

all those posts mentioned here except Dhola. At the present moment the Chinese position is that they will withdraw all their Armed Forces beyond the watershed, beyond the McMahon Line and many miles beyond that. But as far as we understand, they want to keep a civil post at Dhola and at Longju, not the other places. That is the present position as far as we understand their latest letters. That is all that I have to say, Sir.

REQUEST FOR DISCUSSION ON CHINESE CEASE-FIRE PROPOSALS

SHRI MULKA GOVINDA REDDY (Mysore): Sir, the Lok Sabha is debating the Chinese cease-fire proposals on Monday. We also request that similar facilities may be given to Members of this House to discuss the Chinese cease-fire proposals either on Tuesday or on Wednesday. When the Minister for Parliamentary Affairs announced the programme for the remaining part of the Session, this was not included in that list. I just want to know what decision the Government has taken in regard to this matter.

MR. CHAIRMAN: In regard to the point that you have raised, after the debate in the other House it is quite possible that the Prime Minister will make a statement here and then some clarifications can be given. There will not be much sense in having a debate here immediately after the debate in the other House

THE DEFENCE OF INDIA BILL, 1962—continued.

THE MINISTER OF HOME AFFAIRS (SHRI LAL BAHADUR): Mr. Chairman, Sir, exactly a month back I had moved the Resolution on Proclamation of Emergency and had received the fullest support of this House. In fact it was warmly welcomed. Now

when I come forward with this Bill, it is nothing but the endorsement of the same Resolution by the Rajya Sabha through the means of legislation. It is naturally quite appropriate that the House should again lend its weighty and unanimous support to this measure. This Bill is not an ordinary piece of legislation; it does not merely clothe the Government with special powers to meet the emergency. It aims at ensuring unity of purpose at all administrative levels, influencing the will of the people and the nation and also sparing no effort in the task of maintaining the nation's integrity and freedom.

I would, Sir, first like to deal with some of the comments and suggestions made in regard to certain provisions of the Bill. Shri Santhanam and Shri Dahyabhai Patel raised the question of requisitioning of property. Shri Santhanam, while referring to the provisions relating to requisition and acquisition of immoveable property, said that no specific period was prescribed in the Bill after which the requisitioned property would be released. The point which he wanted to make was that the property requisitioned for the purposes of this enactment should be immediately released as soon as it is not required for any purpose directly relatable to the emergency. In this connection clause 29 (3)' already provides:

"Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section."

namely, for securing the defence of India, civil defence, public safety, maintenance of public order or efficient conduct of military operations, or for maintaining supplies and services essential to the life of the community. Obviously the restriction imposed by the above provision is sufficient to ensure that property requisitioned

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tioned for the purposes of the Act is not unnecessarily retained to the detriment of the person concerned.

What Shri Dahyabhai Patel has said is true that no appeal to the High Court has been provided for, but provision has been made in clause 30 for the matter being referred to arbitration, if the person interested is aggrieved by the amount of compensation. It has to be realised that requisitioning becomes a necessity in such a situation. We may have to stock foodgrains and other bare necessities of life in various parts of the country. We cannot wait for long and we have to make quick arrangements. Similarly, in Delhi and in other places we may require accommodation for offices and for other work and it will not be advisable to go in for large constructions. Of course, constructions will not be completely stopped. Yet we should try to avoid it as far as possible. In Delhi, as hon. Members are aware, there are huge buildings and houses which are not always occupied by their owners. There are Rajas. The Raja of Bilaspur is sitting there and just behind him . . .

SHRI ANAND CHAND (Himachal Pradesh): I have no house in Delhi.

SHRI LAL BAHADUR: I do not mean you. The other day just behind you the Maharaja of Jaipur was sitting. Of course, there are Rulers and Maharajas. The Maharaja of Patiala is there. I do not want to mention names. And there are big industrialists also who have got houses in Delhi. They come here, stay for a few days—of course, they come on work—and go back. It would be a good idea if they restricted themselves or voluntarily agreed to keep a suite of rooms and part with the rest of the building for the use of the Government. I have no hesitation in even suggesting that Ministers should also agree to part with their accommodation, if they have got extra accommodation to part with. Perhaps the practice of billeting could be easily

applied to them. Our Minister of Works and Housing is sitting behind me and I am glad that he has already started taking some action on these lines. I do not know what he will do with Members of Parliament.

As regards de-requisitioning, I generally agree with the principle of the Bill that we should not retain the houses when the emergency has ended. We should try to give them back and I hope Government will certainly do it. But to suggest that these buildings or godowns should be returned in a moment's or in a few days time as soon as the emergency has ended would indeed be difficult. It depends on cases and cases. It will, therefore, be difficult to prescribe any fixed period, but I can assure the House that the general policy and attitude of the Government will be to restore the houses and buildings as early as possible after the emergency has ceased. There may be one or two cases, maybe a special case. They will have to be looked into. It is also necessary that we should see to it that their owners do not suffer either financially or otherwise.

It was suggested by several Members that the working of this Act should be reviewed or should be examined by the Government with the help of Members of Parliament. It was suggested that some kind of Committee should be set up. As regards the question of setting up a general committee or council, the House is aware that in the other House this idea was not generally liked or approved of. This matter was raised in an informal meeting of Members of Parliament which considered the provisions of this Bill. I had suggested in that meeting that I would be willing to discuss with hon. Members of the Informal Consultative Committee of Parliament on which both Members of the Opposition and of the Treasury Benches are represented. It might be said that the Informal Consultative Committee, is rather a large body, although I do not fully agree with it, because the

Informal Consultative Committee, if it is to be a representative body, has to be somewhat big in the sense that representation has to be given to all the Parties, including Members on this side. Still if it is felt that the Informal Consultative Committee may not be as helpful, I am prepared to suggest that the Informal Consultative Committee can appoint a sub-committee, with which I would be most willing to sit and discuss matters. However, Parliament is the real institution which can deal with these matters. I entirely agree with Jairamdas Daulatramji when he rightly said that the real, effective body is Parliament itself, which can act as a continuous forum for correcting the mistakes of Government in the execution of this law.

Shri Dahyabhai Patel suggested that it was not necessary to apply the emergency laws throughout India. It came to me as a great surprise. I am afraid that this does not show a proper appreciation of the nature of the challenge with which this country is faced. The Chinese have, needless to add, committed big aggression on the territories of the country and the whole country has to be harnessed to the supreme effort. It is hardly necessary for me to say that it would not be realistic to confine these laws to the northern States only. Shri Santhanam referred to the provisions of clause 15 of the Bill. It may be mentioned that clause 15(2) refers only to such cases where the offence is punishable with death or imprisonment for life or imprisonment for a term which may extend to five years or more as the cases in which detailed evidence has to be recorded. In the cases of offences punishable with less than five years' imprisonment it is not necessary to record detailed evidence. There are various offences for which imprisonment extends up to only three or two years and even one year or some months, and in some cases only fine. It will thus be seen that it would not be advisable to give the right of appeal in each and every case or to record detailed evidence in

almost all cases. In the Committee of Members of Parliament, on their suggestion I had agreed to liberalise the provision that appeal would lie in cases for which imprisonment for five years or fine or both was prescribed. It may be mentioned that so long as these cases are dealt with by ordinary courts, the right of appeal will continue to be governed by the provisions of the Code of Criminal Procedure. Special Tribunals will be brought into existence only when it is considered necessary. As the hon. Members may be aware, provision has been made for three Judges, and the verdict of the majority would be the verdict of the Tribunal. In extreme cases leave to appeal can be granted under article 36 of the Constitution by the Supreme Court. Thus the jurisdiction of the Supreme Court will be exercisable if there are cases with manifest error of law or exercise of jurisdiction. I can appreciate, Sir, the embarrassment caused to Members like Shri Sapru who are rightly wedded to certain basic principles concerning legal matters and law courts etc. Still we must realise that we are passing through an extraordinary situation, and when the situation is abnormal, we have to give up sometimes the normal routine procedural methods and sometimes rules and regulations. It will be admitted by all the Members of this House that the situation is such in which delays will prove undoubtedly very harmful to us. Whether we have to take action against the trading community or against espionage activities or similar other activities which are detrimental to the national interest, we will have to move quickly in the matter. We must act swiftly. Otherwise it will on the one hand create a bad psychological effect on the country as a whole as well as the harm would have been already done. So in this situation I do hope that even Shri Sapru will agree that some quick method will have to be adopted and the method is that of appointment of the Tribunal, to which of course we have made provision for

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appointing those who are eligible for becoming Judges or those who are already acting as Judges. We could not have taken greater precautions than that, and I am still prepared to say, let us watch and see how this actually works, and if necessary we can give further thought to the matter later on.

Sir, I am sorry to say it but I was really surprised that Shri Santhanam should have suggested that the period of emergency should immediately cease if the Chinese agreed to go back to the 8th September line.

SHRI K. SANTHANAM (Madras): I did not say that. What I suggested was this. If we have to make active preparations, we should continue it. I only wanted to suggest that before we get into a cold war, the Parliament must be taken into confidence as to the necessity for continuation of it.

SHRI LAL BAHADUR: Well, I accept what Shri Santhanam says, but my approach in this matter is somewhat different, and it is this. We will have to prepare the defences of our country. We have to make it much stronger, and whether gun-shooting or gun-running is going on or not, we have to bear in mind all the time that we are in the midst of a war in the sense of preparing the country towards our ultimate objective: that of making the country so strong that in future no enemy or no other country dares to cast an evil eye on us. I might make it clear that I am not a war-monger. Yet we have to feel and understand that the defences of the country have to be stabilised, have to be made as strong as possible, and for that if we relax or if we feel that now there is cease-fire and we can move slowly and peacefully, it would mean a great danger to us and to our country. Therefore, we must keep that in mind, and we should try to get the fullest co-operation of the people in this task, and we must go

ahead with our defence programmes with lightning speed and fullest concentration. It is quite clear that this law will have to be implemented with the utmost care and only with a view to expediting our defence effort. The administration also should be in a trim condition so that the defence of the country is not jeopardised. No one, Sir, will be happier than myself if the Chinese get out of our entire territory immediately, but I am sorry I am not one of those who are easily prepared to believe or accept it. The country will certainly be happy if I am proved wrong and I shall gladly accept my mistake.

As regards the suggestion that I should come up before Parliament every year or year after year obtaining reports from the States about the working of this Act, I can only say that it all depends on how the situation develops in the future. Government will no doubt, when asked to, furnish information from time to time on all important matters and on all important aspects of the operation of the emergency laws to both Houses of Parliament. I have just now said that I would also be willing to discuss and review matters in a Committee consisting of Members of Parliament.

Another point made in the course of the debate was regarding the provision for judicial review of the orders of detention. Shri Khobaragade perhaps stated that orders of detention should be reviewed by a Judge of a High Court. Shri Vajpayee and Shri Bhupesh Gupta also supported this view, and some other Members also favoured this idea. This matter was also discussed at length in the informal meeting of Members of Parliament before the Defence of India Bill was taken up in the other House, and we agreed to make a provision for review of orders passed by the District Magistrate by an authority consisting of senior officers like the Chief Secretary and Members or Chairman of the Board of Revenue. In fact, it was I who suggested in

the Committee that the Chairman or the senior members of the Board of Revenue should be appointed for this work. I might make it clear, Sir, that the Chairman or the members of the Board of Revenue, all of them, do not only do executive work—some work they might do—but they are the highest judicial authorities in the State so far as revenue matters are concerned. So, I personally feel that such officers or such members of the Board of Revenue who are not directly connected in all matters with the executive authorities can deal with these cases in a dispassionate manner. It is also not advisable to disclose the charges, etc. concerning detention as it might not be in the public interest to do so because once you introduce a judicial authority, the charges will have to be made public in a way. So, it might not be, as I said, desirable or advisable to do so or to make them public.

Sir, may I just say—of course, it is not entirely personal—that it is essential that the detenus should look within themselves? If the detenus themselves feel that have erred or they have made mistakes, well, they should be prepared to suffer for it. In the old days when we were in detention for about four days, many of my colleagues said that the charges levelled against them, could not be justified and hence, their detention was illegal and it should be cancelled. I felt otherwise. I also knew that the charges against me could not be proved. But I sincerely and genuinely felt that the then British Government was perfectly justified in keeping me in detention because my intentions were obvious and so long as I was outside the jail, I was functioning all the time to impede the war effort. So, it naturally depends on how we look at a problem. And I would therefore beg of the hon. Members of the Opposition to tell their friends who are in detention to search their own hearts and see if they are at fault or not.

Sir, there were some other important points raised, about six or seven or eight in number. I am sorry I am taking a little more time. Something was said about our intelligence. Only one or two Members mentioned it, and it was said that our intelligence was weak. Of course, I am not prepared to claim that our intelligence is perfect or there is nothing more to be done about it. Yet, I can say with some authority that our intelligence, in so far as this situation, the Indo-China trouble, is concerned and especially in regard to what happened since 8th September and even a little before that is concerned, has on the whole worked and functioned well. I had never seen their chart before nor did I want to do so because intelligence is intelligence. It has, as far as possible, to be kept secret—the details of it—even from the Minister. What the intelligence has to do is to make their own assessment and place the assessment before the Minister for taking policy decisions. I do not want myself to go into the details. Of course, whenever I want to do it, I can do so. But the general practice is—and I think it is a sound and good practice—that the intelligence obtained by the Intelligence Department should be restricted, that information should be restricted or confined to the minimum number of officers, possibly even one officer or may be two, not more than that. But recently after I heard the speeches here and the speeches in the Lok Sabha, I asked the officers concerned to place certain information before me—their charts, their assessment, their facts and figures and details—and I can say with some confidence that I was really amazed to know what details they had in their possession. So, it is not quite justified to criticise our intelligence wholesale. But I am prepared to tell the House that we do want to make it more efficient and more effective. Wherever reorganisation is possible, it has to be done both in regard to military and civil intelligence.

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Some cases were quoted about some people functioning in a wrong way. Shri Vajpayee quoted the case of a teacher in Meerut. That case is, as far as we have verified, correct. It is true that he had sent some letter to the Chinese Embassy. But, Sir, in this vast country it is not possible for us to keep an eye on each and every person. We have no Gestapos in this country, and we have neither such a party which keeps an aggressive eye on each and everyone. Of course, the Congress does not believe in that kind of functioning at all—keeping a watch, as is done in some other countries, on each and every person. There every person is all the time afraid perhaps of his own life if he differs in regard to official matters or policy matters. That kind of approach we cannot have. It is also to be realised that in this country of ours which is, of course, full of poverty and unemployment, the slogans of Communism or of the Communist Party are an attractive force. Sometimes they attract, draw, the poorer sections of our people because they are told, well, that millennium will come as soon as the Communist Party comes into power. They are led away by that. But I do want that the people of our country should realise as to what a great Communist country like China has done, what they have done during the last few years. Of course, they have talked of the poverty of India. But what has actually happened in their own country? They have built up this mighty war machine at the cost and sacrifice of their own people. They are living in day-to-day difficulties. They have not minded those things. They have not because it was impossible. They did not concentrate themselves on the improvement of the economic condition of their people. There is hardly much difference between India and China. China is a big country with a vast population. We have also the same thing. They also never got any opportunity to develop their country in their own way

because of their internal problems, civil war, etc. So, it would not have been possible for the Chinese to build up their war machine if they had done really substantial work for the economic development of their country. So, in spite of their cry of Communism and in spite of their slogans that they want to help the poor and the weak and that they want to liberate the poorer sections of other countries, well, they have acted otherwise in their own country and spent almost all their moneys—not all, a substantial quantum of their budget or money or funds—for the building up of their army. So to our people I want to place this thing before them. I do not only want to take legal action but our people—crores of people—have to understand as to what China has done and what really communism in China means.

What have they done in Tibet? In Tibet I do not know what kind of mercenary work is being taken from the Tibetan population. They are enrolled in the army; they are forced to carry goods, carry loads with inadequate clothing, and all kinds of difficulties they have to face, for which of course no proper arrangements are made. We have had some idea in this war on our borders, as to what kind of labour and what kind of difficulties and troubles the people in Tibet had to face. I need not go into other matters, but there is practically no liberty for the people there. We know the story there and we know, for instance, the fact of how some Kashmiri Muslims in Tibet have been treated. Even mosques have been converted into other things and there is in fact no liberty in thinking; of course in action it is definitely prevented.

So I would only like our people in this country to understand and appreciate these things. Still I must say firmly and clearly that any person who will indulge in any kind of activity which would help the Chinese or which would give the enemy even

indirect support and which would harm or be injurious to the national interest, we will have to take firm and definite action against such a person. And that person in Meerut, a teacher, a poor man, has been arrested; the law will take its own course.

Sir, much has been said about the Tezpur evacuation and I wanted to clear up one or two matters. It would be wrong to think that in Tezpur there was complete demoralisation or that the people had become weak in their resolve. However, it must also be admitted that this is the first experience in our country of an actual invasion or aggression, and we have yet to learn many things from other countries. We have to learn and we have to understand that the Army has sometimes to retreat, to go behind, to evacuate, and it is a kind of move for strategic reasons, but if our people start thinking that as soon as the Army has moved behind, well, they have also to go back it would be very wrong and it would be injurious. The Army of course has to be given the first place in regard to these matters. Nothing should be done which will create confusion for the armies if they have to move behind for strategic reasons. The roads and the railways have to be kept clear for them. But, Sir, our general policy in regard to evacuation is quite clear. We do not want the civil population to evacuate. We would like definitely to discourage it and we have suggested to all the State Governments, especially of Assam and Bengal, that civil evacuation should not take place and should be definitely discouraged—I may also add—except for some technical officers who may be badly needed, and as the House knows, we are short of technical officers, engineers and others. We feel and we have decided that the civil authorities, the officers of the civil administration, should stick to the end, should remain with the people in their own districts and in their own jurisdiction. They must not move out. They have to swim or sink together with the people they

have been serving. It is unfortunate, Sir, that the going away of the Deputy Commissioner of Tezpur has created a wrong impression throughout the country. It was indeed unfortunate. The officer was to hand over charge to a new officer, to a new Deputy Commissioner in a couple of days, but it must be said that he was feeling somewhat nervous. He had arranged for shifting members of his family to Calcutta and he actually went to the airport to see them off. But before the plane left well perhaps he lost his nerve and accompanied the members of his family.

SHRI BHUPESH GUPTA (West Bengal): May I know, Sir, under what provision of the Defence of India Rules the loss of nerve of this sort can be dealt with?

SHRI LAL BAHADUR: I shall tell the hon. Member how it is to be dealt with. But, Sir, what actually happened? I mean, we have not to judge the whole thing by this officer's action. The Sub-Divisional Officer who was there functioned in a very brave and courageous manner, and just immediately after that the new Deputy Commissioner, an officer from Bihar, a young officer, Rana, took over from the Sub-Divisional Officer. I had occasion, Sir, to visit Tezpur the very next morning and I met this Deputy Commissioner, and I would like to pay my sincere compliments to him for the way he was handling the situation in the city that day. There was a good deal of commotion in the city and there was nervousness also and then hundreds—I am told, even thousands of people—were either waiting at the house of the Deputy Commissioner or at some police station, wanting this kind of advice and that kind of advice and so on. Definitely, because I had to go to Jorhat, Dibrugarh and other places, I would have been delayed much more. He said he would deal with the situation by going round the city and doing the needful. Because we were sitting with the army officers and others having discussions for about three hours on various matters, I was already consi-

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derably delayed, still I was very keen to go to the city. But this Deputy Commissioner said, "No, you have to visit those other places. It is my job and my duty to deal with our people who are in the city", which he did wonderfully well. So we need not . . .

SHRI M. N. GOVINDAN NAIR (Kerala): May I know, Sir, whether it is a fact that apart from the Deputy Commissioner—it was reported in the Press—three Ministers and one M.L.A., who were in Tezpur, left the place?

SHRI LAL BAHADUR: Well, I wish the hon. Member had a different opinion about our Ministers. After all, Ministers . . .

SHRI BHUPESH GUPTA: We have had a different opinion. Generally they do not leave anything.

SHRI LAL BAHADUR: At least they should not leave the place of duty. They must stick to it; there is no doubt about it and it would be unfair to suggest that some of the Ministers went out of Tezpur that evening because of fear or any such thing. It is baseless to suggest that. However it is quite clear that we ask the district authorities to remain in the district in all events, even at the time of the aggression—of course it may not take place. But as a hypothetical case let us accept that there is aggression and occupation. We are clear in our mind that the officers have to remain there, as I said, and the Ministers have to stick to their guns in those places. They must live and die with their people. That is our final, clear decision.

About that particular officer, Sir, the House is aware that he is under suspension. I have been informed that he was mentally ill. His intention was to come back to Tezpur when he felt better after a couple of days. That is the information he has given. And, in fact, he has expressed his desire to resume his duties which can never be permitted and perhaps we will have to take stringent action against that officer and it will be done immediately.

SHRI FARIDUL HAQ ANSARI (Uttar Pradesh): Is it correct, Sir, that much of the confusion was caused because the telephone exchange stopped functioning? If that is so, who was responsible for this? Because the civil administration could not contact the military for information and when they went to military headquarters it took some time before they came back to correct things—hence the confusion.

SHRI LAL BAHADUR: We need not go into details. Of course, these things will have to be looked into because we have to take certain lessons from Tezpur, I admit. We must take necessary precautions in future in regard to these matters. However, as I said, I do not want to go into all those points raised by the hon. Member, Ansari Sahib, just now.

Well, Sir, something has been said about reduction in the Cabinet. It was said that Cabinets are generally large. Well, it is a delicate matter, and I hope, I am not expected to say anything because I also happen to be in the Cabinet.

SHRI BHUPESH GUPTA: Member of a large family.

SHRI LAL BAHADUR: Well, generally I am not in full agreement with some of the suggestions made in the House, and I am glad that in this matter I have been strongly supported by the Raja Sahib of Bilaspur. It seems he has got enough experience of administration and, therefore, he has come up with the right suggestion. I do not want, Sir, that in these small matters we should be creating confusion in this emergency. These are really small things, whether we have a big Cabinet or a small Cabinet. If we have to reduce the Cabinet, let us do it in peace-time. Every Minister if he fully realises his responsibility has more than enough work, even more than enough work, in this emergency, in this situation. Only it is for us to do our duty in all earnestness and do it in all sincerity. So, personally I think—I do not mean to suggest that

the Cabinets should not be small or they should not be made smaller—to go into these things in this situation does not appear to me to be absolutely necessary. Economy, of course, must be made. But this will not bring about much of an economy. There are various fields in different directions, departments in which we can make effective economy. For example, Sir, from the Home Ministry we have advised that all the departments should release 10 per cent. of their present staff in order to be absorbed in the new work which is coming up or developing on account of the war effort. So, every department will have to reduce its staff by about 10 per cent. And for the new things which are coming up and cropping up we will not employ new hands, but try to absorb those who are released from other Ministries. This kind of step is definitely going to be useful. We can also take similar action in other directions.

Sir, about the civil defence programme, it is already getting late and, therefore, I do not want to go into details. But in this very connection, when I am referring to economy, I may mention one thing that—of course—civil defence is very important and we have decided to pinpoint some of the important items of works which should be taken up. We need not go into each and everything. We will soon come up with a definite programme. Of course, instructions have been issued. Suggestions have gone to all the State Governments as to what has to be done in regard to civil defence. But I am rather particular, Sir, that we should pinpoint, as I said, some of the important items of work on which there should be full concentration. Our energy should not be dispersed, not producing a definite result. That is one thing.

The second thing is that this work has to be done voluntarily as far as possible. I mean, it should not mean addition of staff, addition of more people and spending a lot of money on different kinds of things. The general

tendency is that you appoint an officer, and with that officer a contingent of officers, so many superintendents, so many stenographers and all that. This kind of thing will not help in the situation. I know, Sir, that people of our country are willing to lend their full support and co-operation, to give their time and energy for this kind of work. Hence we should spend the minimum amount and carry on the civil defence work with the help and support of the people.

Shri Vajpayee, Sir, raised the question of Shri Dange going to Moscow. He also mentioned about the release of Shri Namboodiripad. Well, Shri Dange, he said, was briefed by the officials. I am not quite aware of that, Sir, whether he was briefed or whether he had any discussions. But, to my mind, there should be no objection. I do not know why there should be any objection in Mr. Dange seeking clarifications and discussing with me matters concerning civil defence, or even matters concerning the cease-fire, etc. It should be our duty to give adequate and necessary information to all those who want it, of course, not to those who are spies, but certainly to who hold such high positions as Mr. Dange does in the Communist Party. And if he went to Moscow, Sir, or if he will visit other countries which are called Communist countries in Europe, I for one greatly welcome it because what better reply would be given to China than Mr. Dange himself, the leader of the Communist Party in this country, condemning the Chinese stand and upholding the viewpoint of the Government of India? In these things, Sir, we should not just take action because one is against or opposed to us and once an opponent always an opponent and therefore, he must be crushed; that kind of approach is not at all desirable. We must use our good sense, *Buddhi kaushal*, what we call it in Hindi. We have, therefore, to welcome Mr. Dange's going to these countries and trying to explain what our viewpoint is. In fact, before he went, he met me also and I

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had also a fairly good discussion with him.

In so far as the release of Shri Namboodiripad is concerned, well, it should not, I think, come as a surprise. Government may have many reasons to release a detenu. I do not want to disclose them in so far as Shri Namboodiripad is concerned. On the one hand Shri Vajpayee wants there should be a tribunal set up to look into the cases of detenus or even before charges are framed. Perhaps he would like those to be examined by a tribunal. I do not know whether he suggested that. But what I P.M. is Mr. Vajpayee's intention?

The Tribunal he wants is for the purpose of looking into the cases of the detenus and where Government have not acted properly or correctly, the Tribunal will naturally recommend their release. If that is the purpose of the setting up of the Tribunal, which was fully endorsed by Mr. Vajpayee, I am surprised that he should criticise the Government for releasing some prisoners or some detenus. I am quite clear that the Government have to review the cases of the detenus off and on. It is not only desirable but necessary and I want to tell the House that we do want to review the list and consider the cases, each and every case, and wherever we find that proper or just action has not been taken, we would definitely like to rectify it. Having said that, I am sorry that there are still many members of the Communist Party who do not actually behave or function as Mr Bhupesh Gupta does. He is very friendly to me in the House and sometimes in the lobby but in the field I do not know how he would be remembering me. But that apart, there are many members of the Communist Party who perhaps still strongly differ with the official line adopted by the Communist Party; and I have not got the time otherwise I might have quoted from some of the speeches but they still do not agree with the official approach and they find themselves in a very embarrassing

position. There is a tie between their conscience and what they should show to the outside world and naturally conscience must reign supreme. Such members of the Communist Party should be more frank and straight. Either they declare what their intentions are or if they are found to be carrying on a wrong kind of propaganda, and the Government takes action, they should gladly accept it; either it is detention or action taken in some other form. In this country of ours we have had a good tradition in the past. Gandhiji even advised Satyagrahis to go and surrender themselves, not only the Satyagrahis but also others, to surrender themselves to the authorities. I do not know if the Communist Party will accept this philosophy. Now I would beg of them that in this special situation of the country, those who do not agree with the official line of the Communist Party and those who still have a lurking desire to accept and support the policy of the Chinese Communists must make their position clear and, if possible, they should frankly tell this to the authorities or the members of their Party and I would like Mr. Bhupesh Gupta to convey them to me so that I, in consultation with him, can take action against them.

SHRI BHUPESH GUPTA: The hon. Minister should consult me because he has the list. He can call me and tell me that these are the people who do not agree with him. You are in authority. Do not pass the buck to me.

SHRI LAL BAHADUR: About the speeches of labour workers, much was said by Mr. Gupta that some kind of a vendetta is being indulged in or revenge is being taken. I do not know and the final authority on this matter on this side is Mr. Khandubhai Desai and on the other perhaps Mr. Gupta or one of his other colleagues because he does not generally take interest in labour; he is in charge of the foreign affairs of the Communist Party.

SHRI BHUPESH GUPTA: I am in charge of Parliament, not foreign affairs, including Home Affairs here.

SHRI LAL BAHADUR: I have read some of the speeches. I am sorry I must admit that I have not read the speeches of the INTUC labour workers but I have read some of the speeches of the workers of the Communist Unions and it is indeed shocking, most shocking. I do not know if that kind of speeches are common. If that is the tenor of the speeches in the union or labour field, God forbid, I shall like to keep away 100 miles from that field. I am not accusing Mr. Khandhubhai Desai because he also works in the same field but it is literally abusive I do not know how the workers of the INTUC, the workers of the Communist Party or the HMS are working in the same factory in the same industry and yet if there is such bitterness among them, how can they really help in increasing the production of industries? It is not only the employer and employee relationship but the relation between the employees themselves which has to be good. I would only suggest that the leaders of the Unions should sit together and think over this matter because it is essential that we should step up our production. We should have more than two shifts, three shifts at least in each factory. It has become absolutely essential that we must increase our production. We are short of arms, we are short of ammunition. There is terrible dearth of ammunition which could all be produced in this country. In regard to ammunition it would be unfortunate if we have to spend millions of rupees for the import of ammunition and all this could be done, I believe, in 6 months provided there is friendship and cooperation between the different sections of the unions, between the different unions as well as between the employers and the employees.

SHRI BHUPESH GUPTA: Has the Home Minister sent any cases, whatever complaints he received with regard to the AITUC to the General Secretary of the AITUC? Then he can look into it and clarify the position. That would be a fair course to adopt. If one or two cases are taken

up, which he thinks objectionable, then send them to the General Secretary of the AITUC.

SHRI N. SRI RAMA REDDY (Mysore): I wanted to know if Mr. Dange was in charge of the AITUC.

SHRI ARJUN ARORA (Uttar Pradesh): He is the General Secretary.

SHRI LAL BAHADUR: Yes. He has always been a great labour worker and leader and perhaps in charge also but you can better verify from Mr. Gupta. About political parties, I do not want to say much but the political parties can definitely continue to criticise the Government. There is no ban as such, no prohibition. Still I do not know to what lengths they should go. It is again a matter of their own discretion, if possible. If they are not discreet, well, some other agency will have to think about it but the point is, do they realise that in this situation there should be some restrictions on the kind of criticisms or on the criticisms made against the Government? I am all for, as I have said before, criticisms by the Opposition parties against the action of Government or against executive indiscretions. But conditions have completely changed. What is the position? After all, Mr. Gurupada Swamy made an eloquent speech, of course. I know he entirely agrees with the objectives of the Government, with the policies of the Government yet he delivers speeches which do not help anyone except perhaps the Communist Party to which he is deadly opposed. Indirectly Mr. Gurupada Swamy helps the Communist Party. They create dissatisfaction among the people. That part is done by Members of the Praja Socialist Party and advantage is taken by Shri Bhupesh Gupta. Well, it is up to Mr. Gurupada Swamy and the Members of his Party to realise whether they are moving in the right direction especially in the present situation of things.

[Shri Lal Bahadur.]

I have not brought all those papers, but I have seen, Sir, some of the speeches. Do not think I am merely depending on Intelligence Reports. I am very careful in that and I do not entirely depend on police reports. I get my reports through non-officials and through others on whom you can also place full reliance. I was myself amazed to read one of the speeches of one of the prominent leaders of the RSS—The Rashtriya Swayam Sevak Sangh. I cannot conceive of any person, especially an important leader of the Rashtriya Swayam Sevak Sangh to have indulged in that kind of speech and language. The points he used—though they may seem right from his point of view—were absolutely wrong. May I say, Sir, that his speech is definitely actionable? There are writings also. Of course, reference was made in this House to some. I fully agree that there are writings in the papers, in the newspapers, articles, which definitely impede our efforts. They come in our way. The point is, if you create disaffection against the Government or dissatisfaction against the Government in the situation existing at present, it means that the people are misled and misguided. Not only that, they will not, therefore, lend their full support to the country or to the Government. Is that advisable in this situation? Of course, some time back I said at one of the public meetings that action would be taken and it was criticised. I am not one of those who are always keen to put people in jail. But a sense of duty may demand it. As I said in my speech when I moved the Resolution, the Government had given enough time to the parties, whether it is the Swatantra Party or the Jan Sangh or other parties, to criticise the Government as much as they liked. But now there is no time for these recriminations or for trying to prove that Government is wrong here or there, and thus create confusion in the public mind. So under the present powers, under this Bill, if disaffection is created against the Government and by the disaffection the Government does not get the necessary support and

cooperation from the people, then it becomes an offence and action will have to be taken by the Government. I feel sad having to say all these things. Yet I do want—I am sorry to use that word—to give a warning, that in future, if such writings or speeches are made which do not allow us or allow the Government to pool all the resources of the country and carry on our war effort and strengthen our defences, well, there will be no alternative for the Government, but to take firm and strong action.

SHRI M. RUTHNASWAMY (Madras): May I ask whether the hon. Minister would ban all criticism of the actions of the Government during the period of emergency?

SHRI LAL BAHADUR: No Sir. I have not said that.

SHRI GOPIKRISHNA VIJAIVARGIYA (Madhya Pradesh): Is it done in any other country?

SHRI LAL BAHADUR: I have not said that. Unfortunately, his leader came out with a statement the very next day perhaps, when the Emergency Resolution was passed in this House and in the other House unanimously, that every one has to remain watchful and vigilant and must criticise the Government thoroughly and fully. He had come out with that statement. Whether it was a statement or an article, I don't remember. Of course, he is a senior leader, a leader of the whole country, may be belonging to a particular party at the present moment. We have and I personally have great respect and regard for him. Yet from my point of view, it is not advisable that criticisms of that nature which I have just now mentioned should be made. I do not stop all criticism. But then there is Parliament. There are the Legislatures and there are various other places in which you can clear up many things. If there are failings on the part of the Government sometimes, you can take the Government into confidence. Parties can write to the Government,

and we will definitely be responsive. But general criticism and condemnation all round is not justified and I say it with a sense of responsibility that it is still continuing. If you ask individuals, they say, "No, we are entirely with the Government". But what is happening is not exactly the same. Therefore, I shall appeal to all the parties to be discreet in their speeches and actions and I hope this appeal will find favour with the members of all the political parties. I do think that sometimes even Congressmen make mistakes, many commit blunders. Well, I get sometimes some information, but generally those informations are not correct. Yet we have also to caution ourselves and be careful. We must not set a bad example. I know the whole party stands as one, for one leader and for the objective he has placed before us. Yet as I said, the Congress Party has to set a model and an example to others. If we get panicky, if we get perturbed at small things, on small matters, we will be creating a wrong atmosphere and if Congressmen talk in a particular way, why should not members of the Opposition also do the same thing in a much bigger way? So I do not want to minimise our own responsibility.

SHRI B. K. P. SINHA (Bihar): Sir, I would like to get one clarification from the hon. Minister. An hon. Member of this House made a suggestion which appeared in bold letters in some of the newspapers that even if Congress Members carried on defeatist propaganda, they must be punished. May I know what are the views of the Government on this? The other thing that I want to know is what in the opinion of the Government is "defeatist propaganda."

SHRI LAL BAHADUR: Well, if I attempt to do that, it will take a long time. I have in a way met his point already.

Sir, something was said about the cease-fire. I have nothing special to

say on that particular point and as you have announced, Sir, perhaps the Prime Minister might be making a statement and then doubts etc. could be clarified. I would only advise the Rajasahib of Bilaspur to wait and watch and I would not like him to arrive at quick conclusions on the basis of reports which generally appear in the newspapers. He said that Government should not proceed on emotional considerations of the hour. Well, he should be glad to know what generally Government is moved by real and cold facts on such matters and not by emotional considerations of that particular hour.

SHRI ANAND CHAND (Himachal Pradesh): I am glad to get that assurance.

SHRI LAL BAHADUR: But, I hope, Sir, that the House will agree that if there is a satisfactory situation we should agree and we cannot refuse to talk and discuss. It will be talking; it will be purely talking and discussion, and if we said no to that I think the whole world will treat us to be most unreasonable, but, of course, subject to certain conditions.

About Pakistan, the question is equally delicate. We all have a keen desire that India and Pakistan should settle their differences for reasons more than one. This is important and essential. I would only say, let us wish all Godspeed to both India and Pakistan. If successful, it would be described as a great solution giving lasting relief and happiness to millions in both the countries.

Some reference was made about the A.I.C.C. circular. It has been discussed threadbare. I do not want to go into it except to say that though these words may not be liked, the intention, as far as I know, was quite pure. I mean, they had no ulterior motive or intention behind them. Still, Sir, the Prime Minister, his individual self apart, as long as he is the Prime Minister, he is not an individual. He is the head of the Gov-

[Shri Lal Bahadur.]

enument and what the circular wanted to suggest was that if anyone tries to weaken the Prime Minister, he would be weakening the Government and weakening the Government in such an abnormal situation would be definitely wrong. I am not wanting to defend the circular as such but it was a party circular meant for the members of the Party; of course, it was circulated to others but we should not make much of it. I might, in this connection, add, Sir, that the Prime Minister stands on his own. He does not require the support of either this party or that party, of this group or that group. He, of course, will welcome the goodwill of other parties, the Communist Party, the P.S.P. and other parties certainly but the Prime Minister has his own convictions and he is a person who will stick to these convictions till the end. He has his own views on economic matters and he has his own views on certain international matters. There are people who do not like or do not fancy his approach to certain problems. They may not do so, yet he has never avoided criticism or dislike it. I remember, Sir, the old days when Gandhiji was leading the country and I remember the old meetings of the A.I.C.C., the National Congress in which Gandhiji was most severely and ruthlessly criticised by members of the A.I.C.C. themselves and it is perhaps the only organisation which discusses its failings and deficiencies in the open. It has been done since the year 1920-21. We have had that democratic approach and, therefore, to suggest that the Prime Minister or we do not want criticism would be quite wrong. What is essential, and what Gandhiji showed was that it was by his own strength of personality, by his own courage of conviction that he was able to convert the opposition to his side. That was his approach. The Prime Minister has also had to face such situations more than once. I shall not cite cases but during the last fifteen years, I am not talking of the old days, the Prime Minister has had

to face most difficult situations in the sense that he differed on important matters with certain members of his Party and yet he had the courage to place his views and convert those in the opposition to his side. He has always succeeded in that and I have no doubt of that even now. Some members want to take advantage of this situation. Well, they might do so but the Prime Minister will come out of it as successfully as before. I know that some of the Members of other parties have got a golden opportunity to indulge in criticism against the Prime Minister because they did not get it so far and they do not want to miss this opportunity. Well, let them please themselves but I would only beg of them that this is not the time when we should do any such thing. We should stand solidly behind the Prime Minister because he is the leader, the Prime Minister of the country, not as an individual, not as a political leader. He can face anything, any situation if he has to deal with them at the political level outside.

SHRI BHUPESH GUPTA: May I, with your permission, ask one point . . .

(Interruptions)

MR. CHAIRMAN: You may proceed.

SHRI LAL BAHADUR: But, all the time to say that while they are giving support to him, the other people are not giving support to the Prime Minister is also not desirable or correct. Some people talk of the Prime Minister, as Shri Bhupesh Gupta did, but after all the Prime Minister is not so weak. He knows his job. He knows his strength and the whole Party stands behind him. And, what is this party?

SOME HON. MEMBERS: The whole country.

SHRI LAL BAHADUR: I was going to say this. What is this Party? The members of this Party have been elected by millions of the people of

this country. We have got majority votes and we are here representing the country as a whole and the Prime Minister of course, represents much more than that. He has the love and affection of the people. Look at what happened in Gauhati and Tezpur. He went there the other day. It is the most difficult point at the present moment and yet thousands of people gathered to hear him, to listen to him, to take his advice and his guidance. So, I do not think it is desirable for any party to talk all the time about strengthening the Prime Minister. The Prime Minister has already strength enough and he will continue to get the fullest cooperation of the people as well as of the Parliament.

Sir, before I conclude, there is one more point. Something was said about the implementation of this law, how it is to be implemented. I can assure the House that this law will be administered with care and precaution. I do want to say this. I shall advise the State Governments and would appeal to them to see that their district authorities are most discreet and most careful in taking action against those who are found at fault. The responsibility is very great because, I hope, the House will give its unanimous approval to this Bill, and if you give us your unanimous approval, it means you place full faith in the Government. Therefore our load of responsibility definitely increases, goes up, and it would be suicidal if we act in an arbitrary manner and show to the world that we were not faithful to the wishes of the Members of this House. So we will take necessary precautions and do our best to see that this law is implemented not only in letter but in the spirit in which it is being passed.

One point more. Shri Sudhir Ghosh said something about conscientious objectors. Well, I entirely agree with him. Of course they could never be roped in. In fact in the land of Gandhi as he said, and I also say, if we cannot appreciate the conscientious objector or his point of view we would

never have produced Gandhiji. Who can touch Vinobaji for example? He can never join the army or some of his other colleagues. So far as I am concerned, I shall have great admiration for those who will stand out as conscientious objectors. Of course our country will have hundreds and thousands of others to join the army, but if we are really true to Gandhiji we must see to it that no one who has any conscientious objection is harassed or troubled in any way. Before I conclude, I must say that I myself am one of those who is much opposed to any kind of conflict. I do not even like fighting amongst ourselves; even in this House I do not want to hear the strong voice either of Shri Bhupesh Gupta or the loud voice of Shri Dahyabhai Patel. I want to avoid any clash or conflict. We must live with a peaceful mind and there should always be a peaceful atmosphere. But, Sir, at the present moment in this world which is mixed both with good and evil there is no alternative for us but to build up the defence strength of our country. Sometimes within myself I think over this that I have been talking of non-violence here and there; of course, it may have been mostly superficial because I may not be entirely non-violent but having worked and learnt at the feet of Gandhiji I thought I had special fascination and attraction for non-violence. Yet the needs and interests of the country demand that we must build up our strength and may I add that China has placed us in such a situation? Why has this change come about? Because China has placed us in such a situation in which we have to realise and fully understand that real peace will only come when India is strong.

SHRI BHUPESH GUPTA: May I, with you permission, raise this point on which I sought a little clarification, when the hon. Minister was dealing with the position of the Prime Minister *vis-a-vis* the Congress Party and others? I would invite his attention to the *Hindustan Times* dat-

[Shri Bhupesh Gupta.]
ed 23rd November which carried a report of a meeting addressed by Mr. Hanumanthaiya and General Cariappa. The report says that Mr. Hanumanthaiya, M.P. . . .

SHRI LAL BAHADUR: Mr. Bhupesh Gupta, we have read all that. I know that; we have read it and the Party has dealt with it.

MR. CHAIRMAN: You can pass it on to him.

SHRI BHUPESH GUPTA: He says he has read it and that the Party has dealt with it. Certainly we would like to know . . .

SHRI B. K. P. SINHA: Sir, on a point of order, Mr. Hanumanthaiya is a Member of the Lok Sabha. The conduct of a Member of the other House cannot be discussed here.

SHRI BHUPESH GUPTA: All right, cut out M.P.

MR. CHAIRMAN: You have brought the point to his notice. He has read all that and he has reached his conclusions.

The question is:

"That the Bill to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

[THE DEPUTY CHAIRMAN in the Chair.]

THE DEPUTY CHAIRMAN: We shall now take up clause by clause consideration.

Clause 2—Definitions

SHRI ABDUL GHANI (Punjab):
Madam, I move:

34. "That at page 3, after line 4, the following be inserted, namely:—

'(v) any person or party or group supporting or canvassing for aggressors;'"

مہدم - ایلمی کی تعریف میں
جو کچھ کہا گیا ہے وہ یہ ہے کہ جو
ایگریسر ہے یا ایگریشن کرنے والے ملک
کا دھلے والا ہے یا جہاں سے ایگریشن ہوا
ہے وہاں کا دھلے والا ہے یا جو کلتری
ایگریسر کی مدد کرے اور سنٹرل
گورنمنٹ کہے کہ ان کو ایلمی کہا
جائے - میں نے اس میں مشورہ
اس لئے رکھا ہے کہ گھر کا بھیدی لڑکا
دھائے - ہمارے چلتی گدھ میں
پنجاب کے گروہ ملتے ہیں ایک تقریر کو
اور وہ ہندوستان میں ابھی آئی نہیں
تھی کہ پمپنگ سے دیلے ہو گئی - مسٹر
بھوپیش گپتا نے کئی بار ہاوس میں
یہ - وال اٹھا کہ کون لوگ ہمارے
گروپ میں ہیں ان کی فہرست
دیجئے جو ممبر ہیں یا جو اسوقت
گورنمنٹ کے راستے میں آئے
ہیں - میں ان سے کہتا ہوں کہ ان کو
اچھی طرح سے پتہ ہوگا کہ جو ان کے
گروپ میں چاندی کی حمایت میں تھے
اور گروپ مہنگ میں جلیوں نے
خائن دی اور جگہ جگہ جو ان کی
آفیشل پالیسی ہے یا آفیشل ریزولوشن
ہے اس کی مخالفت جلیوں نے کی -
ان کی فہرست ان کے پاس ہے نہ کہ
میرے پاس ہے یا ہاوس
کے پاس ہے یا سرکار کے پاس ہے

میں یہ اس لئے کہتا ہوں کہ یہاں جو چائلڈز ہیں ان سے زیادہ وہ ہندی کمیونسٹ خطرناک ہیں جو گھر گھر میں جا کر چرچا کر سکتے ہیں جو فہمگیزی میں جا کر چرچا کر سکتے ہیں جو دیہاتوں میں جا کر کے کسان کے کھیتوں میں جا کر چرچا کر سکتے ہیں۔ تو وہ لوگ جنہوں نے کمیونسٹ پارٹی میں چائڈا کے حق میں کھلم کھلا اپنی رائے ظاہر کی وہ ہمارے ایلیمنٹس ہیں ہمارے دیہی کے ایلیمنٹس ہیں اس کے ساتھ ہی میں یہ عرض کرنا چاہتا ہوں کہ جب بھی اس وقت گورنمنٹ کی پالیسی ہے اس کی جو کھلم کھلا دفاع کے معاملہ ڈیفنس کے معاملہ میں مخالفت کرتے ہیں کہوں نہ وہ لانگریس والے ہوں کہوں نہ وہ اپوزیشن والے ہوں ولا سب کے سب ملک کے دشمن قرار دیئے جائیں۔ اس لئے کہ وہ دفاع میں، ڈیفنس میں رکاوٹ بنتے ہیں تو میں یہ عرض کرتا ہوں کہ سرکار کو ایلیمنٹ کی تعریف جو وہ لائی ہے اپنے بل میں اس میں وہ ایسے گروپوں اور غدار لوگوں کو بھی ایلیمنٹ قرار دے جو کہ ملک کے اندر رہتے ہوں کیونکہ وہ زیادہ خطرناک ہیں۔

ایک عرض اور کیا چاہتا ہوں کہ اس میں کسی شبہ کی گنجائش نہیں کہ کچھ لوگوں کے دماغ میں یہ بات تھی کہ جو عارضی طور پر شکست

ہوئی اور نیفا اور لدانج میں جو چائلڈز نے علاقہ لیا ہے وہاں آزاد کشمیر کی طرح اپنی حکومت بنا لہنگے کچھ کمیونسٹ دوست ایسا سوچتے تھے۔ اور پھر کمیونسٹ دوست چائڈا کی مدد سے جیسے ہم کو آزاد کشمیر والے گالی اور دھمکی دیتے ہیں اسی طرح سے یہ ہم کو گالی اور دھمکی دے سکیں گے۔ جبکہ چائڈا پیچھے کیا ہے پیچھے مت رہا ہے تب ہمیں اور زیادہ احتیاط ہونا چاہئے۔ معلوم نہیں کہ چائڈا نے اس علاقہ میں کتنا زہر چھوڑا ہے اور اس زہر کے بارے میں ہمارے یہ دوست جو کہ دیہی کے دشمن ہیں اس وقت چائڈا نے حق میں ہیں وہ کیا کہتے ہیں۔

میدم۔ میں سمجھتا ہوں کہ یہ میری جو درخواست ہے وہ صرف اس لئے ہے کہ اس ڈیفنس آب انڈیا بل کو زیادہ سے زیادہ کامیاب بنایا جائے اور اس کو زیادہ سے زیادہ موثر کیا جائے کہ وہ بھی ہمارے دشمن ہیں جو کہ ملک میں ہوتے ہوئے بھی غیر ملکوں کے ساتھ بیاری رکھتے ہیں۔

†[श्री अब्दुल गनी : मैडम, एनीमी की तारीफ में जो कुछ कहा गया है वह यह है कि जो एग्रेसर यह है एग्रेसन करने वाले मुल्क का रहने वाला है या जहां से एग्रेसन हुआ है वहां का रहने वाला है या जो कनट्री एग्रेसर की मदद करे और सेन्ट्रल गवर्नमेंट कहे कि उनको एनेमी कहा जाये। मैंने इसमें संशोधन इसलिये रखा है कि घर का भेदी लंका ढाये। हमारे

†[] Hindi transliteration.

[श्री अब्दुल गनी]

चण्डीगढ़ में पंजाब के गृह मंत्री ने एक तकरीर की और वह हिन्दुस्तान में अभी आई नहीं थी कि पैकिंग से रिले हो गई। मिस्टर भूषेण गुप्ता ने गई बार हाउस में यह मवाल उठाया कि वो कौन लोग हमारे ग्रुप में हैं उनका फहरिस्त दीजिये जो मफरूर है या जो इस वक्त गवर्नमेंट के गन्ते में आड़े आते हैं। मैं उनसे कहना हु कि उनको अच्छी तरह से पता होगा कि जो उनके ग्रुप में चाइना की हिमायत में थे और थ्रु लीडिंग में जिन्होंने फाइट दी और जगह जगह जो उनकी आफिशियल पोलिसी है या आफिशियल रेजीयुशन है उसकी मुखालफत जिन्होंने की। उनकी फहरिस्त उनके पास है न कि मेरे पास है या हाउस के पास है या सरकार के पास है मैं इस लिये कहता हूं कि जो चाइनीज है उनसे ज्यादा वो हिन्दी कम्युनिस्ट खतरनाक है जो घर घर में जाकर चर्चा कर सकते हैं, जो फ्रैक्टरीज में जाकर चर्चा कर सकते हैं, जो देहातो में जाकर, किनानों के खेतों में जाकर चर्चा कर सकते हैं। तो वो लोग जिन्होंने कम्युनिस्ट पार्टी में चाइना के हक में खुल्लम-खुल्ला अपनी राय जाहीर की वो हमारे एनेमी है, हमारे देश के एनेमी है। उसके साथ ही मैं यह अर्ज करना चाहता हूं कि जो भी इस वक्त गवर्नमेंट की पोलिसी है उसकी जो खुल्लम-खुल्ला दफा के मामले, डिफेंस के मामले में मुखालफत करने हैं क्यों न वो कांग्रेस वाले हों, क्यों न वो अपोजीशन वाले हों, वो सब के सब मुल्क के दुश्मन करार दिये जायें। इसलिये कि वो दफा, डिफेंस में, रूकावट बनते हैं। तो मैं यह अर्ज करना चाहता हूं कि सरकार को एनेमी की तारीफ जो वो लाई है अपनी बिल में उसमें ऐसे ग्रुपों और गटार लोगों को भी एनेमी करार दे जो कि मुल्क के अन्दर रहते हैं। क्योंकि वो ज्यादा खतरनाक हैं।

एक अर्ज और किया चाहता हूं कि इसमें किसी शुबद की गुंजाइश नहीं की कुछ लोगो

के दिमाग में यह बात थी कि जो आरजी तोर पर शिखर हई और नेफा और लद्दाख में जो चाइनीज ने इलाका लिया है वहां आजाद काश्मीर की तरह अपनी हकूमत बना लेंगे। कुछ कम्युनिस्ट लोग ऐसा सोचते थे और फिर कुछ कम्युनिस्ट दोस्त चाइना की मदद से, जैसे हमको आजाद काश्मीर वाले गाली और धमकी देते हैं उसी तरह से हमको गाली और धमकी दे सकेंगे। जबकि चाइना पीछे गया है पीछे हट रहा है तब हमें और ज्यादा मोहताज होना चाहिये। मालूम नहीं कि चाइना ने इस इलाके में कितना ज़हर छोड़ा है और इस ज़हर के बारे में हमारे ये दोस्त जो कि देश के दुश्मन हैं इस वक्त चाइना के हक में हैं वो क्या कहते हैं।

मैडम, मैं समझता हू कि मेरी जो यह दरखवास्त है वो सिर्फ इसलिये है कि इस डिफेंस आफ इंडिया बिल को ज्यादा से ज्यादा काम-याब बनाया जायें और इसको ज्यादा से ज्यादा मोअस्सर किया जायें क्योंकि वो भी हमारे दुश्मन हैं जो कि मुल्क में होते हुए भी गैर मुल्कों के साथ यारी रखते हैं।]

The question was proposed.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR): Madam, I oppose the amendment. It is not necessary at all. I would invite the attention of the House to clause 3(2)(4) which deals with all such cases. Therefore, the amendment that is sought by the hon. Member is not necessary at all.

THE DEPUTY CHAIRMAN: The question is:

34. "That at page 3, after line 4, the following be inserted, namely:—

“(v) any person or party or group supporting or canvassing for aggressor;”

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—Power to make rules

THE DEPUTY CHAIRMAN: There are 30 amendments. Amendments Nos. 2 to 16 in list number one, 36 to 40 and 42, 44, 45 and 48 in list number two, and 72 to 77 in list number four. Let the amendments be formally moved.

SHRI BHUPESH GUPTA: Madam, I move:

3. "That at page 3, line 36, after the word 'authority' the words 'not below the rank of a Gazetted officer' be inserted."

(The amendment also stood in the names of Shri P. K. Kumaran, Shri M. N. Govindan Nair, Shri V. M. Chordia and Shri Krishna Chandra.)

4. "That at page 4, after line 21, the following be inserted, namely:—

'(f) acts, publications, or communications prejudicial to the national unity for defence or for building up united national defence efforts; and

(g) acts, publications, or communications intended to undermine or directed against the leadership of the Prime Minister of India.'"

6. "That at page 4, line 36, after the word 'demanding' the words 'on reasonable grounds' be inserted."

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

8. "That at page 6, line 10, after the word 'authority' the words 'not below the rank of a District Magistrate' be inserted."

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

9. "That at page 6, line 13, for the words 'on grounds appearing to that authority to be reasonable' the words 'on reasonable grounds' be substituted."

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

10. "That at page 6, line 17, after the word 'State' the words 'India's policy of non-alignment' be inserted."

11. "That at page 6, lines '18-19, the words 'the maintenance of peaceful conditions in any part or area of India' be deleted."

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

12. "That at page 6, line 19, after the words 'peaceful conditions' the words 'including the prevention of activities which in any form are likely to cause breach of the peace' be inserted."

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

13. "That at page 6, after line 23, the following proviso be inserted, namely:—

'Provided that the grounds for detention together with representations of the persons so detained shall be reviewed by a Board as is provided under the Preventive Detention Act, 1950.'"

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

SHRI V. M. CHORDIA (Madhya Pradesh): Madam, I move:

36. "That at page 4, line 20, the word 'acts' be deleted."

[Shri Bhupesh Gupta.]

37. "That at page 4, after line 21, the following be inserted, namely:—

'(4A) declaring any party or association, or a group or body of persons as giving or likely to give assistance to, or sympathise with, the enemy;".

38. "That at page 5, at the end of line 9, after the words 'civil defence' the words 'including military training or practice in the use of fire arms' be inserted."

39. "That at page 5, lines 41-42, after the word 'property' the words 'after serving notice to the occupier of the building, premises, or property, as the case may be' be inserted."

40. "That at page 6, lines 14-15, for the words 'being about to act or being likely to act' the words 'having made preparations to act' be substituted."

44. "That at page 7, line 22, for the word 'land' the word 'area' be substituted."

45. "That at page 7, after line 24, the following proviso be inserted, namely:—

'Provided that this shall not empower the Government to introduce cooperative farming in a compulsory manner'

48. "That at page 10, after line 12, the following proviso be inserted, namely:—

'Provided that before such eviction, due notice shall be given to such occupants for vacating the premises'".

SHRI DAHYABHAI V. PATEL (Gujarat): Madam, I move:

72. "That at page 5, lines 41-42, after the word 'property' the words 'on reasonable grounds and after

giving due notice to enable the owner to make other arrangements in areas away from places of conflict to serve the purpose for which the said building or other premises had been utilised' be inserted."

73. "That at page 7, line 9, for the word 'control' the word 'regulation' be substituted."

74. "That at page 7, line 21, for the word 'control' the word 'regulation' be substituted."

75. "That at page 7, lines 21 and 22, the words and brackets '(including the cultivation of agricultural land and crops to be raised therein)' be deleted."

76. "That at page 7, at the end of line 24, the following proviso be inserted, namely:—

'Provided that this shall not confer upon the Government power to introduce cooperative or collective farming.'

77. "That at page 11, after line 10, the following be inserted, namely:—

'(x) provide for the maintenance of records and proceedings together with the reasons for taking such action by the authority before acting in pursuance of this section, and their presentation to the higher authorities in the administration of a court of law, if and when called for.'

The question were proposed.

SHRI BHUPESH GUPTA: Madam Deputy Chairman, I think the House will do well to pay its utmost attention to this particular clause, viz., clause 3 of the Bill, because this is the crucial clause which empowers the Government or the authority to make sweeping rules in order to deal with the situation. I had made it very clear in the very beginning of my speech that in the situation existing the Government would be justified in claiming certain rule-making powers. If they should not be inadequate, neither

should they be excessive. This power should relate to the tasks as I see them today as are likely to develop in so far as we can foresee and these rules must be construed in the context in which we are functioning. May I tell you that when the Second World War broke out I was in England and part of the time, the whole of 1940 I was there when the Blitzkrieg took place over London and I had occasion to experience and see how even in the context of that World War the British Government understood these emergency powers more or less akin to the provisions of what appear in this Bill and what is more how they applied them. There was not only circumspection all the way round, the press was also particularly careful that these powers should not be abused. Parliament met even when the bombs were dropping. I know when I was taking my Bar examination, the bombs were dropping nearby and one of the Inns of Court was destroyed. We continued with our examination and at the same time Parliament was also meeting. They discussed it. Civil liberties and other questions were discussed at length always and every step was taken to see that it should not be abused. Only one Member of Parliament, Mr. Ramsey, was arrested and that too after a great deal of debate. And it gave rise to controversy even in the Tory press and other papers, of course. And today on the frontier we have the cease-fire. Internally we have so many people in prison. Two Members from this House have already been whisked away to prison. We do not know why. I shall come to that later. And from the other House the Chief Whip of our Party, comrade Nambiar and Mr. Uma Nath, another member of the Party had been taken away. We do not discuss such subjects. Britain discussed such subjects even when bombs were being showered on London round the clock by the Luftwaffe, but we today somehow or other take it for granted that what has been done is right and there is no need to question. I think this approach may be convenient today, but that approach

is something wrong. That is why we have tabled a list of amendments. Now, as you will see, we are not opposing the provision as such. There should be power of delegated authority and there should also be provision for detention. We are not opposed to it as such, but we want to make safeguards and all our amendments seek to do so. In their rule-making powers also we want the Government to make rules with regard to certain other matters not covered by clause 3. I will not deal with many of these things, but let me deal with one or two. First of all, I would invite your attention to amendment No. 4, which reads:

“(f) acts, publications, or communications prejudicial to the national unity for defence or for building up united national defence efforts; and

“(g) acts, publications, or communications intended to undermine or directed against the leadership of the Prime Minister of India.”

such acts should be brought within the mischief of this provision. It should be regarded as a prejudicial act and the Government should be given power to make law or rules with regard to this. This is why in this amendment I want to place before the House the reason why I do so.

Let me deal with the last one first, that is to say, the leadership of the Prime Minister. The Home Minister was very right in saying that the Prime Minister is not a mere personality; he is the Head of the Government. And then he paid a lot of tribute to him understandably and justifiably. Now, if it were a question of personal attacks which had no relation to policies, perhaps Parliament could ignore it as being of not much importance. But the attack that is directed against the Prime Minister today is not at all a personal attack in the sense that a person is disliked by some and that they want him to go. It is an

[Shri Bhupesh Gupta] attack against a personality which symbolises certain policies of the Government, who has been the architect of certain policies of the Government especially the Policy of peace and non-alignment, and who stands for certain progressive thoughts and trends in our political life That is why we say that when we are in the midst of an emergency you are putting so many restrictions Why not prevent them, this kind of attack being made? I am all in favour of criticism Criticism should be made of the Prime Minister or of anybody else I am not opposed to criticism as such And a fairly constructive criticism in this matter would be more than compensated by the positive results that would follow Please do not misunderstand me when I say that such things should be considered prejudicial which undermine or are directed against the leadership Now why do I say that things that are directed against the leadership should be considered as something which is prejudicial? Now leadership of the Prime Minister is accepted by Parliament In the very speeches that have been made in the two Houses you have seen how Members from both Houses have expressed themselves in support of the leadership of the Prime Minister Therefore by the will of the nation and the will of Parliament this leadership becomes a big rallying point, a mobilising point in our national defence effort Nothing that undermines it should be supported, and that should come within the purview of prejudicial act The hon Home Minister may tell us what he has done with regard to Mr Hanumanthaiya When Mr Hanumanthaiya spoke on the 22nd of November, when the entire country was in a crisis, this is what the ex-Chief Minister of Mysore said There is no room for personality cult; if one Prime Minister went, many could come forward to lead the nation What does it mean? It was reported in the Birla papers

SHRI A D MANI (Madhya Pradesh) What is wrong in it?

SHRI BHUPESH GUPTA What does it mean? Don't you see anything wrong in it? If I had said it, you would have said that Bhupesh Gupta was undermining the defence effort, and you would have locked me up in some Central Jail When Mr Hanumanthaiya says it, because he happens to be a former Chief Minister of a State and a member of the Congress Party, the Congress Members opposite, some of them, not all of them, do not see anything wrong in that Are you not laying down double standards?

SHRI AKBAR ALI KHAN How do you know? The organisation may be taking some action

SHRI BHUPESH GUPTA We would like to know Then you leave our Party matters to be dealt with by our Party Why are our people being arrested and put in prison under the Defence of India Rules? Why in the case of Congress Party members are we consoled by the suggestion that the Party is taking action? I would like to know the answer Please be at least consistent in such matters Take action against us if you like Take action against them also because you are morally bound to do so if you follow a consistent standard It is not a small matter Mr Hanumanthaiya has been the Chief Minister of Mysore State, a very learned, prominent member of the Congress Party I think he is also on the Executive somewhere He is not a small man in the Congress organisation When the country's efforts are being directed to mobilise the people around the Prime Minister in which millions of Congressmen are taking part, there comes a leader of the Congress Party appearing on the same platform with General Cariappa and telling that personality cult was being built up Mr Hanumanthaiya does not know what personality cult is He should have consulted us and we would have given him better advice on the subject

AN HON. MEMBER: You are experts.

SHRI BHUPESH GUPTA: It was denigrating the person to say. Let the Prime Minister go, many will come. Who will come? May I ask this of the House in all seriousness? Suppose today, goodness forbid, the Prime Minister is off the scene, he says that he shall be out of the country for fifteen days. Who would be chosen as the Prime Minister? Is it so simple a problem as all that that you can produce a Prime Minister out of your pocket any moment you like, any moment Mr. Hanumanthaiya likes? It is not so simple as that. It is undermining the leadership of the Prime Minister in broad daylight. This is what I say, and yet we are told after so many days, after nearly a month, that the Congress Party in its goodness is thinking about this matter when that Party controlling the State machinery is invoking the Preventive Detention Act, the Defence of India Rules, and so on, for locking up 500 to 700 Communists and trade union workers in jail. This is the position. I would ask hon Members to consider this. Here my colleague, Mr. Govindan Nair, made it clear why we support Jawaharlal Nehru. It is because of his policy. We have also been critical of him in this House, and this is not the first time that we get up in this House to support Jawaharlal Nehru. Have we not supported him earlier? Have you not seen us supporting him on his foreign policy and various other steps which Jawaharlal Nehru took more strongly and powerfully, if I may say so in all humility, than Members opposite? Therefore, it is not a new thing that we are doing. We are consistent in our approach, and we are doing so despite the fact that under the Government we live today we have got so many of our people in prison. Therefore, our support is genuine, principled, arising out of conviction. It is not carried away by the exigencies of the situation or for any opportunist reasons.

Madam, today I find that if any one in the country as an individual is subjected to attack, it is Pandit Jawaharlal Nehru. I will show you how leadership is undermined. In Calcutta there was a meeting addressed by Mr. Ramesh Chandra Majumdar and General Cariappa in the Maidan. They said: The Government is no good; there should be a 'brains trust' Government. Somebody then got up to point out that Mr. Ramesh Chandra Majumdar, whom we defeated in the elections, should be a member of the brains trust Government.

THE DEPUTY CHAIRMAN: Why don't you speak on the amendment?

SHRI BHUPESH GUPTA: This is the amendment. Your leadership is being undermined. He should have asked the Congressmen to speak on this amendment. Why should I speak? But the tragedy of it lies in the fact that sometimes we should speak because they would not speak, although they agree with many of my things. I know. Now cartoons are appearing, I can show in the papers, ridiculing him, how non-alignment policy is gone, the Prime Minister has let the country down, and so on. You will be surprised to know what some papers, not the papers of the opposition in this particular case but the papers supporting the Congress Party, say. Here are the papers, very nicely got up papers, as all bourgeoisie rich papers are. This issue of the Amrita Patrika whose Editor is Shri Tushar Kanti Ghosh—and his son is a Cabinet Minister of West Bengal . . .

THE DEPUTY CHAIRMAN: You have said that already in your speech.

SHRI BHUPESH GUPTA: I have not said that. Please do not interrupt me. I know what I have said. Kindly allow me to go on. What I have read out I will not read out again.

THE DEPUTY CHAIRMAN: I am only reminding you.

SHRI BHUPESH GUPTA: I am so thankful to you. But I will not read out what I have read. The Amrita Bazar Patrika goes on to say that if Mr. Nehru really wants to prepare the country for a long-drawn war, he has first of all to reconstitute the Central Cabinet. Then it goes on and gives the suggestion of what the Cabinet should be like. Again, this issue of Ananda Bazar Patrika of 5th November says this on Nehru's policy. It is a leading Bengali paper of West Bengal which has been subsidised by the Life Insurance Corporation to the extent of Rs. 50 lakhs, and still it owes Rs. 25 lakhs to Rs. 30 lakhs. (Interruption). It says: "Nehru's policy of neutrality is floating as it were in the current of events like a weak and inefficient swimmer. The world seems to be divided into two blocs on the issue of Chinese aggression". Then again, the Amrita Bazar Patrika says: "The Prime Minister's speech was no new fact; his explanation as to why there was no preparedness to meet the Chinese aggression does not exhibit any act of intelligence or farsightedness on his part or on the part of his advisers or supporters." Therefore, whatever explanations the Prime Minister gives with regard to the developments, they are rejected by the papers saying that they do not show any foresight or farsightedness. Now, in times of emergency like that, if you question the farsightedness or the foresight of the person, you can well understand as to what will happen. Therefore, this is another thing.

Then, here again, the hon. Minister must be knowing. They should get these things. If they do not have them, I am sorry for that. They should know what kinds of things are circulating. Members of Parliament are getting them. I expected that some hon. Member of Parliament from the other side will speak on this thing. I think it is the Cultural League or the Society for Cultural Freedom, they are circulating all kinds of papers in which Mr. Nehru

is attacked, in which he is ridiculed, not individually, but his policy, his leadership. That is what I say. Now, I would, with your permission, read out a news item which I did not read out before and it is well worth bringing to the notice of the House. It is said:

"If the Prime Minister cannot decide, it is for the Congress Party or the Parliament of this country or failing both, for the head of the Indian Republic to make the choice for the Prime Minister that he retires, and give India a Government which knows what it is doing, which does not talk in terms of our eventual triumph, but does something today."

This is a statement signed by Mr. Dharampal, Mr. Roop Narain and Mr. N. N. Dutta, and they belong to the Society for Cultural Freedom or whatever it is. The address given is 30, Ferozeshah Road. Names are given, signatures are given, and statements are made. What is it?

Now, there are other papers. I need not read them out. Therefore, Madam, plenty of materials can be brought before the notice of the House apart from what is being said in the Organiser or other communal papers to prove that an attack is going on. And I can tell you that in Delhi, in the third week of November, the common talk was, "When will the Prime Minister go", among certain sections of the people. A whispering campaign was going on. I think that many hon. Members heard it. In fact, some of them were counting on some developments to take place so that the Prime Minister would be knocked out. This is how things are being talked about. Are the Government not aware of such things? What we hear outside Parliament, in the Lobbies or in the streets or in the cafes, certainly need not be mentioned to the Government. Now, I say this thing because they want to attack his entire policy. Therefore I say that these actions

should be made prejudicial under this Bill.

Then, I come to another thing. I could have given many more instances. I will just give you another instance. Recently a meeting was held in Bolepur. Mr. Cariappa spoke. The meeting was presided over by the Collector of Birbhum. Many Congressmen went to the organisers of the meeting to enquire whether Mr. Cariappa would make any attack against Mr. Nehru. And after that some of them came back, others made it known that they would not give their names as the conveners of the meeting. They asked how their names appeared in the hand-bill that was circulated mentioning them as the conveners of the meeting. That meeting was held on the 29th of November. First of all, you see, the Collector presided. Mr. Cariappa spoke and the Congressmen, some of them, made enquiries whether Mr. Cariappa would refrain from attacking Jawaharlal Nehru before they gave their consent to be associated with that meeting. This is another instance. I can give many such examples. I do not wish to do so. Therefore we have suggested this particular amendment here.

SHRI K. SANTHANAM: Is it the hon. Member's desire that there should be a prohibition against every Indian, that he should not speak? What is it that he wants? Does he want that there should be an inquisition or suppression of all meetings?

SHRI BHUPESH GUPTA: Not at all. Now, I know. Mr. Santhanam, you belong to the former Minister. Mr. Hanumanthaiya's ideas. Did I suggest that thing? Did I say, "Suppress the ideas or opinions?" Criticise the Prime Minister if you like. But these criticisms are criticisms against the entire policy, against the entire leadership, for the replacement of the Prime Minister either by a Brains Trust or by certain other cabinet. Mr. Hanumanthaiya spoke with brutality . . .

SHRIMATI C. AMMANNA RAJA (Andhra Pradesh): On a point of order. I want to know on what amendment he is speaking. Probably, during the Third Reading stage, his speech would be more relevant. I do not understand on what amendment he is speaking actually. Can somebody enlighten me on this point?

SHRI BHUPESH GUPTA: When there is so much darkness around you, lady Member, how can I enlighten that part? Because . . .

SHRIMATI C. AMMANNA RAJA: You were creating darkness.

SHRI BHUPESH GUPTA: I know that you are in the dark. Every time I hear you, I feel that the sun never shines on those Benches. I know it.

SHRIMATI C. AMMANNA RAJA: On your Bench.

SHRI BHUPESH GUPTA: That is right. After all . . .

SHRIMATI C. AMMANNA RAJA: What amendment are you referring to?

SHRI BHUPESH GUPTA: Which amendment I am referring to? It is about his leadership, that attacks against the Prime Minister should be made a prejudicial act . . .

(Interruption.)

AN HON. MEMBER. Amendment No. 4.

SHRI BHUPESH GUPTA: Then, let me come to the other amendments here. I do not know why Congress Members feel irritated about it. I cannot simply understand it. If we bring it to the notice of the Congress Members, they should welcome that at least we have taken the pains to bring it to their notice. It is for them . . .

THE DEPUTY CHAIRMAN: Mr. Bhupesh Gupta, please finish what-

ever you have to say about the other amendments.

SHRI A. D. MANI: On a point of order. What is happening to his other amendments? I think he should take one amendment after the other and deal with them. You cannot take all your amendments together.

SHRI BHUPESH GUPTA: I will speak on all the amendments. I am . . .

THE DEPUTY CHAIRMAN: He is speaking on all his amendments.

SHRI A. D. MANI: On a point of order . . .

SHRI BHUPESH GUPTA: I have moved my amendment. I will give a chance to you . . .

SHRI A. D. MANI: On a point of order. At the Second Reading stage, an amendment is moved, a speech is made and those who are supporting or opposing it must be allowed to have their say at that time. We need not remember all the things that Mr. Bhupesh Gupta goes on mentioning in his marathon performances. We would like each amendment to be put to vote. I would like to . . .

THE DEPUTY CHAIRMAN: He is speaking on all the amendments that stand in his name in clause 3 and they will be put to vote separately.

AN HON. MEMBER: They are all moved together.

SHRI A. D. MANI: For the sake of clarity of discussion, we would like each amendment to be separately taken up and put to vote.

SHRI BHUPESH GUPTA: Madam, why is Mr. Mani who is an experienced Parliamentarian needlessly taking away my time? What I will

press to vote or what not, I will decide along with Mr. Mani later. At the moment I am explaining why Mr. Mani should support me. Why does he take away my time?

THE DEPUTY CHAIRMAN: Please make your remarks brief.

SHRI BHUPESH GUPTA: No, no, I cannot guarantee that at all, because we will sit there. When the Bill is being passed, this is the only thing we get. Now, I have dealt with this amendment. I hope that the hon. Minister will consider this thing.

Yesterday I gave quotations from the foreign press. I could have given many more such quotations to show how the foreign press is also attacking him.

Now, I come to the other part. I want also that acts, publications or communications prejudicial to the national unity for defence or for building up united national defence efforts should be brought within the scope of clause 3 because there are many activities going on in the country which in the name of defence efforts, are really directed against the defence efforts, which in the name of building up the unity are directed against the unity, which divide the people, cause provocation all along the line. Therefore, I think that these acts should also be prevented. The nation is united. Therefore any thing that is against the unity of the nation or against the united defence efforts should not only be discouraged but should be brought within the scope of this particular Act. Therefore I have suggested on what ground I say this thing.

I should only like to point out one or two things in this connection. Madam Deputy Chairman, the working class plays the most important part in the defence of the country. And Mr. Lal Bahadur Shastri was right in so far as he said that the INTUC, the ITUC, and all these people should

work together and increase production. I accept that proposition. Who is to blame, that is a matter for him to consider. If the ITUC is to blame, well, by all means, blame it. If the INTUC is to blame, by all means blame it. But do not try to prejudge the positions of the various organisations. Go into this question, judge it on its merit and then come to your own conclusion. It would not be right for the Home Minister to state that the ITUC is wrong in every case and that the INTUC is right in every case. I think he should leave it to further enquiry and examination before he comes to this conclusion. Now the united efforts of the working people are important for increased production, and production plays a very vital role in the building up of the defence potential. Now I will tell you what is happening and why is the Defence of India Act not being invoked in Belghoria alone, an industrial area in Calcutta?

In Belghoria, very recently, three offices of the Communist Party, which were under lock and key, had been burnt. Well, you may say that the Communist Party offices should be burnt. First of all it is absolutely against the defence effort. We should not become incendiaries indulging in arson when the entire country is sought to be united, even if you have certain reservations against certain parties or certain organisations. I may have reservations against the P.S.P., or the P.S.P. may have reservations against me; the Congress may have reservations against me or I may have reservations against the Congress with regard to this and that matter. That does not justify that I should go and set fire to the offices of those parties, or they should set fire to our party offices. It should not happen. But what is most distressing also in this connection is that in the same Belghoria area in the 24 Parganas district, in that industrial area, fourteen trade union offices were set on fire or attacked. And what are these trade union offices and how are they

behaving in the context of the defence effort? Now first of all I shall give you the list of the trade unions there.

Bhagyalkshmi Cotton Mill Workers Union, Rex Engineering Workers Union, B.I.C.C. Labour Union, Himani Products Workers Union, Kamarhati Municipal Workers Union, Structural Engineering Workers Union, Oriental Electrical Works Union, Potteries Workers Union, Hindusthan Cotton Mill Workers Union, Capstan Wire Products Workers Union, Bharat Woollen Workers Union. Texmaco Workers Union, Mohini Mill (No. 2) Workers Union and Vegetable Product Workers Union.

Now these are the unions. What were they doing? I shall give you one example. The Texmaco Workers Union raised Rs. 23,000 and made the contribution to the Defence Fund. The leaders of that union took particular initiative in this matter. And the result? Some people went there and burnt those unions, set fire to those unions. I am sure no Member in this House likes it. But it is happening. These have been reported in the newspapers, Madam Deputy-Chairman. How did it happen? On the 24th of November there was a meeting in Belghoria area, which was addressed, among others, by the Labour Minister of the West Bengal Government, and he made a speech, a provocative speech, which was reported in the Congress paper, and thereafter, a small crowd, certain very bad type of people—not the entire crowd—went there and set fire to the Texmaco Workers Union which had contributed Rs. 23,000 to the Defence Fund. This is how it happened. Is it your war effort? How will the workers feel? Maybe there are quarrels among the A.I.T.U.C., and others, or maybe there are certain quarrels among the unions and so on. But the workers were attacked, after having made this contribution, in this manner.

Let me give another example here of such things. In the Hooghly Jute Mill the workers raised Rs. 8,001, a

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union affiliated to the A.I.T.U.C. Ministers were invited to receive this money. And again the Labour Minister of West Bengal went there. The money was given in his hand. "Take this contribution of Rs. 8,001" by the Hooghly Jute Mill workers organised by the workers' union, which again is affiliated to the A.I.T.U.C. The Minister took the money and then he came out with a speech in which he attacked the A.I.T.U.C. The result was that after that some provocations were made and that union office was also attacked in this manner. Such things are going on. Now does it help the war effort? I have given you the names of the Belghoria unions, all of them, apart from those of the three Communist Party offices. All the names of the unions I have given and I have also given the name of the union in Hooghly. Apart from these, in Asansol the same thing is happening, where the colliery workers' unions are being attacked in this manner, some burnt and some other left not burnt. Now tell me; can the workers be expected to maintain their morale? How can peace be maintained there in this manner, if the workers' unions even after they have made such contributions to the Defence Fund, are attacked? The regrettable part of it is that the whole thing in Bengal is being organised by the Labour Minister of West Bengal and another Minister and one or two M.L.A.'s. Many Congressmen are not associated with it—I may say. My accusation is not against the Congress as such at all over this matter. A few people are doing it. The Chief Minister, I cannot say that he is organising it, or the Congress Members from this House or that House are doing it. There are three or four people. Propaganda is being conducted against these crimes in the party offices. Now as far as the A. I. C. C. is concerned, they are opposed to such things. Their circular has proved it—they are opposed to such a thing. You do not want it. The Congress, I know, does not want it. The Central

Government, I take it, does not want it. Yet such things are happening with impunity. I think, Madam Deputy Chairman, this should be looked into and this thing should be put a stop to. The Home Minister can do so. I do not suggest repressive measures. Only I say, "Stop it" whichever the way, by persuasion, by telling them, by writing to them, by telling the ministers concerned that they should not be associated with this kind of hooligan, violent activities of vandalism directed against only a large number of unions in Calcutta. Now people take it to be an attempt to dig in in these unions and other places, or to nurse the constituencies from now on, because if they work up hysteria from now on and it can be sustained, probably they think that in the next Elections it will fetch good dividends. But this is no war effort; this is no good; this is not in consonance with the spirit and declaration by the Prime Minister or the Government Resolution that was passed. Therefore I think this thing can be decided from other places. Here in Delhi our Communist Party office was attacked and books were burnt. Do you know which books were burnt? Gandhiji's Biography was burnt—we have published the picture—and Subhas Bose's 'Indian Struggle' was burnt among other books and so on. And a correspondent here writing to his paper in Bonn said that what is happening in Delhi, if you want to understand, then think of what was happening in Berlin before Hitler came. That is how they described the events in Delhi. The Prime Minister has condemned it. The Home Minister does not like it. Yet such things are happening, and they should be put a stop to.

Then, Madam Deputy Chairman, I will come to the other thing, reasonable grounds for detention, and so on. I have put down the amendment. You may just see that it is just a little legal point. I should like to explain why I have put in this amendment, and then you see whether my suggestion is legally valid. Then you

decide whether you should keep it or not. Now if you see on page 6 of the Bill, the sub-clause 3(15) (i) reads:

"the apprehension and detention in custody of any person whom the authority empowered by the rules to apprehend or detain (the authority empowered to detain not being lower in rank than that of a District Magistrate) suspects, on grounds appearing to that authority to be reasonable . . ."

So the grounds should appear to that authority to be reasonable.

" . . . being about to act or being likely to act in a manner prejudicial to the defence of India"

etc. Now what do I say in my amendment? I say that it be amended as follows, namely:—

"That at page 6, line 13, for the words 'on grounds appearing to that authority to be reasonable' to the words 'on reasonable grounds' be substituted."

Let it be put like that, because the way you have put it here only provides for a very narrow subjective test. All that the authority has to say is that he is satisfied, whether the grounds are reasonable or not. Well, it will not be the concern of even the reviewing authority as long as the fact is shown, that the authority giving the order for detention has been satisfied or that the facts appeared to be reasonable to him. They need not appear to be reasonable to the reviewing authority or to any outsider, and certainly *habeas corpus* and other writs are barred in such cases. What does it mean? It means that one has only to decide on somebody and then put him in prison and then let him remain there. I think this is not at all fair. Why should the Government hesitate to make this kind of provision here, put it "on reasonable grounds" and leave it to the reviewing authorities and others who may become seized of the matter and look

into the case and see whether the grounds are in fact reasonable or not on the basis of whatever evidence is produced before it? I think this would seem a reasonable suggestion. Now, the Minister does not accept this suggestion. The trouble is that whoever is arrested, you say "China lobby". What is China lobby, what is the definition of it, what are the proofs, who has told whom? Nothing is necessary. They arrest and give the impression to the country that supporters of China have been arrested and then they are detained. I think at least leave it to the reviewing authority on the basis of whatever material you have got to examine whether there is reasonable ground for thinking that this person would have acted prejudicially to our defence had he been free. This is what I say.

And not only that. The clause provides, "likely to act". He has not yet acted. He need not act. There may be nothing against him to suggest that he would act. But the moment the detaining authority thinks or the magistrate or the Chief Secretary thinks that he is likely to act, no matter what has happened in the past, no matter what is happening today, no matter what is likely to happen in future, the authority would be in a position to put any person absolutely on the basis of certain truly, narrowly subjective conclusions. I think this is striking against the very concept of fundamental rights. And when you have not provided for *habeas corpus* or a writ, this becomes all the more oppressive. This is all that I can say.

In this connection, Madam Deputy Chairman, I should like the hon. Minister to consider this thing. Much is said. Many people have been arrested. We do not know—all kinds of things are said about us. But we would like to know what is there in the Communist Party which is prejudicial to the war effort or the defence effort. We should like to have some concrete examples that this is the person, these are the people who

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are doing it, and since they are doing it and they will continue to do, we want to arrest them. Something like that should be produced before the public and, of course, before the detaining authority. Unless you accept my amendment this is not possible.

In this connection I may say rather an interesting thing. I think hon. Members will not be carried away by prejudice in such matters. Three leaders were detained. In Kerala the Deputy Leader or the Acting Leader of the Kerala Assembly has been arrested and put in prison. I think Comrade Govindan Nair was speaking about the situation in Kerala as to how these people were engaged in various efforts and so on. In Andhra Pradesh they have been arrested. In West Bengal the Leader of the Opposition has been arrested. In Andhra the Leader of the Opposition has been arrested and a large number of M.L.A.s., have been arrested. Now, these are well-known facts. On what basis? That they did not support or supported some resolution. I do not know what they have to say on the question. But is there any reasonable ground to believe that anybody, who has been detained, will hinder the defence effort? That is the crux of the matter. Political prejudices should not be the approach in dealing with a situation of this kind.

I cannot in this connection, Madam Deputy Chairman, but draw your attention to a speech made by the leader of the Communist group in the West Bengal Assembly, which is a recognised opposition . . .

SHRI T. S. AVINASHILINGAM CHETTIAR (Madras): May I ask a question? These Communist leaders have been arrested but some Communist leaders like himself and other people have not been arrested. The leaders who have not been arrested, they voted that majority resolution passed by the Communist Party. It is well understood that a good group of the Communist Party opposed that

resolution. Is the hon. Member in a position to say that out of those leaders who have been arrested which of them opposed that resolution and which of them accepted it?

SHRI BHUPESH GUPTA: This line of argument is not the way to discuss laws here.

SHRI T. S. AVINASHILINGAM CHETTIAR: Sir, the plausible conclusion is that such of those people who opposed that resolution are people who are pro-Chinese and so are dangerous elements. Will the hon. Member be able to explain to us whether all those people who have been arrested have voted for that resolution?

SHRI BHUPESH GUPTA: About seven hundred, anyhow more than five hundred people have been arrested. I cannot speak about all. Here I am dealing with some. I think that this way of argument is not correct. The question is that the person whom you have detained is likely to act prejudicially to the defence effort. Is there a reasonable ground for apprehending him? This is the point. (Interruption by Shri T. S. Avinashilingam Chettiar.) It will only take more time if you interrupt me.

The DEPUTY CHAIRMAN: Mr. Bhupesh Gupta has no information.

SHRI BHUPESH GUPTA: At least I cannot oblige Mr. Avinashilingam in this way by way of interruption. The West Bengal Assembly resolution was passed unanimously and all the 52 Members voted for it. But before that, the Communist Party tabled a resolution in the West Bengal Assembly in which, among other things, it was said:

"This House gratefully acknowledges the sympathy and moral and material support received from a large number of friendly countries in this grim hour of our struggle against aggression and invasion."

It is the same resolution which the Communist Party tabled before the

West Bengal Assembly but which they withdrew in favour of the one which came from the Government Benches and was passed unanimously. Now, I think you cannot ignore that thing—a party sponsoring that resolution on the floor of the Assembly in this way.

Madam Deputy Chairman, since this whole question has been raised by our friend, I would like to tell him that the resolution has been passed. We are implementing it. Time and again it has been made clear. All our units, all our party members, are bound by it. They have been assigned the task of implementation of the resolution. After that, the Government should tell us as to who is not implementing it, who has violated it, who has taken a position which is contrary to the position that we have taken. Without that it would not be fair to put people in detention in this manner.

I may in this connection invite the hon. Minister's attention to the speech made by Mr. Jyoti Basu in the West Bengal Assembly in which he criticised Chinese action as aggression and he supported the taking of arms from any country for defence. He asked for a mobilisation of defence efforts unitedly, supported the Prime Minister and the Government in this matter. All these things are there. Other Communist Members also spoke in this manner. Now, these are all evidences in the proceedings of the Assembly. These are resolutions. Therefore, you cannot, Madam Deputy Chairman, ignore all this.

The much-maligned Jyoti Basu, I want to say a word about him today. When the National Council resolution was passed, he gave instructions as the Leader of the Opposition to all Communist Members of the Legislature to donate money to the Defence Fund, and the money that was collected, has been the other day made over, in his absence, to the Chief Minister of West Bengal. I think others are also

making contributions from jail. This is a question of principle.

Here, again, I would like to clarify. Madam, you understand these things. In his speech, Mr. Jyoti Basu, the Leader of the Opposition, on November 16 said:

"Massive unity is necessary at a time when the nation faces the greatest trial due to Chinese aggression of India. But we are sorry that no consultations were held with us by the Congress Party with regard to the motion."

This is what he said. He went on:

"Even after the provocative speech made by Dr. Chunder I want that there should be no two opinions regarding the defence of the country and that the entire nation must stand united to a man."

This is what he said:

"We still hold that the Indian Government is pursuing a policy of non-alignment despite the fact that we are taking foreign arms."

This is what he said. Then again:

"It is good that we buy arms wherever they are available..... We are thankful to all those who have given us the much-needed arms. India's honour, sovereignty and independence demand that we preserve the policy of non-alignment."

Then, towards the conclusion he went on:

"The battle will be long and hard. We must, therefore, mobilise the people all over West Bengal through united committees for a patient and persistent effort to achieve increased production and sacrifice for a long time...."

These are the words. These were the words of the recognised Opposition Leader in the West Bengal Assembly. I would like to know whether this will form a part of the evidence before

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the reviewing authority, before the public because a man of his stature representing one of the big Opposition—Communist—Groups in the Assembly got up and said in this way. Is it not a support to our resolution? Is it not a call for the implementation of our resolution? Is it not a call to the nation to realise the position the Communist Party has taken? Why on earth should he be put in prison without locating one incident on his part which shows that he has committed something in violation of the resolution or gone against the defence efforts? On all points . . .

SHRI SONUSING DHANSING PATIL (Maharashtra): Is Mr. Bhupesh Gupta defending Mr. Jyoti Basu here? Is it a Court of Law?

SHRI BHUPESH GUPTA: I shall defend every single Communist, every single orker, every single patriot who has been arrested unjustly. It is not a question of individuals. I am dealing with the position of law and I give you an example because when you said about it, here the proceedings are available . . .

SHRI N. M. LINGAM: Are you defending Mr. Ranadive also here?

THE DEPUTY CHAIRMAN: You have made yourself very clear on this issue. Please be brief.

SHRI BHUPESH GUPTA: I am sure that if you were in the Home Ministry you would have understood my point. Therefore I say, please do not lay down this kind of subjective tests. People will be arrested wrongly and kept in prison. We have said it clearly. We are opposed to anyone who opposes our resolution or comes in the way of the defence efforts. Cannot you leave it to us for a while? And we want to demonstrate it as to how as a disciplined Party we go and work in the same committee and mobilise for the defence efforts. I would beseech my Congress friends not to be carried

away by what they hear or hearsay things, about individuals or groups and so on inside the Communist Party as they understand it. We are one party, a single force. We are going into this battle for national defence against the Chinese aggression and I think we are entitled to ask you to give us concrete examples where, since these things have developed, we have gone against it. Therefore about this point I think I have said. Let me come to the next point.

THE DEPUTY CHAIRMAN: Which is the next amendment? You have covered all of them.

SHRI BHUPESH GUPTA: No, I have covered many.

THE DEPUTY CHAIRMAN: You have spoken on all.

SHRI BHUPESH GUPTA: Therefore I say, accept this particular amendment. Our Comrade will develop this point as to why the reviewing authority should be given a little wider power to go into this question.

Similarly at other places, 40, 50 or 60 M.L.As. of our Party have been arrested. I do not know who are going to look into them. Their speeches, their activities are all there before the country.

I would invite your attention only to amendment No. 12 where I want to include:

“including the prevention of activities which in any form are likely to cause breach of the peace.”

There is not that now. You may say that it is covered by implication. I do not think it is so well covered because in this situation we should not encourage hooliganism or rowdy activities which result in breach of peace. I am not saying anything about individual parties or groups and so on. That should be borne in mind. That should be stopped, preferably by agreement

and common consent and if any party or group or group of individuals take into their own hands the law, they should be dealt with properly under the law. This is what I ask here. Then I will leave out all the others. These activities are going on in various parts of India—attacks, violence and other things—which have nothing in common with the Congress Party as far as we understand the leadership of the Congress Party. I want clause 3A to be . . .

THE DEPUTY CHAIRMAN: That is a separate one.

SHRI BHUPESH GUPTA: This I would like to be added. With regard to the other amendments on this clause, I do not want to say very much but I again would ask that the Government should release these Communist prisoners and other trade unionists and the Government should then see how they, and others, we and everybody, function and the public leaders of the stature of those who have been arrested, most of them are, will be functioning before the eyes of the entire people. Therefore I think nothing will be lost. I think the Government will gain in prestige if they do so and by releasing them they would be on firmer grounds if they can point out a single strong case in order to hang some people or put them in detention. That you will never do.

Finally I would like to express my other misgivings in the matter. Who has ordered the detentions, the Central Government or the States? We do not know yet. We would like to know. We understand from the States sources that all these arrests have taken place on instructions from the Centre. We understand from the Central sources that these have taken place on the basis of the lists prepared by the State Governments and I can tell you with regard to one State that when we approached it—I will not name anybody—the authorities informed us: "Since we got instructions from the Central Government that

some people have to be arrested, we arrested some of them to fulfil our quota, although we know that all of them are innocent—nothing against them—"But why should we" the authorities of the States said, "allow ourselves to be criticised when others are arresting?" Therefore they said: "Don't mind, allow your Comrades to remain for two months or so, nothing will happen, they will come back but after all we are a State Government and what will the Centre think if we do not fulfil our quota?" Then the authority said: "It was a problem for us to find out the requisite number to fulfil the quota."

SHRIMATI C. AMMANNA RAJA: What is the quota?

SHRI BHUPESH GUPTA: I do not know. I do not wish to go into it.

SHRIMATI C. AMMANNA RAJA: Why do you say when you do not know it?

SHRI BHUPESH GUPTA: I have a lady interrupter and that is the pleasant part of it. I do know this much but I do not know who is right and who is wrong. That you can help.

SHRIMATI C. AMMANNA RAJA: Are there any quotas fixed for every State?

SHRI BHUPESH GUPTA: That is what we are told. What can we say?

THE DEPUTY CHAIRMAN: Please wind up.

SHRI BHUPESH GUPTA: Now this is the position. I would ask the Central Government, because they are in the leadership of the nation, to be particular about this matter and be extremely discreet and careful and not leave these for them. I would ask the Central Government to take up every single case of arrest and as I have said, I demand again and again the release. I would ask in this connection not to utilise the Defence of India Rules in this manner to suppress those people who are dedicated to the cause

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of national defence, those people who will be playing a part in the cause of national defence, whether they be Communists, trade unionists or others. This should not be used in this manner. Therefore I have given a certain qualified thing by way of amendments and I hope this will be accepted and I do not see why the reviewing authority should not be constituted along the lines of the reviewing authority that we have under the Preventive Detention Act. This is there. It should be there and it should function in the manner in which it has been functioning. It has got experience of such a system. I think that in the States it is possible for the States to cope with the situation especially those States where the arrests have taken place. In no State today is it impossible to operate the Committees that are formed to review the cases under the preventive Detention Act, to be revived and asked to review the cases. These little mercies we ask from the Government and I hope they will be given.

SHRI M. P. BHARGAVA (Uttar Pradesh): Madam, I would like to say one word about what Mr. Bhupesh Gupta said regarding Shri Hanumanthaiya. I thought Mr. Bhupesh Gupta, when he speaks in this House, he does so after ascertaining the full facts. But what he said today does not prove that. Shri Hanumanthaiya first spoke in the Lok Sabha in the discussion on the Proclamation of Emergency and if only Mr. Bhupesh Gupta had read that speech, he would have got an entirely different impression from the one he seems to have got now. What Mr. Hanumanthaiya said was that he is not a believer in the personality cult; but at the same time and in the same speech he said, 'I have full confidence in the leadership of Pandit Jawaharlal Nehru the present Prime Minister.' Then Mr. Hanumanthaiya spoke at a public meeting near the Regal cinema, on the 21st November, about which also Mr. Bhupesh Gupta has made a

reference. At that meeting Mr. Hanumanthaiya spoke exactly in the same way as he had spoken in the Lok Sabha and what Mr. Bhupesh Gupta has read out is a distorted version of that speech. Mr. Bhupesh Gupta was very much upset the other day when the *Hindustan Times* published that Rajya Sabha voiced placing a ban on the CPI. Should he not have taken it in the same spirit? And was it not his duty to ascertain the facts before coming and making some allegations in this House? That is all I have to say about Shri Hanumanthaiya and this reference to him. He has not at any time, shown any lack of confidence in the Prime Minister.

श्री विमलकुमार मन्नालाजी चौहड़िया
(मध्य प्रदेश) : उपसभापति महोदया,
जो संशोधन प्रस्तुत किया है, वह इस
प्रकार है :

"That at page 3, line 36, after the word 'authority' the words 'not below the rank of a Gazetted officer' be inserted."

हम इस विधेयक में रुल्स बनाने के लिये सरकार को जो अधिकार दे रहे हैं और रुल्स को एग्जीक्यूट करने के लिये जिन आर्थारिटीज का इसमें उल्लेख है, उसकी सीमा नहीं है कि किस "कैंडर" के लोग इसका उपयोग करेंगे। इसमें यह बात साफ तौर से नहीं लिखी हुई है कि अमुक अमुक "कैंडर" के लोग इन नियमों का उपयोग कर सकेंगे जिसकी वजह से शंका पैदा हो जाती है। ऐसे कई उदाहरण पुराने में आपको बतला सकता हूँ जब कि आर्थारिटीज ने अपने पावर्स का मिस-यूज किया है। यही कारण है कि जब हम इस तरह का कानून बनाने जा रहे हैं, तो ऐसी स्थिति में यह विचारणीय प्रश्न है कि जो छोटे "कैंडर" के लोग हैं अगर उन्हें इस कानून को उपयोग करने की इजाजत दे दी गई तो वे उसका मिसयूज कर सकते हैं। मेरी प्रार्थना है कि किसी जिम्मेदार अधिकारी

को इस चीज की आथॉरिटी दी जानी चाहिए । इसका कारण यह है कि जितना ऊंचे स्तर का अधिकारी होता है, उसमें उतनी ही मानवीय कमजोरिया कम होती हैं । उसके ऊपर जिम्मेदारी ज्यादा ढ़ाने की वजह से वह अपने अधिकारों का दुरुपयोग उतना अधिक नहीं करता है और जितना नीचे स्तर का आदमी होता है वह उतना ही अपने अधिकारों का दुरुपयोग कर सकता है । इसलिये मेरे संशोधन का मतलब यह है कि इस कानून का उपयोग करने का अधिकार केवल गज़ेटेड ऑफिसर को ही दिया जाना चाहिये । इसी आशय से मैंने यह संशोधन रखा है और मुझे आशा है कि माननीय मंत्री जी मेरे संशोधन को स्वीकार करेंगे ।

दूसरा संशोधन, जो पेज ४ और लाइन २० के सम्बन्ध में है, इस प्रकार है :

"That at page 4, line 20, the word 'acts' be deleted."

इस संशोधन को देने का आशय यह है कि "एक्ट्स" शब्द से इस बात की शंका पैदा होती है कि जो हम कानून बनाते हैं और अगर यह शब्द उसके अन्तर्गत आता है, तो उसको हटा दिया जाना चाहिये । जो कानून पार्लियामेंट या विधान सभाएं बनाती हैं, अगर उस कानून या एक्ट को वह अधिकारी अपने अधिकार से निरस्त्र कर देता है—यदि इस तरह का अधिकार हम उसे इस विधेयक द्वारा देने जा रहे हैं तो यह अनुचित है । इस तरह से पार्लियामेंट अथवा विधान सभा में बनाये कानूनों के ऊपर वह नियन्त्रण लगा सकता है और इस तरह के उस अधिकारी की क्षमता गज़ेटेड ऑफिसर से कम होगी तो यह अनुचित प्रतीत होता है । यदि एक्ट से मतलब किसी कार्य के करने का है, तो बात दूसरी है । इसलिए 'एक्ट्स' शब्द के मतलब का स्पष्टीकरण बहुत आवश्यक है । अगर हम इसका मतलब

कानून से लेते हैं, तो इस शब्द को हटा देना चाहिये । अगर हम कोई कानून बनाते हैं और उसका अधिकार, उसके आपरेशन का अधिकार, किसी अधिकारी के ऊपर छोड़ देते हैं तो वह उसको इन-ऑपरेटिव कर सकता है और उसका मिस्यूज कर सकता है । अगर हम इस शब्द को यहाँ पर रहने देते हैं, तो इसका असर हमारे ऑथॉरिटीज पर पड़ने वाला है, इसलिए इसको यहाँ से निकाल दिया जाना चाहिये ।

इसके आगे पेज ४ और लाइन २१ के पश्चात्
"the following be inserted, namely:—

"(4A) declaring any party or association, or a group or body of persons as giving or likely to give assistance to, or sympathise with, the enemy;"

इस संशोधन के बारे में मुझे यह कहना है कि अभी हमारे मित्र श्री गनी ने "एनीमी" शब्द के बारे में स्पष्ट कहा था कि विदेशी शत्रुओं की तो हमने परिभाषा बना दी है, लेकिन हमारे देश में जो छिपे हुए शत्रु हैं उनके बारे में कुछ नहीं कहा गया है । इतिहास साक्षी है और जैसा मैंने कल भी कहा था कि हमारे देश में जयचन्द और मीर जाफ़रों की कमी नहीं है । इस तरह के लोग हमारे यहाँ होंगे, आगे भी हो सकते हैं । तो ऐसे व्यक्तियों के लिए इस तरह के सफ़्ट में जो देशद्रोहिता का काम करते हैं, हमेशा तत्पर रहते हैं—चाहे व समुदाय के रूप में काम करते हों या संगठन के रूप में काम करते हों—उन पर नियन्त्रण रखना बहुत आवश्यक है । यह नियन्त्रण तब ही लगाया जा सकता है, जब हमारी सरकार इसके बारे में रूल्स बनाये और उसके बाद अधिकारियों को इसके लिये पावर्स दे । वर्तमान बिल में इस बारे में इस तरह की कोई व्यवस्था नहीं है, इसलिये इस तरह का अधिकार शासन को अवश्य अपने हाथ में लेना चाहिये । वैसे तो श्री लाल बहादुर

[श्री विमलकुमार मन्नालालजी चौरडिया]
शास्त्री जी ने अपने भाषण में कहा कि कम्युनिस्टों को 'फ्रेंक' और स्पष्ट होना चाहिये। यह तो चीन ने बता दिया है कि कम्युनिस्ट किस ढंग से 'फ्रेंक' होते हैं। कम्युनिस्ट चीन ने एक तरफ तो 'हिन्दी चीनी भाई भाई' का नारा लगाया और दूसरी तरफ से हमारे ऊपर गोली चलाई। वे कहते हैं कि हम बिल्कुल वफादार हैं, लेकिन उसके विपरीत काम करते हैं। इसलिए कम्युनिस्टों से वफादारी और स्पष्ट होने के बारे में कहना अपने को ही धोखे में डालना है। अगर हमने इन लोगों को यहां पर अपनी विचारधारा को स्पष्ट करने के लिए छोड़ दिया तो वे कम्युनिस्ट चीन की विचारधारा ही सारे देश में फैला देंगे। कम्युनिज्म की विचारधारा चीन ने बतलाई है और उसका बीभत्स स्वरूप हमारे सामने रखा है। अगर हमने अपने देश में कम्युनिस्टों को उनके अनुरूप काम करने की छूट दे दी और उसका प्रदर्शन करना उन्होंने शुरू कर दिया तो हमारे देश की क्या दशा होगी, यह एक विचारणीय प्रश्न है। इसलिए हमें कम्युनिस्ट चीन की जो विचारधारा है, उसको असेस करना होगा और उसी के आधार पर यहां के कम्युनिस्टों की विचारधारा का भी खयाल करना होगा। इसलिए हमें इस चीज को सामने रखना होगा कि कम्युनिस्ट चीन ने हमारे साथ किस तरह का व्यवहार किया, और क्या वैसा ही व्यवहार यहां के कम्युनिस्ट नहीं कर सकते हैं? इस लाइट में हमें खयाल करना होगा कि कम्युनिस्टों की कथनी और करनी में बहुत फर्क होता है। इसलिए यह आवश्यक है कि इस बारे में हम सब बातें असेस कर लें।

दूसरी बात श्री लाल बहादुर शास्त्री जी ने श्री डांगे के बारे में कही कि हमने बहुत बुद्धि-कौशल से काम लिया है। इस सम्बन्ध में मुझे यह कहना है कि जिस तरह से हमने चीनियों के साथ बुद्धि-कौशल से काम लिया है, क्या उसी बुद्धि-कौशल से हम श्री डांगे के साथ भी काम ले रहे हैं। जिस तरह चीनियों ने

कहा था कि हम तुम्हारे दोस्त हैं उसी तरह से श्री डांगे भी अपने को वफादार कहते हैं और सिंसियर कहते हैं। लेकिन मेरी प्रार्थना है कि उन्हें इस बारे में बहुत होशियार होना चाहिये। जिस तरह से चीनियों ने अपनी सिंसियरिटी दिखला दी है उसी तरह से श्री डांगे साहब भी कहीं अपनी सिंसियरिटी न दिखला दें। इसलिए मेरी प्रार्थना है कि इस बुद्धि-कौशल की लड़ाई में हमें अपनी बुद्धि-कौशल कम्युनिस्टों के प्रति सजग रखनी होगी और उनके साथ भेद करना होगा। चीनी कम्युनिस्टों की जो विचारधारा है वह धोखे से भरी हुई है और उनकी कथनी और करनी में बहुत फर्क है। अभी तक आप बिल्कुल गांधीवादी होने की वजह से बिल्कुल ईमानदारी से काम करते रहे। जैसा जिसने कहा उस पर विश्वास करते रहे और जिसने अविश्वास भी किया उस पर भी विश्वास करते रहे और इसी वजह से लड़ाई में हमारी कई गलतियां हुईं। चांदी काटने के लिए चांदी से काम नहीं चलता बल्कि लोहे की जरूरत होती है। इसलिए हमें ऐसे लोगों के साथ चांदी बन कर नहीं रहना चाहिये जो कि चांदी नहीं बल्कि सख्त लोहा हैं। ऐसों के साथ मजबूत लोहे की तरह बन कर रहना चाहिये और सोच समझ कर और बुद्धि-कौशल से काम लेना चाहिये। अगर हमने इस तरह की नीति नहीं अपनाई तो फिर हम धोखा खा जायेंगे। इन कारणों से मैंने यह संशोधन दिया है और इसका आशय यह है कि आपने अपने पास इतनी पावर्स नहीं ले रखी हैं और हम आपकी शक्ति और बढ़ाना चाहते हैं, जिसके द्वारा अगर आपको किसी के ऊपर शंका हो, चाहे वह मेरी पार्टी जनसंघ हो, पी० एस० पी० हो या कम्युनिस्ट पार्टी हो अथवा कोई भी व्यक्ति हो, समुदाय हो जो देशद्रोहिता का काम करता हो, उसके खिलाफ आप कार्यवाही कर सकें। इस संशोधन का मतलब ही यह है कि सरकार को इस कानून के अन्तर्गत इतनी शक्ति मिल जाये कि वह अपने बुद्धि-कौशल में फिर पीछे न रहे। इस तरह के अधिकार आपको फिर न

लेने पड़ें, उनकी राह न देखनी पड़े, इसलिए हम इस तरह का अधिकार आपको देना चाहते हैं और मुझे आशा है कि माननीय मन्त्री जी मेरे संशोधन को स्वीकार करेंगे। इसी तरह से यह है :

"That at page 5, at the end of the 9, after the words 'civil defence' the words 'including military training or practice in the use of fire arms' be inserted."

इस संशोधन को देने का मुख्य आशय यही है कि अभी आपने यह रखा है कि :

"requiring any person or class of persons to comply with any scheme of defence or civil defence;"

सिविल डिफेंस में तो यह इन्क्लूड हो सकता है कि आप उनको फायर आर्म्स की ट्रेनिंग दें, मिलिटरी की ट्रेनिंग दें, मगर और स्पेसिफिक करना चाहिये, ताकि आप इसके बारे में स्पेसिफिक रूल बना सकें। उसके साथ साथ मिलिटरी ट्रेनिंग और फायर आर्म्स की ट्रेनिंग आप दे सकें, इस आशय से मैंने यह संशोधन इसमें रखा है :

"That at page 5, lines 41-42, after the word 'property' the words 'after serving notice to the occupier of the building, premises, or property, as the case may be' be inserted."

अब इसमें जो धारा है, वह इस तरह से है :

"the demolition, destruction or rendering useless in case of necessity of any building or other premises or any other property."

लड़ाई के ज़माने में कभी भी यह आवश्यक हो सकता है कि किसी की जायदाद को नष्ट करना पड़े, खाली करना पड़े या छोड़ करके आना पड़े। तो दुश्मन के हाथ में कोई अच्छी जायदाद न रह जाये और ऐसी कई बातें हैं जिनकी वजह से यह प्राविजन आवश्यक है। मगर इसके साथ-साथ मैं यह प्रार्थना करूंगा

कि ऐसी जायदाद का जो मालिक हो, उसको सूचना दी जाये। मैं यह नहीं कहता कि अगर उसका मालिक जयपुर में बैठा हो और उसकी आप यहां पर प्रापर्टी अव्वायर करना चाहें तो उसको सूचना दें। लेकिन उस समय जिसके पंजेशन में वह चीज है, कम से कम उसको आप सूचना दे दीजिये कि हम तुम्हारी इस प्रापर्टी को डेस्ट्राय, डिमालिश या यूजलेस करना चाहते हैं और तुम्हारा जो जरूरी सामान हो उसको उठा करके रवाना हो जाओ। मैं यह चाहता हूं कि किसी की प्रापर्टी नष्ट करने से पहले उसको उसकी सूचना दे दी जाये। ऐसा विश्वास करने का कोई कारण नहीं है कि हमारी सरकार किसी की जायदाद एक दम से नष्ट कर देगी। मगर मैं यह प्रार्थना करूंगा कि इसमें हम यह प्रोवाइड कर दें कि कहीं भी किसी प्रापर्टी को डेस्ट्राय, डिमालिश या यूजलेस करना पड़े तो उसको, जो अकुपाई करके बैठा हुआ है, यह सूचना दे दी जाये कि हम यह डेस्ट्राय करने वाले हैं ताकि वह उसका कुछ प्रबन्ध कर ले। इसी आशय से मैंने यह संशोधन दिया है और आशा है, मन्त्री जी इसे स्वीकार करेंगे।

अब मेरा संशोधन यह है :

"That at page, 6, lines 14-15, for the words 'being about to act or being likely to act' the words 'having made preparations to act' be substituted."

इसमें भी शासन के हाथ ज़रा मजबूत बनाना चाहता हूं। आशा है, मन्त्री जी खुद विचार करेंगे कि वे इस बारे में क्या करें। इसमें प्राविजन यह है :

"notwithstanding anything in any other law for the time being in force,—

(i) the apprehension and detention in custody of any person whom the authority empowered by the rules to apprehend or detain (the authority empowered to detain not

[श्री विमलकुमार मन्नालाजी चोरड़िया]
being lower in rank than that of a District Magistrate) suspects, on grounds appearing to that authority to be reasonable, of being of hostile origin or of having acted, acting, being about to act or being likely to act”

यह “being about to act or being likely to act” कुछ हलका पड़ता है। जब तक उसका ढंग नहीं मालूम पड़े कि “he is likely to act” तब तक आप उसके खिलाफ कोई कार्यवाही नहीं कर सकते। हम यह चाहते हैं :

“having made preparations to act”

अगर उसने कुछ तैयारी भी कर ली है, अपने पास बन्दूक भर करके रख ली है, बन्दूक और गोली पास पास पड़ी है, तो लाइकली टू एक्ट में जब तक वह अपने शारीरिक ऐक्शन से न बतला दे, तब तक लाइकली टू एक्ट में नहीं आयेगा। और प्रिपरेशन टू एक्ट में उसने जो सामग्री जुटा रखी है, उसको देख करके भी आप उसके खिलाफ कार्यवाही कर सकते हैं। इस आधार पर मैंने इसमें यह संशोधन दिया है और आशा है, श्रीमान् इस को भी स्वीकार करेंगे।

४४ नम्बर संशोधन इस प्रकार है :

“That at page 7, line 22 for the word ‘land’ the word ‘area’ be substituted.”

इस संशोधन को देने का खास आशय यह है कि इसमें यह दिया है :

“the control of agriculture (including the cultivation of agricultural land and crops to be raised therein”

अमुक क्षेत्र में अमुक प्रकार को पैदावार करनी है, यह अगर शासन आवश्यक समझे तो वैसा

नियन्त्रण कर सकता है। ऐसे नियन्त्रण में कोई आपत्ति नहीं हो सकती। मगर पूरे क्षेत्र पर व्यापक रूप से इसको लागू करने की अपेक्षा—जैसे किसी काश्तकार के पास खेत हैं तो उसके पास जितना एरिया है, उसमें इतने परसेंट एरिया में गेहूं बोना पड़ेगा और इतने परसेंट एरिया में इस चीज को बोना पड़ेगा—इस तरह आप एरिया वाइज डिवाइड करें, तो ज्यादा अच्छा होगा। अगर लैंड के हिसाब से आप यह करेंगे कि इसके अन्तर्गत अमुक चीज बोनी पड़ेगी तो बड़ी दिक्कत का सामना करना पड़ेगा। खेती ऐसी चीज नहीं है जिसमें कलम की नाँक से पैदावार हो जाय। अगर कहीं गेहूं बोना हो तो उसके लिये रोटेशन के हिसाब से, फर्टिलिटी के हिसाब से, कैपेसिटी के हिसाब से कई प्रॉब्लम्स रहती हैं। खाली आर्डर दे देने से कहीं गेहूं नहीं पैदा हो सकता है। इसी तरह से अगर आप आर्डर दे दें कि कहीं पर चावल बोया जाय और वहां पर चावल बोने लायक जमीन नहीं होगी या वर्षा नहीं होगी तो बड़ी दिक्कत हो जायेगी। इसलिये मैं चाहता हूं कि एरिया फिक्स कर दिया जाय कि इतने परसेंट एरिया में अमुक चीज बोने का प्रबन्ध होगा और इतने एरिया में अमुक चीज बोने का प्रबन्ध होगा, तब ठीक रहेगा। इसीलिये ‘एरिया’ शब्द का इसमें संशोधन मैंने किया है।

अब मेरा संशोधन यह है :

“That at page 7, after line 24, the following proviso be inserted, namely:—

‘Provided that this shall not empower the Government to introduce co-operative farming in a compulsory manner.’”

इसके अन्तर्गत हमारे शासन को यह भी अधिकार है कि किसी भी तरह की काश्त करवाने के लिये जनता को मजबूर किया जा सकता है। कांग्रेस पार्टी की ओर से यह निर्णय हो चुका है कि हमें यहां पर सहकारी खेती को

बढ़ावा देना चाहिये अगर सरकार कल से उस कांग्रेस कमेटी के रेजल्यूशन के अनुसार उसको इम्प्लीमेंट करने के लिये जनता को इस एक्ट के अन्तर्गत डम बात के लिये मजबूर करे कि तुमको कोऑपरेटिव फार्मिंग करनी पड़ेगी, तो मैं प्रार्थना करूंगा कि इस कानून के अन्तर्गत वे अधिकार अपने पास न लेने का कष्ट करें क्योंकि इस समय राष्ट्र की रक्षा में सहायता देने की जो भावना जनता में जागृत हुई है उसमें इस अधिकार को लेने से बाधा पड़ेगी। इस सम्बन्ध में इस समय में और विस्तार में जाना नहीं चाहता केवल मैं यह चाहता हूं कि यह अधिकार को-ऑपरेटिव फार्मिंग के लिए लागू न हो। इसलिए मुझे आशा है कि मंत्री जी इसे स्वीकार करेंगे।

इसी तरह से भेग अगला संशोधन यह है :

"Provided that before such eviction, due notice shall be given to such occupants for vacating the premises."

इसमें यह है :

"the eviction of unauthorised occupants from such public premises as defined in the Public Premises (Eviction of Unauthorised Occupants) Act, 1958] as are, in the opinion of the Central Government, required for the purposes connected with the defence of India and civil defence, the public safety or interest, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community."

इसके आधार पर उसको इविक्ट करने का अधिकार हमारी सरकार ने ले रखा है परन्तु मैं यह चाहता हूं कि उस इविकशन के पहले जिसने कब्जा कर रखा है, जैसे पहले मैंने दलील दी, उसी तरह से इसमें भी कड़ंगा

कि चाहे किसी ने गैरकानूनी ही कब्जा कर रखा है और उसको आप मिलिट्री पर-पजैज के लिये हटाना चाहते हैं तो इसमें किसी को कोई आपत्ति नहीं हो सकती है, लेकिन पहले से उसको इविकशन की सूचना जरूर दे दी जाय कि तुम यहां से खाली करो वरना हम आगे की कार्यवाही करेंगे। आशा है मंत्री महोदय इन संशोधनों को स्वीकार करने का कष्ट करेंगे।

मैं अंत में मंत्री जी से निवेदन करूंगा कि सारी बातों का उनको पता है कि जो संशोधन मैंने दिये हैं वे शासन का हाथ मजबूत करने की दृष्टि से दिये हैं और इस आशय ने नहा दिये हैं कि एक दल या एक व्यक्ति के खिलाफ कार्यवाही का जाय। जो कोई भी राष्ट्र को नुकसान पहुंचाने के लिये कार्यवाही करता है उसके खिलाफ कार्यवाही करने के लिये शासन के हाथ मजबूत होने चाहिये। लेकिन सरकार को जो अधिकार दिये गये हैं उनका दुरुपयोग न हो, इसी आशय से मैंने कुछ संशोधन भी दिये हैं और मुझे आशा है कि मंत्री जी इनको स्वीकार करेंगे।

SHRI P. K. KUMARAN (Andhra Pradesh): Madam Deputy Chairman the amendments are not intended to remove the power . . .

THE DEPUTY CHAIRMAN: On which amendments do you want to speak?

SHRI P. K. KUMARAN: All the amendments which I have sent in.

THE DEPUTY CHAIRMAN: We are now discussing Mr. Chordia's amendments.

SHRI BHUPESH GUPTA: He has got amendments in his name.

THE DEPUTY CHAIRMAN: How can they come now? We have finished with those amendments. We have come to Mr. Chordia's amendments.

SHRI BHUPESH GUPTA: He also gave notice of the amendments along with others.

THE DEPUTY CHAIRMAN: You have spoken already.

SHRI BHUPESH GUPTA: That does not matter. He may not share my views.

THE DEPUTY CHAIRMAN: Any-way, be brief.

SHRI P. K. KUMARAN: Madam, I am mainly concerned with the application of the provisions of this Bill. I know that unless the powers, which the Government seeks to have under this Bill, are conferred upon the Government, no Government can deal with such an emergent situation as we are now faced with. But how are these provisions to be applied and so far how have they been applied? I have come to the conclusion that they have been applied in a very partial way.

Recently in Delhi on November 18 the General Council of the All India Trade Union Congress met to consider the same situation. Nearly seventy to seventy five members of the General Council met here and after deliberations and after hearing the report from the General Secretary, Mr. S. A. Dange, they passed a resolution and they returned home. But even before they could reach their destinations, nearly forty out of the seventy or seventy-five members, who attended, were whisked away and put in jail. And what is the crime they committed? They passed a resolution in which among other things they say:

"The AITUC deeply regrets to find that a socialist country like China has resorted to armed force to settle a border dispute with a peace-loving, non-aligned, anti-colonialist and friendly neighbour like India. The AITUC totally rejects the arguments advanced by the Chinese

Government to justify its aggression and, particularly, the arguments that the Government of India is a "tool of U. S. imperialism" and Prime Minister Nehru is a "reactionary expansionist." This utterly wrong and distorted characterisation of the Indian situation has not only led to the present tragic conflict but has strengthened the hands of the worst reactionary parties and groups in India."

Again it goes on:

"The AITUC appeals to all progressive and peace-loving trade union organisations all over the world to realise that this India-China conflict weakens Afro-Asian solidarity against imperialism and for national independence and is a potential threat to world peace. It appeals to them to exert all their efforts in favour of securing the withdrawal of Chinese forces as proposed by the Government of India, so that hostilities may be ended and the proper atmosphere for negotiations created as soon as possible."

It further says:

"The AITUC is keenly conscious of the fact that the man at the lathe and the blast furnace, at the coal-face and the engine's driving wheel, is also today a front-line soldier in the sense that on him depends the foundation of a strong rear for the country's defence effort."

And it was with this intention they again say:

"And it is because of this same awareness of its responsibilities to the nation that the AITUC has already endorsed the Resolution on Industrial Truce which was adopted at the Delhi Tripartite Conference of November 3, 1962. The AITUC has thereby undertaken the obligation, along with other central trade union organisations, of fulfilling the production goals set by the country's

defence requirements and of avoiding all interruptions in or slowing down of production of goods and services."

It goes on:

"The AITUC also knows that. . ."

THE DEPUTY CHAIRMAN: How much more are you going to read?

SHRI P. K. KUMARAN: Only this.

"The AITUC also knows that while many employers sincerely want to serve the country's interests, many others would put profits before patriotism."

This warning was also given in the resolution. Now, after passing such a resolution and pledging themselves not only to see that they serve the nation but also to see that the workers are educated in this matter and put on the job, they started from Delhi and before they could reach their destinations, they are taken to the jail. Madam, the INTUC has openly declared that they are out to remove the Communists from the trade union field. Very good; let them do it. But my point is, why should the Home Ministry place the provisions of the Ordinance and this Bill now at the disposal of these people. Factional and group interests are being served by the provisions of this Bill by people being arrested like this. That is my complaint.

I have got another letter here from the Colliery Mazdoor Sabha, Asansol and the Union Secretary says:

"Whenever the management has given a report—absolutely false and baseless reports—about alleged propaganda by our leaders against seven days' work etc. which they have donated to the defence effort, the police made arrests without

bothering to make any enquiries. The whole attack is planned in an utterly vindictive way."

Then they have given a big list of the people who have been arrested. My complaint is that so many people are being arrested all over the country. That is why I say that it is not enough if it only appears to the authority concerned before ordering the arrest that there is reasonable ground but he should be convinced that there are reasonable grounds; otherwise justice will be miscarried. I know that in these times such provisions are very necessary. There is likely to be espionage, sabotage and all such things and people who indulge in such things should be handled strongly and vigorously but at the same time some discrimination should be there. Simply if somebody says that a particular person is doing something or if somebody is reported to have spoken something and believing all these if the authorities take recourse to such action then a lot of injustice will be done. I am getting letters from workers in various places. A worker has written to me saying, "We have contributed one day's wages; we have promised to work on Sundays and we have been collecting money; our Union has also donated but some of us have been arrested. Our leaders are arrested even though we have been holding meetings and collecting money and at the same time explaining to the workers how China has committed aggression against our territory, how it is our national duty to work hard even foregoing some of the benefits which we have already secured. We have donated money, we have collected money for defence and if these are crimes, we certainly would not have done all these things and got arrested." A sort of confusion has gone down and we have to educate the workers about the aggression that China has committed and how it was done. It is also a fact that a socialist country has committed the aggression. And it was only the other day the hon Mr Jairamdas Dau-

[Shri P. K. Kumaran.]

latram was reading out extensively from Mr. Dange's speech in the General Council. He was trying to show that the AITUC and the Communist Party have taken this stand out of fear of isolation and that it was rather an opportunistic stand. While making extensive quotations, he forgot to quote one or two earlier sentences which would have explained the position better. These are the sentences:

"So within the framework of our principles we have to be clear whether what we are doing is chauvinism or whether it is on the basis of progressive nationalism which is never inconsistent with internationalism. It is not that we are going to teach the working class opportunism. From the beginning, my standpoint is that if you want to do it for opportunism, let us not do it. I would prefer to be illegalised. Our trade unions have been illegalised so many times and we are not afraid. Therefore, our nationalism, defence of the country and support to the Government in face of an attack, whoever may be the attacker, does not cease to be progressive nationalism because the attacker is a socialist country. It means that the Government of a socialist country has gone wrong, though it does not mean that socialism has gone wrong. Can there be such a thing as government of a socialist country going wrong? On how many counts can it go wrong? Both on internal and external and foreign policy questions, it can go wrong. There is always that possibility. Being socialist does not confer on anyone the quality of being infallible. And the possibility has become a fact, that a socialist government has gone wrong in relation to the government of a country which is not in the imperialist camp."

It was after posing all these questions that the passages which the hon.

Mr. Jairamdas Daulatram quoted occurred in that speech.

THE DEPUTY CHAIRMAN: Anything more?

SHRI P. K. KUMARAN: So, when the working class has taken such a stand and the leaders and workers are out to do propaganda on these lines, educate the workers on these lines, even before they could explain this stand they have been put in jail.

What is the position today? They were all taken to jail. Now, who will tell the workers? In many places important people have been taken away. That is why I say that the reasonable grounds have not been satisfactory. Simply on the basis of some report, it may be that of the CID or the Intelligence Department or interested people or interested employees or rival organisations, any material may have been sufficient for the police to arrest them and put them behind the jail bars. My amendments are directed towards avoiding this. It is only to simplify things. That is why I want to bring to the notice of the hon. Home Minister that a sort of reasonableness has got to be observed before arrests are ordered.

SHRI DAHYABHAI V. PATEL: Madam Deputy Chairman, I rise to speak on the amendments that stand in my name. I have always been commending the manner in which Shri Lal Bahadur Shastri has put forward the case for the emergency and the Ordinances and in the same spirit I have heard him speak today. In fact, I was hesitating whether I should give notice of amendments at all, since as I said in the beginning, Shastriji was good enough to call Members of the Opposition and hold consultations with them. He met them and agreed to make certain modifications in the Bill. He has not agreed to make certain modifications or suggestions perhaps for very good reasons, of which he gave an explanation today. However, I was tempted to give notice

only because I wanted to ensure that I would get the right of reply. While I was speaking the other day, I was disturbed by so many people that I lost partly my chain of thought and some of the arguments that I wanted to put forward. Lal Bahadurji said that the Government is determined to see that no country casts an evil eye on us. We are all one with him. We do not say anything against him. He is voicing the feelings of this House and the whole country. Lal Bahadurji also referred to the way in which slogans of communism are being utilised and what the labour leaders are doing. I think this is a point which needs to be emphasised and noted. Particularly in reference to the remarks of the hon. Home Minister, he commented on my loud voice. We have no resources as the Congress Party has and sometimes we do not find it possible to arrange loud speakers or such conveniences for our meetings. So, we get used to exercising our voices a little louder and, therefore, perhaps my voice is a little louder. The other point is that there are so many people ready to interrupt. I do not know if I trod on some of their toes when I said that the Cabinet's number should be reduced. There are so many people. Perhaps some of the Deputy Ministers or those who were hoping to be promoted to Deputy Ministership were all angry. With one voice they started shouting against me. How else am I to be here if I do not raise my voice? I would draw the attention of the hon. Home Minister to the loud communist voice that is inside the Congress. In season and out of season, whether it is relevant or not, they make it a point to interrupt. Are those friends, those loud voices in the Congress, helping what Government wants to do in this emergency? When I was speaking on an earlier occasion, Shri Khandubhai Desai got up to interrupt me and I refused to be interrupted. I said it was his Union that had been competing with the communists in preaching go-slow. I am afraid I am not convinced that they have stopped it. I congratu-

late the Union in Ahmedabad of which Mr. Khandubhai is one of the important leaders, on the gesture, the contribution that they have made to the war effort. I think they are willing to forgo even their holidays. I am prepared to congratulate the workers wherever they have contributed in that way. For instance, the workers in Calcutta in some of the Government factories have done it. That is a commendable effort. What is the Government doing? What are those friends who are gifted with such a loud voice doing to encourage them? Let them better use those voices there instead of trying to prevent Members who are speaking, who are supporting the Government. Any suggestions or criticisms or amendments that we are making here are only because we believe in a democratic form of Government and we want the Government to remain a democratic Government. I think Members of this House will realise that I was one who condemned the undemocratic act and unparliamentary act of a Member of this House saying that we were a democracy in this country. And at that time I said that a democratic Government in this country functioned under the leadership of the Prime Minister, Shri Jawaharlal Nehru. I mentioned him by name. I have never said that we question the leadership of the Prime Minister, Shri Jawaharlal Nehru, but we do not give up our right to criticise the Prime Minister when he goes wrong. We are not committing any unpatriotic act when we point out that some of the favourites of the Prime Minister, some of the fads of the Prime Minister are doing harm to the country. And I am one of those who said so clearly and strongly that the democratic voice of the people asserted itself when the former Defence Minister had to go. My only regret is that our voice is not sufficiently strong to make the people believe that the Government is serious and the people will believe that the Government is serious, only when strong action is taken against

[Shri Dahyabhai V. Patel.]

the people who have prevented the defences of the country being strengthened. It is no use saying that this is an emergency, emergency, emergency. In a certain context yesterday when we were meeting, important people, including the Minister of Parliamentary Affairs, said: "Yes, when the emergency comes, we will do it." How can you say in one breath that the emergency is not before us and in another breath say that the emergency is with us? I am not asking Government to give us all the secrets. I am not asking the Government to put troop movements before us. But we would like to function as an honourable Opposition, as honourable Oppositions in democratic countries function at the time of an emergency. I am sorry I cannot say that all the sections of the Congress are helping us to do so.

I must refer once again to the nefarious circular issued by the General Secretary of the Congress. I am sorry that Lal Bahadurji did something of a sort of defence of that. I can only say that I am very much disappointed and surprised that a person like Lal Bahadurji does not realise what great harm that circular has done, to the cause that we are all trying to work for. If you want to forge unity you cannot be afraid of honest and constructive criticism and you must not run down people by calling them, who were till yesterday your comrades-in-arms in the struggle for independence, traitors. The word may well be reserved for people who were looking askance till you secured power people who were looking to foreign powers for support. But I am not asking you to use that even. I say that the word should not be used lightly against any Party in this country as long as the Party is recognised and the Government gives it due recognition. But if the activities of the Party are such, take firm action and then label it what you want to. You cannot have the cake and eat it

too. You cannot call a Party traitors and then also demand co-operation from them. If you believe that the Members of the Swatantra Party are traitors, all right; put them in jail. We are not afraid of it. But you cannot at the same time go on hugging and praising people whose activities have been doubtful, whose laboured defences of their actions, of their doings in the last few years and whose laboured professions of their loyalty to the country have had to be made so loudly, so publicly and so demonstratively. I hope Lal Bahadurji is not going to be taken in by such things. I am sure he knows what it means.

Madam, there was a furore on the other side when I said that the Prime Minister appeared to hesitate. I will read from the Prime Minister's own letter which he wrote on the 26th September, 1959, to the Chinese Prime Minister and the circumstances that we are in, are more or less the same. That was the first part of the aggression. We are up against the second part of the aggression:

"You have suggested in your letter that the Government of India have applied all sorts of pressure on the Chinese Government, including the use of force to make the Chinese Government accept the Indian demand. This is the reverse of what the Government of India did. We did not release to the public information which we had about the various border intrusions into our territory by the Chinese personnel since 1954, construction of roads across Indian territory in Ladakh and the arrest of our personnel in Aksai Chin area in 1959 and their detention. We did not give publicity to this in the hope that a peaceful solution of the disputes could be found by agreement between the two countries without public excitement."

Madam, I was only voicing what the Prime Minister himself said in his letters which have been printed and

given as White Paper No. 2 to Parliament. The Prime Minister was hesitating. What was wrong in saying that? I do not know why the Deputy Ministers or would-be Deputy Ministers from the other side got up and raised such a furore about it. Madam, is saying that this country needs to be convinced that Government is serious about this war effort, a crime? Is saying that you have got too many people in the Central Government, that you want a small War Council, a crime? (*Interruption*) You may differ certainly. You are entitled to differ with those views, but I am sure that that is not the reason why the General Secretary of the Congress should get away with abusing people of political parties that are recognised. There are leaders, there are people in these Parties who have grown gray in the service of the country. Their motives can never be questioned. It is very wrong for beginners who have come into positions recently, even though they may become General Secretaries of the Congress, to talk like this. This act does not help the Congress or the country.

I hope Lal Bahadurji will remember the words he was saying about Communist slogans. I hope he will not forget what the Communist policy is all over the world. The Communist expansion policy, the theory of their expansion policy has been laid down very clearly by Lenin: the road to Paris is through Shanghai and Calcutta. (*Interruption*) If your friends want to get it, they will get it, but we want to prevent it. Certainly we want to prevent Communism from coming to Calcutta, and I hope that friends from this side who interrupt or shout when we express our views or constructive criticisms of the Government will bear this in view. I also appeal to thinking people in the Congress to consider where they are being taken by this loud voice of the Communists inside the Party. Let them beware.

SHRI M. N. GOVINDAN NAIR: Who are they?

SHRI DAHYABHAI V. PATEL: They know it themselves more than I do. I need not say anything. They themselves know it.

SHRI BHUPESH GUPTA: The road to prosperity lines via Jaipur.

SHRI DAHYABHAI V. PATEL: Mr. Bhupesh Gupta should know that if I wanted prosperity of that type, I need not have come to Delhi. I could have done it from Bombay. Why should I go to Jaipur? I have come here at the bidding of the people who sent me here, and I mean to serve them honestly to the best of my ability. Whether Mr. Bhupesh Gupta agrees with me or Members of the Congress Party agree with me or not is not the question. I mean to do my duty here honestly. I am sorry if some people do not like my remarks. I do not object to their having their own views. I have my own views and I hope I shall have the freedom to express them as long as I do not say anything that is going against the interests of the country. That is all that I want to say. Even if the Home Minister feels that what I am doing here or any of my actions is prejudicial, he is free to take action. I have no complaint. What I say is that we have a democratic set-up of Government in this country, and we want to preserve that democratic set-up. Whatever suggestions or amendments we make on this Bill are with a view to preserving that democratic set-up, and the Government will be able to mobilise popular support and enthusiasm for resistance to China as long as they continue to have that democratic support. It is the all-Parties' support that has enthused the people more than anything else. If Government is going to take a partisan attitude in some of their actions, it is not going to help the war effort. That is what I am trying to tell them. If you want us to counsel you, we are willing to give you counsel in public. If you want to take our advice or even our suggestions, we are willing to give them in your chamber.

AN HON. MEMBER: Free of cost.

SHRI DAHYABHAI V. PATEL: The matter of cost is perhaps worrying my friend. That is not worrying us on this occasion

Madam, I would particularly point out one amendment which I was hoping that the Home Minister would be good enough to see his way to accept, or the principle of it, and satisfy the people; that is, where Government is trying to take control even over agriculture. I can understand that up to a point control over industries may be necessary for defence production. Suppose some of the industries are going slow and in an emergency Government says: "You are not managing it well; all right; we will take control." I can understand that. But taking control over agriculture is a thing which I hope Government is not contemplating. As I said before, our Prime Minister has got certain fads is certain favourites. One of his fads is collective farming that he sees in Russia or China. I hope that the power that is being given under the Bill is not going to be utilised to introduce collective farms in this country by the backdoor. I am sorry that the Home Minister did not refer to this and had nothing to say in this matter. One proviso has to be inserted in the Bill to safeguard against this, as in many other matters on which the Home Minister has been able to see reason in what we say and has made amendments. I hope that even at this stage the Government will consider these points and try to accommodate the opinions and constructive criticisms which the opposition Parties on this side have been making.

SHRI B. N. DATAR: Madam, my difficulty with regard to the number of speeches, that the hon. Members have made, is that they have tried their best to reply to some of the points raised by the Home Minister himself in the course of his reply or otherwise. We are at present in the stage of clause by clause consideration, and

therefore, I would like to come back to the realm of relevancy so far as the present clauses are concerned. I would not like to digress into other matters except where it becomes necessary to reply to them.

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So far as Shri Bhupesh Gupta is concerned, he referred to three amendments, namely, Nos. 4, 9 and 12. Now, his contention appears to be that after the Defence of India Ordinance was issued, certain action was taken and therefore he fears that action of a very sweeping nature was taken then and is likely to be taken now. Incidentally, he made a reference to certain arrests to which a reply has already been given by the Home Minister.

Now, coming back to amendment No. 4, in the first instance, he wants to add a new clause (f) for the purpose of placing emphasis on what he calls the national unity for defence. It has not been clear to me whether this clause is essential at all. To the extent that it is legitimate, it has been covered by the other provisions of the present Bill, and it would not be proper for him to introduce this amendment solely for the purpose of allaying, what he calls, certain misgivings of his. Therefore, I am not accepting amendment No. 4 in so far as its first part is concerned. Now—very astoundingly I think—the hon. Mover has brought in under clause 4 another provision, the insertion of a sub-clause (g). Now, that sub-clause (g), as I pointed out and as certain hon. Members referred, is of a highly unusual nature. It purports to place on a statutory basis something which the Prime Minister himself does not want at all. As the Home Minister rightly pointed out, the Prime Minister is what he has been by reason of his own qualities of head and heart, especially of the qualities of leadership, and therefore he does not require any statutory recognition, especially in the

manner in which it has been unusually put in by my hon. friend, namely, Mr. Gupta who wants a statutory recognition and an exemption from criticism. He says—

“acts, publications or communications intended to undermine or directed against the leadership of the Prime Minister of India.”

Now, his leadership is unique, Independently of any such statutory recognition, it is already there. You are aware, Madam, that in Sanskrit we have got a very fine saying. The lion is the leader of the animal world not on account of any installation but by his own right, by his own natural, inherent, right.

नाभिवेको, न संस्कारः सिंहस्य क्रियते वने ।

विक्रमाजित-मत्वस्य स्वयमेव मूर्धेन्द्रता ॥

That is how it has been put in so far as the Sanskrit saying is concerned. Therefore the Prime Minister is the Prime Minister by reason of his inherent leadership, and he does not require any such exterior support of the nature that the hon. Member wants us to give. I am not here going to question his motive but I should like to say that it is highly unusual and uncalled for and therefore I would oppose this amendment.

Then the next amendment that he has moved is amendment No. 9, that is:

“... for the words ‘on grounds appearing to that authority to be reasonable’ the words ‘on reasonable grounds’ be substituted.”

Now, you will find that so far as sub-clause (15) is concerned, it is based upon a sense of what can be called urgency and urgency has to be satisfied by having what is known as a sense of subjective satisfaction. Now, you have to choose certain officers. Here we agreed, after a discussion at the Informal Committee, that the order

of detention ought to be passed by an authority not lower than that of a District Magistrate. Now, if once this particular obligation has been accepted, then naturally you have got to trust him and if he is to be trusted, then what is required is not what is considered to be reasonable by some other person but by him. That is known as subjective satisfaction. It has been put in the form of adjudication, in the form of a judicial authority, that in all such cases, what is required is that there ought to be subjective satisfaction so far as the authority is concerned. Therefore it is as appearing to him, not to others. That is the reason why these words have been put in and there cannot be any other person except to the small extent that we have recognised in the amendment accepted in the other House, namely, that there might be a reviewing authority. That position also has been made clear. Therefore, nothing should be done to take away from the officer concerned the exercise of subjective authority so far as this is concerned. So, amendment No. 9 cannot be accepted.

Then, so far as amendment No. 12 is concerned, he wants to add some more words:

“... after the words ‘peaceful conditions’ the words ‘including the prevention of activities which in any form are likely to cause breach of the peace’ be inserted.”

Now, you will find that there are other words in this very sub-clause which deal with the subject of maintaining peaceful conditions. Therefore any such addition is not necessary at all.

So far as the other hon. Member is concerned, he wanted a number of amendments to be accepted. Now, I shall deal very briefly with them. I would point out to this House that all these questions were completely considered at the informal meeting with the hon. Members of Parliament. Now, by one of his amendments he desires that all the actions that have to be taken, all the powers that

[Shri B N Datar]

have to be exercised, ought to be done only by a Gazetted Officer. I pointed out here in this House as also in the other House that the powers would have to be exercised by officers at different levels. And if we are going to trust, as the hon. Member is prepared to trust, the Gazetted Officers, there is no reason why officers who are not Gazetted Officers but who are also subject to discipline, should not be trusted. And secondly, if for example, we only call upon the Gazetted Officers to exercise the powers, it would be highly impracticable. Sometimes we will have to go to the lowest rung of the ladder, and even such officers will have to be called upon to exercise the powers under the Defence of India Rules. Now, in all these cases, as I pointed out in the other House, Government have sufficient powers, the State Governments have full control, full supervision, over all their authorities, whether they are gazetted or non-gazetted. Under these circumstances, such restriction or confinement of the exercise of these powers only to the Gazetted Officers will be absolutely impracticable and the whole thing will fall through. Therefore that amendment cannot be accepted.

Then, he wants the word 'acts' to be removed. I am not very clear as to why it should be removed. The word 'acts' does not merely mean an Act of Parliament or an Act of a Legislature. Any act, including an act or omission under the General Clauses Act, will have to be taken into account. Therefore the word 'acts' will have to be understood in the general sense and in addition to the word 'publications', the word 'acts' is absolutely essential.

So far as his amendment seeking to make a party illegal—his amendment No. 37—is concerned, this question was considered a number of times and it has been made very clear that whenever any action has to be taken, it will be taken on the basis of what a particular person does or does not

do. And if, for example, that particular act is subversive or anti-national, then action will have to be taken irrespective of whichever party he belongs to. Therefore it is not necessary directly to bring in the word 'party' there, and the other wording in the Bill is sufficient enough to take such action where it becomes necessary.

Therefore, the hon. Member wanted military training to be specifically provided for. May I invite the attention of the hon. House to clause 3(2) (56) where the wording is wide enough? It says

"the preparation of any scheme of defence service or any other service connected with the defence of India and requiring any person or class of persons to comply with such scheme,"

Therefore this sub-clause 3(2) (56) is of a wide scope and it would include the question of military training also so far as the hon. Member's objection in this respect is concerned.

Then proceeding further on he wanted that notice should be given in all cases. May I point out to him that the power are to be exercised especially when they become necessary, and sometimes it would be impracticable to give any such notice, and even he felt that in all these cases notice might not be given and all that he wanted was that in extreme cases notice should be given. That means the hon. Member is aware of the difficulty or impracticability of giving notice in all cases.

श्री विमलकुमार मन्नालालजी
चौरङ्गिया : मैंने यह नहीं कहा कि सूचना नहीं दी जा सकती है। आक्टूअप्ट को तो सूचना दी ही जा सकती है, उसमें कोई आपत्ति है ही नहीं।

SHRI B N DATAR. If, for example, a condition precedent was to be laid down, for the giving of notice in every case, it would defeat the very purpose for which such emergency action will have to be taken.

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sive enough and it includes
tain acts which might techr
short of preparations but s
might be in the same direction That is
the reason why the legal expression
'likely' generally approved of, is a bet-
ter one in all these cases

Then he and my friend Shri Patel
also made a reference to their objec-
tions regarding the cultivation of land.
Now so far as land is concerned, Mr
Patel did not like the word 'control',
and wanted the word 'regulation' Now
so far as Mr Chordia is concerned, he
wanted that the land should not be
taken possession of individually though
he would have no objection to its be-
ing taken into possession with a view
to stepping up the production of cer-
tain areas comprising lands in general
Now so far as this is concerned, I
pointed out that, it becomes necessary
sometimes, especially for the further-
ance of the war effort, that greater
food production will have to be ensur-
ed and an hon Member in the other
House pointed out how it was abso-
lutely essential, if certain conditions
were satisfied that food production
and industrial production should be
stepped up as it was done in the
United Kingdom after the Second War
had started That is the reason why
all these are interconnected matters
and therefore, if the war effort has
to be furthered with the fullest zeal,
then Government in proper cases will
have to exercise control in so far as
land is concerned and the food pro-
duction is concerned or industrial pro-
duction is concerned That is the
reason why these wide powers are ab-
solutely essential, and an hon friend
wanted that under the cover of these
rules Government should not go to
the extent of bringing about co-ope-
rative farming on a compulsory basis
I gave an assurance in the other House
also that it was always open to Gov-
ernment, it was always open to volun-
tary agencies to have recourse to co-
operative farming Now so far as

these rules are concerned, it
necessary to have recourse to
reforms which are otherwise advis-
able, under the cover of these
rules we have made that position
also clear and therefore I like
that the hon Members opposite need
not necessarily see more into the rules
than what was essential But I am not
prepared to give any assurance to the
House that Government would not
use such powers as are necessary for
the purpose of stepping up either food
production or production in other di-
rections That is the very object of the
Defence of India Rules and therefore
Government will have to take such
action as is necessary I have made
reference also to Shri Dahyabhai Patel
and said that the word 'control' is the
proper one, and control is essential be-
cause Government will have to ex-
ercise control over a number of items
ultimately for the purpose of further-
ance of the war effort and for meet-
ing the various objectives which have
been incorporated in sub-clause 3(1).
Under these circumstances I regret my
inability to accept any of these amend-
ments

THE DEPUTY CHAIRMAN Are
you pressing your amendments?

SHRI BHUPESH GUPTA With
your permission Madam, I should like
to withdraw the second clause of my
amendment No 4—4(g), because I do
not like the hon Members opposite to
vote against the Prime Minister's
leadership

SHRI B N DATAR One part of
No 4

SHRI BHUPESH GUPTA I would
take away 4(g)

THE DEPUTY CHAIRMAN I do
not think at this time you can put a
fraction of the amendment to the
House The hon Minister has not ac-
cepted the whole amendment

SHRI BHUPESH GUPTA In that
case, Madam Deputy Chairman, in
view of the fact that hon Members

[Shri Bhupesh Gupta.]
will be voting against the Prime Minister's leadership if I pressed this amendment to vote . . .

THE DEPUTY CHAIRMAN: Now, are you withdrawing your amendment?

SHRI BHUPESH GUPTA: I say why I am withdrawing it. I am withdrawing it to save them the embarrassment.

THE DEPUTY CHAIRMAN: So you are withdrawing the amendment as a whole.

SHRI BHUPESH GUPTA: Yes, I beg leave to withdraw my amendment No. 4.

†Amendment No. 4 was, by leave, withdrawn.

THE DEPUTY CHAIRMAN: The question is:

3. "That at page 3, line 36, after the word 'authority' the words 'not below the rank of a Gazetted officer' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

6. "That at page 4, line 36, after the word 'demanding' the words 'on reasonable grounds' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

8. "That at page 6, line 10, after the word 'authority' the words 'not below the rank of a District Magistrate' be inserted."

The motion was negatived.

†For text of amendment vide col. 3405 *supra*.

THE DEPUTY CHAIRMAN: The question is:

9. "That at page 6, line 13, for the words 'on grounds appearing to that authority to be reasonable' the words 'on reasonable grounds' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

10. "That at page 6, line 17, after the word 'State' the words 'India's policy of non-alignment' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

11. "That at page 6, lines 18-19, the words 'the maintenance of peaceful conditions in any part or area of India' be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

12. "That at page 6, line 19, after the words 'peaceful conditions' the words 'including the prevention of activities which in any form are likely to cause breach of the peace' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

13. "That at page 6, after line 23, the following proviso be inserted, namely:—

'Provided that the grounds for detention together with representations of the persons so detained shall be reviewed by a Board as is provided under the Preventive Detention Act, 1950.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

36. "That at page 4, line 20, the word 'acts' be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

37. "That at page 4, after line 21, the following be inserted, namely:—

'(4A) declaring any party or association, or a group or body of persons as giving or likely to give assistance to or sympathise with, the enemy.'"

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

38. "That at page 5, at the end of line 9, after the words 'civil defence' the words 'including military training or practice in the use of fire-arms' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

39. "That at page 5, lines 41-42, after the word 'property' the words 'after serving notice to the occupier of the building, premises, or property, as the case may be' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

40. "That at page 6, lines 14-15, for the words 'being about to act or being likely to act, the words 'having made preparations to act' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

44. "That at page 7, line 22, for the word 'land' the word 'area' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

45. "That at page 7, after line 24, the following proviso be inserted, namely:—

'Provided that this shall not empower the Government to introduce co-operative farming in a compulsory manner.'"

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

48. "That at page 10, after line 12, the following proviso be inserted, namely:—

'Provided that before such eviction, due notice shall be given to such occupants for vacating the premises.'"

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

72. "That at page 5, lines 41-42, after the word 'property' the words 'on reasonable grounds and after giving due notice to enable the owner to make other arrangements in areas away from places of conflict to serve the purpose for which the said building or other premises had been utilised' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

73. "That at page 7, line 9, for the word 'control' the word 'regulation' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

74. "That at page 7, line 21, for the word 'control' the word 'regulation' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

75. "That at page 7, lines 21 and 22, the words and brackets '(including the cultivation of agricultural land and crops to be raised therein)' be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

76. "That at page 7, at the end of line 24, the following proviso be inserted, namely:—

'Provided that this shall not confer upon the Government power to introduce co-operative or collective farming.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

77. "That at page 11, after line 10, the following be inserted, namely:—

'(x) provide for the maintenance of records and proceedings together with the reasons for taking such action by the authority before acting in pursuance of this section, and their presentation to the higher authorities in the administration or a court of law, if and when called for.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

New Clause 3A

SHRI BHUPESH GUPTA: Madam, I move:

17. "That at page 11, after line 11, the following new clause be inserted, namely:—

'3A. The Central Government shall, at the commencement of every session, lay before both Houses of Parliament a report on actions taken under section 3 in so far as they involve the fundamental rights of the citizens.'

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

50. "That at page 11, after line 10, the following new clause be inserted, namely:—

'3A. The Central Government shall appoint a Committee consisting of members of both Houses of Parliament to advise the Government in the exercise of powers under this Act.'

SHRI V. M. CHORDIA: Madam, I move:

51. "That at page 11, after line 10, the following new clause be inserted, namely:—

'3A. The Central Government shall, at the commencement of every session, lay before both Houses of Parliament a report on actions taken in pursuance of rules made under section 3.'

The questions were proposed.

SHRI BHUPESH GUPTA: Madam Deputy Chairman, Comrade M. N. Govindan Nair, who is here, and I shall be dealing with this subject. Therefore, there will be a division of labour and I think your eagle eyes will be on him when I finish my speech.

The position is this. The first amendment is a very simple one to use the Government terminology.

"The Central Government shall, at the commencement of every session, lay before both Houses of Parliament a report on actions taken under section 3 in so far as they involve the fundamental rights of the citizens".

Now I am not asking the Government to place the report before the House in respect of all actions taken under this Bill. I am being reasonable as I always am. All I am saying is that you place only the report with regard to such action as involves the Fundamental Rights. Why do I say so? Because under article 352 of the Constitution, the Fundamental Rights are abrogated, *ipso facto* abrogated. When the emergency is proclaimed, the President has the power to declare the Fundamental Rights suspended for the time being. Now these have been suspended. If the Fundamental Rights had been in operation, if they were not touched by the President, or were not going to be touched by the President, then, of course, we could not have had some of the provisions of this Bill. Therefore, in order to have the provisions of this Bill it became necessary to abrogate or suspend the Fundamental Rights granted by the Constitution. It is a serious matter. I think the hon. Members opposite will understand that it is a serious matter, that we have to live in a period when one of the precious heritage of our Constitutional thinking is buried for the time being, is frozen for the time being. This is the position. Therefore, at least the Government should place a report as to how these laws have been administered or the rules have been administered in regard to the Fundamental Rights. By doing so they will enable Parliament to discuss this matter if Parliament so chooses. There is the dictum: "Eternal vigilance is the price of liberty". Parliament should exercise vigilance over the manner in which these extraordinary

powers are exercised by the Government and you cannot exercise them unless they are, in the first place, informed of the manner in which they have been applied and, secondly, given an opportunity to discuss this matter.

Now, many of the things could have been brought to the review of the Government if we had been given the chance. Now, it is for the Government to consider whether it is right or wrong. I am not saying that whatever the Members say the Government would have to accept. Not at all. But the Government will see on merits whether anything is acceptable. Members of Parliament in this context will be acting as eyes and ears of the Government, so to say, if you accept this amendment.

It is important because it is the Fundamental Rights which are being attacked right and left. How many people—British citizens—were arrested, for example, when Great Britain was fighting the war against Hitler? The war went on for five years. How many foreign nationals were arrested? How many of them, who were Stateless, specially Jews, were arrested, or those who came from Germany? Not all, but some. And how many British subjects were arrested in England, I would like to know. These are available from the Hansard and other materials. Very few. Even though Britain does not have a written Constitution, but how meticulous they were with regard to the fundamental rights or civil liberties and how careful they were in administering those powers would be found from whatever materials we have got here about the British Government. Now, am I to understand that our Constitution is weaker in that respect than what obtains in Great Britain? Am I to understand that our people are less patriotic in this respect than the people of Britain? Am I to understand that our trade unions have no sense of patriotism and the British trade unions have? I should like to know all this from the hon. Home Minister.

[Shri Bhupesh Gupta.]

Now, for example, today I bring some reports to you, and after that report is placed before the House at the commencement of the Session, I bring something more for you to consider and leave it to your wisdom to say whether I am right or wrong. At least I be given an opportunity and others should be given an opportunity to explain. It may not always relate to political or trade union matters. It may relate to other matters also with regard to Fundamental Rights in principle and so on. Therefore, do not judge it in this form. Madam, therefore, I say let the Government trust its own Parliament where they have got a thumping majority. Let it face Members of Parliament in the beginning of the Session and give an account of themselves that they have utilised the emergency powers in an able manner, in a just way, in a way which is, according to him, friendly and humane. This opportunity we should be given. It would be a tragedy for our Parliamentary institutions and democratic rights and liberties if behind the back of Members of Parliament, behind the back of Parliament itself, the executive arrogates to itself the supreme authority that relates generally to absolute monarchy in a state of monarchy or unbridled dictators where dictatorship prevails. When such a thing is being given in a system which is dominated by Parliamentary institutions, at least Parliament from time to time should be taken into confidence with regard to the sacred rights of the citizens. This is the least that we can expect from the Government. Why they should not do that I do not understand.

I know of other Constitutions functioning in Western countries. When emergency measures are administered, a record of this thing, reports of such things are placed from time to time before either a Standing Committee of Parliament or before Parliament as a whole. Why on earth in the case of Indian Parliament should we be deprived of this privilege to review the executive action, because we are

the supreme authority from which emanates every single power and authority?

Madam Deputy Chairman, the conception of delegated authority is viewed in different countries in different ways. In our country when we are delegating authority from the Home Minister to the State Minister, from the State Minister to the local authorities, it is all the more reason why we bring into the picture as a supervising body, as a vigilance body, as a reviewing body, Parliament and the Assemblies—in this case Parliament—which shall examine how these people, in whose hands these enormous powers are placed, are functioning and operating these powers. Is it not a reasonable claim? Does it come in our way of war effort? Does it involve additional sessions of Parliament? Does it involve any distraction on the part of Members of Parliament from their calling in other walks of life and calling outside? No. Not at all. I think, on the contrary, it will be integrating wisdom and generosity, the proper outlook in Parliament, with the executive action. Therefore, I think, this should be executed.

The other thing, Madam Deputy Chairman, is also a very simple one. We suggested the Informal Consultative Committee or whatever the body to be consulted:—

“The Central Government shall appoint a Committee consisting of members of both Houses of Parliament to advise the Government in the exercise of powers under this Act.”

Well, Parliament will not be in session, and any one authority can play havoc with the democratic rights and privileges. Irrespective of what has happened on the frontier, you can do havocs. Now, why do we wait till the Budget Session comes and then bring forward this thing and make speeches? No. Let us have a Standing Committee or some other body to advise

the Government. I say this is very, very important in such matters. Why the Government is fighting shy of such Parliamentary committees, I cannot understand, when such bodies will be composed mostly of Congress Members opposite. If you do not like me from the Opposition, do not have me. I place these things in the hands of the Congress Members opposite because I have great faith in their fundamental goodness and essential sense of justice. Let the Members opposite, sitting over there on the Congress Benches, be constituted into a committee which will advise their Party Government, if the Government wants that way. As a matter of principle we should all be there. But if we are not acceptable, at least Members of Parliament belonging to their Party should be there to advise the Government. Why should they be left out of the picture?

4 P.M. It is a tragedy. Democracy is sometimes placed in difficult position when the executive functions without reference to the representatives of the people. There are many hon. Members and the lady interruption should certainly be there on that Committee. Why should there be not such a Committee? The lady from Andhra Pradesh can discuss this and give us advice in such matters because she may have a lot of things to say against the Communist Party. I want her to be given an opportunity to speak whatever she likes. I should also have an opportunity to come and share my thoughts with my colleagues, no matter which Party they belong to and leave it to their judgment to judge us or other in the light of what we say and what we do. This should be done. Suppose some blackmarketing takes place, then we are not in a position to bring it to the notice of the Government in a proper way and discuss this matter. Supposing certain measures have to be applied in a particular area in a particular way, we cannot say this. It is the Deputy Collectors, Collectors, police officers and others who alone will decide the issue, not Members of

Parliament at all. They are given no authority. As I told you that in Belghoria a meeting took place. I gave you this example. We would be in a position to bring. The meeting took place on 24th November and in that meeting a Minister spoke. I got it verified, wrote letters and got it verified, and he spoke from the dais in a public meeting and he said: "The laws of the country should be taken into their hands by the people in such times." Mind you, a Minister stating from the dais of a public meeting in Belghoria on the 24th November that the laws of the country may not be obeyed, etc. and may be taken into their hands as far as the Communists and the trade unionists are concerned. I am sure that many Members opposite do not like this thing. They would feel indignant that one of their colleagues in such responsible position should have said such things but how do I bring it? Is it an application of the Defence of India Rule? Not only that. In that meeting he threatened by saying that he saw some policemen guarding the Union offices. The suggestion was that they should not guard such offices. How do I tell such things? How do you tell such things? Now, therefore, I think that it is absolutely essential and it will be good. The Home Minister is supreme in this matter. Our advice and our suggestion will never be binding but what is the harm if he listens to us? The argument may be that the State authorities are involved in that. It is for you to deal with the States. The advisory Committee will not deal with the States. The Advisory Committee will only tell you. It is for the Home Minister to consider this matter and then see which part of the submissions or materials placed before it should be taken up with the States. The Central Government is free to do it as it likes best but the only thing we want is that we should have the right to place these in a proper way, in a routine way, in a regular way before the Central Government and I think the Central Government will be buttressed in this position in administering this

[Shri Bhupesh Gupta]

measure in a proper way Therefore, this is what I have stated For example, the 'Organiser' wrote an article that in the name of defence efforts, they say, only Hindu nationalism can save India Now is it not communal preaching? Where am I to say this? Where am I to say this if not before my colleagues and how? Where is the mechanism? Nothing If the Parliament is not in Session, we will not get any chance to place it You may say that I can write letters It is one thing to write letters on an individual plane, it is quite another thing to allow a sub-committee of Parliament to be seized of such matters and deal with it It has great sanction and sanctity about it Therefore, I say, you accept this thing Why are you afraid of this? Because of the fact that the Government is shy of accepting suggestions such as this, so simple and innocent, so constructive in their approach and outlook as this, we have our apprehensions about the manner in which they will be operating this enormous rule-making power I think it would be a sad day for our democratic institutions I again voice what the Prime Minister said that this crisis is a challenge to us in every way, it is a challenge to our democratic thinking, to our democratic institutions Let us not try to scuttle the institution in the name of the defence of the country because the democratic institutions are not built in a day They can be broken in a day, subverted in a day In times of emergency the propensities to subvert them grow apace but such institutions taken years and years of labour, thought and effort, constructive co-operation among all sections of the people to be built and founded Once we have founded these institutions, let us not bypass them Let us not sidetrack the issues Let not the executive arrogate to itself all authority and allow this institution, the Parliamentary institution, only to function as a facade We would not like this It will be a great honour to our country, a glorious feat before the entire world if we can

show that here in India there was Proclamation, there was emergency, yet at the same time India's Parliamentary institutions were not only upheld but were functioning in a true, democratic spirit in Co-operation with all sections of the House and the entire people What else would be a greater demonstration of ours before the world at large, if even under the shadow of this terrible crisis and calamity we can display to the world that this institution that we have built up over 10 years since the Constitution, will survive any test of time in crisis, any calamity and the foundations of such institutions are unbreakable and will be maintained at all costs? Let the Government prove this by their actions Sentiments are good in so far as they go but what we need today is action What we need today especially in a situation like this is proper type of democratic arrangements and this is what I have suggested in my amendments and I hope they will be accepted and the points that I have left uncovered will be immediately taken up by my colleague Comrade Govindan Nair and he will dilate upon them

श्री विमलकुमार मन्नालालजी चौरीड़िया :

उपसभापति महोदया जो मशोधन प्रस्तुत किया है वह बिल्कुल स्पष्ट है और वह इस प्रकार से है

"The Central Government shall, at the commencement of every session, lay before both Houses of Parliament a report on actions taken in pursuance of rules made under section 3"

हमारे माननीय मंत्री जी ने बड़े विश्वास के साथ कहा कि हमारे जो छोटे छोटे लोग हैं, वे बड़े योग्य हैं और उन पर अविश्वास नहीं करना चाहिये। यह बात सही है कि हमें अपने आफिसरों का अविश्वास नहीं करना चाहिये मगर फिर भी जो कुछ अन्तर है वह स्पष्ट है और जो देखने की भावना है, वह अलग है, ऐसी स्थिति में अगर किसी छोटे आदमी

जो अधिकार दिया जायेगा तो वह उसका गलत उपयोग कर सकता है और इसकी आखिरी जिम्मेदारी किसे ऊपर होगी ? जिसको नुकसान होने वाला होगा उसे तो भुगतना ही पड़ेगा, जैसे हमारे कांग्रेस पार्टी के सेक्रेटरी साहब ने कुछ दलों पर ट्रेटर्स का लेबल लगा दिया है। वे सत्ताधारी दल के हैं और चाहे ट्रेटर्स कह सकते हैं और चाहे जिसे देशभक्त कह सकते हैं। वे देशभक्त को ट्रेटर्स कह सकते हैं और ट्रेटर्स को देशभक्त कह सकते हैं, चूंकि इस समय देश में शासन कांग्रेस दल का है इसलिये वे जिसको जो चाहें लेबल लगा सकते हैं और उनकी कथनी पर कहां तक सत्यता है यह वे स्वयं आत्म-निरीक्षण करके मालूम कर सकते हैं। इस चीज के लिये उनसे कोई कुछ नहीं कहेगा, वे स्वतन्त्र हैं। अगर आप इस तरह की स्थिति में पूरे अधिकार लेना चाहते हैं तो लीजिये, जो कुछ डिफेंस ऐक्ट के मातहत करना चाहते हैं, कीजिये। मगर हमारे देश में जो जनतन्त्र का आधार बना है, पार्लियामेंट है, उसके सामने सारा ब्यौरा रखने का कष्ट करें, जिससे उस चीज के बारे में पूरा विचार किया जा सके कि आपका दृष्टिकोण क्या है ? अगर सरकार कोई कार्यवाही करती है तो उसके ऐक्शन के बारे में हम अपनी कुछ कल्पना रखते हैं। अगर सरकार कोई गलत काम करती है और उसके लिये हमारे मन में कोई प्रतिक्रिया है, तो हम उसके सामने रख सकते हैं और इस चीज का हमें मौका दिया जाना चाहिये। आप जो कुछ भी कार्यवाही इन रूल्स के अन्तर्गत करना चाहते हैं, उन्हें दोनों हाऊसों के टेबल पर रखने का कष्ट करें। हम इस तरह की कोई मांग नहीं कर रहे हैं जिससे आपकी मत्ता कम हो जाये। यहां पर माननीय मंत्री जी ने अपने भाषण में कहा कि इस सम्बन्ध में जो गृह मंत्रालय की कमेटी है उसके सामने इस तरह का विचार हो सकता है। तो मेरा खयाल यह है कि जब वहां पर हो सकता है तो यहां भी हो सकता है और इसमें क्या आपत्ति हो सकती है। इसका फायदा यह होगा कि

अगर किसी दल की इस बारे में कोई राय होगी तो वह स्वेच्छा से अपनी मन की बात और गवर्नमेंट के ऐक्शन पर अपनी प्रतिक्रिया तथा अपनी भावना कह सकता है। इस तरह से सारी बात स्पष्ट हो जायेगी कि किस अधिकारी ने गलती की है। नहीं तो ऐसा होगा कि हमारे दातार साहब कहेंगे कि अधिकारियों से रिपोर्ट मांग रखी है कि अमुक अमुक व्यक्ति को क्यों गिरफ्तार किया गया है और वहां से जवाब आ जायेगा कि डिफेंस आफ इंडिया ऐक्ट की इस धारा के अन्तर्गत गिरफ्तार किया गया है और उसको वह जस्टीफाई करके रिपोर्ट भेजेगा इस तरह से जो कमेटी बनेगी वहां पर तो सुनवाई का अवसर बहुत कम होगा, लेकिन यहां पर, पार्लियामेंट में दोनों पक्ष, अपनी अपनी बात पूरी तरह से रख सकेंगे। जो मानते हैं कि हम दल से ऊपर उठे हैं वे इसके बारे में विचार करेंगे कि हमने न्याय किया या नहीं। तो ऐसी स्थिति में कोई उनका अधिकार छीनने का प्रश्न नहीं है जो उनके अधिकार हैं उनका उपयोग जस्टीफाई है या नहीं, इसकी चर्चा करने के लिये यह संशोधन मैंने दिया है। आशा है, मंत्री जी इसे स्वीकार करेंगे।

THE DEPUTY CHAIRMAN: Yes, the Home Minister.

SHRI BHUPESH GUPTA: Mr. Govindan Nair wanted to speak, Madam

SHRI B. N. DATAR: Madam, there are two amendments.

SHRI BHUPESH GUPTA: He wanted to say somethings.

THE DEPUTY CHAIRMAN: But he does not stand up. Why do you force him to speak?

SHRI M. N. GOVINDAN NAIR: It is not that way, Madam. I wanted to speak and that amendment is in my name. I would like to speak.

SHRI BHUPESH GUPTA: I told you in the beginning.

THE DEPUTY CHAIRMAN: I did not know you represent them all when you stand up. They must stand up themselves, if they want to speak. Yes, Mr. Govindan Nair.

SHRI M. N. GOVINDAN NAIR: Madam Deputy Chairman, I want to press this amendment seeking to insert the new clause 3A. I believe the hon. Home Minister should not find any difficulty in accepting this amendment. All the democratic rights which for the last fifteen years we were enjoying are going to be at least frozen for the time being. Through certain other amendments we tried to seek some opportunity for a proper judicial review of the action taken. We had moved an amendment and therein we demanded that the same provision that is there in the Preventive Detention Act should be accepted here in this measure also. Certain other friends had moved that there should be at least some judicial body to review the arrests made. But unfortunately the Government was not pleased to accept those amendments. They say that these cases will be reviewed by either the Chief Secretary or a Revenue Board Member. Of course, as the hon. Home Minister himself stated in his speech; the Congress Party has a very strong majority in the House and any amendment that is not accepted by them will never get passed in the House.

[THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN) in the Chair].

We are only demanding, from our experience of the working of the Ordinance during the last one month, that at least there should be some mechanism wherein a third person may look into the action taken. This amendment which I am pressing demands only one thing. It is not even a review that is asked for. We only say that at least when Parliament meets, please place a report before the Houses so that we may know how the provision was being acted upon by the authorities concerned. I feel from what the hon. Home Minister

himself said and from their own experience that a kind of reviewing authority is necessary in such circumstances. This morning, when the Home Minister was making his speech he said that the Government was going to review the arrests that had already taken place. I read in today's papers that some ten persons who were arrested formerly, were released in Punjab. So the Government itself is convinced that during this one month, not all the actions taken by the Government or by the authorities concerned were proper. If that is so, then at least let us say that when you are denying us an opportunity where in we can place our case before a judicial authority, in Parliament when we all meet here, let the Government place a report and let us have an opportunity to comment on it. This is a very simple demand which I hope the Home Minister will kindly accept.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The Home Minister.

SHRI B. N. DATAR: Mr. Vice-Chairman, there are two amendments before us now.

SHRI BHUPESH GUPTA: There is a third one also.

SHRI B. N. DATAR: One suggests this clause 3A. What is the other one?

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The amendments are Nos. 17, 50 and 51.

SHRI B. N. DATAR: They are ultimately the same. Actually there are two main points. By one of these amendments Shri Gupta desires that there ought to be a report so far as the operation of the Defence of India Rules bearing on the suspension of the Fundamental Rights is concerned. Before I deal with the substance of this amendment, may I point out the difficulty presented by our Constitution in accepting this amendment?

Under article 352 of the Constitution, as in the present case, the President can issue a Proclamation of Emergency. As the result of the issue of such a Proclamation of Emergency will find that under a further article of the Constitution, i.e. article 358, the provisions of article 19 automatically stand suspended. Now, there is a further article, i.e. article 359 (1), under which it is also open to the President to take action in respect of the other rights referred to in Part III of the Constitution. In the present case that is exactly what the President has done by his Orders. Articles in Part III in so far as they deal with the Fundamental Rights, have been abrogated or rather suspended. So far as this act of suspension by the President is concerned, it is independent of the Defence of India Ordinance issued by the President and has no bearing on the Defence of India Rules with which we are concerned. While the debate on the Defence of India Bill . . .

SHRI BHUPESH GUPTA. Let me make the point clear. Here the . . .

SHRI B. N. DATAR: I am going to refer to what one of the hon. Members suggested. In the course of the debate on the present Bill at the consideration stage, an hon. Member posed this question. He made a reference to what I had stated and I am repeating it just now. The Defence of India Rules are independent of the President's powers under article 359. As stated under article 358, automatically article 19 stands suspended. Further article in Part III can be suspended, as they have been suspended in the present case, under article 359, and any further action that the President might take—as he has done—under article 359, is entirely independent of the Defence of India Rules. Therefore, the point that I am going to place before you is this. Now, I can understand my hon. friend's desire that their ought to be reports from time to time as to the extent to which the fundamental rights have been sus-

pended and the manner in which they have been done. I can understand that position without necessarily conceding it but the question is whether any such amendment that the hon. Member wants us to have in the body of the Rules would be constitutionally competent.

SHRI BHUPESH GUPTA: Yes, it will be. May I explain? I think it is good that the hon. Minister has raised his point. The hon. Minister is quite right when he says that the President functions independently of the Defence of India Rules, in respect of articles 352 and 357. I concede that point straightway. He would not have been in a position to come out with a measure like the Defence of India Rules had it not been for that. In many ways, it would have been *ultra vires* the Constitution. That much I understand but what I have asked him is not to encroach upon the domain of the President. What I have asked him in my amendment is to place reports with regard to the operation of this particular measure passed by Parliament which does not come as a decree by the President or does not follow automatically from the declaration of the Proclamation of Emergency. It is an Act of Parliament now that we dealing with and Parliament having passed it, we can ask the Government, in the same Act, in the same way as we call upon the Government in many other matters, to place before Parliament a report. This is absolutely in line. What have I, after all, said here? Report of action taken under clause 3 in so far as that involves the fundamental rights of the citizens. Now, it is for you to decide which actions of yours have involved the fundamental rights of the citizens before you come to Parliament but you have certainly the authority to make a report and in that you will be acting not on anything that the President has decreed but under clause 3 of the Bill, section 3 when this becomes an Act. This is absolutely within the four corners of

[Shri Bhupesh Gupta.]

the Constitution and it is for you to accept it or not to accept and it does not in any way impinge upon the prerogative or the rights of the President at all and I am sorry Mr. Datar, who has got a subtle legal mind, should have just momentarily been off guard not to understand so simple a constitutional point as this.

SHRI B. N. DATAR: Mr. hon. friend has raised the other aspects of the constitutional question which I was placing before you. Now, it was perfectly open to the President to have issued a Proclamation of Emergency. Certain further actions also he could have taken as he has done in the present case. Now, I am not here dealing with the question as to how, Parliament which is the supreme body, can deal with these acts of the President. I am not dealing with that question at all because it is for the President to issue the Proclamation of Emergency. It is under article 358 that article 19 stands suspended for the time being. It is for the President to take further action under article 359 as he has done in this case. Now, I am purposely ruling out of consideration the manner in which Parliament which is the supreme body can deal with this matter. The question that arises is of a short or limited character. The question is whether the particular provision that the hon. Member wants us to have can be included in the Defence of India Bill. So far as the Defence of India Bill is concerned, it followed the issue of an ordinance after the declaration of Emergency. Under these circumstances, I would like to submit to this hon. House that so far as the particular provision is concerned apart from the question of its propriety or otherwise with which I am not dealing at present, it might be perfectly open for Parliament to have some other law or to give expression to its view as to what ought to be done by the Government of India after the President has taken action under article 359. That is an entirely independent matter but what my hon. friend wants is . . .

SHRI A. D. MANI: Sir . . .

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Let him finish.

SHRI B. N. DATAR: My hon. friend's contention is this. He wants certain action taken as a result of the President having taken action under article 359 to be incorporated in the Defence of India Bill. This is where my constitutional objection comes in. So far as this is concerned, I would submit, Sir, with all humility, that it might or might not be right, it might or might not be the subject matter of a Bill or motion before Parliament but so far as the present Bill is concerned, it is restricted to certain purposes and, therefore, it cannot have any provision dealing with what the President did so far as article 359 is concerned.

SHRI A. D. MANI: On a point of information, Sir, I would like the Minister of State to state whether it is his contention that because the President has promulgated an Emergency, they cannot even mention the words "fundamental rights"? It amounts to this; from what he has said, it means that because the emergency is in operation and because certain fundamental rights by order of the President have been removed therefore, Parliament cannot even discuss or even the words "fundamental rights" cannot be mentioned. That seems to be the effect of his speech.

SHRI B. N. DATAR: My hon. friend is entirely wrong. What I pointed out was that these were two entirely different questions. I did not discuss the question of the propriety of any action that Parliament might take in this respect. I have never discussed the right of Parliament because this is an independent matter but what I am constitutionally opposed to is the inclusion of a clause in the Defence of India Bill which deals with what the President has done under article 359. These are two independent matters and they cannot in any way be brought in here only for the purpose

of general satisfaction that incidentally or remotely the fundamental rights are affected and, therefore, reports should be presented.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, I would seek your guidance in this matter. We are not saying that this should be made justiciable. Had I suggested either explicitly or by implication that they should make the fundamental rights justiciable, then the hon. Minister would be right in contesting my proposition. All I am saying is that a report should be placed, a report about the manner in which they had acted, Government had acted—the President does not come into the picture at all—under clause 3 and the subject matter I have chosen is, “where it involves fundamental rights”; violations or anything, I have not brought in. Now, it is only a matter of discussion. In this particular Bill itself, the fundamental rights have been suspended.

SHRI B. N. DATAR: We cannot have a roving discussion like this, Sir. He has had his say.

SHRI BHUPESH GUPTA: I am finishing. Mr. Datar raised a constitutional point. Let me finish it. Here, under clause 3(15), they could detain people without trial.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): That you have said.

SHRI BHUPESH GUPTA: Now here a procedure is laid down that you will have to place certain things for review before an authority which is not Parliament. A certain reviewing authority is provided for. If after acting under these provisions certain materials will have to be placed before a body which is certainly not the Office of the President but something else, why on that analogy, if nothing else, at least a general report

with regard to the matter designated here cannot be placed before Parliament when we all know that it will not be justiciable and that no remedy will lie as far as the citizens are concerned? Therefore I think there is no difficulty.

SHRI B. N. DATAR: But, Sir, so far as . . .

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): He has moved the amendment and you have explained the position. Do you accept the amendment?

SHRI B. N. DATAR: No.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): So I shall put it to vote.

SHRI M. N. GOVINDAN NAIR: Can I ask for a clarification?

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): I think we have had sufficient discussion.

SHRI M. N. GOVINDAN NAIR: Just on a point of clarification only.

SHRI B. N. DATAR: May I point out . . .

SHRI BHUPESH GUPTA: Mr. Datar wants to clarify.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): There is no question of further clarification.

SHRI B. N. DATAR: I have made it clear.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Mr. Nair, we have had enough discussion on this.

SHRI M. N. GOVINDAN NAIR: I am not making a speech. I am not a lawyer.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): What is the point?

SHRI M. N. GOVINDAN NAIR: Please hear it. My amendment says that the Central Government shall lay before Parliament a report on actions taken under section 3 in so far as they involve the fundamental rights of the citizens. Because he has raised a constitutional difficulty, I am asking this. 'Suppose we say that the Central Government shall, at the commencement of every session, lay before both Houses of Parliament a report on actions taken under section 3 and leave out the rest, will he accept it ?

SHRI BHUPESH GUPTA: Yes, Sir. Will he accept it?

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): Do you accept it?

SHRI B. N. DATAR: No, Sir. I am not accepting anything but what I would like to point out is this. I dealt with the constitutional objection so far as one of these amendments was concerned. So far as the other two amendments are concerned, already a reply has been given by the Union Home Minister and therefore I am not accepting any of the three amendments which deal with the liability to have reports placed before Parliament in one way or other.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

17. "That at page 11, after line 11, the following new clause be inserted, namely:—

'3A. The Central Government shall, at the commencement of every session, lay before both Houses of Parliament a report on actions taken under section 3 in so far as they involve the fundamental rights of the citizens.'

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

50. "That at page 11, after line 10, the following new clause be inserted, namely:—

'3A. The Central Government shall appoint a Committee consisting of members of both Houses of Parliament to advise the Government in the exercise of powers under this Act.'

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

51. "That at page 11, after line 10, the following new clause be inserted, namely:—

'3A. The Central Government shall, at the commencement of every session, lay before both Houses of Parliament a report on actions taken in pursuance of rules made under section 3.'

The motion was negatived.

Clause 4.—Special powers to control civilian personnel employed in connection with the Armed Forces of the Union

SHRI A. D. MANI: Sir, I move:

69. "That at page 11, lines 20-21, the words 'or in the absence thereof, by an officer empowered by the Central Government in this behalf' be deleted."

Mr. Vice-Chairman, Sir, I would like to draw the attention of the House to clause 4. The operative part of this clause is that the Central Government may by notification say that certain civilian personnel employed in connection with the Armed Forces shall be subject to the discipline of the Navy Act, the Army Act and the Air Force Act. Apparently in a time of emergency such personnel following the troops will have to come under the discipline of

Navy, Army and the Air Force Acts. The portion that I seek to delete in this clause is "or in the absence thereof, by an officer empowered by the Central Government in this behalf". I have tried to understand the meaning of this clause and I must confess that the clause as it stands makes no meaning whatever. This clause deals specifically with the issue of a notification and the notification will specify the class of people who would be included in the discipline of the Navy, the Army and the Air Force Acts. It would seem from the clause as it stands that even without a notification the Central Government may specify by an order issued by an officer that so and so shall be subject to the discipline of the Army Act, the Navy Act or the Air Force Act. This is a very serious intrusion into the rights of a citizen. If a person is to be subjected to the discipline of the Navy Act, the Army Act or the Air Force Act, he must have sufficient opportunity of knowing that he is being so subjected. In other words a notification is essential before a person is brought within the discipline of the Navy, Army and Air Force Acts. In the old Defence of India Act this provision which I am seeking to delete does not find a place. They have added it here and it will mean that any officer sitting in the Secretariat may pass an order that so and so who is a civilian employee is subject to the Army Act. The civilian personnel do require the protection of the law. They must know under what notification they are brought within the discipline of the Army, Navy or Air Force Act.

Further I would like the hon. Minister to explain what this expression "in the absence thereof" means. "In the absence thereof" cannot mean that in the absence of the Central Government anybody can do it. It may mean in the absence of notification. If it is the contention of the hon. Minister that the clause as it stands is in order as far as the construction and language are concern-

ed, I object to the substance of it because this is a very serious invasion on the rights of a citizen. A person should know under what notification he is being brought under the discipline of the Army, Navy and Air Force Acts. I would like the hon. Minister to throw some light on the matter.

The question was proposed.

SHRI B. N. DATAR: I had the matter fully looked into. Now, there are certain cases where it may become necessary to have what can be called an equation of the civilian personnel with the military personnel for the purpose of bringing them under their discipline. Normally, it can be done by the Army officers but there might be certain cases where the Army officers may not be in a position to do so and there it will have to be done by the Central Government. Suppose, for example, certain persons, say, the press correspondents are to be sent. Then so long as they are within the orbit of that particular work they ought also to be subject to certain discipline and this is done in order to cover such cases which may not directly arise but which in certain difficult circumstances do arise. That is why it has been stated that in the absence of any specification by the Army or the other authorities concerned this might be done by an officer empowered by the Central Government in this respect. That is the reason why these general enabling powers have been taken so that those who may not directly come within the equation orders could be brought under discipline so long as that particular work is there, so long as they are within the orbit of that particular work. That is the reason why this has been introduced. It does not take away any right at all. And it might be notified only by an officer empowered by the Central Government in this regard. Therefore, full care will be taken to see that a senior

[Shri B. N. Datar.]

officer is appointed in this case and only in proper cases would there be conferment of such power. The hon. Member need have no misgivings in that respect.

SHRI A. D. MANI: I would like to ask for a clarification. The hon. Minister said that this might apply to press correspondents. I submit in all humility that the hon. Minister is not right. The heading of this clause says 'Special powers to control civilian personnel employed in connection with the Armed Forces of the Union'. The Press correspondents are not employed by the Armed Forces; they are employed by the newspapers.

SHRI B. N. DATAR: I was mentioning press correspondents only by way of an example to point out that there may be some categories of persons who may not exactly come within the discipline of the Army but who will be accompanying the Army or attached to the Army. In any case, there would be certain principle of what is known as equation or equivalence. There are still others. And without committing the Government of India I am merely pointing out by way of illustration how there may be still others who could not be technically brought within the definition of this equation. Still circumstances might arise where even such persons, so long as they are within that orbit, will have to be brought within the rules of discipline. It is only in exceptional cases it will apply. Let not the hon. Member feel any difficulty.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

69. "That at page 11, lines 20-21, the words 'or in the absence thereof, by an officer empowered by the Central Government in this behalf' be deleted."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5—Enhanced penalties

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): There is one amendment, No. 18, of Mr. Bhupesh Gupta.

SHRI BHUPESH GUPTA: Sir, I move:

18. "That at page 11, for lines 22 to 27, the following be substituted, namely:—

"5. (1) If any person commits any act with the intent to wage war against India or to assist any country committing external aggression against India, he shall be punishable with death or imprisonment for life or imprisonment for a term which may extend to ten years and shall also be liable to fine."

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

My amendment here, as you will see, brings the provision in line with the objective of this Bill. Clause 5 as it stands reads:

"If any person contravenes, with intent to wage war against India or to assist any country committing external aggression against India . . ."

That is all right. Then, it says:

" . . . any provision of the rules made under section 3 or any order issued under any such rule, he shall be punishable with death or imprisonment . . ."

My amendment says, make it penal in the same way as you have done, but restrict it. I say if any person commits any act with intent to wage

war against India or to assist any country committing external aggression against India, he shall be punishable, etc. I do not bring in any rule, which contravenes any rule made under clause 3. Now, I will take you back to the rules. Now, as you will find, clause 3 provides for a whole series of subjects and items with regard to which the authority can make rules. I think here the number is given. They are actually 57 in number. This includes rule-making with regard to publications, meetings and so many other items which are not so important.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): With intent to help the enemy.

SHRI BHUPESH GUPTA: Just a minute. That is covered. I say in this 'if any person commits any act with intent to wage war against India or to assist any country committing external aggression'. What you have in mind is covered by my amendment, but then I would not like you to enlarge it beyond that. Let us concentrate the provision on these acts of assistance or abetment or intention of assisting and so on. Now, here if you put in 'rule', it means any rule made under the Defence of India Rules. Suppose a rule is made or an order is passed that we should not shout at the PSP or the PSP should not shout at us or the Swatantra Party should not shout at us.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): That would not be with intent to wage war.

SHRI BHUPESH GUPTA: Just a minute. You have got an exceptionally subtle mind, but I cannot catch up with it. I am coming precisely to that point. It will be covered. At least an ambiguity arises. Suppose a rule is made under clause 3, which will be section 3 of the Act, with regard to regulation of certain meetings. It is a violation. Then somebody can bring in this kind of thing and start proceedings on that line. Whether

you will succeed or not is a different matter. We have discussed this matter even at that time, viz., if any person contravenes with intent to wage war against India or to assist the enemy. Now, all that one has to do is to go to a court of law and say that there is an intent on his part to assist the enemy. Now, it may be so far-fetched. It may be so remote. But the trouble may start in a court of law and proceedings may be started in this manner. Now, if the Government wants to really safeguard, as I agree they should, against any act which is intended to assist the enemy or help the aggressor, well this is covered by my amendment. I think they are broadening it too much and I do not know how the Supreme Court or other courts, if they were called upon to interpret it, would interpret it. I think many of the other innocuous things relatively speaking, which may come within the mischief of clause 3 or section 3 of the Defence of India Act, may by implication be brought within the scope of this particular provision in clause 5 and it will give rise to all kinds of complications and hardships and many injustices may be done. This is all I want to say.

The question was proposed.

SHRI B. N. DATAR: I think my hon. friend has in a very subtle manner bypassed all the rules that the Government propose to make under clause 3. So far as clause 3 is concerned, a number of rules will have to be made, as they have been under the Defence of India Ordinance. Now, whenever it is found that those rules are contravened with a particular intent and the intent in such cases, *Mens Rea* as it is called, is a very important material which has to be taken into account and it has to be related to the contravention or violation of any one of these rules. I do not want to attribute any motive to my hon. friend, but in the manner in which he has brought in his substitute motion there is no reference to any of the rules at all. This is really astounding.

SHRI BHUPESH GUPTA: It is covered.

SHRI B. N. DATAR: There is absolutely no reference to it at all. Therefore, I was submitting that what is meant by penal, exemplary or enhanced punishment is for the violation of these rules accompanied by a particular intention. What the hon. Member wants is an actual and overt act. That is essential according to him. Therefore, it is a very subtle attempt, which I can never accept, for the purpose of defeating the purpose of this Bill.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

18. "That at page 11, for lines 22 to 27, the following be substituted, namely:—

'5 (1) If any person commits any act with the intent to wage war against India or to assist any country committing external aggression against India, he shall be punishable with death or imprisonment for life or imprisonment for a term which may extend to ten years and shall also be liable to fine.'"

The motion was negatived.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clause 6 was added to the Bill.

New Clause 6A

SHRI BHUPESH GUPTA: Sir, I move:

19. "That at page 15 after line 14, the following new clause be inserted, namely:—

'6A. For the removal of doubts it is hereby declared that the normal and constitutional activities of political parties shall not be interfered with so long as such activities are not directly prejudicial to the conduct of defence of India.'"

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

Mr. Vice-Chairman, this amendment was discussed in the other place as well.

THE VICE-CHAIRMAN (SHRI AKBAR ALI KHAN): So you need not make a speech.

SHRI BHUPESH GUPTA: Then, Mr. Vice-Chairman, the House will be abolished. Where will you be and where shall I be? We make repeat performances, you know. Such is life. My amendment is very simple:

"For the removal of doubts it is hereby declared that the normal and constitutional activities of political parties shall not be interfered with so long as such activities are not directly prejudicial to the conduct of defence of India."

This is a very forthright amendment. Simple in form as we are, we give simple amendments on such matters. If the contention of the Government is that they have no intention whatsoever in the matter of the administration of the Defence of India Rules to hinder the functioning or the working of political parties, then they should accept this amendment because we want to put it outside the pale of doubt. Otherwise what happens? You may not declare a party illegal, and yet you may make it absolutely difficult for the party to function. The British adopted this method sometimes. They did not declare a party illegal, and you know how by a number of legislations, laws and ordinances and rules they made it impossible for certain parties

to function. It is possible. I am not saying that the Government will inevitably do such a thing, but we are dealing with law. Therefore, I want to give a general guarantee of this sort. How does it happen? Now, you say that you are not interfering with the Communist Party, that the Communist Party is free to function. Having welcomed its resolution, you say that the Communist Party is welcome to implement its resolution and so on. Well and good. But then what do you do? In Kerala our leadership is arrested. Who will implement this thing? How can a political party function when its leadership is arrested? The hon. Member opposite said that Kerala had a big Communist Party and that even if the leaders had been taken away, there were others. Suppose the Swatantra Party said. Let the Congress leadership be removed, there are others to function. Will you agree to it? You will not. Suppose somebody says. Let the Congress High Command be put in jail, and since the Congress has so many members and Members of Parliament, it will go on functioning. Will you, Mr. Vice-Chairman, agree? No, you will not agree. If I make this suggestion in a comparable situation, you would call me a lunatic or a congenital idiot. But this is the position. Here it is very freely said. Now you arrest the leaders, shall we say, of a State Committee as you have done in Kerala. The tragedy of it all is that members of this Kerala leadership were to the knowledge of the entire country carrying on a campaign for national defence as my colleague has pointed out to you, and reports of it appeared in 'Hindu' and various others papers of the country. Any one who reads newspapers knows it. But that leadership was taken away by one single swoop. How does my Party function?

SHRI JOSEPH MATHEN (Kerala): That resolution was not unanimous. There lies the difficulty.

SHRI M. N. GOVINDAN NAIR: The Kerala Executive Committee unani-

mously adopted the resolution long before the National Council resolution.

[THE DEPUTY CHAIRMAN in the Chair]

SHRI BHUPESH GUPTA: I am sorry Shri Akbar Ali Khan has gone and I am very glad that you have come, Madam.

THE DEPUTY CHAIRMAN: I hope you will be brief also.

SHRI MOHAN LAL SAKSENA (Nominated): What does he mean by saying that he has gone and she has come?

SHRI BHUPESH GUPTA: I said I am sorry that Shri Akbar Ali Khan has gone.

THE DEPUTY CHAIRMAN: There should be no reflection on the Chair.

SHRI BHUPESH GUPTA: My colleague has interrupted me. Now the point at issue is this. I say that it is theoretically possible. Let us discuss it on a theoretical plane. It is theoretically possible for a party to be made absolutely inactive and to be absolutely paralysed without declaring it illegal by arresting and putting in prison its leadership and key cadres. It is possible, and I think my hon. friend will understand this. Whether they are doing it or not is a different matter. You can have a debate over that matter. This has been done. In Tripura we have a little Party, it is a tiny little State. We have got three thousand party members. Most of them are tribals and so on. We have got two Members in Parliament. Now one single moment they come and take away all the one hundred people, leaders, functionaries, office-bearers, and so on. How is that Party to function although it had passed a resolution and held meetings in order to raise funds and so on? Similarly, in Karnataka our leadership is taken away. In Orissa we have got a small Party, and that is also taken away. How can we function in those States? If you re-

[Shri Bhupesh Gupta.]
produce it on a large scale, practically you are without saying so banning a political party, preventing a political party from functioning on the basis of a resolution which you have welcomed; and that should not be done. That is number one. Secondly, there are other methods also. This is an intimidation all the time. The Defence of India Rules are a threat which hangs like a Damocles Sword. When one goes into public activity, one does not know . . .

PANDIT S. S. N. TANKHA (Uttar Pradesh): That is the real purpose behind the passing of this Bill.

SHRI BHUPESH GUPTA: Certainly the purpose of the Bill is not to hang a Damocles Sword over Mr. Tankha's head. (*Interruption*). You behead those people who are assisting the aggressor, you hang the sword over their heads. But it should not be used in this manner.

SHRI SONUSING DHANSING PATIL: When you are putting implicit faith in the leadership of the Prime Minister, why are you putting distrust in his Government?

THE DEPUTY CHAIRMAN: You had better come to the point, Mr. Bhupesh Gupta, and be brief.

SHRI BHUPESH GUPTA: Madam Deputy Chairman, it is a Platonic question to ask why since I have faith in the Prime Minister I must not have faith in the police head constable. It does not happen that way. That is why I say that if the Prime Minister were reproduced everywhere all over the country, maybe in a little miniature form, I would not press for it, because Jawaharlal Nehru even in miniature form—Lilliput type but none the less Jawaharlal Nehru—will see the importance of a political party functioning. When I am up against police sub-inspectors and certain angry Congressmen and certain Jan Sanghites and others, there is no pro-

tection whatsoever. Therefore, disturbance can take place. In Bengal and other places we are not allowed to hold meetings in order to popularise our resolution.

SHRI N. M. LINGAM (Madras): That is because all Communists are not Bhupesh Guptas unfortunately.

SHRI BHUPESH GUPTA: But you would not allow Mr. Bhupesh Gupta. Mr. Dange was to have gone to Calcutta. Mr. Lingam is a very good friend of ours—that is, Members of this House. I make it clear. Otherwise he would be called a crypto-Communist.

5 P.M.

Comrade Dange was to have gone and addressed a meeting in Calcutta. It was arranged, announced, but the meeting was not allowed to be held. Well, these things are happening. We could not function in Bengal. You can judge us by the kind of speeches we make. If we make bad speeches, put us in prison, give us punishment. I do not quarrel. But at least allow us to make the speeches and tell the people. Let the speeches be reported in whichever way you like. But we are not allowed to address meetings. Why? First of all, under certain influence, the local police authorities do not give permission. And secondly, a certain limited number of Congressmen and some others have taken it into their heads that this is the time to take political advantage out of the situation and they say, in West Bengal, there is no Swatantra Party, no Jan Sangh of that type and now, go after the Communists. This is not right. Therefore, it is possible to prevent the activities of a political party in this manner. That is why I say that. This amendment was given notice of in another place by Members who did not belong to the Communist Party. One of them was a member of the Congress Party, another an Independent and so on. This amendment should be accepted. We would not like this position to be created in the country that when our Party has a clear, categorical stand on this matter,

when the leaders of our Party are pledged to play their part in the common cause which we share with you, in that situation, our Party is placed in this predicament when it is not allowed to function either by the improper use of law, misuse of law or by the importation of certain extraneous elements into the picture. Therefore, Government should accept it. I think it applies to all parties. I am not saying that it is binding on any particular party or any such thing. We should be allowed to function and we have our grievance on this score because we have heavily suffered. We are not in a position to do anything. In very many places, our leading people have been all taken away. We cannot do anything even if we want to. This is the situation which has been created and I think this is not in line with the thinking of the Government or of Congress leadership. Why then an amendment of this type should not be accepted by Government?

Well, this is all that I have to say. I hope that Mr. Datar will be good enough to accept this amendment.

The question was proposed.

THE DEPUTY CHAIRMAN: The House will sit till 6-00 P.M. Mr. Mohan Lal Saksena, you wanted to say something?

SHRI R. S. DOOGAR (West Bengal): Until we finish the Bill.

THE DEPUTY CHAIRMAN: Is it the pleasure of the House that it sits till we finish the Bill?

SEVERAL HON. MEMBERS: Yes.

THE DEPUTY CHAIRMAN: We shall sit until the Bill is finished.

SHRI MOHAN LAL SAKSENA: Madam, I had no intention of speaking. I heard the argument of Mr. Bhupesh Gupta saying that the Communist Party should be allowed to function and that its members should not be arrested because they are Communists. They should be given a

chance to implement the resolution. But, you know, my suggestion is that this is no time to think in terms of whether a party should be allowed to function. I believe that it is time when all the parties should agree to merge into one. For when we are appealing to the people to forget their differences, to forget the language and other controversies, why should we emphasise on party differences? We go to the people and ask them, "You forget all your personal differences". But still we want to exploit the situation for our party purposes. So, my first submission is that all the parties should merge and for very good reasons. Suppose Mr. Bhupesh Gupta is recruited in the army, will he go there as a Communist? Or if I were there, will I go there as a Congressman or as one belonging to some other party? I would go there only as an Indian. I will submit myself to only one discipline, i.e., national discipline and I will know only one loyalty and no other, that is loyalty to the country. Not only that. My suggestion to the Congress Party is also that there should be only one party—the peoples' party—and we should not go about parading our differences. Suppose I am not going to the front, even then I should treat myself as a conscript in the national service. Even then I am supposed to know only one discipline, one leader and one aim. However, if it is not acceptable to the parties, at least they should agree to suspend their controversial activities for the time being and be guided by a council consisting of all the parties. I know that the Congress Party itself is having so many differences. There are so many bogus members and other shortcomings. Now the elections are not going to be held and whatever shortcomings are there, would be perpetuated during the period of emergency. Therefore, this is a good time for the political parties to agree to merge and by their agreeing to this, by their self-effacement, they will be serving a greater cause, the cause of the country. If that is not possible, at least all the parties should agree to discontinue the use their separate

[Shri Mohan Lal Saxena.]
 flags. There must be only one flag and that should be the national flag. Mr. Gupta has been harping on this, "My men are arrested, how can I function?" You can function through me, through others; the whole country is before you. Why can't you go and appeal?

SHRI FARIDUL HAQ ANSARI:
 You are not a fellow-traveller. How can he function through you?

SHRI MOHAN LAL SAKSENA: My stand is not that. When we are going to the people—the people have responded, they have given a demonstration of their unity at this critical juncture—we know that the proper step is that the parties should either merge themselves into one party, there should be a peoples' party or, if that is not possible, the parties should agree to suspend their controversial activities and carry out an agreed programme under the guidance of a council or a committee, merging all these parties.

SHRI B. N. DATAR: I am not accepting the amendment.

THE DEPUTY CHAIRMAN: The question is:

19. "That at page 15, after line 14, the following new clause be inserted, namely:—

'6A. For the removal of doubts it is hereby declared that the normal and constitutional activities of political parties shall not be interfered with so long as such activities are not directly prejudicial to the conduct of defence of India'."

The motion was negatived.

Clauses 7 and 8 were added to the Bill.

Clause 9—Dismissal of members of Civil Defence Service

SHRI V. M. CHORDIA: Madam, I move:

52. "That at page 15, after line 43, the following proviso be inserted, namely:—

'Provided that no member of the Civil Defence Service shall be so dismissed without being served with proper notice and without being given an opportunity of defending himself.'"

इस धारा में किसी भी सिविल डिफेंस सविस के सदस्य को नौकरी से अलग किया जा सकता है, डिसमिस किया जा सकता है, और उसको डिसमिस करने वाले डाइरेक्टर या कोई भी अथारिटी हो सकती है। उसकी सुनवाई का इसमें कोई प्राविजन नहीं है और उसको नोटिस देने का भी कोई प्राविजन नहीं है। उसको अपने को डिफेंड करने का भी कोई अधिकार नहीं है। इस कानून के अन्तर्गत हमको अधिकार लेना है मगर इसका यह मतलब नहीं है कि हम बिल्कुल ही न्याय के जो सिद्धांत हैं उनको एक तरफ ताक पर रख करके केवल अपने हाथ में एक डंडा लेकर के सबको हांकने लग जाय। यह कुछ उचित प्रतीत नहीं होता है और इसी वजह से मैंने यह संशोधन दिया है कि कम से कम उसको नोटिस तो दो और नोटिस देकर उसकी सुनवाई करो और फिर निकालना हो तो निकालो। आपने व्यापक अधिकार इसमें ले लिये हैं कि डाइरेक्टर के अलावा कोई भी अथारिटी उसको निकाल सकती है। वह अथारिटी संतरी भी हो सकता है, तंत्री भी हो सकता है, मंत्री भी हो सकता है, कोई भी अथारिटी हो सकती है। ऐसी स्थिति में यह अत्यंत आवश्यक है कि आप कम से कम उसको सुनने का और समझने का मौका दें और उसके बाद ही उसको निकालें। यह मेरा अमेन्डमेंट काफी स्पष्ट है और मैं

विशेष चर्चा इस सम्बन्ध में करना उचित नहीं समझता हूँ। आशा है मंत्री जी इसको स्वीकार करेंगे।

The question was proposed.

SHRI B. N. DATAR: I am not accepting this.

THE DEPUTY CHAIRMAN: The question is:

52. "That at page 15, after line 43, the following proviso be inserted, namely:—

"Provided that no member of the Civil Defence Service shall be so dismissed without being served with proper notice and without being given an opportunity of defending himself."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clauses 10 and 11 were added to the Bill.

Clause 12—Power to make rules

SHRI V. M. CHORDIA: Madam, I move:

53. "That at page 16, line 30, after the word 'or' the words 'any suspected' be inserted."

यह जो सिविल डिफेंस के बारे में चैप्टर है उसकी धारा १२ में रूल्स बनाने का अधिकार लिया गया है:

"12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may—

इसमें आगे बताया गया है:

"(d) provide that a contravention of, or an attempt to contravene, and any abetment of or attempt to abet the contravention of, any of the provisions of the rules . . ."

तो जहां यह "और एटेम्प्ट" है इसकी बजाय मैं यह सुझाव दे रहा हूँ कि "और" की जगह "एनी ससपेक्टेड" रहे क्योंकि एटेम्प्ट यानी प्रयत्न करने के बाद भी उसके खिलाफ यहां कार्यवाही की जा रही है। उसके लिये समन्वित रूल्स बनाये जा सकते हैं। हम यह चाहते हैं कि अगर कोई व्यक्ति के बारे में ससपिशन भी हो कि वह एटेम्प्ट कर रहा है किसी नियम का उल्लंघन करने का, तो उसके खिलाफ इस धारा के अंतर्गत कार्यवाही की जा सकती है और मेरे इस संशोधन से सरकार का हाथ मजबूत होगा, कमजोर नहीं होगा। ऐसी स्थिति मैं यह संशोधन स्वीकार किया जाना चाहिये। "एटेम्प्ट" जरा हल्का पड़ता है क्योंकि एटेम्प्ट कर रहा है यह देखने के बाद भी आप कार्यवाही कर सकेंगे। अगर एटेम्प्ट करने के बारे में हमको कुछ भी ससपिशन होता है, शंका होती है तो उसके खिलाफ कार्यवाही की जा सकती है। इसी आशय से यह संशोधन दिया है और आशा है मंत्री जी इससे स्वयं अपने हाथ मजबूत करने का प्रयत्न करेंगे।

The question was proposed.

SHRI B. N. DATAR: It would be found that the question of attempt or abetment deals with contravention of the provisions of the rules and, therefore, this is a serious matter. "Attempt" is a legal expression. If you put in the words "any suspected attempt", it would create certain difficulties and, therefore, the word "attempt", which is always used in law, is the proper word and, therefore, I am not accepting it.

THE DEPUTY CHAIRMAN: The question is:

53. "That at page 16, line 30, after the word 'or' the words 'any suspected' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 12 stand part of the Bill."

The motion was adopted.

Clause 12 was added to the Bill.

Clause 13—Constitution of Special Tribunals

THE DEPUTY CHAIRMAN: There are six amendments, I find.

SHRI V. M. CHORDIA: I am not moving my amendment No. 56.

SHRI BHUPESH GUPTA: Madam, I move:

20. "That at page 17, lines 24 to 26, the words 'Chief Presidency Magistrate, Additional Chief Presidency Magistrate' be deleted."

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

21. "That at page 17, line 27 be deleted."

(The amendment also stood in the names of Shri P. K. Kumaran, and Shri M. N. Govindan Nair and Shri A. D. Mani.)

22. "That at page 17, after line 33, the following be inserted, namely:—

'(4) For the removal of doubts it is declared that the Tribunals shall be so constituted that the same authority shall not be both the accuser and the judge?'

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

SHRI ABDUL GHANI: Madam, I move:

54. "That at page 17,—

(i) in line 12, for the words 'The State Government' the words 'The Chief Justice of the High Court in a State' be substituted; and

(ii) in line 14, for the words 'that Government' the words 'that Chief Justice' be substituted."

The question was proposed.

SHRI BHUPESH GUPTA: All these amendments can be spoken on together and taken together also. Most of them fall in the same line. Now this particular Chapter of the Defence of India Bill relates to Special Tribunals, which are likely to be constituted. Now in the other House the Law Minister said that only in the last resort will such Tribunals be constituted. I do not know whether in any place it has been formed, but it seems that already—there is a report in the papers—in the Punjab a kind of Tribunal has been formed. Anyway, I am not concerned with this at the moment. Now, Madam Deputy Chairman, you see that everything that the British did we must have. We have got a fairly equipped judiciary in our country with ample powers, and they can deal with almost all these functions in the ordinary course of things. We are now introducing the system of Special Tribunals, a new type of procedure, a somewhat distorted and truncated procedure which goes to the detriment of the accused and hands off the rules of justice or the rule of law, and having done that we are envisaging a situation when we shall not only be appointing Judges as Special Tribunals but the Magistrates, Chief Presidency Magistrates and Additional Chief Presidency Magistrates, and as you know, my amendment seeks deletion of the latter category—the Magis-

trates. In the first place, if I were to speak on the clause, I think that it does not speak well of our system if every time you announce that whatever is existing is not adequate to meet the needs of a situation of this kind and that we must have Special Tribunals and so on. And secondly, why have the Magistrates here? You might say that the Chief Presidency Magistrate and the Additional Chief Presidency Magistrate normally have some judicial experience. But that experience is of a very limited nature—what we say, is the experience in the police courts, and this experience should not be the proper criteria for judging or choosing them to become the members of a Tribunal if you must have such Tribunals. Therefore, in the series of my amendments, I have suggested that this should go without any reflection on them. In their own sphere they are good. Let them do the work there. But we should not bring them here into the Special Tribunals.

Then we shall go to other aspects of the Special Tribunals, about the functioning and so on; we have something to say about that. But under this system of Special Tribunals, every single case, all cases now can go to the Special Tribunal—most of these cases—I do not say all; quite a good number of cases can go to the Special Tribunal. Why must we have them? Let us try the ordinary courts of law, and if in practice it is found they are not in a position either to tackle the problems or cope with the task, we can certainly think of appointing Special Tribunals, and then proceed on the basis of that. Otherwise, I do not see any need of having such Special Tribunals just at this stage. I cannot say about the future—I am not opposing it in principle. Here again, in an emergency it may be necessary to have Special Tribunals, but must we have them now, or must we make an overall provision and must we then have the Magistrates who have had limited experience in the judiciary and judicial processes appointed as members of the Tribunal? These are the points that I wish to make.

SHRI A. D. MANI: Madam, my amendment deals with the deletion of the words "District Magistrate" and "Additional District Magistrate" in line 27. The object of the amendment is to see that persons who are discharging executive functions including arresting persons are not members of this Tribunal. If these Tribunals are to function, they should consist of people having judicial experience and judicial standing. I am prepared to accept that "Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Chief Presidency Magistrate" are qualified to sit on the Tribunal, but it will create a lot of fear and apprehension in the minds of people if District Magistrates and Additional District Magistrates are also included on the Tribunals. So I have sought the deletion of these two classes of people for this Special Tribunal.

شری عبدالغلی : میڈم - جس

جوش سے میں نے س بل کو سپورٹ
کہا تھا اسی چرچ سے ایذا یہ املد ممت
اس شاندار ہارس کے سامنے رکھتا ہوں۔
رکھنے کا کارن یہ ہے کہ ہم جس طرح
کے یہ وسیع اختیارات اپنی سرکار کو
دیلے جا رہے ہیں اور ہمارے ہوم
منسٹر شری لال بہادر شاستری اور
ستھیت منسٹر شری داتار : اور انکے
اوپر پلڈت جواہر لال پرانم منسٹر آف
انڈیا کو ان کا استعمال کرنا ہے۔ جب
میں اختیارات کی تائین کرنے جا رہا
تھا تو وہ سامنے ان کا شاندار ماضی
(past) تھا ان کے ہاتھ سے کوئی بے گناہ
نہیں مارا گیا جان بوجھ کر - کسی
نے فطلی سے نقصان اٹھایا ہو تو کہہ
نہیں سکتا لیکن جب یہ اتنے وسیع
اختیارات استھیت گورنمنٹ کو بھی

[شری عبدالغنی]

دیلے جا رہے ہیں تو میں کہونگا ذرا انکے past کی طرف نگاہ کرنی چاہئے کہوں میں کہتا ہوں مقدم - پنجاب اسٹیٹ میں ایک پمپشن تھی - پمپشن نمبر ۲۲ گورنمنٹ سلنگ ورکس پرتاپ سلنگ کہوں اس ٹریبونل کے ممبر عدوی ستھ نرائن راو جو کبھی لا کمپن کے بھی ممبر رہے ہرے قابل ترین آدمی تھے انہوں نے جو فیصلہ دیا اس کے کوٹیشن میں ہاوس کے سامنے رکھتا ہوں - کہونکہ جب ہاوس کے انریبل ممبران جب اس ڈاکٹر کی منظوری دیلے جا رہے ہیں تو وہ مہری گذارش کو سامنے رکھیں اس میں وہ فرماتے ہیں۔

"Tehsildar and P.W. 19 gave evidence admitting their attestation and signatures but they showed great hesitation in giving evidence, perhaps, on account of the fear that the respondent is occupying a responsible position in the Government of the State."

اگے کہتے ہیں —

"It seems to me that after having heard the entire evidence on behalf of both the sides there is a secret hand working behind the scenes, influencing the witnesses who come to give evidence and keeping Santa Singh from the witness box with a view to keep the Tribunal in the dark."

THE DEPUTY CHAIRMAN: You can give the gist of it.

شری عبدالغنی : چونکہ کہس یہ

تھا کہ ایکشن ہوا اور اس میں

سلنگ سلنگ ہریجن امپڈر تھے اور ان کے کاغذات عمر کی کسی دکھا کر نا منظور کیے گئے تھے حالانکہ عمر زیادہ تھی - پمپشن اسی لئے کی گئی کہ ان کی عمر چھوٹی دکھائی دے غلط ہے اور سلنگ سلنگ کو پھر نہیں کیا گیا اور اس کے ریسپونڈنٹ کو ہی ڈمڈار برار دیا گیا یعنی سردار پرتاپ سلنگ کہوں کو۔

SHRI MAGANBHAI S. PATEL
(Gujarat): What is the relevance of it?

شری عبدالغنی : جس تن لگے سوئی جائے، جب خوشی خوشی قیامس بل کے سامنے ہم نے اپنی گردن پھینک دی ہے تو آج صدہ ہوا کہ شری شاستری جی نے اپنی اسپیشل مجھے چڑا دیا - انہوں نے اپنی اسپیشل میں کہا کہ سولنٹر پارٹی کو اور جن سلنگ کو کافی مرقہ ملا ہے کریٹسٹنڈ کرنے کا - اب آپ بس کہجئے ورنہ اگر آپ کی تقریر جاری رہی تو اس سے قیامس کے کاموں کو موبلائز کرنے میں دھکا لگے گا تو پھر میں سرپس ایکشن لینا ہوگا۔ میں کہتا ہوں سرکار ہم یہ بھی آپ کو ہمالہ سے بڑی بھول کی جو سلنگ گورنمنٹ نے قیامس کے معاملہ میں کی ہے معاف کرتے ہیں اور ہم دونوں اس وقت ایک سطح پر ہیں خیر میں بتا رہا تھا کہ اس وقت جو فیصلہ ٹریبونل نے آخر دیا یہ تھا کہ۔

"I have also held that the respondent was responsible for not making the evidence of Santa Singh available before the Tribunal."

یہ تو ٹریبونل کا ہے اور میں پیش کرنا چاہتا ہوں کہ ٹریبونل نے کہا تھا : ہے :

"It only speaks of the bankruptcy of the imagination of those who have been responsible for manufacturing evidence in this case."

سپریم کورٹ کہا کہتا ہے چونکہ سپریم کورٹ میں مقدمہ - پتھالہ ڈویژن کے کے کمشنر کا ایک کہس تھا اور کمشنر کی شکایت یہ تھی کہ پولیس نے معاملہ کی انکوائری نہیں کی اور معاملہ لٹک رہا ہے - سپریم کورٹ کا جو ججمنٹ آیا وہ اس طرح ہے :

"It is very much to be deplored that the police officers concerned did not act diligently in this matter and it is not surprising that this usual delay has given rise to the apprehension in the mind of applicant that the object of the delay was to keep the sword hanging over his head as long as possible."

اس کے بعد مقدمہ - ایک اور چھوٹی سی بات عرض کرنا چاہتا ہوں کہ پنجاب کے موجودہ چیف جسٹس؟ سابق چیف جسٹس مسٹر کھوسلا؟ ایکٹنگ چیف جسٹس نے کیا ریمارک اس صوبہ کے بارے میں دئے ہیں میں ان کو پڑھ کر سنا دینا چاہتا ہوں -

THE DEPUTY CHAIRMAN: Instead of reading you can put the facts before the House so that it can be done quickly.

شوہر عبد الغنی : مجھے موتیا کی شکایت ہے - مجھے دولت ہے ابھی اپریشن نہیں ہوا ہاوس مجھے معاف کریگا میں جان بوجھ کر دیر نہیں کرتا۔ آگے جا کر وہ کہتے ہیں کہ چودھری رام سنگھ :

"Ch. Ram Singh (D. I. G. Police) did his best to concoct absolutely false story and press the D.I.G. Police Delhi, to see that the accused were hand-suffled when they were taken to or from the court."

فہمکتس یہ ہیں اور میں نے ٹریبونل کے بارے میں بھی کہا تھا اور موجودہ چیف جسٹس کے بارے میں بھی کہا تھا اور پھر پنجاب کے جو اس وقت کے چیف جسٹس سابق چیف جسٹس ہیں وہ کہتے ہیں کہ یہاں کے بڑے بڑے آفیسر ہیں وہ غلط کہانیاں بناتے ہیں غلط الزام لگاتے ہیں باوجود اس کے کہ انہوں نے اپیل کو ایکسپچلیٹ نہیں کیا - اس پر میں عرض کرتا ہوں پریفرنس کا سہرے پاس کافی سامان ہے جو میں پڑھ کر سکتا ہوں - پریس اس میں کہتا ہے کہ اس معاملہ میں گورنمنٹ کو دیکھنا چاہئے اس بارے میں نہ صرف ہندوستان ٹائمز کے ہی بیانات نہیں ہیں بلکہ میں وقت کی کسی کی وجہ سے زیادہ نہیں کہنا چاہتا ہوں وہ کہتے ہیں کہ ان دنوں پنجاب میں بلکہ باقی جگہ پولیس کا جو

[شری عبدالغنی]

متہد اور مورل ہے وہ خطرناک ہے -
مہتمم - میں یہ بات کہنے میں
خوشہ محسوس نہیں کرتا کہ آج
نقشہ کیا ہے - نقشہ یہ ہے کہ ڈالہا
نے روپیہ کھایا اور پبلک کا روپیہ غبن
کیا بھارت انشورنس کا - سرکار نے
مقدمہ چلایا اور اس نے روپیہ واپس
دینا چاہا لیکن سرکار نے نہیں مانا
اور اس کو دو سال کی قید کی -
واپس لہلہا یا واپس دینا یہ ایک
جرم ہے لیکن پنجاب کے چیف منسٹر
کی بھوی پتیچ سال سے ملت تلکواہ
لہتی ہے اور چلتی گدھہ میں رہتی
ہے تلکواہ تو واپس لے لی تو نہ
ہوئی -

THE DEPUTY CHAIRMAN: I do not think you should say all that here. Please be relevant to the amendment and please wind up.

شری عبدالغنی : اسے لوگوں کے

ہاتھوں میں اسوشل ٹریبونل کی
اجازت دی جا رہی ہے جن کے ہاتھوں
میں نہ ایڈمنسٹریشن سٹف ہے
نہ جسٹس سٹف ہے - میں عرض کرنا
چاہتا ہوں جب میں پنجاب اسمبلی
میں بول رہا تھا تو چیف منسٹر کہہ
رہے تھے کہ مولوی تھری موت آئی ہے -
—your death is very near—

میں جہاں ہوتا ہوں جہاں یہ
حالت ہے وہاں اتنے اختیارات دئے
جائیں - ڈاکٹر اگر ہوتے شاستری جی اگر
ہوتے اور کوئی اگر ان جھسا ہوتا تو
میں خوشی سے تسلیم کرتا لیکن جہاں

انلی خراب حالت ہے کہ وہاں ابھی
تک یہ بل لاگو بھی نہیں ہوا - لیکن
آرڈیننس تھا ڈپٹی سپرنٹنڈنٹ پولیس
لڈھیانہ نے ایڈیشن پارتی کے لہڈران کو
بلایا ان میں بابو بچن سنگھ ایکس
منسٹر بھی تھے جو کہ پلڈت جی کی
نکاح میں شاستری جی کی نکاح میں
معزز تھے اور جو ایم - ایل - اے ہیں -
ڈپٹی سپرنٹنڈنٹ کہتے ہیں کہ دیکھو
ایڈیشن والوں اگر تمہیں کوئی خطرہ ہے تو
مجھ سے کہو نہیں تو ہمارے ہاتھ میں
کیفینس آف انڈیا آرڈیننس موجود ہے
اور ہم تم کو سیدھا کر دیں گے - اس پر
بابو بچن سنگھ منبر اٹھتے کہتے ہیں
ڈاکٹر آپ نے ہمیں اس لئے بلایا کہ آپ
اس طرح ذلیل کریں - ہم نے سرکار پر
کسی طرح سے کریڈٹس نہیں کیا کوئی
جلسہ ہمیں کیا جس سے آپکو کچھ کہنے
کا موقع ملے - آج ایمرجینسی کا دورہ ہے
اور ہم سرکار کے ہاتھ مضبوط کرنا چاہتے
ہیں - لیکن آپ ہماری توہین کر رہے
ہیں -

آپ نے کیا سمجھا ہے آپ آپ کو -
ان کی شکایت انہوں نے بعد میں کی -

THE DEPUTY CHAIRMAN: You have put very clearly your case. You must see the time. You must put your amendments in the clearest way and in the shortest possible time. There is no need to make a speech. You press your amendment whichever way you want but you are repeating one case all the time. You have put the case before the House.

شری عبدالغنی : میں یہ عرض

کرنا چاہتا ہوں کہ میں نے یہ اس لئے
کہا ہے کہ جو اختیارات آپ دیلے جا
رہے ہیں ان کو آپ جو تیشہری کے ہاتھ

میں دیں۔ اور اسٹیٹ گورنمنٹ کو نہ دیں کہوں کہ وہاں کے چیف منسٹر اور دوسرے منسٹرس ان اختیارات کو اپنے مقاصد کے لئے استعمال کریں گے۔ سنٹرل پارلیمنٹری بورڈ یہ کہتا ہے کہ خرابیوں کو کانستریکٹو ریسپانسیبیلٹی دیکروں کے اوپر ہے۔ میڈم۔ یہ دو کڑی کے آدمی اب کروڑ پتی بن گئے۔ میرے ایک سوال کا جواب دیتے ہوئے انہوں نے کہا کہ گولڈ سنگلنگ میں 1951ء اور 1957ء میں 51 آدمی گرفتار ہوئے...

THE DEPUTY CHAIRMAN: We may not go into all these things. I am calling on the Minister to reply.

شری عبدالغنی : میڈم - میں

صرف اس لئے کہتا ہوں کہ وہاں...
(Interruptions.)

†[ش्री अब्दول گنی : میڈم، جس جوش سے میں نے اس بیل کو سپورٹ کیا تھا اسی جوش سے اپنا یہ ایمپھمٹ اس شاندار ہاؤس کے سامنے رکھتا ہوں۔ رکھنے کا कारण یہ ہے کہ ہم جس طرح کے یہاں کی حکومت کو اپنی سرکار کو دے رہے ہیں اور ہمارے ہوم منیستر श्री लालबहादुर शास्त्री और स्टेट मनिस्टर श्री दातार ने और उनके ऊपर पं० जवाहरलाल प्राइम मनिस्टर आफ इंडिया को उनका इस्तेमाल करना है। जब मैं इच्छारात की ताईद करने जा रहा था तो मेरे सामने उनका शानदार माजी (part) था उनके हाथ से कोई बेगुनाह नहीं मारा गया जान, बूझ कर। किसी ने गलती से नुकसान उठाया हो तो कह नहीं सकता लेकिन जब ये इतने वसीह इच्छारात स्टेट गवर्नमेंट को भी देने जा रहे हैं तो मैं कहूंगा जरा उनके part को तरफ निगाह करनी चाहिये।

†[] Hindi transliteration.

क्यों मैं कहता हूँ मैडम, पंजाब स्टेट में एक पीटिशन थी। पीटिशन नं० २२ गुरमेज सिंह वर्सेज प्रताप सिंह कैरों उस ट्रिब्यूनल के मेम्बर श्री सत्यनारायण राव जो कमी ला कमीशन के भी मेम्बर रहे बड़े काबिल तरीन आदमी थे, उन्होंने जो फैसला दिया उसके कोटेशन मैं हाउस के सामने रखता हूँ। क्योंकि जब हाउस के ओनरेबल मेम्बरान इस क्लोज की मंजूरी देने जा रहे हैं तो वे मेरी गुजारिश को सामने रखेंगे। उसमें वो फरमाते हैं:

"Tehsildar and P.W. 19 gave evidence admitting their attestation and signatures but they showed great hesitation in giving evidence, perhaps, on account of the fear that the respondent is occupying a responsible position in the Government of the State."

आगे कहते हैं:

"It seems to me that after having heard the entire evidence on behalf of both the sides there is a secret hand working behind the scenes, influencing the witnesses who come to give evidence and keeping Santa Singh from the witness box with a view to keep the Tribunal in the dark."

THE DEPUTY CHAIRMAN: You can give the gist of it.

श्री अब्दुल गनी : चूँकि केस यह था कि इलेक्शन हुआ और उसमें सन्ता सिंह हरिजन उम्मीदवार थे और उनके कागजात उमर की कमी दिखाकर नामंजूर किये गये थे हालांकि उमर ज्यादा थी। पेटिशन इसीलिए की गई कि उनकी उमर छोटी दिखाई है गलत है और सन्ता सिंह को पेश नहीं किया गया और उसके रिस्पोंडेन्ट को ही जिम्मेदार करार दिया गया यानी सरदार प्रताप सिंह कैरों को।

SHRI MAGNABHAI S. PATEL
(Gujarat): What is the relevance of it?

श्री अब्दुल गनी : "जिस तन लागे सोई जाने" जब खुशी खुशी डिफेंस बिल के सामने हमने अपनी गर्दन पेश कर दी है। तो आज सदमा हुआ कि श्री शास्त्री जी ने अपनी स्पीच से मुझे चिढ़ा दिया। उन्होंने अपनी स्पीच में कहा स्वतंत्र पार्टी को और जनसंघ को काफी मौका मिला है क्रिटीसाइज करने का। अब आप बस कीजिये वरना अगर आपकी तकरीर जारी रही तो उससे डिफेंस के कामों को मोबीलाइज करन में धक्का लगेगा तो फिर हमें सीरीयस एक्शन लेना होगा। मैं कहता हूं सरकार हमने भी आपको हिमालय से बड़ी भूल जो सेन्ट्रल गवर्नमेंट ने डिफेंस के मामले में की है मुआफ करते हैं और हम दोनों इस वक्त एक सतह पर हैं। खैर, मैं बता रहा था कि इस वक्त जो फैसला ट्रिब्यूनल में आखिर दिया, यह था कि :

"I have also held that the respondent was responsible for not making the evidence of Santa Singh available before the Tribunal."

यह तो ट्रिब्यूनल का है और मैं पेश करना चाहता हूं कि ट्रिब्यूनल ने क्या कहा है :

"It only speaks of the bankruptcy of the imagination of those who have been responsible for manufacturing evidence in this case."

सुप्रीम कोर्ट क्या कहता है चूंकि सुप्रीम कोर्ट में मेडम पटियाला डिवीजन के कमिश्नर का एक केस था और कमिश्नर की शिकायत यह थी कि पुलिस ने मामले की इन्क्वैरी नहीं की और मामला लटक रहा है। सुप्रीम कोर्ट का जो जजमेंट आया वो इस तरह से है :

"It is very much to be deplored that the police officers concerned did not act diligently in this matter and it is not surprising that this usual delay has given rise to the apprehension in the mind of applicant that the object of the delay was to keep the sword hanging over his head as long as possible."

इसके बाद मैंडम एक और छोटी सी बात अर्ज करना चाहता हूं कि पंजाब के मौजूदा चीफ जस्टिस साबक चीफ जस्टिस मि० खोसला एक्टिंग चीफ जस्टिस ने क्या रिमार्क इस सूबे के बारे में दिये हैं मैं उनको पढ़कर सुना देना चाहता हूं।

THE DEPUTY CHAIRMAN: Instead of reading you can put the facts before the House so that it can be done quickly.

श्री अब्दुल गनी : मुझे मोतिया की शिकायत है मुझे दिक्कत है अभी ओप-रेशन नहीं हुआ हाउस मुझे मुआफ करेगा मैं जानबूझ कर देर नहीं करता आगे जाकर वो कहते हैं कि चौधरी राम सिंह....

"Ch. Ram Singh (D.I.G. Police) did his best to concoct absolutely false story and press the D.I.G. Police Delhi, to see that the accused were hand-cuffed when they were taken to or from the court."

फैक्ट्स ये हैं और मैंने ट्रिब्यूनल के बारे में भी कहा था और मौजूदा चीफ मिनिस्टर के बारे में भी कहा था और फिर पंजाब के जो इस वक्त के चीफ जस्टिस साबक चीफ जस्टिस हैं वो कहते हैं कि यहां के बड़े बड़े आफिसर हैं वो गलत कहानियां बनाते हैं गलत इल्जाम लगाते हैं। बावजूद इसके कि उन्होंने अपील को एक्सपेंज नहीं किया। इस पर मैं अर्ज करता हूं प्रिफरेंस का मेरे पास काफी सामान है जो मैं पेश कर सकता हूं। प्रेस इसमें कहता है कि इस मामले में

में गवर्नमेंट को देखना चाहिये। इस बारे में न सिर्फ 'हिन्दोस्तान टाइम्स' के ही बयानात नहीं हैं बल्कि मैं वक्त की कमी की वजह से ज्यादा नहीं कहना चाहता हूं। वो कहते हैं कि इन दिनों पंजाब में बल्कि बाकी जगह पुलिस का जो मेथड और मुराल है वो खतरनाक है। मैडम, मैं यह बात कहने में खुशी महसूस नहीं करता कि आज नकशा क्या है। नकशा यह है कि डालमियां ने रुखा खाया और पब्लिक का रुपया गवन किया भारत इन्श्योरेंस का। सरकार ने मुकदमा चलाया और उसने रुपया वापस देना चाहा लेकिन सरकार ने नहीं माना और उसको दो साल की कैद की। वापिस लेना या वापिस देना यह एक जुर्म है लेकिन पंजाब के चीफ मिनिस्टर की बीबी पांच साल से मुफ्त तन्खवाह लेती है और चण्डीगढ़ में रहती है तन्खवाह तो वापस ले ली कैद नहीं हुई।

THE DEPUTY CHAIRMAN: I do not think you should say all that here. Please be relevant to the amendment and please wind up.

श्री अब्दुल गनी : ऐसे लोगों के हाथों में स्पेशल ट्रिव्यूनल की इजाजत दी जा रही है, जिनके हाथों में एडमिनिस्ट्रेशन सेफ है न जस्टिस सेफ है। मैं अर्ज करना चाहता हूं जब मैं पंजाब ऐम्बली में बोल रहा था तो चीफ मिनिस्टर कह रहे थे कि मौलवी तेरी मौत आई है—
—your death is very near—मैं हैरान होता हूं जहां यह हालत है वहां इतने इख्तियारात दिये जायें। दातार अगर होते, शास्त्री जी अगर होते और कोई अगर उन जैसा होता तो मैं खुशी से तसलीम करता लेकिन जहां इतनी खराब हालत है वहां अभी तक यह बिल लागू भी नहीं हुआ लेकिन आर्डिनेन्स था। डिप्टी सुपरिन्टेन्डेंट पुलिस

लुधियाना ने अपोजिशन पार्टी के लीडरों को बुलाया उनमें बाबू बच्चन सिंह एक्स-मिनिस्टर भी थे जो कि पंडित जी की निगाह में, शास्त्री जी भी निगाह में सुअजिज थे और जो एम० एल० ए० हैं डिप्टी सुपरिन्टेन्डेंट कहते हैं कि देखो अपोजिशन वालों, अगर तुम्हें कोई खतरा है तो मुझसे कहो, नहीं तो हमारे हाथ में डिफेन्स आफ इंडिया आर्डिनेन्स मौजूद है और हम तुमको सीधा कर देंगे।

इस पर बाबू बच्चन सिंह मेम्बर ऐसेम्बली कहते हैं कि आपने हमें इसलिये बुलाया कि आप इस तरह जलील करें। हम ने सरकार पर किसी तरह से क्रिटिसिज्म नहीं किया, कोई जल्सा नहीं किया जिससे आपको कुछ कहने का मौका मिले। आज इमरजेन्सी का दौर है और हम सरकार के हाथ मजबूत करना चाहते हैं लेकिन आप हमारी तौहीन कर रहे हैं। आपने क्या समझा है, अपने आप को इसकी शिकायत उन्होंने बाद में की।

THE DEPUTY CHAIRMAN: You have put very clearly your case. You must see the time. You must put your amendments in the clearest way and in the shortest possible time. There is no need to make a speech. You press your amendment whichever way you want but you are repeating one case all the time. You have put the case before the House.

श्री अब्दुल गनी : मैं यह अर्ज करना चाहता हूं कि मैंने यह इसलिये कहा है कि जो इख्तियारात आप देने जा रहे हैं उनको आप जुडिशियरी के हाथ में दें और स्टेट गवर्नमेंट को न दें क्योंकि वहां के चीफ मिनिस्टर और दूसरे मिनिस्टर इस इख्तियारात को अपने मकसद के लिये इस्तेमाल करेंगे। सेन्ट्रल पार्लियामेन्टरी बोर्ड यह कहता है कि खराबियों की कन्सट्रक्टिव रिस्पॉन्सिबिलिटी कैरों के उपर है। मैडम, ये दो कौड़ी के आदमी अब करोड़पति बन गये। मेरे एक

[श्री अब्दुल गनी]

सवाल का जवाब देते हुए उन्होंने कहा कि
बोर्ड स्मगलिंग में १९५६ और १९५७ में
५१ आदमी गिरफ्तार हुए . . .

THE DEPUTY CHAIRMAN: We may not go into all these things. I am calling on the Minister to reply.

श्री अब्दुल गनी : मैडम, मैं सिर्फ इसलिये कहता हूँ कि वहाँ . . .]

HON. MEMBERS: Obey the Chair.

SHRI B. N. DATAR: When the original Bill was framed, then the scheme under which the Special Tribunals were to be instituted was considerably different from the one that has now been evolved and changes of a fairly fundamental character have been made. I would invite the attention of the hon. House to clause 13, sub-clause (2) and thereafter we have stated that any other member must have an experience of not less than three years. That was newly added. Then I would invite the attention of the House to new sub-clause 3 according to which it has been laid down that at least one member of the Special Tribunal shall be qualified for appointment as a High Court Judge. Ultimately it comes to the High Court Judge. Thereafter the person should also have a minimum period of experience of 3 years. Thus you will find that amendments of considerable importance have been accepted. My hon. friend, Mr. Mani, was needlessly unfair to the District Magistrates and Additional District Magistrates. They also have to do judicial work and no man can be a District Magistrate or Additional District Magistrate unless he has passed through considerable experience. That was the reason why these two categories were added and it will be found that one of them will have to be a person who could be appointed to the High Court. That is the reason why sub-clause (3) was added. Certain fundamental changes to which I need not make a reference at this stage have

been included in clause 14, in a sub-clause of clause 15 and in clause 18 also. Under the circumstances, the House will agree that we have gone to the fullest extent possible, consistently with the purpose for which the Defence of India Bill has to be passed, to meet the wishes of hon. Members.

THE DEPUTY CHAIRMAN: The question is:

20. "That at page 17, lines 24 to 26, the words 'Chief Presidency Magistrate, Additional Chief Presidency Magistrate' be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

21. "That at page 17, line 27 be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

22. "That at page 17, after line 33, the following be inserted, namely:

'(4) For the removal of doubts it is declared that the Tribunals shall be so constituted that the same authority shall not be both the accuser and the judge.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

54. "That at page 17,—

(i) in line 12, for the words 'The State Government' the words 'The Chief Justice of the High Court in a State' be substituted; and

(ii) in line 14, for the words 'that Government' the words 'that Chief Justice' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

Clause 14 was added to the Bill.

Clause 15—Procedure of Special Tribunals.

SHRI BHUPESH GUPTA: I move:

24. "That at page 18, for lines 5 to 12, the following be substituted, namely:—

'(2) The Special Tribunal shall follow the same procedure as laid down in the Code of Criminal Procedure, 1898, in cases of Sessions trial.'

I also move:

25. "That at page 18, lines 20 to 25 be deleted."

(The amendments also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair)

The questions were proposed

THE DEPUTY CHAIRMAN: Mr. Gupta, please be brief.

SHRI BHUPESH GUPTA: Yes, we are all getting tired but 'Noes' is coming in a voluminous way from that side. Here again as I said the Special Tribunal is being given a particular type of procedure not generally supportable in judicial courts. My amendment says that the Special Tribunal shall follow the same procedure as laid down in the Code of Criminal Procedure, 1898 in cases of sessions trial. This is all that I wish to say so far as this amendment is concerned.

Then regarding the amendment that lines 20 to 25 be deleted the sub-clause reads:

"After an accused person has once appeared before it, a Special Tribunal may try him in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, etc..."

It is a simple thing. I want the position of the Criminal Procedure Code to be restored. This is the main purpose and the evidence and other things should be taken down at length and properly. Suppose a trial takes place and one member of the Tribunal is not there, and the evidence is not taken down in full, and somebody comes in his place, he would be at a handicap to judge the case. That is to say he would not have the full picture of the evidence that had been given unless it is recorded in full and you know that even if the evidence is recorded in full, the behaviour and the conduct of the witness will not be known in such cases because witnesses will not be there when one looks back on the evidence. That is why I ask why it should not be possible. Are we envisaging a situation immediately where so many people, hundreds of people, will be brought before the Special Tribunal and they would have no time in this national emergency to take down whatever the witness says in full? I do not think we are immediately envisaging such a situation. Why then should it not be possible for the Special Tribunal, if that came into existence, to take down in full the evidence given? Even that is not granted by the Government.

Secondly, when it comes to the question of appeal and so on, the accused is liable to suffer if the full evidence is not there. Why should there be a kind of in camera trial always to the detriment of the accused. After all, we have not given up the principal law that unless one's guilt is proved, he is supposed to be innocent?

[Shri Bhupesh Gupta.]

We have not adopted that system of law where guilt is presumed unless proved to the contrary. This is not our position even under the Defence of India Rules. Therefore, I think the manner in which the evidence is recorded is of great importance. I can dilate upon it and hon. Members who are lawyers know this better than I do but a memorandum is to be prepared here. Why? Is it not possible to take down this thing? We have this machinery already and if we set up Special Tribunals, certainly we can equip those Special Tribunals with a simple machinery to record the full evidence. Why should it not be done? These approaches are no good. In the middle of the 20th century today we are passing these measures and we do go beyond what the Britishers did even in such simple matters as these. Madam Deputy Chairman, therefore, I have objections to it from the point of view of the administration of justice. Already the appointment of the Special Tribunals is an encroachment on what I consider to be the rule of law and having brought the Special Tribunals into the picture you are trying to make it look something like the courts which we had in the days of the Moghul emperors or some such thing. It is no good. I think the Criminal Procedure Code is very clear on this point and therefore, we should follow the Criminal Procedure Code. Whatever practical difficulties may arise the Government has always the power to pass Ordinances if the Parliament is not in session and amend the Act if Parliament is in session. They can easily pass an amending legislation for that purpose. We had experience of the Special Tribunals. I do not say that the very same things will exactly be repeated. But we know how the Special Tribunals in the country had functioned in the past and also how they are liable to function if we do not provide proper safeguards. This is all I have to say with regard to this amendment. Natu-

rally, I want lines 20 to 25 to be deleted. That is also to ensure the rule of law as far as possible within the framework of the Special Tribunals. The Special Tribunal itself cripples the rule of law and you are making a devastating attack on the rule of law by providing this kind of a peremptory and perfunctory procedure. This is all I have to say. I know what Mr. Datar will say, but still I have to press for this.

SHRI B. N. DATAR: Madam, I oppose the amendments because they go against the very institution of the Special Tribunals whose function has been restricted under clause 14 of the Bill. Therefore, it is not possible for Government to accept the amendments of the hon. Member.

THE DEPUTY CHAIRMAN: The question is:

24. "That at page 18, for lines 5 to 12, the following be substituted, namely:—

"(2) The Special Tribunal shall follow the same procedure as laid down in the Code of Criminal Procedure, 1898, in cases of sessions trial."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

25. "That at page 18, lines 20 to 25 be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 15 stand part of the Bill."

The motion was adopted

Clause 15 was added to the Bill.

Clauses 16 and 17 were added to the Bill.

Clause 18—Sentences of Special Tribunals

SHRI BHUPESH GUPTA: Madam, I move:

27. "That at page 19, line 11, after the word 'law' the words 'and the person sentenced shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed.' be inserted."

28. "That at page 19, lines 12 to 27 be deleted."

29. "That at page 19, for lines 12 to 27, the following be substituted, namely:—

'(2) A person sentenced by a Special Tribunal shall have the same right of appeal and revision as under the Code of Criminal Procedure, 1898.'

(The amendments also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

SHRI V. M. CHORDIA: Madam, I move:

59. "That at page 19, for the existing clause 18, the following be substituted, namely:—

'18. (1) A Special Tribunal may pass any sentence authorised by law.

(2) A person sentenced by a Special Tribunal—

(a) to death or imprisonment for life, or

(b) to imprisonment for a term of five years or more, under this Act or the rules made thereunder or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act, shall have a

right of appeal to the High Court within whose jurisdiction the sentence has been passed.'"

SHRI A. D. MANI: Madam, I move:

60. "That at page 19, for lines 12 to 27, the following be substituted, namely:—

'(2) A person sentenced by a Special Tribunal shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed.'"

The questions were proposed.

SHRI BHUPESH GUPTA: Madam, here again I want to suggest this amendment No. 27 in the interest of law. What I want by this amendment is clear. In the first place, I want the right of appeal to be given. I want the right of appeal to be given to the party after the sentence has been passed by the Special Tribunal. That is why I say—I need not dilate upon it—the right of appeal should be given to the party, to appeal to the High Court. Why should not this right be given? I don't see why this attitude should be there. If the conviction has taken place justly, the court of appeal will maintain it. If the conviction has taken place unwarrantedly and unjustly, as is likely to be the case—at least in some cases—as far as the Special Tribunals are concerned, then the aggrieved party or the accused, should have the right to have the matter examined by the High Court. I mean this is a very simple proposition. Is it necessary to deny this right in order to carry on the war effort? How will this right impede the war effort or our defence, if for example, the accused, after having been sentenced by the Special Tribunal is given this little opportunity of preferring an appeal and seeking justice? Well, I cannot understand why the Government should refuse even this right of appeal. Let me add that this kind of rejection and this

[Shri Bhupesh Gupta.]

kind of an attitude, where you do not even accept the right of appeal, make the Special Tribunal an extraordinary arrangement and the final thing and this will create certain misgivings in the minds of many well-meaning people who are supporting the Government and who are in full accord with the Government as far as the need for dealing with the emergency situation is concerned. Why should it be like that? Hon. Members opposite who are lawyers and jurists, who are scholars in the field of law, should get up and protest against this kind of thing, because it has nothing to do with any relaxing of our efforts for defence. It is only a question of making certain provisions so that the rule of law does not become the most cruel casualty. This is what we are doing here.

By my next amendment, I want the deletion of lines 12 to 27 on page 19. The whole thing is already covered and I need not dilate on the point. I want a different type of arrangement and that is why I have come with this amendment.

Then, by my last amendment, I want the person sentenced by the Special Tribunal to have the same right of appeal and revision as anyone has under the Code of Criminal Procedure of 1898. I am not introducing any new element at all. I am only providing that whatever is open normally to an accused person, especially when he gets such a heavy sentence, should also be open to a person convicted by the Special Tribunal. This is my last amendment to clause 18. All I can say is that Government, by not accepting this amendment, will not be gaining much. It is not as if the situation is such that they are pressed and there are so many cases and they cannot handle them except through such a very rough and ready sort of procedure. That is not the situation at all. It

was possible for the Government to accommodate amendments of the kind that we have suggested and when we discussed it in the Informal Committee—I was also present there—many people and some hon. friends of the Congress Party also felt that this sort of a provision should be made, and such a safeguard should be given. The provision that is now existing should not be given the go-by. Let us not look as if we are catching hold of a man through the Executive and bringing him to the slaughter house to commit a butchery. Let us not make things look as bad as that. If the case is strong on the side of the Government, certainly the Government can bring him to a court of law or if you like, to the Special Tribunal and let him face the trial. But give him the elementary opportunity where he can feel that the rule of law has not been completely banished from this land of ours even in times of emergency. This is all I have to say.

I know the kind of reply that Mr. Datar will give. He will say that if this is accepted the very purpose of the emergency will be lost, that the war cannot be fought, that everything will be lost, that the border will be lost, that the territory will be lost, and so on. This is what he will say. But that will be only demagoguery and that Mr. Datar knows very well. There will be nothing of that sort and nothing will be affected by having the provision of the Criminal Procedure Code adopted here in order to give the right of appeal to the accused. The same opportunity as is open to an accused in comparable situations in a court of law under the existing Criminal Procedure Code, should be open to him also. This is all that I have to say.

श्री विमलकुमार मन्नालालजी जीरडिया

मेरा संगोष्ठन धारा १८ में है और जो इसमें आगे के ये शब्द हैं :—
but save as aforesaid . . ."

वगैरह, इनको डिलीट करने के लिये मैंने यह दिया है । इसमें स्पेशल ट्राइब्यूनल के आर्डर के बारे में व्यवस्था की है और आगे फिर दूसरे कानूनों के अन्तर्गत लाभ लेने का जो प्रावधान है उस पर भी " but save as aforesaid . . . " वगैरह लिख कर के प्रतिबन्ध लगा दिया है । मेरी यह समझ मे नहीं आया कि जब दूसरे विधानों के अन्तर्गत किसी को कुछ लाभ लेने का अधिकार है तब उस पर प्रतिबन्ध क्यों लगाया ? हम ने वैसे ही काफी सीमा बांध ली है—पाच साल या उससे अधिक का इम्प्रिजनमेंट हो, वह ज़िदगी भर का हो या डेय सेंटेंस दिया जाय—और फिर बाद में एक और प्रतिबन्ध लगा दें, यह कहाँ तक न्यायसंगत है ? अगर किसी दूसरे विधान में वह लाभ मौजूद है तो यह प्रतिबन्ध यहाँ लगाना उचित नहीं लगता है । यदि मेरा संशोधन स्वीकार न हो तो मणि साहब ने जो और अच्छा संशोधन दिया है कि उसको अपील करने का अधिकार दिया जाय वह स्वीकार करे । अपील करने से आपको कोई नुकसान होने वाला नहीं है । कम से कम कहीं तो न्याय की एक सीढ़ी हो । एक सीढ़ी आपको रखना चाहिये जिससे वह आदमी जिसको सज़ा देने वाले हैं, पाच साल तक ही सही, तो उसको अपील का लाभ मिल सके । इसलिये या तो मेरा संशोधन स्वीकार करे जो हल्का है नहीं तो मणि साहब का संशोधन स्वीकार करे ।

SHRI A. D. MANI: I shall be very brief. According to my amendment, any person sentenced by a Special Tribunal shall have a right of appeal to the High Courts. Even as it is, the Supreme Court has got jurisdiction over any sentence pronounced by a Tribunal under article 136 but going to the Supreme Court is a very expensive matter for a litigant and most of the people who are going to be dealt with by the Special Tribunals will not be millionaires but poor men who must have the right of appeal to

the High Court. I request him to accept this amendment.

SHRI B. N. DATAR: All the three hon. Members have proceeded on the assumption that the Special Tribunals ought not to exist. Now, I pointed out that after this provision was introduced in the Bill, the whole question was considered and you will find that clause 18 also has been substantially amended so that there would be an appeal to the High Court in all cases where there is a sentence of death or imprisonment for life or for a term of five years. From ten years, the period has been brought down to five years. We have done this purposely with a view to meet the wishes of the hon. Members. I have already explained the point regarding the words " save as aforesaid . . . " If Mr. Mani's amendment were to be accepted, it will practically cut at the root of the institution of Special Tribunals themselves.

THE DEPUTY CHAIRMAN: The question is:

27. "That at page 19, line 11, after the word 'law' the words 'and the person sentenced shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed.' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

28. "That at page 19, lines 12 to 27 be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

29. "That at page 19, for lines 12 to 27, the following be substituted, namely:—

[The Deputy Chairman.]

'(2) A person sentenced by a Special Tribunal shall have the same right of appeal and revision as under the Code of Criminal Procedure, 1898.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

59. "That at page 19, for the existing clause 18, the following be substituted, namely:—

'18. (1) A Special Tribunal may pass any sentence authorised by law.

(2) A person sentenced by a Special Tribunal—

(a) to death or imprisonment for life, or

(b) to imprisonment for a term of five years or more, under this Act or the rules made thereunder or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act, shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

60. "That at page 19, for lines 12 to 27, the following be substituted, namely:—

'(2) A person sentenced by a Special Tribunal shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed.'

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 18 stand part of the Bill".

The motion was adopted.

Clause 18 was added to the Bill.

Clauses 19 and 20 were added to the Bill.

Clause 21—National Service Tribunals

SHRI BHUPESH GUPTA: Madam, I beg to move:

30. "That at page 20, line 36, for the words 'such as may be prescribed' the words 'the same as that of the Industrial Tribunals under the Industrial Disputes Act, 1947' be substituted."

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

I think in this clause Government is seeking to introduce something new, provision for the constitution of National Service Tribunals, which will be dealing with the question of employment of technical personnel and certain other matters. These National Service Tribunals will have an important part to play. How will they be constituted? According to the existing provision, the Central Government shall constitute them. Then, what? The composition and powers of these Tribunals will be as prescribed, by Government, I presume. We do not know what will be the powers given to these Tribunals and what will be the composition of these Tribunals. Everything will be in the hands of the Government. Again, sweeping powers are being taken with regard to the composition of these Tribunals. I think this is not good. We have, for example, got the Industrial Tribunals under the Industrial Disputes Act. Therefore, my amendment says that the composition and powers of these National Service Tribunals should be similar to that of the Industrial Tribunals under the Industrial Disputes Act. We know the people who normally constitute the Industrial Tribunals, their powers and so on. We know how they function. Therefore, even if

we did not define the powers, composition, etc., in the Bill, by reference we can legislate here and we can adopt it from the Industrial Disputes Act.

SHRI AKBAR ALI KHAN (Andhra Pradesh): But the object is different.

SHRI BHUPESH GUPTA: You are tired, Mr. Akbar Ali Khan, so am I.

This is very essential. I say that you will be dealing under this clause not with criminals, not with those who are sabotaging war efforts but with the technical personnel, in order to mobilise them and organise the defence effort in a better way. The problems that might arise in that connection had better be left to a body like the Industrial Tribunals as we have in our country. They are, more or less, familiar, with the working class and with other employees. They are known quantities. Therefore, I think this is a good amendment and, well, I do not say what will happen but anyway, normally, it should have been accepted by the hon. Minister even when we had suggested this thing at the informal meeting; he should have accepted it. I do not know why even this thing is not accepted. However, I want to bring it before the House only to show, if I did not achieve any other objective, how the mind of the Government is working. I do not think this is a very right way of approaching the problems of national defence or setting upon the task that is assigned for them. I do not wish to say anything. I think this should have been accepted, even at this late hour. I think Mr. Datar is smiling in anticipation of what he will say.

The question was proposed.

SHRI B. N. DATAR: The short reply to my hon. friend's argument is that the National Service Tribunals contemplated by the Bill is not an Industrial Tribunal at all and this has to be formed for the purpose of enlisting the services of the technical personnel.

It has nothing to do with an Industrial Tribunal.

THE DEPUTY CHAIRMAN: The question is:

30. "That at page 20, line 36, for the words 'such as may be prescribed' the words 'the same as that of the Industrial Tribunals under the Industrial Disputes Act, 1947' be substituted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 21 stand part of the Bill.

The motion was adopted.

Clause 21 was added to the Bill.

Clauses 22 to 28 were added to the Bill.

Clause 29—Requisitioning of immovable property

SHRI ABDUL GHANI: Madam, I beg to move:

63. "That at page 25, lines 29 and 30 be deleted."

بل میں کہا گیا ہے کہ جو عبادت گاہیں ہوں جہاں خدا کی عبادت کی جاتی ہے انہیں نہیں لینگے - میں یہ عرض کرنا چاہتا ہوں کہ جب پاکستان کے کچھ آدمیوں نے کشمیر پر حملہ کیا تو وہ ایک اچانک حملہ تھا اور اس وقت کافی مشکلات آئیں - ہوائی اڈے کے لئے جگہ چاہئے تھی تو ایک عید گاہ تھی - عید گاہ وہ جگہ ہوتی ہے جہاں عید کے دن مسلمان اکٹھے ہوتے ہوں اور لاکھوں کی تعداد میں خدا کو یاد کرتے ہوں --- اس کے بارے میں

[شری عبدالغلی]

بڑی مشکل آئی کہ کہا جائے تو کشمیر کے بہت بڑے عالم مولانا مسعودی نے کہا اگر کشمیر دے گا تبھی ہم یہاں خدا کی عبادت کریں گے - تو انہوں نے اپنے ہاتھ سے اس کو توڑا اور کہا آپ یہاں ہوئی اذہ بلدانہ - میں یہ کہوں کہتا ہوں کہونکہ مذہب اپنے من کی شانتی کے لئے ہے، اپنی آتما کی شانتی کے لئے ہے، عبادت کس جگہ کرے کس جگہ نہ کرے - خدا کی ساری زمین ہے کوئی جگہ ایسی نہیں جہاں عبادت نہ ہو سکے - اگر ہمارے دیس کی جلتا لہلا سب کچھ قربان کر لے جا رہی ہے تو ایسی حالت میں میں سمجھتا ہوں کہ اگر ایسی ضرورت آ جائے تو ہندو سرکار کو مضبوطی کے ساتھ وہاں بھی اسی طرح قبضہ کر لے لیا جائے، اگر وہ زمین ملک کے فائدے کے لئے ضروری ہے جیسے کہ ایسے وقت میں پروانہویت جائیداد پر حکومت قبضہ کر لیتی ہے - خدا تو ہر جگہ موجود ہے عبادت ہم کہیں بھی کر سکتے ہیں -

8 P. M.

اگر کسی جگہ کی چھار دیواری کر لی جاتی ہے تو اس کا مطلب یہ نہیں ہوتا کہ وہاں ہی صرف عبادت گاہ ہے اور اس طرح سے سب کچھ ختم ہو گیا - اس لئے میں زوروں سے پہنچ کرتا ہوں کہ اگر فیئلس کے لئے ضرورت ہے تو اس جگہ کو بھی ضرور لے لیا جائے اور اس طرح سے ہمیں اپنے اوپر اس پرویزن کا بوجھ نہ لے لیا جائے -

†[شری अबدول گنی] بیل میں کہا گیا ہے کہ جو عبادت گاہیں ہیں، جہاں خدا کی

عبادت کی جاتی ہے، انہیں نہیں لے لیں گے۔ میں یہ عرض کرنا چاہتا ہوں کہ جب پاکستان کے کچھ آزادیخواہوں نے کشمیر پر حملہ کیا تو وہ ایک اچانک حملہ تھا اور اس وقت کافی مشکلات تھیں۔ ہوائی اڈے کے لیے جگہ چاہیے تھی تو ایک عید گاہ تھی—عید گاہ وہ جگہ ہوتی ہے جہاں عید کے دن مسلمانانِ ہند اکٹڑے ہوتے ہیں اور لاکھوں کی تعداد میں خدا کو یاد کرتے ہیں—اس کے بارے میں بڑی مشکل تھی کہ کیا کیا جائے۔ تو کشمیر کے بہت بڑے اہلِ ایمان مولانا ماسودی نے کہا اگر کشمیر رہے گا تبھی ہم یہاں خدا کی عبادت کریں گے۔ تو انہوں نے اپنے ہاتھ سے اس کو توڑا اور کہا، آپ یہاں ہوائی اڈا بنا دیں۔ میں یہ بھی کہتا ہوں کہ چونکہ مصلحت اپنے من کی شانتی کے لیے ہے، اپنی آتما کی شانتی کے لیے ہے۔ عبادت کس جگہ کرے کس جگہ نہ کرے، خدا کی ساری زمین ہے، کوئی جگہ ایسی نہیں جہاں عبادت نہ ہو سکے۔ اگر ہمارے دیس کی جلتا لہلا سب کچھ قربان کر لے جا رہی ہے تو ایسی حالت میں میں سمجھتا ہوں کہ اگر ایسی ضرورت آ جائے تو ہندو سرکار کو مضبوطی کے ساتھ وہاں بھی اسی طرح قبضہ کر لے لیا جائے، اگر وہ زمین ملک کے فائدے کے لیے ضروری ہے جیسے کہ ایسے وقت میں پروانہویت جائیداد پر حکومت قبضہ کر لیتی ہے۔ خدا تو ہر جگہ موجود ہے، عبادت ہم کہیں بھی کر سکتے ہیں۔

اگر کسی جگہ کی چھار دیواری کر لی جاتی ہے تو اس کا مطلب یہ نہیں ہوتا کہ وہاں ہی صرف عبادت گاہ ہے اور اس طرح سے سب کچھ ختم ہو گیا۔ اس لیے میں زوروں سے پہنچ کرتا ہوں کہ اگر فیئلس کے لیے ضرورت ہے تو اس جگہ کو بھی ضرور لے لیا جائے اور اس طرح سے ہمیں اپنے اوپر اس پرویزن کا بوجھ نہ لے لیا جائے۔

The question was proposed.

†[] Hindi transliteration.

SHRI B. N. DATAR: I am opposing this amendment. I am surprised, Madam, that the hon. Member has brought forward this amendment. In fact what the Government did was to exclude from the purview of requisition property which is exclusively used by the public for religious worship. Therefore when such property was sought to be excluded I cannot understand the purpose of the hon. Member in trying to get it included.

THE DEPUTY CHAIRMAN: The question is:

63. "That at page 25, lines 29 and 30 be deleted.

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 29 stand part of the Bill."

The motion was adopted.

Clause 29 was added to the Bill.

Clause 30—Payment of compensation

SHRI V. M. CHORDIA: Madam, I move:

64. "That at page 25, line 42, after the word 'paid' the words 'within fifteen days of such requisition' be inserted."

इस विधान में यह व्यवस्था है कि अगर किसी की प्रापर्टी रिक्वीजिशन की जाय, किसी की इम्पेविल प्रापर्टी को सरकार अपने अधिकार में ले, तो उसको कम्पेनसेशन दिया जाय। इस तरह का जो निर्णय किया गया है वह ठीक है, पर कब तक मुआवजा दिया जायेगा इसके बारे में कोई निश्चित बात नहीं कही गयी है अगर किसी आदमी की प्रापर्टी सरकार अपने अधिकार में करती है और वह आदमी बम्बई या कहीं लम्बे व्यापार पर चला जाता है तो आप उसको कितने दिनों में कम्पेनसेशन दे देंगे? अगर आप इसके कोई समय निश्चित नहीं करते तो वह समय कई

दिनों का भी हो सकता और कुछ दिनों का भी हो सकता है। इस तरह से उस आदमी को भी देरी और कठिनाई हो सकती है। इस काम में तो "तुरत दान, महा कल्याण" की बात होनी चाहिये, जिसकी प्रापर्टी को लिया जाये उसको कम्पेनसेशन जल्दी मिल जाना चाहिये। इस बारे में जो कुछ भी निर्णय किया जाय वह १५ रोज के भीतर कर दिया जाना चाहिये। मुझे आशा है माननीय मंत्री जी मेरे इस सशोधन को स्वीकार कर लेंगे ताकि इस बारे में जल्दी से निर्णय हो सके।

The question was proposed.

SHRI B. N. DATAR: Madam, it is an impossible proposition.

THE DEPUTY CHAIRMAN: The question is:

64. "That at page 25, line 42, after the word 'paid' the words 'within fifteen days of such requisition' be inserted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 30 stand part of the Bill.

The motion was adopted.

Clause 30 was added to the Bill.

Clauses 31 to 34 were added to the Bill.

Clause 35—Release from requisition

SHRI A. D. MANI: Madam, I move:

70. "That at page 27, line 33, for the words 'shall not prejudice by any rights' the words 'shall not prejudice any rights' be substituted."

Madam, if the House scans clause 35, it will be found that the purpose of this clause is to permit Government to return the property which has been requisitioned. That is provided for in sub-clause (1) of clause 35. In clause 35(2) a serious error has occurred

[Shri A. D. Mani.]

which I think the Government has got to correct at this stage. I would invite the attention of the House to the wording of the clause which says:

"The delivery of possession of the property to the person specified in the order under sub-section (1) shall be a full discharge of the Government from all liabilities in respect of the property . . ."

So far there is no objection. But further on it says:

"but shall not prejudice by any rights in respect of the property . . ."

Now I am not able to understand the meaning of the words "by any rights" here. It can be, I think, "shall not prejudice any rights". It cannot be "shall not prejudice by any rights".

SHRI B. N. DATAR: The word "by" there is a mistake.

SHRI A. D. MANI: If it is a mistake, then they have to accept my amendment.

SHRI B. N. DATAR: That can be corrected without an amendment.

SHRI A. D. MANI: Madam, when at this stage a mistake in drafting is pointed out, the hon. Minister says he can correct it without an amendment. It is not permissible. This has been passed by the other House. Ours is a revising chamber and when . . .

SHRI B. N. DATAR: It is just a misprint; let the hon. Member understand that.

SHRI A. D. MANI: This is a mistake which has occurred in the Bill. It cannot be corrected without an amendment.

SHRI B. N. DATAR: The hon. Member can see the rule here.

THE DEPUTY CHAIRMAN: Let him finish; then you can answer.

SHRI A. D. MANI: Madam, it is a substantial error. We have to presume that when the other House passed this clause it has set some meaning on the word "by". On this word "by" there may be very extensive litigation before the Supreme Court. The hon. Minister cannot say that he can correct it without an amendment. It has got to be in the form of an amendment. Of course, if he accepts my amendment the Bill will have to go to the other House for ratification. I submit, Madam, that under the rules the Minister cannot correct the Bill here because a mistake has been pointed out on the floor of the House.

The question was proposed.

SHRI B. N. DATAR: I have considered the matter. It is a mistake which has unfortunately remained without any mistake on our part or on the part of any officer in the other House. That mistake can be corrected by a subsequent correcting or amending Bill but it is not necessary to hold up the progress of the Bill only on account of this mistake. That can be done subsequently because the meaning is quite clear.

THE DEPUTY CHAIRMAN: Mr. Mani, in view of the explanation given by the Minister, do you want to press your amendment? It is obviously a mistake.

SHRI A. D. MANI: The purpose of Rajya Sabha is to see that the mistakes in legislation passed by the other House are corrected in time. The hon. Minister says that he is prepared to bring an amending Bill separately but he is not prepared to accept the amendment moved here.

THE DEPUTY CHAIRMAN: I think Mr. Datar has explained it very well. Do you want to press the amendment in view of the procedure involved?

(Interruptions.)

SHRI A. D. MANI: Why can't he accept the amendment? Madam, this

Bill to the liberties of the citizens of this country and the hon. Minister says that he is prepared to wait till next session.

SHRI B. N. DATAR: It will be brought in due course. The meaning is quite clear.

SHRI A. D. MANI: The meaning is not clear if you say "but shall not prejudice by any rights . . ." Here it is a mistake and he is not prepared to accept the amendment.

THE DEPUTY CHAIRMAN: You have not made up your mind; are you pressing the amendment?

SHRI A. D. MANI: I am pressing my amendment because it is a mistake and it has been pointed out in the House. The hon. Minister admits it is a mistake but he is not prepared to accept the amendment.

SHRI SONUSING DHANSING PATIL: May I request Mr. Mani? The House is thankful to him but for a small mistake let us not hold up the Bill.

SHRI BHUPESH GUPTA: Madam, it is possible to get this through in this session. The other House will be meeting on Monday. Suppose we pass it today here, it can be easily got ratified on Monday. It is a simple thing. It does not require any notice; the hon. Minister has only to make a statement.

SHRI A. D. MANI: Yes; why do you leave it like that?

THE DEPUTY CHAIRMAN: The question is:

70. "That at page 27, line 33, for the words "shall not prejudice by any rights" the words "shall not prejudice any rights" be substituted."

(after taking a count)

Ayes	..	12
Noes	..	41

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 35 stand part of the Bill."

The motion was adopted.

Clause 35 was added to the Bill.

Clauses 36 to 39 were added to the Bill.

Clause 40—Power to delegate.

THE DEPUTY CHAIRMAN: There is one amendment in the name of Shri Bhupesh Gupta, No. 31.

SHRI BHUPESH GUPTA: Madam, I move:

31. "That at page 30, line 27 be deleted."

(The amendment also stood in the names of Shri P. K. Kumaran and Shri M. N. Govindan Nair.)

Now, as you will see, this Chapter deals with Supplemental and so on. It says:

"The Central Government may, by order, direct that any power or duty which by this Act or by any rule made under this Act is conferred or imposed upon the Central Government shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged also—

(a) by any officer or authority subordinate to the Central Government, or . . . "

I retain it. The next also I retain, viz.:—

"(b) whether or not the power or duty relates to a matter with respect to which a State Legislature has power to make laws, by any State Government or by any officer or authority subordinate to such Government or . . . "

[Shri Bhupesh Gupta.]

Now, those who are subordinate to the Central Government or the State Government will have the power. Then suddenly it is added:

"(c) by any other authority".

Now, they confine to certain principles. But here they can create any authority they like. We do not know which authorities they will be. At least the Central Government will determine the authority. They can appoint anybody as the authority for the purpose of this, subject to certain broad regulations and so on. Why have you made this provision? The other two provisions meet the needs of the situation. Why widen the power in this manner in which all kinds of people may be appointed as the authorities, and given such delegated power if I may say so? Therefore, I say that this should be deleted.

The question was proposed.

SHRI B. N. DATAR: I am not accepting this amendment. It is essential for the purpose of carrying on the work.

THE DEPUTY CHAIRMAN: The question is:

31. "That at page 30, line 27 be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is:

"That clause 40 stand part of the Bill."

The motion was adopted.

Clause 40 was added to the Bill.

Clauses 41 to 44 were added to the Bill.

Clause 45—Savings as to orders

THE DEPUTY CHAIRMAN: There are two amendments. Mr. Murahari is not here. Mr. Chordia, amendment No. 67.

SHRI V. M. CHORDIA: Madam, I move:

67. "That at page 31, lines 30 and 31 be deleted."

उपमहापति महोदया, दुख होता है यह देख कर के कि गलती मालूम पड़ती है, गलती मंजूर भी कर लेते हैं, लेकिन अमेंडमेंट इस लिये स्वीकार नहीं करते कि देरी होगी।

श्री महावीर प्रसाद भार्गव अमेंडमेंट लोक सभा में जायेगा।

श्री विमलकुमार मुन्नालालजी चौरीइया: जनाबेआली, आपका यह रुख है, इसी लिये यह सारी बात कहनी पड़ी। मैं आपको भी देखता हूँ कि आप इतने अच्छे होते हुये भी इसमें बोलने के लिये रुकावट डालने का असफल प्रयत्न कर रहे हैं। इस प्रकार अमेंडमेंट पेश करने का जो उद्देश्य होता है वह एक तरफ रह जाता है। अभी मौका था कि गलती जब सामने आ गई थी तो उस गलती को ठीक करके और उसको लोक सभा में भज करके हम ठीक कानून बना सकते थे। मगर उस छोटी सी गलती को ठीक करने के लिये फिर से अमेंडमेंट लाना पड़ेगा और सारी कार्यवाही करती पड़ेगी उसकी चिंता हमें नहीं है। खैर, जो कुछ हो, हमारा कर्तव्य यह है कि हमारे जो संशोधन हों और जिनको हम ठीक समझें, सदन के सामने रख दें।

इस कानून के अन्तर्गत सारे अधिकार हमारी सरकार अपने हाथ में ले रही है। अब वह चाहती है कि कोर्ट के जुरिस्टिक्शन में भी वह बाहर हो जाय और इसी लिये इसमें यह प्राविजन रखा है

"No order made in exercise of any power conferred by or under this Act shall be called in question in any court."

किसी भी कोर्ट में क्वेश्चन नहीं किया जा सकता। आखिर न्यायालय से इतना भय करने की क्या जरूरत है? कोर्ट सरकार द्वारा बनाये

गये हैं, न्यायालय सरकार द्वारा बनाये गये हैं। फिर भय की बात क्या है? हम तो यही चाहते हैं कि हम न्याय के आधार पर काम करें। फिर हमारे कानून में कुछ ऐसी गलतियाँ भी रह सकती हैं जिनकी वजह से लोगों में शिकायत हो और फिर यह बिल्कुल स्पष्ट हो गया है कि हम अपनी गलतियों का छिपाने के लिये कुछ भी कर सकते हैं। जब सरकार का ऐसा एटिट्यूड हो और सरकार की गलतियों के बारे में हम कोर्ट आफ ला में जा करके क्वेश्चन करें और उनके बारे में कार्यवाही करें तो आप उस पर भी प्रतिबन्ध लगा देना चाहते हैं। अगर आप यह मान लेते हैं कि हमसे गलती नहीं हो सकती है, हम बिल्कुल देवता के तुल्य हो गये हैं, तो फिर मुझे कुछ नहीं कहना है। भगर आप कितना देवता के तुल्य हैं, वह एक छोटी सी गलती से स्पष्ट हो गया है। ऐसी दशा में क्लेम बनाने के वक्त भी आपसे कोई गलती नहीं होगी, ऐसी कल्पना करना बिल्कुल गलत है। इस लिये मैं दातार जी से प्रार्थना करूँगा कि जब वे जनतंत्र का नाम लेते ह, तो जनतंत्र के आधार पर उनका सारे कार्य करने चाहियें। क्या कारण है कि वे इसको कोर्ट के जुरिस्टिक्शन से बाहर करना चाहते हैं? क्या क्लेम में गलतियाँ नहीं हो सकती हैं? अगर हाँ सकती हैं तो कोर्ट में क्वेश्चन करने का अधिकार आप क्यों नहीं देना चाहते हैं? ऐसा लगता है कि कुछ दाल में काला है जिसकी वजह से आप दूसरों को कोर्ट में जाने का अधिकार देना नहीं चाहते नहीं तो आप कह दें कि जरूर न्यायालय में जाओ, हमें कोई आपत्ति नहीं है। इस प्रकार यह जो आप केवल दूसरों की गलती ढूँढ़ने का असफल प्रयास कर रहे हैं, इसके लिये आप प्रशंसा के पात्र नहीं हैं, निन्दा के पात्र हैं। इस लिये मैं माननीय मंत्री जी से प्रार्थना करूँगा कि इस विधेयक में कम से कम यह अधिकार रहे कि यह कोर्ट के जुरिस्टिक्शन से बाहर न हो ताकि लोग कोर्ट में जा सकें और मने यह जो सशोधन दिया है इसे स्वीकार करने का कष्ट करें।

The questions were proposed.

SHRI B. N. DATAR: I am opposing this amendment for obvious reasons. In the first place, there are such provisions even in the ordinary laws and here it is an emergency law. If every matter has to go to a court, then practically work under this particular Bill may not be carried out at all. Let not the hon. Member bring in here questions of democracy and other things. These are the usual measures and not only emergency legislation.

THE DEPUTY CHAIRMAN: The question is:

67 "That at page 31, lines 30 and 31 be deleted."

The motion was negatived.

THE DEPUTY CHAIRMAN: The question is

"That clause 45 stand part of the Bill"

The motion was adopted

Clause 45 was added to the Bill

Clauses 46 to 49 were added to the Bill

Clause 1—Short title, extent, application, duration and savings

SHRI BHUPESH GUPTA: Madam, I move

1 "That at page 1, line 13, for the words 'Defence of India Act' the words 'National Defence Act' be substituted"

(The amendment also stood in the names of Shri Gaure Murahari, Shri P. K. Kumaran and Shri M. N. Govindan Nair)

It is a simple thing. It should be called the "National Defence Act". The nomenclature should be changed. Instead of the Defence of India Act, we should call it the National Defence Act. The British called it the Defence of

[Shri Bhupesh Gupta.]

India Act. England called it the Defence of the Realms Act. Now, must we follow them? We talk about "national defence" and we can easily adopt it. I think this is the most appropriate term to be given to the title of this Bill and I think it can be accepted. It should have been accepted even earlier by the Government. This is all that I have to say. I do not like this imitation business even with regard to the title. It does not describe the mood and the sentiment of the people. If it is described as I have suggested, it will have a better connotation for the people here and people outside also. That is why I have suggested this amendment.

The question was proposed.

SHRI B. N. DATAR: Madam, this question was considered in the other House and as this House is also aware, a number of hon. Members suggested that the word "National" here might be out of place. I have considered this matter very carefully. Out of regard for the opinion expressed here as also in the other House, after considering the matter, we find that the expression "Defence of India" is a more comprehensive expression. So far as appeal to nationalism is concerned, we have got a number of organisations, a number of occasions. We have got the Prime Minister's National Defence Fund. Therefore, there are a number of other ways in which the word "National" can be invoked provided it is necessary. So far as the present Bill is concerned, it deals with the defence of India. In England also you will find that during the Second World War they had also what was known as the Defence of the Realm Act. Under these circumstances I would submit to the hon. Members that the word "National" here may not necessarily fit in. The best course would be to have the "Defence of India Act" covering the whole of the nation.

SHRI BHUPESH GUPTA: I am not convinced, but in order to make a ges-

ture, I withdraw my amendment with the leave of the House.

**Amendment No. 1 was, by leave, withdrawn.*

THE DEPUTY CHAIRMAN: The question is:

"That clause 1 stand part of the Bill."

The question was proposed.

Clause 1 was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

The Preamble was added to the Bill.

SHRI B. N. DATAR: Madam, I move:

"That the Bill be passed."

The question was proposed.

SHRI BHUPESH GUPTA: Madam Deputy Chairman, towards the end of this not marathon but somewhat long debate full of implications which are to be seen as we proceed, I would like to say only a few words. We should be clear in our conscience that, faced with an aggression to our territorial integrity, we have been forced to day to assume or rather to give Government such unbounded, unlimited powers. These powers are being given in away, if I may say so, with the goodwill of the nation. These are powers which the nation wants to be exercised solely with the object of upholding the territorial integrity of our country and honour of the land. This is the sole purpose for which the country today is unanimous in giving, broadly speaking, all the powers they have assumed or they are going to assume in their

**For text of amendment, see col. 3554 Supra.*

hands—I mean the Government. I know that whatever may be the controversy amongst us with regard to very many other matters, among the Members opposite there are many who are guided by good, noble democratic sentiments, and I think that they will also give us the credit or at least the right to claim that we are also guided by similar sentiments even though as a political force we may not be so big as they are. It is essential, therefore, that consistent with the principles of national unity that has been brought about by external aggression, we should also see that measures such as these are applied and utilised with a view to ensuring the objectives and for no other extraneous, and much less party, reasons. I think I can count upon the goodwill and sympathies and upright thinking on the part of many hon. Members opposite.

I have been functioning in this House opposing the Government on many occasions and supporting it also, but never have I taken a negative view as far as the Government side is concerned, because that is constituted of many representatives of the people, many eminent men in public life who are in close touch with the people. If there is a measure of apprehension about the manner in which this is going to be applied, I think we should all the more count upon the goodwill and good wishes and right attitude on the part of the hon. Members opposite.

Madam Deputy Chairman, this is the first time since independence that for no fault of ours we have been forced to accept emergency and hence this series of extraordinary measures. We hope that the country will emerge out of the crisis with a clear conscience and with its national integrity and honour fully upheld and maintained. It would not be worth living if we allow our national honour and integrity to be sullied. I am in agreement with the sentiments of hon. Members, and, therefore, we should

view the entire thing as if it is a common, universal task of the Indian nation to utilise the laws and other powers that we have got in order to achieve the objective. How that will come about, it is not for me to say. It depends upon various other factors; but as far as the internal administration of these measures is concerned, much rests with us and rest upon how we apply them. For the first time since independence we are having this emergency and these extraordinary powers. Let it not be said by generations that will follow us and yet unborn that once these powers were obtained in a national emergency by the will of the people, some people in authority and high position took the opportunity to apply them or use them for suppressing rightful democratic movements, suppressing political opponents in other spheres, suppressing certain parties and trade-union organisations, or for taking certain undue or unmerited advantage of the Act. Let it not be said so because we should not like to go on record in this manner.

In this connection naturally I think the Central Government has a great responsibility. Leadership of the nation today in this hour rests with the Prime Minister and the Central Government and I think that will give them a sense of responsibility to be more circumspect than what they have been in normal times in the application of these measures, to be careful in seeing that these are not used against whom they should not be used. The measures should not be used on the basis of subjective apprehensions only. There should be at least some kind of effort in one's mind to see whether they are being rightly applied or used against people who are really coming in the way of the defence effort or obstructing the defence effort in other ways. In this connection the Central Government must be constantly on the job. The Minister of Home Affairs, if I may say so, and the Minister of State in the Ministry of Home Affairs—Mr. Datar I have in

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mind—will be particularly expected to be seized of the developments that are taking place, and we shall expect them to function not merely as routine members of a political party and Government. We shall expect them to function in the larger interests of the nation as if they are the trustees of the nation in a critical situation; that is to say, they must show vision, statesmanship, tolerance, wisdom, sympathy and understanding on whatever problems come before them for their consideration. I say this because that is how we rise to the great occasion. May I say also in this connection that the Central Government means the officers of the Central Government? I know that the Ministers function and in the parliamentary sphere they have the responsibility to Parliament, but then the actual administration at the Central level will be done by the Secretaries and other officers. I should like them also, if I may tell them, to give an excellent account of themselves in this critical situation. Let them function in a new way. Let them feel as if they are defenders of the nation. They have been given powers for upholding a certain very noble cause and I think the old prejudice, the old way of thinking, should not be allowed to shroud the right, humane yet firm outlook. I say 'firm outlook' because it should be necessary in the case of those who are really entrusted with this matter.

Madam, our officers are permanent institutions and bodies. Ministers come and go with the elections perhaps but officers remain. Parties may change in parliamentary institutions. In our country we may not foresee it immediately but in other countries it does happen. But officers remain permanent. I think that our permanent officers should be functioning as correctives where political prejudices on the part of anyone come up, because they are the administrators in point of fact and I think we can count upon their ability, their patriotism, their sense of justice and their im-

partiality and detachment in the exercise of this measure. I hope that our Secretaries, Deputy Secretaries, Assistants and so on and those of others who would be connected with the Home Ministry in administering the measures will behave in a really good way and giving an excellent account of themselves. This is what I say. As far as the State Governments are concerned, Madam Deputy Chairman, I think the State Governments may go wrong—the Central Government also may go wrong—they are subject to undue, wrong, unhealthy, evil and pervert influences, if I may say so, in some cases, and it will be the task of the Central Government in such a situation to pull them out, to tell them how they should behave because these powers are being given to the State not in the ordinary course of things but for promoting the objective for which the Central Government alone is responsible. Therefore, the Central Government owes it to its conscience, to this Parliament and the country that they should guide the State Governments in this matter in a proper way so that we do not have the spectacle that we have, for example, in West Bengal today when some Ministers are abusing this thing, ignoring this thing and are really going against the spirit of the declared policy of the Prime Minister and the Central Government and the Resolutions of Parliament. I hope that if this example is set by the Central Government before the State Government, they will also be learning some lessons and setting good examples before the magistrates and other local authorities in the administration of this measure. That is how it should be administered.

Madam Deputy Chairman, we have spoken with a sense of grievance and I hope that our grievance will be appreciated. We have spoken because many of our colleagues and comrades with whom we would have liked to work in this hour of emergency today, have been taken away from us and put behind prison-bars and given

all kinds of names that hurt and pain us. I think the hon. Members opposite will agree that a similar situation would have caused pain to them. It is not an issue over which we are in conflict with the Government. When over some issues we are in conflict with the Government, we fight them, we do not plead in this manner. We gladly, willingly go to prison, face the consequences and do not speak in this manner. But here on this occasion when we are in fundamental agreement with the Government, when our objective is the common objective, when we have given our full and unstinted support to the Prime Minister of the country who is the head of the Government, who is the leader in this situation, it is a great tragedy and a matter of profound pain and sorrow that colleagues of ours, leaders and workers, should have been on a mass scale arrested in different parts of the country and put in . . .

AN HON. MEMBER: He is a black sheep.

SHRI BHUPESH GUPTA: There was no need for it. I understand that you may have some apprehensions. But I think that we function here face to face and we shall continue to function here face to face. I hope that our parliamentary institution will never be subverted. If that is so, then a responsible political party in the country like the Communist Party which, by the will of the people, is the second party after the Congress, is entitled to claim your understanding and sympathy in this matter and we can count upon your deeper statesmanlike understanding over this matter. And we would not expect you to move in this matter in the way in which the bureaucrats of the olden days or others had moved.

Mr. Lal Bahadur Shastri said that when he was doing things against the war effort, he did not mind being detained. Personally, I was also detained for four years, as a young boy, under the British in the thirties. I never pleaded for my release at all. I knew that I was against the British Govern-

ment and because they thought that I had been guilty of a certain terrorist offence and so on, well, they put me in prison. Many of us were there, we silently passed our time in prison without expressing our grievance on this score. On the contrary, we accumulated our feelings in order to fight the British more. Lal Bahadur Shastriji was quite right when he said that he was opposing the war effort. Then, at that time, that was the declared policy. And why should he, being a national leader at that time, be afraid of being put in prison? Today, as far as we are concerned, the same situation does not exist. We are with the Government, we support the Government, we want the defence of the land. There is no conflict between us and the Government. We are not opposed to war effort. On the contrary, we are in favour of the maximum possible mobilisation of the resources of the land, in men, money and in unity. Why should we not be sorry then if by mistake or due to some other reasons or on account of some misplaced suspicions or some past prejudice you put your fellow-fighters in this cause behind prison-bars? There is every reason to complain and every reason for grievance I know. You may not understand it today. But a time will come when you will understand that our grievance was justified.

Now, Madam Deputy Chairman, I still implore the Government, let them reconsider this policy, the policy of arrests. I know under what circumstances on the 20th of November or before the orders were passed. Perhaps, they were a little taken aback by the development at that time. Perhaps, they were a little off their bearing on that day when the terrible news was coming and they acted in haste as far as we are concerned. We shall not complain if the mistake is rectified today. Today, perhaps, the situation may be slightly or somewhat different from what it was then on the 20th or 19th or 18th. Today, perhaps, second thoughts will be more easily given to such matters as we

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have placed before the House. I would like the Home Minister and other Government officials, those who are dealing with the files and papers, and the Prime Minister in particular—if I may appeal to him even though he is not here—to reflect over this matter and see whether they can find their way to rectifying the gross injustice that has been done to my party, to the work to which we are pledged. I would not have been saying . . .

SHRI SONUSING DHANSING PATIL: What is the gross injustice? You are making an allegation against the Government.

(Interruption)

SHRI BHUPESH GUPTA: Well, gross injustice is understood by you all, and I do not want to dilate upon it. I think you understand it. The gross injustice is the arrest of people, detention, use of the Defence of India rules against us, right and left, arrest of trade-union leaders, decapitation of the leadership of the Communist Party in various districts, taluks and even at the State level. This I call to be a gross injustice done to us. If you think it is justice, have that satisfaction. If you think that there may be an element of injustice and somewhat wrong in it, you reconsider it. This is what I say.

I have placed before the House all these things in the course of the discussions. I have done so because whom shall I appeal to? If in Parliament I do not appeal to my colleagues here, whom shall I appeal to? Shall I appeal to the world at large or shall I cry at the top of my voice in some public *maidan* when it is open to me to stand up here from these benches and appeal to my colleagues opposite who are responsible for running the Government of the country? Am I asking too much from you? But remember, we have been here for ten years. The one who is asking for it, the party that is asking for it, are not strangers to you. Their views are known, their politics are

known, they have been sharing this place here and in the other House with you and they have been going to elections together with you. We are shaping India's parliamentary and democratic institutions together. We are a part of the same political set-up. Today, if that constituent of the political set-up, if that force is attacked in this manner, is it not right for me, is it not within my power and duty to ask you to reconsider this matter and set things right?

Again finally I assure the House that, whatever pain you have caused us by the arrests of our colleagues and comrades, whatever may be it store for us in the days that lie ahead, however repressive the posture of the Government may be in certain quarters, however misguided the Government may be in taking certain misguided actions against us, we have charted our course, and we shall proceed to advance along this thing, the course of national defence, the course of national unity for the purpose, the course of regaining the honour of the country, the course of making our territorial integrity secure, inviolable and invincible. Even if you throw us away, push us aside, I tell you on behalf of my party, here again in all solemnity, as we close this chapter of the Defence of India Bill, we shall time and again seek place alongside you at this hour of crisis. If you throw us away, push us aside out of the ranks, humbly but stoutly again, unshaken, with unfaltering step we shall be again by your side. We Communists, some will be in jail and others will be out. You shall judge the Communists in jail by those who are out, and we Communists are nothing if we are not a disciplined lot, and once we have placed before the nation and before the world and before the entire working class movement that our policy is this, that the Communist Party of India has come to certain conclusion, formulated certain policy, pledged itself to supporting this policy, we want to demonstrate, given the opportunity, that what we have

preached we practise, we stand by what we have have said, no matter wherefrom and how we are attacked. I hope my colleagues will realise this and see that our voice of unity is reciprocated by a gesture of unity. The time today is not to attack the Communist Party. The time today is to unite all the forces, and the Congress Party is more responsible than any other party to play a leading role in bringing about this unity, because it is in the control of the Government. That is why I again appeal to you, "Reconsider this matter", and I hope hon. Ministers and others concerned with the Government departments will rise equal to the occasion and will match the declarations of the Prime Minister, noble as they are, in this field, by concrete actions, and nothing that comes in the way of unity, creates a grievance should be done, and everything that builds up this unity, makes the people come closer together, generate a common effort, a common will, unity in will and action should be encouraged by them.

With these words, I conclude my speech and I still fervently hope that these measures will not be abused by authorities, that we shall not write a chapter in our history by an abuse of authority of this kind. On the contrary, we should make it known to the world that even such excessive and extraordinary power, easily liable to be abused, can be properly used by the people that we are in our country, and I think mistakes should be rectified, and in future proper steps should be taken so that we achieve the right objectives and do not tread on wrong ground and thereby defame our country.

Thank you, Madam.

شری عبدالغفر : ذیلتی چیر مہیں

صاحبہ - اب تیسری اسٹیج ہے اور
چند منٹوں کے بعد ہم اس ڈیفنس
آف انڈیا بل کو پاس کرنے جا رہے ہیں۔

تو کوئی تقریر کرنے کا موقعہ نہیں ہے -
میں چلد درخواستیں آپکے ذریعہ اپنی
سرکار سے عرض کرنا چاہتا ہوں -
پینتالیس کروڑ بندگان خدا کے بنیادی
حقوق ضرورت پڑنے پر آپ لہنے جارہے ہیں
اور پینتالیس کروڑ لوگوں کی سہول لبرٹی
کو ضرورت پڑنے پر ڈیفنس آف انڈیا
کے تحت چھیننے جا رہے ہیں - یہ
ایک بہت بڑی ذمہ داری ہے جو آپ
لے رہے ہیں - اس موقعہ پر آج مجھے
یقیناً احساس ہو رہا ہے کہ ایمرجنسی
کی حدود سے بھی زیادہ احساس ہے :

دراچھا ہے دل کے ساتھ رہے پاسباں عقل
لیکن کبھی کبھی اسے تلہا بھی چھوڑ دے؟

آج ہمارے مٹی صاحب ہمارے گئے اور
جھٹ گئے یہ بھول جانا چاہئے صرف
اس لئے کہ ملک کا انٹرسٹ تھا کہ یہ
بل جلد سے جلد پاس ہو ورنہ ہماری
سرکار مستقر مٹی کی ترمیم کو ایڈجسٹ
کرتی ہے میں یہ عرض کرنا چاہتا ہوں
کہ اس وقت اگر کوئی زیادتی ہوئی اور
یہ بل چوہے بلی کی لڑائی بن گیا تو
یہ سارے ملک کے لئے نقصان دہ ہوگا -
پنجاب میں ایم ایلز کو گرفتار کیا گیا
اور پھر چھوڑ دیا گیا تھا - میں یہاں
پر کسی ٹانگے والے یا بلیک مارکٹنگ
کرنے والے کی بات نہیں کہتا میں تو
یہاں پر کمیونسٹ ایم - ایل - اے
کی بات کہہ رہا ہوں کہ جو پکڑ لئے
جاتے ہیں اور چھوڑ دئے جاتے ہیں -
اس لئے سرکار کو اسٹیٹ گورنمنٹ کو
اس طرح کن ہدایت دینی چاہئے کہ
وہ اس طرح کی باتیں نہ ہونے دیں -

[شری عبدالغنی]

مجھے دے کہ جب سارا ملک اپنی گردن آپ کو دے رہا ہے تو آپ کو اس کا بے جا فائدہ نہیں اٹھانا چاہئے اور اس کا جائز استعمال کرنا چاہئے اس لئے میں چاہتا ہوں کہ ایک بہت بہت بڑی ذمہ داری سرکار کے اوپر آگئی ہے کہ وہ اس بل کا ٹھیک ٹھیک سے استعمال کرے گی - میں شاستری جی کی اس بات سے متفق نہیں ہوں کہ کانگریس والوں نے ملک میں زیادہ دوت حاصل کئے زیادہ دوت اپوزیشن والوں کو ملے تھے اس وقت یہ ہاؤس ایک بڑی بھاری امانت آپ کو دے رہا ہے اور مجھے امید ہے کہ آپ اس کا ناجائز استعمال نہیں کریں گے - جو اعتماد سارے ملک نے آپ کو دیا ہے اس کو دیکھتے ہوئے اس سے پنجاب میں جو اٹھائے ہو رہا ہے اس کو آپ روکیں گے:

بایا ہن بھئی ہور دی ہور

بجدے سارے چھتے دے ہور

ایتھ لیکھا ہے پروا ہاں وا

دھتیرب ہے یارو روز مسخسر چھتہ کا

کشتوں کا خون کیونکر

جو چپ دے گی زبان خنجر

لہو پکارے گا آستیں کا

†[श्री अब्दुल गनी डिप्टी चैयरमैन साहिबा, अब तीसरी स्टेज है और चन्द मिनटों के बाद हम इस डिफेंस आफ इंडिया बिल को पास करने जा रहे हैं। तो कोई तकरीर करने का मौका नहीं है। मैं चन्द दरखास्ते आपके जरिये अपनी सरकार से अर्ज करना चाहता

हूँ। पैतालीस करोड़ बंदगानेबूदा के बुनियादी हुकूम जरूरत पड़ने पर आप लेने जा रहे हैं और पैतालीस करोड़ लोगों की सिविल लिबर्टी को जरूरत पड़ने पर डिफेंस आफ इंडिया के तहत छीनने जा रहे हैं। यह एक बहुत बड़ी जिम्मेदारी है जो आप ले रहे हैं। इस मौके पर आज मुझे यकीन एहसास हो रहा है कि एमरजेन्सी की हद से भी ज्यादा एहसास है—“अच्छा है दिल के साथ रहे पासबाने अक्ल, लेकिन कभी कभी इसे तनहा भी छोड़ दे।” आज हमारे मणि माहव हार गये और जीत गये ये भूल जाना चाहिये सिर्फ इसलिये कि मुल्क का इन्टरेस्ट था कि यह बिल जल्द से जल्द पास हो वना हमारी सरकार मिस्टर मणि की तरफ को एप्रिशियेट करती है। मैं यह अर्ज करना चाहता हूँ कि इस वक्त अगर कोई ज्यादाती हुई और यह बिल चूहे-बिल्ली की लड़ाई बन गया तो यह सारे मुल्क के लिये नुकसानदेह होगा। पंजाब में एम० एल० एज० को गिरफ्तार किया गया और फिर छोड़ दिया गया। मैं यहां पर किसी तागे वाले या ब्लेक मार्केटिंग करने वाले की बात नहीं कहता, मैं तो यहां पर कम्युनिस्ट एम० एल० ए० की बात कह रहा हूँ कि जो पकड़ लिये जाते हैं और छोड़ दिये जाते हैं। इसलिये सरकार को स्टेट गवर्नमेंट को इस तरह की हिदायत देनी चाहिये कि वह इस तरह की बातें न होने दे। मुझे डर है कि जब हमारा मुल्क अपनी गर्दन आपको दे रहा है, तो आपको इसका बजा फायदा नहीं उठाना चाहिये और इसका जायज इस्तेमाल करना चाहिये। इसलिये मैं चाहता हूँ कि एक बहुत बड़ी जिम्मेदारी सरकार के ऊपर आ गई है कि वह इस बिल का ठीक ढंग से इस्तेमाल करे। मैं शास्त्री जी की इस बात से मुतफिक नहीं हूँ कि कांग्रेस वालों ने मुल्क में ज्यादा वोट हासिल किये। ज्यादा वोट अपोजिशन वालों को मिले थे। इस वक्त यह हाउस एक बड़ी भारी अमानत आपको दे रहा है और मुझे उम्मीद है कि आप इसका नाजायज इस्तेमाल नहीं करेंगे। जो एतमाद सारे मुल्क ने आपको दिया है उसको देखते

हुए इस समय पंजाब में जो अन्याय हो रहा है
उसको आप रोकेंगे :

“बल्लया हुण पई होर दी होर—

बजदे सारे छड़ दे होर

एत्थे लेखा बेपरवाइयां दा
करीब है यारो रोजे महशर, छिगेगा कुस्तों का
खून क्योंकर,

जो चुप रहेगी जबाने खंजर, लहू पुकारेगा

आस्तीं का ।”]

SHRI B. N. DATAR: Madam Deputy Chairman, I am obliged to all the sections of this honourable House for the unanimous vote of confidence that they are going to place in Government by passing this measure within a few moments without any objection or dissenting note whatsoever.

For the last four days continuously we were having a discussion of the provisions of this Bill, and the fact that the clause by clause consideration itself continued for over five hours is a measure of the democratic spirit in which we are working, thanks to you and to the Chairman for the manner in which we had a free, frank and unhampered discussion regarding the various provisions. Government have fully noted this vote of confidence and I might assure all the sections of this House that the Central Government as also the State Governments are aware of the great responsibility that has been thrown on them because we are now passing through an emergency, and emergency requires all of us, not only the Ministers, but the Government servants and the public at large to co-operate to the fullest extent for meeting this emergency. It is true that the powers under the Defence of India Bill are and have to be of a special nature. I might also tell this House that Government are anxious that the powers that are granted to the Government servants at various levels will have to be used as firmly as possible though as fairly also as possible. That is what Government are anxious to do,

and I would request all the Members of this House and the public in general to look at this from the new point of view. On the one hand, we have a new danger within fifteen years after independence. That danger has to be faced not only on the battle-front but everywhere in India. That is the reason why the present Bill of a fairly sweeping nature had to be brought forward. And, as I stated, I am grateful to all the Members of this House, to the Members of the Opposition also, for the manner in which they are going to allow this Bill to be passed without a single dissentient voice. I would assure the hon. Members that the Government are anxious to do all that is possible for the purpose of achieving the various objectives that we have in view.

My hon. friend, Shri Bhupesh Gupta, made a reference to the large class of Government servants both at the Centre and in the States. May I assure him that in the new set-up and against the background of the present emergency, all our Government servants at the Centre and in the States, will always work for the highest interest of the nation because I know that all our Government servants, amongst others, are the greatest patriots and, therefore, it shall be the duty of all of us at the Government level here and in the States to so administer the law as to further the highest interests of the nation in order to see to it that the best traditions are maintained, and in the ultimate analysis the war effort has to be furthered to the fullest extent? This is certainly a new position in which we find ourselves. And just as after the achievement of independence we have not been found wanting so far as the various problems are concerned, either international problems or India's developmental problems, I am quite confident, Madam, that in the new set-up, in spite of the difficulties that are overwhelming us, we shall try our best and we shall rise to the occasion.

[Shri B. N. Datar.]

And I am quite confident that all the Members of Parliament will give us a testimonial that though the powers have been of a fairly sweeping nature, they have been used properly, that they have been used firmly wherever they are necessary. This is all the assurance that I am prepared to give to all the Members of this House and to India in general, because ultimately you will agree that here we have to administer the law in the fullest consultation and co-operation with the people at large, because it is in the interests of the nation, it is in the interests of the whole of the nation, it is in the interests of all the people, and lastly it is for maintaining the integrity of India, and it is for meeting the aggression against India that this measure is being passed. I am quite confident that the Government will have the co-operation not only of the hon. Members here but of all the Indians because we have to face danger. I am quite confident that from all points of view and from all planes we shall do our best, resist the aggression and come out completely successful.

THE DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

MESSAGES FROM THE LOK SABHA

I. THE EMERGENCY RISKS (GOODS) INSURANCE BILL, 1962

II. THE EMERGENCY RISKS (FACORIES) INSURANCE BILL, 1962

III. THE DELHI MOTOR VEHICLES TAXATION BILL, 1962

SECRETARY: Madam, I have to report to the House the following messages received from the Lok

Sabha, signed by the Secretary of the Lok Sabha:—

I

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith a copy of the Emergency Risks (Goods) Insurance Bill, 1962, as passed by Lok Sabha at its sitting held on the 7th December, 1962."

II

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith a copy of the Emergency Risks (Factories) Insurance Bill, 1962, as passed by Lok Sabha at its sitting held on the 7th December, 1962."

III

"In accordance with the provisions of Rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose herewith a copy of the Delhi Motor Vehicles Taxation Bill, 1962, as passed by Lok Sabha at its sitting held on the 8th December, 1962."

2. The Speaker has certified that this Bill is a Money Bill within the meaning of article 110 of the Constitution of India."

Sir, I lay a copy of each of the Bills on the Table.

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

The House then adjourned at fifty-five minutes past six of the clock till eleven of the clock on Monday, the 10th December, 1962.