

SHRI BHUPESH GUPTA: I do not know, Sir, if you cannot even persuade. I have complete faith in you. Since you cannot even persuade, I am helpless.

Now, Sir, let me come to the Bill.

THE CODE OF CRIMINAL PROCEDURE, (AMENDMENT) BILL, 1958—
Continued.

SHRI BHUPESH GUPTA: Sir, as you have reminded me about my having already taken 55 minutes the previous day, I will try to be as brief as possible. But I hope other Members opposite will kindly watch the position that will be taken up on this side of the House. I see a formidable array of law books brought by the hon. Minister to deal with the subject. But I should have liked to see here also the Defence Minister or his Deputy, since certain clauses relate to the calling out of the military in aid of the civil authorities. Generally, Sir, I am not frightened of books more especially when these books are in the possession of the hon. Minister of Home Affairs. I only hope that things will be properly quoted.

Now, Sir, let me start. I did not touch this amendment, clause 3 of my Bill, which deals with the question of calling out the military in aid of the civil authorities. You will see here that I have not suggested complete deletion of this particular section in the Criminal Procedure Code. All that I have suggested is that sections 129 and 131 should be somewhat amended by adding suitable provisions. That is what I have done. I shall deal with this subject because I consider it to be of great importance today. But before that, I should only like to add one or two things since fourteen or fifteen days have passed since we discussed this matter last.

Sir, I refer to a case where an M.L.A. was proceeded against under section 107. His name is Tahir Hussain who is an M.L.A. of West Ben-

gal. He is Secretary of the United Iron and Steel Workers Union. The moment he appeared in Jamshedpur he was served with a notice under section 107 of the Criminal Procedure Code. I understand from the press that he has sought the permission of the Government to prosecute the authorities who had issued such an order against him. Now, Sir, I am not concerned with that aspect of the matter. I am concerned with the policy involved in this, why the M.L.As. and M.Ps. should be liable to such orders being served upon them. I seek an explanation from the Government.

Another West Bengal M.L.A., Shri Bhupal Panda was served with similar orders. If it is a question of breach of peace, wait and see whether a breach of peace actually takes place. Then you can apprehend anybody, whether he be an M.L.A. or M.P. I cannot claim any special prerogatives for the M.L.As. or M.Ps. or for that matter anybody. The moment one arrives the order comes. It has created a great deal of discontent amongst the working classes all over that belt that such an eminent leader should have been treated in this manner. Now, Sir, breach of peace was a fiction, when the order was served which was in the mind of the Government. Mr. Dange went there. Fortunately he was not served with that order. He went there to Jamshedpur, the same place. A meeting was called there. Mr. Tahir Hussain went there for the purpose of addressing the meeting. Mr. Dange went there. Fifty thousand people turned up at that meeting. Everything passed off very smoothly. Now, I am sure that if the order had not been served on Mr. Tahir Hussain, there would not have taken place any breach of the peace at all which I say was only a fear of the executive. This provision is being used against political opponents and trade union people who are not in the good books of the Government and in a manner highly politically discriminatory. Therefore, I have suggested that it should be amended. The West

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Bengal Assembly is meeting and you see immediately section 144 is promulgated. The Assembly met on Monday and the order under section 144 was promulgated on Sunday. Why is it so? I do not know where the police draw the line. I do not see here in Parliament any order under 144 but even they come in other ways as I mentioned earlier. You will say, Sir, that the peace of the House and of the proceedings should continue, should not be disturbed like that. I can understand that position but we should not be afraid of the people. We are elected by the people; we represent the people and if the people come and knock at our door step, we should not bang the door of Parliament by promulgating such hideous orders as the one under section 144. We can go and meet them. Now, the right of petitioning is also to some extent jeopardised. People cannot come in person, meet the legislators and press upon them their point of view. All these things are to some extent interfered with by such orders. Therefore, Sir, this type of order sometimes gives a provocation. We have examined various cases and we found that if orders under 144 had not been promulgated, the tragic events would not have followed. For instance, if orders under section 144 had not been promulgated in Ahmedabad, perhaps the tragic loss of life as a result of police firing would not have been at all necessary. Things would have passed off peacefully but this section 144 started the trouble. This section gave them the provocation. This became then a matter of prestige and Government resorted to police firing, human lives were lost and you gained nothing. You had lost morally, politically and in every way. In Bombay regarding the Samyukta Maharashtra movement, you saw how this section 144 became a source of provocation and later on you also saw how it was utilised by the Government to suppress the people and even to indulge in random shooting at the people. Therefore, this provision should be modified as I have sug-

gested here. I hope the hon. Minister will kindly consider this point of view.

There is an impression in the country, at least in some sections, especially the economic papers brought out by the capitalist classes, like the Commerce, Capital and all that—these people are writing editorials—that we the Communists want to do away with law and order altogether by placing this amendment before the House. It is nothing of that kind. These are mis-conceived editorials. All that we want to do is to restrict the powers; we have not even suggested that they should go. We have only suggested that these powers should be amended in such a manner as to . . .

SHRI D. A. MIRZA (Madras): May I know in how many places in Kerala this order under section 144 was promulgated and firing was resorted to?

SHRI BHUPESH GUPTA: I am sure the hon. Member will have his chance of speaking about Kerala. I know that Kerala would be drawn in by them.

SHRI D. A. MIRZA: The hon. Member was speaking about Bombay and other places. He has forgotten entirely about Kerala.

SHRI BHUPESH GUPTA: I leave Kerala to others. If you want to know, our Chief Minister in Kerala has enunciated a police policy and that policy is there before the country. You can understand it. If the hon. Member has not understood that police policy, I can offer him necessary assistance, intellectual and otherwise.

MR. CHAIRMAN: He does not want it.

SHRI BHUPESH GUPTA: If he does not want to understand, then of course, I need not waste my time. Kerala has an entirely different story to offer in this matter.

(Interruption.)

MR. CHAIRMAN: Order, order.

SHRI BHUPESH GUPTA: Please allow a little interruption, Sir.

MR. CHAIRMAN: We do not want that.

SHRI D. A. MIRZA: Sir, the hon. Member is treating Kerala as his private property.

SHRI PERATH NARAYANAN NAIR (Kerala): The Opposition there is carrying on a deliberate campaign . . .

MR. CHAIRMAN: Order, order.

SHRI BHUPESH GUPTA: Why should I treat Kerala as my private property? After all, you have only been divested of the Ministry; it is not a question of transfer of property. The trouble is that the loss of property that way is still weighing heavily on hon. Members' minds; that particular property that was lost and there is some imbalance in their attitude.

Other speakers will give exemplary examples why the amendment is necessary. Let me come to the crucial point about my amendment number 3 which I left the other day. Here, I should join issue mainly on legal grounds and also on some social and political grounds—and I hope the hon. Minister will take in his hands the Criminal Procedure Code, section 129—with them. Now, Sir, I want to have a proviso inserted to this section, in addition to having some other chances. Section 129 reads as follows:—

“If any such assembly cannot be Otherwise dispersed and if it is necessary for the public security that it should be dispersed, a Magistrate of the highest rank who is present may cause it to be dispersed by armed forces”.

This is the position with the section as it stands today. My amendment is,

“for the words ‘and if it is necessary for the public security that it should be dispersed’ the words ‘and

if there are reasonable grounds for apprehending positive and immediate danger of loss of human life’ shall be substituted.”

I want to qualify and restrict the scope of these words by saying that there should be reasonable apprehension about positive and immediate danger of loss of human life. Why do I put this qualification? The hon. Minister will ask, “Are we to look on if the life of the community becomes imperilled?” I say, “Do not look on” but am I to leave the matter to be judged by the Magistrate who is answerable to none, whose test is purely a subjective test? Therefore, I say that there should be this reasonable apprehension. In this case it would become justiciable and I will have the right then to go to a court of law, file a petition and question the conduct of the Magistrate as to whether he had been justified in calling for the assistance of the military or not. Let it be debated and answered in a court of law; let the judicial mind be brought to bear on the subject as to whether such grounds existed as to warrant the calling out of the military. I am leaving the entire matter in the hands first of the executive and then in the hands of the judiciary for purposes of review of the conduct of the Magistrate. Now, the importance of this lies in another respect also. If the Magistrate knows that his conduct is liable to be questioned in a court of law, he will exercise his mind better on the spot and he will show more prudence and more restraint in the matter. After all, Sir, unless the Magistrates and the executive show restraint on their part, the liberty of the citizen becomes somewhat endangered. Therefore, this provision will have an apparent effect on the mind of the Magistrate in dealing with such a matter and we gain on that score also.

Secondly, I would not like such sweeping powers in their hands. The present provision speaks of the public security. What is the meaning of public security? It is a very broad expression and when you give a Magis-

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trate the power to decide the question of public security without having any fear that his conduct will be questioned in a court of law, public security may be interpreted in any manner he likes; there are certain procedural and other things—there may be some case law also—but the fact remains that it will be open to the Magistrate to interpret public security just as he likes and it is a very broad term. I would not like that. If the opinion of the Government is that we should retain the power of calling in the military in aid of the civil authority to protect human life and all that, I can understand their position although why the police should not control the situation is a matter that I do not see. Anyway, if you want to keep that power, then keep it with the modifications introduced here. As far as English laws are concerned, I do not get any clear guidance from there but it seems that the weight of the case law in the matter is in favour of not calling in the assistance of the military. That is to say, in England it is not the practice at all to call for the aid of the military even when the situation becomes very very serious. In the current century hardly the military has been called in aid of civil authority, although it is not as if incidents involving threat to public property or even human life had not taken place there. Such incidents had taken place, but there is very strong aversion in England against the military being employed. The police force uses its authority and power in order to control such a situation depending, of course, on the situation. On the contrary, whenever an attempt has been made to call out the military in aid of civil authority, there has been uproar in England. Public opinion has been roused against it because it is something which is considered to be repugnant to the concept of rule of law, the concept of normal processes of law. Now, here the British introduced it for their own purposes. Why should we retain it in this manner? At that time the British came here, conquered India by the sword and

kept it by the sword for two centuries or so. I can understand their position. They were not guided by any democratic considerations. They could naturally call in the military whenever they liked and could get away with it. But why should we still hark back to that particular position and attitude, I do not see, when we are talking about parliamentary democracy and all that. I think there should be some relation between what we preach and what we practise. Now, this particular provision, that way, is contrary to the professions of even this Government.

Then, Sir, I use the words deliberately 'positive and immediate danger of loss of human life'. Now, there should also be an objective test. I should qualify it, because there has not been a tendency to interpret it as positive threat to and loss of life. There are people and officers. Well, nobody will bother about them. There are officers of the Government. Nobody would bother about them individually. None would be interested in affecting their life anyway, whether they live well or do not live at all. We are not interested that way. But even in such cases it is said that there is a threat to loss of life and the military is called. Such things should not be permitted here. Therefore, whenever there is a threat, it should be positive and immediate. Some such objective test and factors should be there in order to justify it. Another good lawyer has come. I mean Diwan Chaman Lall. I hope he will kindly listen to me. I hope there will be some objective test in this matter. Such sweeping and wide power should not be given. Now, what has happened in practice? You have seen that the military was called out in Calcutta in 1953 when they were against the increase of tram fare. The military was called out recently in the Bombay dock strike, Madras strike, Calcutta strike and, of course, in Jamshedpur and other places. On various occasions very readily the Government had called out the military in aid of civil authority. We did not have even a

statement before Parliament as to whether such things were justified or on the ground that the military was called under the Criminal Procedure Code, and that for that reason there was nothing much to say on the part of the Government either before Parliament or otherwise. We are completely helpless. We have the spectacle before us in our country of the military being called out now and then in order to deal with a strike situation in the midst of industrial disputes and yet we do not have any remedy in order to prevent such an attitude on the part of the Government. Now, you will say that there was threat to or loss of life and all that. You had called out the military in Calcutta. Was there any threat to life or loss of life? Nothing of the kind. The military came and they tackled the ships, unloaded and loaded. Surely loading and unloading are not something which reduce threat to human life. They were brought in. The poor military did not have anything to do. They had been called in by the executive just because it was necessary for the authorities to introduce the military in order to create panic. And having come there the military found that the law and order situation was quite good. At least there was no need for them to come in. They were asked to do something else. What were they asked to do? Load and unload the ships and all that kind of things. In Bombay the same thing was done. And the workers pointed out that as a result of their loading and unloading—which requires some technical and expert knowledge—things were damaged. You see now this way we lost on all scores. Something was damaged. After all, military men are not accustomed to doing this kind of skilled work. These things happened. Therefore, it is absurd. Then in the Madras docks they came and the situation became tense and firing took place. One person died, as you know. The situation became so tense.

These are examples. I am not going into the details of them. All that I

am saying is that the facts have proved, experience before has shown, that it was not at all necessary. It was not at all necessary to call out the military in such cases.

Now, Sir, about Jamshedpur also, the military was there for ten days; in the month of May from the 20th till the end of the month, I think, they were there. Now, we raised this matter here. It is an interesting thing. I know the Government will say so many things about it. But am I to understand that for twenty days or ten days life and property were so threatened? The military came and we found from experience and it is common knowledge that nothing was, that way, threatened. There was a strike. There was tension. Now, the situation could have been tackled by the civil authority. There was no need to introduce the military.

Now, Sir, here the powers are so sweeping, that you do not know. Therefore, I want this section 129 to be changed like this:

“Provided that no recourse shall be had to such use of armed forces unless the Magistrate is reasonably satisfied that the police is not in a position to restore order.”

I say, ‘the Magistrate is reasonably satisfied’ Why do I say this? I say this because I would like his conduct also to be made justiciable before a court of law. Let him give it, if he cannot prevent it. But once he calls the military, it should be open to one to go to a court of law to seek redress, to have the matter examined by a judicial mind. Then, Sir, it should also be contingent upon the police not being able to restore order. Why do we maintain the police force in every State? A huge police force is there. Now, am I to understand that the police force is there helpless and that they cannot control the situation? They can. But the military is introduced in order to add to the provocation, create tension and terrorise and intimidate the people who carry on

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 their struggle for legitimate demands. It is a political move, I say, on the part of the Government. If the British wanted this measure, for holding India by the sword, they want this measure in order to intimidate, terrorise the people of the country whenever they dare to raise their voice against social or economic injustices done to them.

Then, Sir, here I want this proviso to be added:—

“Provided further that except in cases of communal disturbances no such use of armed forces shall be made with a view to suppressing movements or peaceful agitations . . .”

Please note peaceful agitation.

“ . . . of workers, employees, peasants, or any other sections of the people who have organised themselves to solve their problems in a collective manner.”

Now, ‘peaceful agitation’—I am qualifying it. I know that the Government will not go the full length. Therefore, I have tried to meet them half-way. Therefore, I would like the peaceful agitations to be absolutely taken outside the mischief of this particular measure, which enables the executive authority to call in the assistance of the military. I should also like to make it clear by legislative enactment that such military force would not be used in suppressing any normal legitimate movement of the people, trade union movement, kisan . . .

DR. W. S. BARLINGAY (Bombay): May I draw the attention of the hon. Member to one very important sentence in section 129 of the Criminal Procedure Code? It says: “If any such assembly cannot otherwise be dispersed . . .”. “Cannot otherwise be dispersed”, that is a very important proviso and that covers all his arguments.

SHRI BHUPESH GUPTA: No, Sir. I say make it justiciable. Then, I say,

keep it. I say ‘justiciable’, “reasonable ground”. I shall go to the court of law. Now it is for the magistrate to decide. Any magistrate, any First Class Magistrate, may decide the whole question. That is the point. The First Class Magistrate can decide it. Therefore, you will understand that this is not my point.

Sir, here, I should like it to be made absolutely clear that the military should not be called in in such matters of legitimate movement of the people. We have not had any enquiry as to whether in all these things the calling out of the military was justified at all or not. So, at best, it is an open question for them. To me, I submit, there was no justification whatsoever for it. But let there be an enquiry. Let the amendment be accepted. Or, if the amendment is not accepted, let the Government hold an enquiry, appoint a commission to enquire whether such things should be permitted in this manner so that we can learn from the experience of recent years.

Then, I want to provide for the insertion of new section 131A:—

“Whenever the armed forces have been called in for the dispersal of an assembly in the manner provided hereinbefore, the Central Government shall as soon as possible after each such incident, place a report on the calling in of the armed forces on the Table of both Houses of Parliament.”

It is a very reasonable suggestion. Why should not the Government accept it? Well, military comes within the jurisdiction of the Central Government even if it is employed under the Criminal Procedure Code. Here, the State Governments come in. But the military belongs to the Centre. For the conduct of the military—no matter what the pretext may be—it is the Central Government who is responsible to somebody, mainly, to Parliament—here, in this case, to Parliament. Why should they not place before the House a statement? Even that is not provided for in civilised

countries. Well, we are also a civilised country. But the only thing is that we continue to carry on certain uncivil things. Sir, there, whenever the military is called out, a commission is appointed and a statement is laid before the House of Commons and there is a discussion, a debate, on these things. But in our country there is nothing because they say, "The Magistrate has called out the military and we have nothing to say or do." I say, this is repugnant to any democratic principle. Our armed forces are meant for the defence of our country, for maintaining the territorial integrity of our country mainly and the entire nation maintains them for that reason. They should not get involved in such matters where others should come in. I think it is defaming the army all the time to get the army to suppress a struggle or a movement there in aid of civil authority. It would be placing the army in disrepute. We would not like the Indian Armed Forces especially in this situation to be so drawn into the affairs which make their position worse among the people. On the contrary, we should like the bonds between the Armed Forces and the people to be strengthened. Therefore, the matter

SHRI P. N. RAJABHOJ (Bombay): What about Russia?

SHRI BHUPESH GUPTA: The hon. Member knows that I am not speaking in the Supreme Soviet for the present.

Now, Sir . . .

MR. CHAIRMAN: Please wind up. It is half an hour.

SHRI BHUPESH GUPTA: Let me say. There are certain points. This is the position. I say . . .

MR. CHAIRMAN: You will have another opportunity.

SHRI BHUPESH GUPTA: So that he can have a go at me.

This is the point. Confusion arises. We are Members of Parliament. It is a question of our right that we must know why the military was called out. The Government should be made answerable to Parliament. They should accept it. If not, they should satisfy the Members. They are in a majority. They can also examine the point. I know whatever they say will go here. Even so, I want this because I know the minds of hon. Members would be open. They would not be carried away by the mentality of a District Magistrate or a Magistrate or a police officer. They should judge this thing. Confusion arises unless you accept this amendment.

What happens? I would recall here a very interesting thing. From the point of law, I am not concerned with that matter. As you know, Sir, the Jamshedpur matter came up in both Houses of Parliament during the last session. In our House, we raised it by way of Starred Question No. 42 on the 19th August, and by way of an adjournment motion on the 12th August it came before the other House. We got two contradictory statements, and this contradiction arose because the law is like that. You do not apply your mind. I would, first of all, remind you with the help of my notes—I am not quoting from any proceedings—what the Prime Minister said in another place on the 12th August in connection with the adjournment motion on the calling out of the military in Jamshedpur.

"May I make it clear that troops are not called in in a labour dispute? It is an entire misapprehension. They are called in when damage is done, in order to protect property or to protect something. It is not for a labour dispute that they are called in at all. They have no business to interfere in labour disputes. They are called in because as a result of the labour dispute, it is possible that a situation may arise which may endanger human life or property or important installations. Take Jamshedpur with its large

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This is what he said. The sum and substance—the main argument—of it is this. The military had to be called out in Jamshedpur in order to protect the installations there, in order to prevent any damage being caused to those installations there.

Then, of course, I can quote the hon. Defence Minister. In reply to our question, he said:

"In response to the request of the local Government in strict accordance with the law and established procedure to assist the police in meeting the law and order situation."

He said that the military was called in for meeting the law and order situation. Then, he added in answering a supplementary:—

"They are only concerned with the law and order situation and the protection of the community."

Sir, we have got here two versions. The Prime Minister says that it was called in to protect the installation. The Defence Minister here says that in order to tackle the law and order situation according to the law, the military was called in. Which one is true? I would like to know. Sir, as far as the contradictory statements are concerned, I would ask the Prime Minister and the Defence Minister to have a mutual discussion to settle the dispute between themselves and give us a unified version if only for the sake of collective responsibility. We are confused and the confusion arises from the procedure itself as laid down. We do not know. Even the Prime Minister is not able to say why the military was called out because we are not in a position to discuss the subject—the Act empowering the autho-

ritv to call out the military. And contradictory versions are here. Today, we have not got satisfaction about this matter as to what actually was the reason.

Sir, as far as the procedure is concerned, you will see the entire chapter IX which starts from Section 127 and ends in Section 132 and you will find that nowhere is it said that for the protection of the installation and the property, the military has to be called out. The Prime Minister was, therefore, saying something in another place which is not to be justified on the strength of the Criminal Procedure Code. And yet, we are told that the military was called out under the Criminal Procedure Code. I would like to know why that was so? The Defence Minister was right at least on the point of law when he said that under the established law and authority he called the military out in order to maintain law and order. I am not going into the question in other respects.

SHRI D. A. MIRZA: But for you there would have been no Jamshedpur incident at all.

SHRI BHUPESH GUPTA: The trouble with my hon. friend, Sir, is his agitation gets the better always of his reason. I think he will keep a little quiet till I develop this legal point. He is very kind to me.

MR. CHAIRMAN: You have developed it.

SHRI BHUPESH GUPTA: I have not.

MR. CHAIRMAN: We understand it.

SHRI BHUPESH GUPTA: You understand it?

MR. CHAIRMAN: The whole House understands it.

SHRI BHUPESH GUPTA: Ask him if he has understood it? Mr. Mirza has not understood it. I expect every hon. Member in this House . . .

MR. CHAIRMAN: Order, order.

SHRI D. A. MIRZA: It is because of a violent party fighting in a violent way.

SHRI BHUPESH GUPTA: The most impervious one also I should take into account.

This is the position. Now, I would like to have some kind of a statement on the subject from the hon. Minister when he replies. Then, Sir, how confused the situation was and how confusingly they behaved? Here is another interesting thing in this reply. The hon. Defence Minister said:—

"In the present case, not only the District Magistrate, but also the Chief Secretary of the Bihar Government made the request for military aid, that is to day, to come to the aid of the civil power, made the request to the General Officer Commanding the 20th Infantry Division, and he, under the terms of the law, complied with the request and the Central Government was informed."

I ask the Government to point out where in Chapter IX of the Criminal Procedure Code which deals with this matter there is provision for either the Chief Secretary to make a request or for the military to entertain a request from him. I would like to ask them. There is no such reference there. The Magistrate had the right. But the Chief Secretary finds a place in the scheme of things. Yet, the Defence Minister tells us that the Chief Secretary made a request. The Chief Secretary exceeded his authority in this matter and functioned outside the scope of law. Therefore, his conduct was illegal and this provision, as it is there in the Criminal Procedure Code, opens the gateway to illegality and abuse of authority. This is what I want to say.

Sir, the Defence Minister also made it clear that this factor went into the consideration of the Army Com-

mander—the letter from the Chief Secretary. Why the Army Commander at all entertained that letter, I would like to know from the Government, because all that the Army Commander should be interested in is a formal request under the law, under section 129, from a magistrate of the highest rank—the Chief Secretary comes nowhere in the picture. Why on earth then this Army Commander entertained that letter? The Defence Minister waxed eloquent on the Chief Secretary's letter. Sir, even the Governor today does not have a power like that; it is the magistrate who has the power. Of course the Governor can under a certain Proclamation call out the military. Here the Chief Secretary was nobody; it was none of his business to come into the picture. Not only he was drawn into the picture . . .

MR. CHAIRMAN: Mr. Bhupesh Gupta, you are repeating yourself.

SHRI BHUPESH GUPTA: Therefore, Sir, I say the Government should explain this thing, and I should like to know from the Government whether any bungling was made in that the letter was passed from the Chief Secretary to the Army Commander. Government is answerable and especially the Defence Ministry in this case is particularly answerable because it does not properly instruct its military forces. Sir, this is also a point I want to make in this connection and I hope it has gone home and a proper answer would be given. Therefore, I say, if you place things before Parliament we can discuss this thing, and Government would be cautioned. Here the Defence Minister told us that he was only kept informed of this; nothing beyond that. I sent a telegram from Calcutta to the Defence Minister. Mrs. Renu Chakravarti sent a telegram. We sent people there. He was only informed, and after the event he was informed, No check was there. I would not like our defence to be placed in such a position, such an absurd position where one does not know how things

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happened; not even the Prime Minister knows how things happened. Therefore, Sir, I want these things to be placed before the House.

Now, Sir, my submission in this case is this that I would request the Government to initiate a policy with regard to the calling out of the military, and at least these amendments will give them some opportunity for tackling the question in a favourable manner, favourable for them, favourable for us. I am not presenting any extreme point of view here. I want a little caution, circumspection and restrain on the part of the Government, their action being subject to review by Parliament. Therefore my Bill, as you will see, Sir, deals with certain very fundamental questions, questions involving civil liberties, questions involving the rights of the people, rights of the trade union movement and all that, and I want these things to be considered in that spirit.

Sir, I should like to add in conclusion that it was always necessary to make these amendments, but today it has become all the more important. I think, Sir, you also were good enough to tell the country as to how we must cherish, nurse and develop our democratic traditions and institutions; we are at one with you; we share your sentiments, and noble sentiments were expressed. I know, from Members opposite also sometimes sentiments are expressed. Sir, in order to nurse and strengthen democratic institutions we must take certain concrete measures, and the first thing that we should do is to remove this kind of hideous laws that come in the way of the flowering of civil liberties and the development of democratic institutions and preservation of the rights of the people in matters of organisation, association and so on which is of very vital importance. If we do not look after this thing then, Sir, the foundation will have been built on some quick sands; it may collapse at any time. In order to buttress such institutions and norms of beha-

viour, in order to promote democracy in society, we must get at the root of it and strengthen it while it is yet possible to do so. Therefore such measures should be introduced. British tradition we want to live down. I think nothing should be retained, Sir, as far as the British thing is concerned and this has been pointed out by the Congress Working Committee and the All-India Congress Committee at the Karachi Session of the Congress. They have always said that for any nation these things are bad. Today it has fallen to our lot, with interruptions from the other side, to champion a cause which they had at one time advocated, and seek from the very same hands justice, a party which at one time called upon the people to get these things remedied and the legal provisions removed from the statute book. It is a tragic irony of history, and if things are not changed today, tomorrow all of us, members of the Opposition and all of us may have to pay a very heavy price. Therefore, in order to ensure and guarantee democracy and freedom in this country, in order to foster democratic institutions and guarantee personal liberty and all that, it is necessary for us to rise above party affiliations and petty prejudices over this matter and put our heads together in such a manner that we can find a proper solution by making suitable amendments and bringing our Criminal Procedure Code and the general pattern of the administration in line with what is construed as democracy and functions of democracy. That is what I say. I hope that the hon. Members would give their deep consideration to the matter I have placed. I move:

MR. CHAIRMAN: Motion moved:

"That the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration."

DIWAN CHAMAN LALL (Punjab): I am grateful to you, Sir, for giving me this opportunity to speak in reply

to my learned friend's very eloquent speech on his Bill.

Now, Sir, as far as I can make out, many things that were said by Mr. Bhupesh Gupta are matters on which the world generally is agreed—not only the world is agreed but the Constitution itself is agreed on the subject of individual liberty and the liberties of groups of people. But I must say that my learned friend has gone completely off the mark. He has really not given his mind to this particular subject except in the direction of enlarging upon this subject for purposes which may be viewed as propaganda. I cannot see otherwise how this speech that he has made is really relevant to the issues that are at stake.

Now, Sir, let me take the last section first. Mr. Bhupesh Gupta is wanting to amend section 129 of the Criminal Procedure Code. Now, Sir, section 129 of the Criminal Procedure Code is a very important section which, it has been held by various authorities right up to the Supreme Court, does not infringe upon the liberties that are guaranteed under the Fundamental Rights chapter of the Constitution. But what section 129 does is this—it deals with unlawful assemblies. What my learned friend is driving at is assemblies—not unlawful assemblies—and that is the reason why I said that this eloquent speech was really wasted on this particular subject. It is not assemblies that we are dealing with; we are dealing with unlawful assemblies. Now I take it that my learned friend, who loves his country as much as we do, is not in favour of unlawful assemblies. Do I take it that that is the position?

MR. CHAIRMAN: Don't ask him. Why you are interrogating him?

DIWAN CHAMAN LALL: All right, Sir. I take it for granted without interrogating him. I am quite happy when my learned friend gets up, Sir, because with his great eloquence he

can throw some light on this particular subject whether he is or is not in favour of unlawful assemblies. Now I take it that he is not in favour of unlawful assemblies.

SHRI BHUPESH GUPTA: I have made that position clear. I have also given certain amendments to section 144 dealing with lawful and unlawful assemblies. I have my own ideas of what would be an unlawful assembly. They have their own ideas by which they think that every assembly is unlawful and they perhaps do not like any lawful assembly.

DIWAN CHAMAN LALL: Unfortunately all these years, Sir, that my learned friend has been an honourable Member of this honourable House, he is the solitary voice who has attempted for all these years to try and define, according to his own laws, what an unlawful assembly is, whereas the rest of the House has accepted what is laid down in the Criminal Procedure Code.

Now, Sir, first of all, I am merely dealing with section 129. That section says:

"If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces."

I believe my learned friend is in favour of preserving public security. In this section, the word assembly refers to an unlawful assembly, which has been defined in the Criminal Procedure Code. Now, Sir, there are certain elements in that particular section, namely, first of all, there must be an unlawful assembly. Secondly, if the Magistrate of the highest rank present on the occasion comes to the conclusion that that unlawful assembly cannot be dispersed by ordinary means, it is only then that he is permitted to take the assistance of the armed forces for the purpose of

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dispersing that assembly, not under any other circumstances.

DR. W. S. BARLINGAY: Not under ordinary circumstances; only a last resort.

DIWAN CHAMAN LALL: My learned friend is quite right when he says as a last resort. There are many other stages prior to this. He must try and see whether he can get rid of this particular assembly by any other means at his disposal. If he finds that he has no other means at his disposal, then he must ask for the assistance of the armed forces in order to preserve public security. It is not an ordinary matter. Public security is something very sacred and something very important. For those who want to disrupt society, it may not be important. But the whole tenor of our legislation, the whole tenor of the Constitution of India, is based upon the fact that there must be public security, and that everything that the Government, the armed forces, the police and the magistracy can do in order to preserve public security must be done, and inevitably done. But done when? Only after the discovery that the assembly is an unlawful assembly. Now, Sir, let us see what an unlawful assembly is.

/ Well, section 127 says:

"Any Magistrate or officer in charge of a police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

This section applies also to the police in the town of Calcutta."

Then, Sir, section 128, first of all, calls upon them to disperse, and if they do not disperse, then what happens? In that case it says:

"If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded,

it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police-station, whether within or without the presidency-towns, may proceed to disperse such assembly by force, and may require the assistance of any male person . . ."

including my friend, Mr. Bhupesh Gupta,

" . . not being an officer, soldier, sailor or airman in the armed forces and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form part of it, in order to disperse such assembly or that they may be punished according to law."

Now, Sir, the first stage is, asking them to disperse, and the second stage is, asking for assistance from Mr. Bhupesh Gupta, if he happens to be present on that particular occasion, to help the authorities to disperse that unlawful assembly. If, perchance, even the assistance of my friend, Mr. Bhupesh Gupta, is not sufficient for the forces of law and order to disperse any unlawful assembly, then the third step is taken under section 129, which my learned friend is seeking now to amend. It says:

"If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by the armed forces."

Now, Sir, what is there to take exception to this perfectly straightforward position? People who do not believe in dispersing unlawful assemblies, which disturb public tranquillity or public security, may, of course, be disturbed about this, but not any law-abiding citizen. If we are to work this Constitution of ours, and if we are to proceed step by step along the path of our planned economy, year in and

year out, it is most necessary that law and order and security of the country must be preserved. If it is not preserved, you may just as well give up all attempts to save this country and take it out of this morass of poverty in which it is sunken today. If unity is not preserved, if disturbances take place, if unlawful assemblies are formed on every small and big occasion, and if there is no authority resting in the hands of the Government of the day or the administration of the day to disperse such unlawful assemblies, then you may just bid farewell to an ordered society in this country. What is absolutely necessary, Mr. Chairman, in the concept that we have got of India, as it develops before our eyes, is that there must be no encouragement given to any unlawful assembly, there must be tranquillity and peace in this country, and there must be no encouragement given to any unlawful assemblies being formed on any pretext whatsoever. Well, my learned friend will realise that if he is in favour of this particular concept, then he must not try to whittle down the powers which are circumscribed for the safety of the people of this country. He must not whittle down those powers in order to weaken the hands of the administration in any situation that might become dangerous to the unity of this country, to the progress of this country, and dangerous indeed to the planned order of economy which we want for this nation of ours.

Now, Sir, what does my learned friend want? What he wants is 'that for the words 'and if it is necessary for the public security that it should be dispersed' the words 'and if there are reasonable grounds for apprehending positive and immediate danger of loss of human life' shall be substituted. Now, Sir, who is going to judge, when an angry mob collects in a violent manner, whether this mob is really going to kill somebody or whether it is going to destroy any property or it is merely going to injure human beings in the pursuit of their lawful vocations? Who is going to

judge all that? At that particular moment, Sir, Mr. Bhupesh Gupta would want the Magistrate to sit down and decide whether that particular unlawful crowd is going to kill or not. I suggest that if his amendment were to be accepted, it would be an encouragement for any unlawful mob to go on killing people, and also, Sir, it would be an encouragement for the authorities to take very violent action against such a mob, of course, on the plea that it might lead to some loss of human life. But that is not the criterion. The criterion is whether there is any breach in public security. That is the criterion. The criterion is not whether that breach of public security will further lead to the death of a particular individual or merely to some injury to that particular individual—maybe the loss of a limb, the loss of an eye or the loss of a hand. The criterion here is a basic one, namely, is that particular unlawful assembly likely to commit any breach of public security? Now, Sir, my learned friend knows perfectly well what is meant by public security. He knows perfectly well that if a dangerous mob collects outside Parliament—and he would like these mobs to collect outside Parliament, according to the amendment that he has sought to make—and gets out of hand in staging some demonstrations, then it is necessary that there should be some power in the hands of the administration to prevent an eventuality of that sort taking place.

Now further, Sir, he goes on to say:

"Provided that no recourse shall be had to such use of armed forces unless the Magistrate is reasonably satisfied that the police is not in a position to restore order."

That is exactly what the section says—the Magistrate is of the opinion that he cannot control the situation. Therefore, Sir, in so far as he himself has suggested that kind of proviso, placing authority in the hands of the Magistrate himself, I feel that this is a redundant amendment and there is no substance in it. The second proviso he puts in is this

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"Provided further that except in cases of communal disturbances no such use of armed forces shall be made with a view to suppressing movements or peaceful agitations of workers, employees, peasants, or any other sections of the people who have organised themselves to solve their problems in a collective manner."

12 Noon

My hon. friend, as I said, has wasted his eloquence on this particular measure. He has been thoroughly irrelevant with regard to this measure. It is not a peaceful movement, the suppression of a peaceful movement, that this particular section of the Criminal Procedure Code aims at. Any amount of peaceful movements my hon. friend can indulge in without calling upon himself the wrath of the administration or judiciary or of the police or of the armed forces. The armed forces cannot possibly be called into action if there is a peaceful agitation or a peaceful movement. Where does my hon. and learned friend get the idea that the present, existing law is attempting to suppress a peaceful movement of the peasant organisations? The whole basis of section 129 is entirely different. As I have read out already the section merely talks principally of this: "if any such assembly cannot be otherwise dispersed and it is necessary for the public security to do so". What sort of assembly?

"A magistrate or officer-in-charge of a police station whether within or without the Presidency town, may proceed to disperse such assembly by force and may require the assistance of any male person etc."

Either he orders them to accept a particular order not to indulge in activities of an unlawful assembly, or, failing that he gets hold of the assistance of ordinary individuals and calls them to help him to suppress an unlawful assembly, and failing that, if public security is endangered, only in that case and that case alone, can

he call upon the armed forces to come to his assistance. Where does peaceful agitation come in? My hon. and learned friend is completely off the mark in thinking that this particular section 129 has any relevance to a peaceful movement or a peaceful agitation whether of workers, employees, peasants or any other section of the people. Do you think that the organisation, whose supporters are on this side of the hall, is any the less vigilant or any the less desirous of helping peaceful movements of workers and peasants in this country? We are the originators of this movement of peasants and workers in this country. We, individually and collectively, are responsible for these movements being set up. Our friends are newcomers in this field, very much newcomers indeed in this field.

SHRI V. PRASAD RAO (Andhra Pradesh): Including Mr. Chinai.

MR. CHAIRMAN: He says including Mr. Chinai. It is irrelevant.

DIWAN CHAMAN LALL: Yes, Sir. They are very much new-comers. They must realize that none of us will be found wanting, will be found lacking in our support for the advance of the peasantry and the working classes in the country. We shall do everything on our part but we shall do it in a peaceful manner, we shall not injure the security of this country, we shall not injure the unity of this country in doing what we are doing for the working classes and the peasantry of this country.

My learned friend says that after section 131 he would like to add a sub-clause as 131A as follows:

"Whenever the armed forces have been called in for the dispersal of an assembly in the manner provided hereinbefore, the Central Government shall as soon as possible after each such incident, place a report on the calling in of the armed forces on the Table of both Houses of Parliament."

Law and order, as my learned friend knows, is really a State subject. It is not a question of the Centre. It is a matter which is confined to States. The Centre comes in in an over-all manner and the Centre comes in regard to Central territories. That is quite true.

SHRI BHUPESH GUPTA: Why not make military also a State subject and distribute the military to all the States? Let us share it.

DIWAN CHAMAN LALL: I am unable to understand my hon. and learned friend's argument. My learned friend realizes that he would probably like the armed forces of this country to be weakened, to be dispersed. I don't know for what reason he would like them to be weakened and dispersed. There is no man here in India talking responsibly about his own country who would want to weaken the forces of the armed power which India possesses today. You must have certain reasons for saying that.

SHRI BHUPESH GUPTA: It follows from what you said!

DIWAN CHAMAN LALL: My friend's logic is an extraordinary logic. Because there happens to be a Central Act, therefore abolish the Central Act, and let us have State Acts. Because there happens to be a Central Government, abolish the Central Government. Let us disperse it to the hands of the States. My hon. and learned friend really is talking not in a responsible manner if he will permit me to say so. Let us talk about it in a responsible manner and not in this manner. Let us not endanger the security of this country. I am at one with him that whenever there is a breach of the peace by any unlawful assembly and armed power is . . .

SHRI BHUPESH GUPTA: I don't want the security of the country to be maintained by shooting down the workers.

DIWAN CHAMAN LALL: My learned friend does not want the security of the country to be maintained by shooting down the workers. Who is wanting to shoot down the workers? Nobody is wanting to shoot down the workers. My learned friend's agitation is uncalled for in regard to this matter. It may be a propagandist point of view certainly but this is not the place for such propaganda. Come outside and do that propaganda. This is not the place.

SHRI BHUPESH GUPTA: But there I don't find the hon. Member. Let me talk with those who want to do much but we don't see them.

DIWAN CHAMAN LALL: My learned friend would like to have a Committee for Breach of Public Security and he wants us to permit the committing of breach of public security. I don't agree with him. I think he should be restrained by every power that we possess to prevent any breach of public security in India. He and his organisation and his followers and his supporters must all be restrained for the purpose of preventing them from committing a breach of public security in India. We want to maintain law and order. Law and order cannot be maintained if there is a breach of public security in this country. Now I am at one with him when he wants reports of occurrences of this nature to be authoritatively placed before the public. Well, suppose now there is a riot and the armed forces are called in in order to prevent a riot and a death takes place as a result of firing on an armed crowd or an unruly or unlawful crowd, ordinarily there should be a *post mortem* examination of what has happened. There should be an inquest also in those cases and I presume in the Presidency towns, an inquest is held. I am at one with him if he is to bring in any legislation saying that in all such cases an inquest must be held and a public report made as to what has happened or has not happened. I am at one with him, but am not at one with him when he confines this

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merely to the placing of the report on the Table of the Houses of Parliament.

(Interruption)

In Section 144 my learned friend would like to add another proviso. Section 144 deals with temporary orders for urgent cases of nuisances or apprehended danger. These are orders given by competent authorities in order to prevent apprehended danger. He would like to add a proviso:

"Provided that no order under this section shall be served on any person engaged in picketing in pursuance of a strike, or in respect of any assembly or procession by any group of people engaged in lawfully ventilating their grievances or sponsoring their demands."

Peaceful picketing is a lawful occupation. It has never been challenged. My learned friend and I would join hands. If we had a good cause or a good strike for legitimate reasons, we would join hands and I would walk with him for peaceful picketing and I will not be prevented by any authority from indulging in peaceful picketing. It is only when the picketing is not peaceful, when the objective is something else than peaceful picketing that this law comes in and therefore any amendment of it would be merely an encouragement not to peaceful picketing which is legitimate and fair and which is a proper movement, but it would be an encouragement to the breach of law and order.

Now finally there are two other little matters that my learned friend has mentioned in respect of the amendment that he is moving. One is:

"Provided further that no such order shall be promulgated in respect of the vicinity of Parliament or a State Legislature or Territorial Council so as to prevent the citizens from proceeding there to voice their grievances or make an effort to be personally heard by the members thereof."

Surely I don't know what he wants. We have had a spate during the last few years of these demonstrations outside Parliament. Obviously if the work of this Parliament is to be carried on undisturbed, this is not the forum for agitations of this kind. It is very well for my learned friend to go outside and address the crowd outside the Parliament. I don't say anything, I am saying not a word about the legitimacy of the grievances that lead to a demonstration like that, but surely as men engaged in a very difficult task of legislation for this country—it is a very difficult task indeed—as men engaged in trying to do the just thing, the proper thing by our people in respect of legislation . . .

SHRI BHUPESH GUPTA: Even without a quorum sometimes. . .

(Interruption.)

DIWAN CHAMAN LALL: Well, in that respect my learned friend's Party is just as much to blame as the other Party and he knows that. When we are engaged in this very serious task, we should not be compelled by such demonstrations, no matter for what good cause they might be, if the purpose is to disturb the work of this House or of the other House.

I submit, Sir, that the real reason behind this measure is obvious from this particular amendment that my learned friend is moving. He wants this really as an agitational issue, as a propagandist issue. Sir, I wish he would devote himself to better things. He is a very able man, a very dear man, a learned man and an eloquent man and I wish he would utilise himself for more constructive work and not work in this destructive spirit. I don't know what has suddenly descended upon him and from where he . . .

SHRI BHUPESH GUPTA: From the Karachi Congress!

DIWAN CHAMAN LALL: He says so, but Sir, I do not think he was born at the time of the Karachi Congress, at least not politically.

SHRI BHUPESH GUPTA: For the information of the hon. Member I may say that I was in jail at the time.

DIWAN CHAMAN LALL: Well, I had something to do with that session.

The last portion of his amendment is to this effect:

"No order under this section shall remain in force for more than forty-eight hours from the making thereof; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the State Government, with the consent of the High Court, of the State, by notification in the Official Gazette, otherwise directs."

Imagine a riot taking place. The thing goes on for two, three, four days. After two days suddenly all the forces of law and order should be withdrawn and you should go with wig and gown to the High Court, asking for the issue of an order, and meantime all this, the rioting, the killing and the incendiarism goes on without any restriction.

SHRI BHUPESH GUPTA: That will be good for the profession of the hon. Member.

DIWAN CHAMAN LALL: My learned friend belongs to the same profession and when he is paying a compliment to me he pays a compliment to himself and he need not do that, for we can pay him the necessary compliment.

MR. CHAIRMAN: Yes, yes, that will do.

DIWAN CHAMAN LALL: Under these circumstances, Sir, my learned friend will be well advised to withdraw this measure and sit down with the Minister of Home Affairs and discuss any difficulties that he might have. If he has any serious difficulty, he can sit down and discuss them. Let us discuss them in a committee meeting, if necessary. We are quite

prepared to discuss any difficulty with him. On the substance of the measure that he has propounded, I submit there is nothing in it for us to recommend it to the suffrage of this House. Therefore I oppose it.

SHRI AKHTAR HUSAIN (Uttar Pradesh): Mr. Chairman, after the exhaustive speech of Diwan Chaman Lall, it is not necessary to deal with the various provisions of this Bill at any length. This Bill has been introduced with the object of modifying the most important portion from the preventive provisions of the Criminal Procedure Code. This Bill if accepted, would so seriously handicap the administration in preventing the commission of offences that it would really be impossible to maintain law and order. More difficulties would arise when the plea of the other side is accepted that workers, peasants and middle class employees and some others should be treated as a privileged class and they should not be dealt with under the provisions of the preventive sections, that they should be immune from the authority of law and that they should not be dealt with or apprehended until they have committed an offence and are caught in the actual commission of an offence. You will be pleased to see, Sir, that this suggestion is contained in clause 2 of the Bill which seeks to amend section 107. It says:

"Provided that no such proceedings shall be taken against any person in respect of any of his action or contemplated action connected with any lawful agitation, movement or effort for the redress of grievances of workers, peasants, middle class employees, traders and businessmen or any other section of the community:"

That is to say, nothing should be done until these people have actually committed an offence. Further on it is suggested in the Bill:

"Provided further that no bona fide worker of any political party or people's organisation shall be liable

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to proceedings under this section unless such person has been actually apprehended in an act of commission of a criminal offence."

That is to say, if there is a mere apprehension and the custodians of law and order have reasonable grounds for thinking that an unruly mob or a number of followers of a certain political party that believes in subversive activities may disturb the peace and if the administration know that these people are going to commit an offence, they cannot proceed against them if this Bill is passed and the proposed amendment is incorporated in the Criminal Procedure Code. They know well that every criminal or rather every person who is wanting to disturb the public peace and tranquility can claim that he is engaged in a lawful agitation. Who will distinguish or who will discriminate and who will decide whether a particular criminal intent on destroying the property of an individual or of the State or of the Government, is indulging in subversive activities in the course of lawful agitation or is doing so in pursuance of a movement or effort for the redress of a grievance? It is now proposed to create a privileged class of persons, for these workers, peasants and middle-class people would be immune from this provision, from being apprehended before they actually commit the offence. Here another question arises. The other people can be apprehended and preventive action can be taken against them if the authorities have reason to believe that they are likely to disturb the public peace and would not keep good behaviour. But my hon. friend here wants to create a privileged class and instead of enforcing equality before law, he wants all these persons to be treated differently and in a manner that would exempt them from the operation of the provisions of section 107 which, you would be pleased to see, are contained in Part IV and relate to the keeping of the peace and good behaviour. That is to say, everybody can be apprehended for not keeping the peace and for

not having good behaviour unless he belongs to the privileged class that is sought to be created by the Leader of the Opposition and he wants to exempt those people and in fact, to place them above the law. For that Sir, he will have to amend the Constitution to which both he and I have taken the oath of allegiance and so long as the Constitution is in force and this equality of law is one of the fundamental principles of our Constitution, it is not open to my learned friend to create this privileged class of people who would not be subject to the processes to which the other sections of the community would be liable. Now, Sir, there is another aspect to this matter. They say that they want to restrict the powers and the result of this will be that the unlawful assembly of people parading the streets and likely to destroy property as well as disturb the peace and prevent the ordinary citizens from carrying on their lawful avocations will be immune from action by the authorities and the authorities will stand as silent spectators of all this and the authorities will not be able to prevent the offences being committed if this proposal were to be accepted.

Coming again to the amendment to section 107, the amendment proposed is this:

"Provided that no such proceedings shall be taken against any person in respect of any of his action or contemplated action connected with any lawful agitation, movement or effort for the redress of grievances of workers, peasants, middle class employees, trades and businessmen or any other section of the community:

Provided further that no *bona fide* worker of any political party or people's organisation shall be liable to proceedings under this section unless such person has been actually apprehended in an act of commission of a criminal offence".

Now, who is to determine whether a person is a *bona fide* worker or is a criminal masquerading under the garb of a person who is a *bona fide* worker.

SHRI BHUPESH GUPTA: Once a person masquerades he is no longer a *bona fide* worker.

SHRI AKHTAR HUSAIN: Who will be able to say that? Will my learned friend be able to say that a person who is masquerading as his follower is not his real follower? There may be persons who may be impersonating as the followers of the Leader of the Opposition but they may not be the real followers. Who is to decide this? My hon. friend knows that it is absolutely impossible for the custodians of law and order to determine on the spot whether what the person claims, that he is a *bona fide* worker, is well-founded or ill-founded.

SHRI BHUPESH GUPTA: The hon. Member has created more confusion.

SHRI AKHTAR HUSAIN: Then, Sir, we have to consider this measure from another aspect. If the amendments proposed are accepted, what will be the result? The power of the authorities would be very greatly restricted and they would not be in a position to prevent the commission of offences. We know that prevention is better than cure but my hon. friend wants that until the offence has been actually committed these persons should not be proceeded against. Now, ours is a very nascent democracy. We have been free only eleven years and it is our constant endeavour to see that our people grow to their full stature and that their growth is not retarded by subversive activities of people who are either trying to grab power or whose acquisitive propensities exceed normal limits or people who for reasons best known to them are enemies of our country and who want to prevent the peaceful growth of democratic institutions in this country. Should these people, Sir, not be prevented from carrying on their sub-

versive activities? I submit, Sir, that it would be doing a great disservice to this country if these subversive elements are emboldened by the introduction of provisions of this kind because, as I have said before, the provisions, if accepted by the House, would certainly weaken the forces that are responsible for the maintenance of law and order. Why should our authorities be deprived of this right to prevent people from obstructing the progress of our people by constant disturbance of the public peace? You will be pleased to see, Sir, that the authorities are entitled to demand security for keeping the peace and to prevent them from taking actions which would not constitute good behaviour. Why should my learned friend, the Mover, be so anxious to prevent the enforcement of good behaviour and to allow the people to indulge in unlawful activities? Yet, he says that he is helping the growth of the democratic institutions which he also says he wants to encourage. I submit that the result of the acceptance of these provisions would prove extremely detrimental to the progress of our country. Then, Sir, my learned friend tried to compare the laws in force in the United Kingdom with those in force here and he said that under the British Act this is not done, that is not done and so on. It is not fair on his part to compare our poor under-developed country with the most advanced country in the world and it is not fair also to say that our administration should be of the same kind which prevails in the United Kingdom. The United Kingdom administration is the envy of all countries except of course the totalitarian countries and the amount of freedom given to people in the United Kingdom is . . .

SHRI BHUPESH GUPTA: That is why I ask you to follow your demi-Gods in England.

SHRI AKHTAR HUSAIN: Yes. Yes. That is why I say, please have regard to our difficulties, to the handicaps under which we are suffering, and

[Shri Akhtar Husain.]

have regard to the fact that we are a poor people, with low percentage of literacy and are under-developed. It is not right to compare the conditions in the most advanced country of the West with conditions in this country. It is for this reason, Sir, that I submit that the motion of my learned friend for the amendment of the Criminal Procedure Code should not be accepted.

It is not necessary for me to deal with the other clauses of the Bill because Diwan Chaman Lall Saheb has already dealt with them at considerable length but I would like to say just one or two words about the proposed amendment to section 129 of the principal Act. My learned friend wants the section to be amended so as to insert the words "and if there are reasonable grounds for apprehending positive and immediate danger of loss of human life". What about the destruction of property? If the authorities are satisfied that an unruly mob is likely to destroy property as it did in a State which is well-known to the Leader of the Opposition and where it is his party that is in power, a lot of valuable tea was destroyed besides electric installations.

SHRI Z. A. AHMAD (Uttar Pradesh): How does the hon. Member know it?

SHRI AKHTAR HUSAIN: Even though the authorities know that the mob is likely to destroy property, just because there is no apprehension of destruction of human life, therefore . . .

SHRI ABHIMANYU RATH (Orissa): Is there any law to prove the intention of man?

SHRI AKHTAR HUSAIN: There is no law but seasoned administrators know when an unruly mob is being incited to commit acts of criminality, they can have reasonable grounds for apprehending that illegal acts would be committed. For that purpose, for the purposes of preventing commis-

sion of graver offences this provision has been found to be very useful in the past and is likely to be of increasing utility in the future unless the other side abjures violence. Now, Sir, another provision which needs to be considered is new section 131A by which the mover wants that a detailed report should be submitted to the Houses of Parliament after the armed forces have been called in. The question arises: Should the commissioned officers and our army men start writing with pen and pencil a report saying that this thing happened and that thing happened, this law-breaker was doing this, etc., or should they be more concerned with preventing the actual commission of the offence? I think it would be a great strain on the military people to be told to write with great precision everything that happened there. It is not right and it would be showing lack of confidence in our military personnel, if they are asked to submit very detailed reports. Of course, when firing has occurred as responsible persons they would give their own account. My learned friend can always raise a question or move an adjournment motion and do so many other things. But to place this burden on the armed forces to go on writing on individual incidents, rather than devote their time to the suppression of the riotous mob will not prove beneficial to our progress. It is for these reasons that I oppose this Bill and I hope that the House would reject it.

SHRI AHMAD SAID KHAN (Uttar Pradesh): Mr. Chairman, I heard with rapt attention the speech made by the Mover.

[MR. DEPUTY CHAIRMAN in the Chair]

As usual, he was forceful and eloquent, but I regret to say he was not convincing. The two speakers who have preceded me have made my task very easy because they have covered many grounds and have replied to his arguments. As you know, these sections which are proposed to be amended are no punitive sections. They are

not there to punish anybody for an offence. They are preventive or I should say protective sections. They are to prevent the would-be offenders from committing an offence, to protect a law-abiding citizen who is engaged in his lawful profession and avocation. This is the purpose of these sections. Now, in section 107, these words are there: "When the magistrate is informed that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act which may lead to breach of peace." These are the words in the section itself. Now, all these amendments can be classified under two categories. One is that they are unnecessary and redundant. The other is that they kill the section. The section will not be able to serve the purpose for which it was enacted because it will not be able to protect the citizen or to prevent the offender from committing a crime. Now, when this is in the section, I think the first proviso mentioned by the mover becomes redundant and unnecessary, because it says that lawful agitations should not be stopped. Of course, lawful and peaceful agitation will not be stopped. It is not being stopped even now. In the streets of Delhi we see processions everyday. Meetings are held, resolutions are passed. Nobody stops them. But the moment the procession or the mob is in such temper that it is going to commit a breach of peace, it is then and then alone that the law will take its course and the magistrate will step in.

The second amendment, as was rightly mentioned by my friend, Mr. Akhtar Husain, creates difference between citizen and citizen. It discriminates in favour of members of political parties or public workers and the ordinary citizen. If the ordinary citizen is to be apprehended, I see no reason why the workers of a political party should not be apprehended. The law should not discriminate between citizen and citizen on the basis of political or any other convictions. The law is there to take note of anybody

who is trying to break the law. Therefore, I think that both these amendments are not only unnecessary, but they are dangerous, because if they are accepted, this section will not remain any more preventive and will not be able to give protection to the ordinary citizen.

Now, I come to section 129. My friend has proposed that this section should be used only when there is a positive and immediate danger of loss of human life. Who is to judge whether it is positive? And then he does not stop at 'positive'. He says 'immediate'. That is to say, if there is a mob armed with dangerous weapons going in the streets, then nobody can say that there is an immediate danger of loss of life, unless somebody begins to shoulder the gun, aim at some person. Then, it can be said that there is immediate danger. This amendment is such that if it is accepted, then the magistrate will not be able to protect a law abiding citizen or to prevent the offence, because when there is immediate danger, then by the time the armed forces arrive there, the crime will have been committed, and law and order cannot be maintained under these conditions. One can understand if anybody says that lawful agitation should not be stopped. But then, the section itself makes it quite clear—if any such assembly cannot otherwise be dispersed and if it is necessary for the public security that it should be dispersed. It will be dispersed only in the interests of public security and it is our duty and the duty of every citizen, it does not matter to what party he belongs, that public security in this country should be maintained. And it is the first and primary duty of every Government to maintain public security.

Then, in this proviso it says 'immediate danger of loss of human life.' Suppose, there is incendiarism, there is a mob burning the shops, buses, motor cars, houses, etc., then it can be said that there is no danger to human life and therefore, they should

[Shri Ahmad Said Khan.]
be allowed to do so. Sir, how is it possible for any Government to accept this position? It is impossible really to accept this position at all.

Now, coming to another section, section 144, there, again, it says:—

“....if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.”

Anybody who is lawfully employed in some vocation or profession, it is he who is supposed to be given protection, and if the agitation is going to be peaceful without in any way interfering with the lawful employment of any citizen or without injuring anybody, then certainly the Magistrate will not use these powers.

I am really surprised that my friend has said:—

“Provided further that no such order shall be promulgated in respect of the vicinity of Parliament or a State Legislature or Territorial Council”

Why should not Members of Parliament be protected like any other citizen? This is really a discrimination against Members of Parliament. Suppose two thousand people get into this House and begin to talk loudly, how will we be able to do our work, perform our duties? As far as peaceful agitations are concerned, we see them every day. Yesterday there was a big gathering. Nobody arrested them; nobody apprehended them.

SHRI BHUPESH GUPTA: It is still there.

SHRI AHMAD SAID KHAN: They are still going on there. But should they be allowed to come into Parliament and disturb its atmosphere? I

do not think this can be done. With these words, I wish to oppose this Bill.

DR. P. V. KANE (Nominated): Mr. Deputy Chairman, I agree first of all that this Code of Criminal Procedure is rather an old one—1898—and it is now sixty years and some amendment will be necessary. But I do not agree that the amendments proposed by my learned friend there should be accepted. Some of them are too wide; some of them are unnecessary and some of them are too narrow. I am going to examine them from that point of view.

The hon. Diwan Chaman Lall has already explained the general scope, but I shall take each amendment separately and try to show how it is too wide or general or too narrow or is objectionable. Let us take the first proviso under section 107:—

“Provided that no such proceedings shall be taken against any person . . .

That is the important word. This is very loosely worded for a lawyer.

“ . . . in respect of any of his action or contemplated action connected with any lawful agitation, . . . ”

If he had simply said “in respect of any lawful agitation”, much objection could not have been taken. But what are the words actually used there? “Any of his action”. It does not say “any of his wrong action, improper or illegal.” It is merely “any action.” And then are these words: “connected with any lawful agitation.” Suppose there is a lawful agitation, a picketing or something. You know, Sir, that picketing may be peaceful or violent or dangerous. Many adjectives can be applied to it. I have had plenty of experience of picketing as a common citizen, not as an employer of labour nor as an employee—fortunately neither. I have had plenty of experience during the last sixty years in Bombay. But I may tell you,

suppose there is a violent picketing, that will be a lawful agitation and an action connected with the lawful agitation. Picketing is lawful. . .

SHRI BHUPESH GUPTA: Violent.

DR. P. V. KANE: No, the wording is "any of his action". You have not used the words "violent action" or "illegal action." The words are "any . . . action." It is too wide a thing. So, this must be altogether omitted. Then only we shall consider it. At least, I will not be able to accept any of these because these words are too wide. I am going to be brief. I do not want to go into the matter at very great length. Look at the next-proviso: "Provided further that no *bona fide* worker. . .". The difficulty about "*bona fide*" has been already explained. I do not want to go into that. "*Bona fide* worker" who is to decide his *bona fides*? That is the difficulty. The wording is like this:

" . . . shall be liable to proceedings under this section unless such person has been actually apprehended in an act of commission of a criminal offence."

In Bombay, there are at present thirty lakhs of people and sometimes five lakhs of people are on strike. Unless you apprehend them actually, you cannot do anything under this. If you are not able to actually apprehend him, if he runs away, if he manages to escape and goes out of Bombay, then there is an end of it. So, this again is too wide and too bad. We cannot have this.

" . . . shall be liable to proceedings under this section unless such person has been actually apprehended in an act of commission."

Suppose there is a complaint against him. He cannot be proceeded against under this section. Suppose there is a complaint against a person launched by a hundred people that he is a very bad character and that he is doing this or that. But he manages to run

away and he gets out of the hands of the police. Nothing can be done under this wording. So, even this proviso is equally bad. "Unless actually apprehended" is too much. A man may not be apprehended for several months or years. He goes underground sometimes. He runs away from Bombay, goes to Banaras or Bengal. In that case, what can be done? So, this section is too wide. Let us turn to the next section 129. There is also a proviso there. For the words "and if it is necessary for the public security that it should be dispersed", you want these words:—

"and if there are reasonable grounds for apprehending positive and immediate danger of loss of human life."

Remember the wording. There must be "positive and immediate danger of loss of human life". Not an injury even. The word "injury" does not occur. "Danger of loss of human life" means death or near-death. There is nothing said about even a small injury. Suppose a picketeer inflicts some injury on another man who wants to be disloyal or, as they call, a blackleg. Suppose they cause him injury. They cannot be proceeded against because there is no positive and immediate danger of loss of human life.

SHRI BHUPESH GUPTA: The police is there.

DR. P. V. KANE: One of his teeth is knocked out. There is no danger of human life. I do not know why he has used these words. They are too loose. You cannot accept it.

SHRI BHUPESH GUPTA: You do not require a bullet or a machine-gun to deal with a person who causes a small injury. The police is there with the lathi!

DR. P. V. KANE: My point is that the words here are used so widely that no one—at least no lawyer—can accept them. What about property? That is not there. If he says "pro-

[Dr. P. V. Kane.]
 perty" also, there is something. He does not say "property." Property of any amount may be destroyed. The wording is only "positive and immediate danger of human life", not "injury to human life or to human being." So, this section is rather bad.

Then, let us turn to the next proviso—sub-clause (ii) of clause 3. That is quite unnecessary really.

"Provided that no recourse shall be had to such use of armed forces unless the Magistrate is reasonably satisfied. . . ."

That is, the ordinary Magistrate must be supposed to have been reasonably satisfied. An enquiry committee may ultimately hold that the magistrate was wrong—that is another matter—but as long as the magistrate puts it in writing and says: "I am reasonably satisfied" etc., then this will apply. He himself has put in there "unless the Magistrate is reasonably satisfied" etc. Now who is to decide at that time? It is the magistrate who is on the scene and he is to decide whether what he is doing is reasonable or not. So this is really unnecessary.

Then we come to the next proviso in that very clause:

"Provided further that except in cases of communal disturbances no such use of armed forces shall be made with a view to suppressing movements"

Now, Sir, look at the word movements. He does not say what kind of movements. He stops at saying movements. Suppose a thousand people are coming and surrounding my house and not allowing me to go out, what is it? The movement may be just peaceful to this extent that they are not going to do any harm to me, but they won't allow me to go out. Then the proviso says:

". . . .movements or peaceful agitations of workers, employees, peasants, or any other sections of the people".

Now in this provision "suppressing movements or peaceful agitations" etc., omit your 'movements' altogether. That is too large a word. "Peaceful agitations" I can understand, but I cannot understand simply the word 'movements' at all.

SHRI BHUPESH GUPTA: Why?

DR. P. V. KANE: Because the movement may be illegal, objectionable, harassing to people, interfering with one's liberty and so many things. As I said, suppose there is a movement and they do not allow me to go out, well, that is a movement, but then it is illegal. You cannot say simply "movements". My point is that the word movement is very wide and should really not have been there. Then only this proviso could have been considered, and if the hon. Member wants to persist, then it should be that this proviso cannot be accepted.

Then I turn to clause 4 dealing with section 131, and my difficulty is the same there also. The provision says:

"the Central Government shall ***place a report on the calling in of the armed forces on the Table of both Houses of Parliament."

It cannot be on the Table of both Houses of Parliament; it should be on the Table of the local Legislature. It will be some State. Why do you want every such thing to come before both Houses of Parliament? Let it come there and if there is no redress there, then you can put a question here and take other steps. So here again it is too wide a provision. There may be some firing somewhere or no firing even, but some mild lathi charge, on the magistrate passing an order. Then the whole thing has to come here. Why here?

DR. R. B. GOUR(Andhra Pradesh):
 Because the army is involved.

DR. P. V. KANE: But the provision simply says:

“Whenever the armed forces have been called in”. . . .

That is all it says. It does not say that the report should be placed “whenever the armed forces have been called in and there has been killing of people in quelling a disturbance” or some such thing. So, as I said, the hon. mover has not bestowed proper attention on how the wording should be. The wording everywhere is too wide and is unnecessary.

SHRI BHUPESH GUPTA: Will it be all right if it was amended, say, “on the Table of the State Legislature concerned and the Houses of Parliament”? Copies will have to be placed here, and the Defence Minister is here.

DR. P. V. KANE: “Houses of Parliament” or Parliament is unnecessary. That is my idea; you may think so. Opinion always differ. Then as regards the first proviso in clause 3:

“Provided that no order under this section shall be served on any person engaged in picketing” . . .

Now here again the wording is wide—

“engaged in picketing in pursuance of a strike,”. . . .

I have seen picketing only the other day in a solicitors’ office. The office was picketed because a certain man had been serving them for thirty years and he was not given gratuity as he wanted. So he did not allow anybody to go in. He was standing there, at that small entrance to that solicitors’ office. It was in Bombay only a month or two back. The wording here “engaged in picketing” should be “engaged in lawful picketing”. ‘Picketing’ is of many kinds. So the wording simply ‘picketing’ is wrong. It may be unlawful; it can be violent; it can be dangerous; it can be menacing in various ways. So the wording is not good

and it is not acceptable. ‘Picketing’ would simply mean that he will not allow so many people, people like myself to go into the office of a solicitor and the solicitor might be afraid if he is standing there with both hands stretched out like this obstructing that small door way. Can such a sort of picketing be tolerated?

SHRI BHUPESH GUPTA: You please read the portions following the word ‘picketing’.

DR. P. V. KANE: Therefore you should define everything very clearly; don’t put it in these very general terms. Otherwise we cannot accept it. So I object to the word ‘picketing’ there.

Then we come to the next proviso in the same clause 5.

“Provided further that no such order shall be promulgated in respect of the vicinity of Parliament or a State Legislature or Territorial Council so as to prevent the citizens”

Here again it is too wide—“prevent the citizens from proceeding there to voice their grievances” etc.

SHRI BHUPESH GUPTA: It is there “vicinity”.

DR. P. V. KANE: How many citizens? You can see their representatives, a dozen representatives or so, I don’t have any objection. Let us be very definite and not merely say “citizens”. There may be a lakh of citizens coming here. So what is it? It is too wide a thing. You can see some representatives, you can hear five representatives or ten representatives voicing the grievances of the citizens and giving their views. They may spend some time here; we have no objection, but then the wording as it stands cannot be allowed.

SHRI BHUPESH GUPTA: “of the vicinity of Parliament” etc.

DR. P. V. KANE: We may give them a personal hearing. How can two thousand people be heard? You can hear at the most five or ten people. That is all.

Then further in the next sub-clause there is a provision:

"No order under this section shall remain in force for more than forty-eight hours from the making thereof; unless, in cases of danger to human life, health or safety," etc.

He does not mention 'property' there at all. He says:

"...or a likelihood of a riot or an affray" . . .

That is the wording, but he does not mention any loss of property or danger to property at all. That is one thing. And secondly why does the High Court come in? He says further:

"...the State Government, with the consent of the High Court of the State",...

This riot or affray will gain go before the High Court, in appeal. In revision or in some other manner. The High Court should not be brought in here. So you should have to omit the portion "with the consent of the High Court of the State." Also the provision should provide cover for such situations as danger to human life, injury to human life or loss of property. Some such thing must be added. Therefore, as it stands, it is unacceptable. That is all I wanted to say. Every one of these things is most objectionable from one point of view or the other.

MR. DEPUTY CHAIRMAN: Mr. Ahmad.

SHRI BHUPESH GUPTA: You said, Sir, you would call him after lunch.

MR. DEPUTY CHAIRMAN: Mr. Ansari.

شری فریدالحق انصاری (اتر

پردیش): مسٹر ڈپٹی چیئرمین۔ بہت دن ہوئے جب میں پڑھتا تھا تو ایک انگریزی کا مقولہ سنا کہ One is never too late to learn

آج جب اس بل پر بحث ہو رہی ہے تو مجھے ایسا معلوم ہوتا ہے کہ وہ مقولہ بالکل صحیح ہے۔ یہ بل قانونی بل ہے۔ کرمینل پروسیجر کوڈ کو ترمیم کرنے کے لئے یہ بل پیش ہے۔ میں امید یہ کرتا تھا کہ اس بل پر محض قانونی نکتہ نظر سے تہذیبی دل سے بحث کی جائیگی تاکہ ہمارے اور ممبران کی سمجھ میں بھی آجائے کہ یہ بل کیوں پیش کیا گیا ہے۔ مسٹر ڈپٹی چیئرمین۔ میں یہ سمجھتا ہوں کہ جذبات کا شکار ہو کہ کچھ لوگوں نے اس بل پر تقریریں کیں۔ میں خوش قسمت ہوں آج ان تقریروں کو سنے میں۔ جیسے تقریریں پلڈت موتی لال نہرو مرحوم جب وہ پرانی اسمبلی کے ممبر تھے کیا کرتے تھے اور اس وقت جب کانگریس کے لوگ اپنی تقریروں سے کسی سرکاری بل یا کسی قانون یا کسی عمل کے اوپر اسمبلی میں نکتہ چینی کرتے تھے۔ اور جیسے گورنمنٹ آف انڈیا کے ہوم ممبر اس زمانے میں جواب دیتے تھے ویسے ہی اس بل کے جواب میں آج میں نے یہ تقریریں سلیں۔ مجھے افسوس ہے اس بل کے سلسلے میں اس کی کوئی

ضرورت نہیں تھی - ہماری آزادی کی جدوجہد میں ، ہماری آزادی کی لڑائی میں کون لوگ تھے جنہوں نے حصہ لیا؟ میں نہایت ادب سے عرض کروں گا کہ ہماری آزادی کی لڑائی کسی ایک شخص یا کسی ایک پارٹی کی جاگیرداری نہیں تھی جس پارٹی سے میرا تعلق ہے - جناب ڈپٹی چیئرمین صاحب - میں نہایت ادب سے عرض کروں گا کہ اس کے پچھلے ۲۵ برس کے کارنامے یہ ظاہر کرتے ہیں کہ جیسے ہاوس کے اس طرف کے بیٹھنے والے لوگوں نے آزادی کی جنگ میں حصہ لیا .

ڈا۰ राज बहादुर गौड़ : बाज लोगों ने ।

شری فرید الحق انصاری : آپ کو قربان کیا - میں یہ نہیں کہتا کہ بعض لوگوں نے - ویسے ہی ہماری پارٹی کے لوگوں نے بھی ہندوستان کی آزادی کی جنگ میں قربانیاں دیں - اس لئے وہ جو یہ نکتہ چینی کر کے یہاں سے ہٹ گئے ، جلے گئے ان کو یہ کہنے کی ضرورت نہیں تھی - دوسرے ممبروں نے بھی تقریریں کیں - ان تقریروں سے یہ پتہ چلتا ہے کہ ہاوس کے اس طرف کے لوگ بھی کرمیل پروسیدچر کوڈ کے کچھ سیکشنوں کی ترمیم کے لئے جو یہ بل پیش کیا گیا ہے اس کی اسپرٹ سے ، اس کے جذبہ سے متفق ہیں -

MR. DEPUTY CHAIRMAN You can continue after lunch.

† श्री फरीदुल हक अंसारी (उत्तर प्रदेश) : मिस्टर डिप्टी चैयरमैन, बहुत दिन हुए जब मैं पढ़ता था तो एक अंग्रेजी का मकूल सुना कि One is never too late to learn आज इस बिल पर बहस हो रही है, तो मुझे ऐसा मालूम होता है कि वह मकूल बिल्कुल सही है। यह बिल कानूनी बिल है। क्रिमिनल प्रोसीजर कोड को तरसीम करने के लिए यह बिल पेश है। मैं उम्मीद यह करता था कि इस बिल पर महज कानूनी नुक्तानजर से, ठंडे दिल से बहस की जायगी, ताकि हमारे और मेम्बरान की भी समझ में आ जाय कि यह बिल क्यों पेश किया गया है।

मिस्टर डिप्टी चैयरमैन, मैं यह समझता हूँ कि जज्वात का शिकार होकर कुछ लोगों ने इस बिल पर तकरीरे कीं। मैं खुशकिस्मत हूँ आज उन तकरीरों को सुनने में। जैसी तकरीरे पंडित मोतीलाल नेहरू मारहूम, जब वह पुरानी एसेम्बली के मेम्बर थे, किया करते थे और उस वक्त जब कांग्रेस के लोग अपनी तकरीरों से किसी सरकारी बिल या किसी कानून या किसी अमल के ऊपर असेम्बली में नुक्ताचीनी करते थे और जसे गवर्नमेंट आफ इंडिया के होम मेम्बर उस जमाने में जवाब देते थे, वैसे ही इस बिल के जवाब में आज मैं ने ये तकरीरें सुनीं। मुझे अफसोस है, इस बिल के सिलसिला में इसकी कोई जरूरत नहीं थी। हमारी आजादी की जद्दोजहद में, हमारी आजादी की लड़ाई में कौन लोग थे, जिन्होंने हिरसा लिया? मैं निहायत अदब से अर्ज करूंगा कि हमारी आजादी की लड़ाई किसी एक शख्स या किसी एक पार्टी की जागीरदारी नहीं थी। जिस पार्टी से मेरा ताल्लुक है। जनाब डिप्टी चैयरमैन साहब, मैं निहायत अदब से अर्ज करूंगा कि इसके पिछले पच्चीस

† [] Hindi translation.

[श्री फरीदुल हक असार:]

वर्ष के कारनामे यह जाहिर करते हैं कि जैसे हाउस के इस तरफ के बैठने वाले लोगों ने आजादी की जंग में हिस्सा लिया . .

डा० राज बहादुर गौड़ (आन्ध्र प्रदेश) : बाज लोगों ने ।

श्री फरीदुल हक असार : अपने को कुर्बान किया—मैं यह नहीं कहता कि बाज लोगों ने—वैसे ही हमारी पार्टी के लोगों ने भी हिन्दुस्तान की आजादी की जंग में कुर्बानिया दी। इसलिए, वह जो यह नुक्ताचीनी करके यहां में हट गये, चले गये, उनको यह कहने की जरूरत नहीं थी । दूसरे मैम्बरों ने भी तकरीरे कीं । उन तकरीरों से यह पता चलता है कि हाउस के इस तरफ के लोग भी क्रिमिनल प्रोसीजर कोड के कुछ मेकानों की तरफीम के लिए, जो यह बिल पेश किया गया है, उसकी स्पिरिट से, उसके जज्बे से, मुत्तफिक है ।]

ANNOUNCEMENT RE GOVERNMENT BUSINESS

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI SATYA NARAYAN SINHA): With your permission, Sir, I rise to announce that Government Business in this House for the week commencing 22nd December, 1958, will consist of:

(1) further consideration of the Himachal Pradesh Legislative Assembly (Constitution and Proceedings) Validation Bill, 1958, as passed by Lok Sabha;

(2) Consideration and passing of the Salaries and Allowances of Members of Parliament (Amendment) Bill, 1958, as passed by Lok Sabha;

(3) Consideration and return of the following Bills, as passed by Lok Sabha:

- (a) The Appropriation (Railways) No. 4 Bill, 1958;
- (b) The Appropriation (Railways) No. 5 Bill, 1958;
- (c) The Indian Tariff (Amendment) Bill, 1958; and
- (d) The Appropriation (No. 5) Bill, 1958;

(4) Consideration and passing of the following Bills, as passed by Lok Sabha:

- (a) The Foreign Exchange Regulation (Amendment) Bill, 1958;
- (b) The Delhi Rent Control Bill, 1958;
- (c) The Prevention of Disqualification (Amendment) Bill, 1958; and
- (d) The Representation of the People (Amendment) Bill, 1958.

1 P.M.

SHRI BHUPESH GUPTA (West Bengal): I have a little submission to make. Two things I wish to draw your attention to. My motion for discussion on the Finance Minister's visit abroad was admitted as a no-day-yet-named motion. I do not find it. What has happened to that? Sir, I understand the Finance Minister is here, but I suggested that the Government should agree to take up this discussion. Some other Minister can handle it. After all the discussion will take place on the basis of a written statement. It should not be deferred to the next session.

SHRI SATYA NARAYAN SINHA: The matter was placed before the Business Advisory Committee and the representative of the hon. Member's party was also there, and it was unanimously agreed that it cannot be taken up. The Minister was away and we found certain difficulties. Apart from that I had consulted the Minister of State in the Finance Ministry and he expressed his inability, Sir. He said that certain things which were absolutely of a personal character were bound to