Preventive Detention Act being used tor purposes for which the Defence of India Rules had been used, namely to suppress the people's movement.

THE MINISTER OF IRRIGATION AND POWER (SHRI FAKHRUDDIN ALI AHMED) : Madam, on a point of order. The hon. Member had asked for a statement on the ground that the Home Minister had promised to make a statement in the Lok Sabha regarding the incidents in Gujarat. Actually, he took the Treasury Benches to task for complete silence while in the Lok Sabha the assurance to make a statement had been given by the Home Minister. So far as I understand, no such statement has been made, nor a promise to give such a statement was made by the Home Minister. I do not know how the hon. Member, could make such a misleading statement before this House which resulted in sending for the Minister of State in charge of Home Affairs.

SHRI BHUPESH GUPTA : Is it your point of order?

THE DEPUTY CHAIRMAN : He says a statement was being made m the other House which is now found to be not made.

SHRI BHUPESH GUPTA : The point is very clear.

(Several hon. Members stood ,. their seats)

THE DEPUTY CHAIRMAN: Two of you. Who is speaking?

SHRI BHUPESH GUPTA: Madam Deputy Chairman, this is no point of order. You can ask me why I brought this information.

THE DEPUTY CHAIRMAN: You do not decide the point of order.

SHRI BHUPESH GUPTA I am not deciding. I am giving information.

THE DEPUTY CHAIRMAN : Your information was not correct.

SHRI BHUPESH GUPTA : How do you say that. How do you believe him? I am going to prove it. You believe him and not me. Am I a second rate citizen or citizen No. 2? Am I not a Parliamentarian grade-I ? Now I say that I have been told by the Members of this House that the statement would be made at 5 o'clock. I never said the statement had been made. Therefore, here is the Minister sitting. He did not even catch my word. Therefore, if it is being made in the other House, it should be made in our House also. I also said that I have understood.

Thirdly, Madam, I had a talk with the Deputy Home Minister, Mr. Shukla. I asked him why the statement is not made in our House earlier. Mr. Shukla told me that the statement would be made simultaneously in boih the House. Now, Madam, what am I to say? Mr. Shukla is not here. He would not say that he did not say that. Now it is for you to decide. If you do not like to tell him, do not tell me. This is what I have told you.

Quite apart from all this thing I have raised it here. I am not concerned with the other House that way. It should be made in this House also. He should make a statement. Now he says how he is called upon to make a statement. I was pointing out to him that this practice had been followed and I gave very many precedents also. The proceedings are there. Now another Cabinet Minister is in doldrums. I understand another Minister getting up and making up his mind. Therefore, quite apart from that, I wish Mr. Fakhruddin Ali Ahmed had better irrigated his Parliamentary understanding a little better so that it produces better results and crops. Now I am asking the Home Minister to tell Us . . .

THE DEPUTY CHAIRMAN: Wbat is it that you now want to say? You have made yourself very clear.

SHRI BHUPESH GUPTA: He should make the statement. He asked me why he should make a statement. I say in the fourteen years" proceedings in this House, since the Preventive Detention Act had been passed, it has been customary on the question of Preventive Detention Act not •only to make a statement but admit discussion on the basis of certain assurances and reports and so on. Therefore, we can be seized of Jhat matter,

SHRI LOKANATH MISRA (Orissa): Madam, I have a submission to make.

THE DEPUTY CHAIRMAN: Will you please take your seat, Mr. Bhupesh Gupta'.'

SHRI LOKANATH MISRA: The Government should pursue a consistent policy in both the Houses. In the other House they have conceded to reply to a Calling Attention Motion which has been scheduled at 5 o'clock.

SHRI FAKHRUDDIN ALI AHMED: This is what he is saying. No.

SHRI LOKANATH MISRA: I have seen the notice of the Calling Attention Motion.

SHRI JAISUKHLAL HATHI: The point is this. The Calling Attention notice was received but it has to be decided whether it is a State subject or not. If the Chairman asks me to make it, I will bring it.

SHRI BHUPESH GUPTA: They would discuss it. Therefore, Madam, I was trying to meet that point. I say that arrests have taken place by the State authorities. I have not disputed it. Now the position is this. With regard to the use of the Preventive Detention Act, the Central Government has a special responsibility. How this responsibility in the past has been discharged about this I have given also instances. The proceedings are only my proof in this connection. He can consult ihem.

SHRI JAISUKHLAL HATHI: I will first say that it is a fact that the Government had assured that the D.I.R. would not be used. Now that assurance stands.

AN HON. MEMBER: Except in the border areas.

SHRI JAISUKHLAL HATHI: Yes.

SHRI BHUPESH GUPTA : After that you told the Chief Ministers to use the P.D. Act.

SHRI JAISUKHLAL HATHI: That is the point I wanted to clarify to the Opposition. It is not that we said: 'You arrest these people under the P.D. Act.' I wanted to clarify that particular aspect. When we were discussing that the D.I.R. should not be used in States other than the border States, some States said that it would be necessary for them to use the D.I.R. In that context we said: 'There are other normal laws to deal with people and you can utilise them.' Therefore it does not mean that we had asked the Gujarat Government to use this Act to arrest them and therefore I say that it is not at our instance that these gentlemen have been arrested. The point that we told the States to use the P.D. Act is not to be taken in this context. It was in the context that the D.I.R. should not be used. Then when the States said that there would be some powers required and some States felt that it would be necessary to have this, to that it was replied that the other normal laws like the P.D. Act were there.

SHRI G. MURAHARI (Uttar Pradesh): That means that you disapprove of the P. D. Act being used in this particular case.

SHRI JAISUKHLAL HATHI: Not at all. Instead of going into all this I think it is better that the House may know why these people have been arrested and so I will make that statement.

SHRI BHUPESH GUPTA: Why did he not make that statement earlier? He is now coming with it. Who is responsible for that? Make that statement straight. You read it.

कुमारी मनिबेन बल्लभभाई पटेल (गुजरात) : ये हाउस को चलाते हैं या आप चलाती हैं, मुझ को समझ में नहीं आता।

SHRI BHUPESH GUPTA: She comes from Gujarat. I have great respect for her.

THE DEPUTY CHAIRMAN: If you want to make, please make the statement.

MENT *RE* DETENTION OF SHRI INDULAL YAGNIK, M.P. AND OTHERS BY THE COMMISSIONER OF POLICE, AHMEDABAD

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI JAISUKHLAL HATHI): According to information furnished by the Government of Gujarat, the Commissioner of Police, Ahmedabad, who is empowered to exercise powers of detention conferred by subsection (1) of section 3 of the Preventn-e Detention Act, ordered the detention of Shri Indulal Yagnik, Sri Dinkar Mehta and 38 others, on the 2nd August 1966 at Ahmedabad. This is reported to have been done with a view to preventing them from acting in a manner prejudicial to the maintenance of public order in Ahmedabad City. According to the provisions of the law each of these detenus will be furnished by the detaining authority the grounds on which the detention order has been made against him. These detention orders will be submitted to the State Government for their consideration and if the State Government approve, the cases of these detenus will, within the period prescribed in the law, go before the advisory board along with their explanations. This is an action taken by the local authorities in the interest of maintenance of public order which is a State subject. However, I may briefly mention that the Commissioner of Police apprehended large-scale outbreak of violence and disturbance of the public peace consequent on the adoption of a programme which was to take place at Ahmedabad on the 8th August. This programme was linked up with a programme of satyagraha at p«trol pumps, oil storage depots and shops dealing in edible oil, etc., to observe what they have styled as 'Liberation Day'. In the judgment of the local authorities the manner in which the programme was being organised was likely to create a situation leading to widespread destruction of public and private property, blowing up of petrol pumps and oil storage depots, attacks on the police in various wards of the city and criminal acts of violence entailing loss of life Therefore they have been detained.

SHRI BHUPESH GUPTA (West Bongal) : I would like to ask this. Now that he has made the statement, all this time would not have been wasted if he had made the statement earlier. It is quite clear from what he said that even the State Government was not consulted. Under some delegated authority the Commissioner of Police or the police authorities used the P.D. Act against even the Mayor of Ahmedabad. It is very important to note Some day you will hear the Chief Minister of a non-Congress Government being arrested by the Commissioner of Police. We will hear it.

SHRI ABID ALI (Maharashtra): On • point of order. What he said earlier with regard to the proceedings in this House when the P.D. Act was being discussed was all twisted and not correct. Now this particular Act is administered by the State Government, not by the Central Government. It is true that the annual report ii being placed here and discussed. That is another matter.

SHRI BHUPESH GUPTA : On a point of order.

THE DEPUTY CHAIRMAN: Let him finish.

SHRI ABID ALI : He was asking, so far as the administration of the Act is concerned, whether the State Government was consulted or the Police Commissioner did it by himself. I say that it is not a subject which can be discussed here, the action by the State Government

THE DEPUTY CHAIRMAN: It U quite correct that it is the State Government that administers the law. You cannot go into that.