

MR. CHAIRMAN: So you press your amendment?

SHRI BHUPESH GUPTA: Well, if the compromise is not forthcoming.

MR. CHAIRMAN: Very well, then. I put the question.

The question is:

"That at the end of the motion, the following be added, namely:—

'and having considered the same, this House is of opinion that—

(i) Government should take note of the stationing of war ships of certain foreign powers in Singapore and in the Indian Ocean as well as similar other hostile activities designed 'o threaten the peace and security of India and other countries of this region; and /

(ii) Government, while seeking solution of the border problems between India and Pakistan through negotiations and defending the territorial integrity of India against every attack, should take due note of ail provocations and instigations behind them."

The motion was negatived.

SHRI BHUPESH GUPTA: No note has been taken?

MR. CHAIRMAN: That means the matter has been considered and there is nothing further about it.

THE ARMED FORCES (ASSAM AND MANIPUR) SPECIAL POWERS BILL, 1958—continued

MR. CHAIRMAN: We now go back to the motion moved by Shri Datar. Anyone wanting to speak on the Armed Forces (Assam and Manipur) Special Powers Bill?

SHRI V. PRASAD RAO (Andhra Pradesh): Yes, Sir. Mr. Chairman.

whenever a measure is brought before the House, I think it is incumbent upon the Government to come before the House with the facts and figures to justify such a measure. The

[MR. DEPUTY CHAIRMAN in the Chair]

reports about the Naga areas that had been presented to this House before and also the statement made by the hon. Minister for Home Affairs while introducing this Bill clearly say that the situation in the areas of the Nagas had improved and, by and large, the law and order situation today is far better than what it was previously. Then I do not understand, Sir, how such a measure as this one, such a radical measure where not only the officers of the Army, but as has been pointed out by the hon. Minister for Home Affairs, even non-commissioned officers and lance naiks are given the power to shoot at sight; how such a measure has become necessary? Either the situation, that has been pointed by the previous reports that had been presented to this House and as has been described by the hon. Minister, is wrong, in spite of what he says about the law and order situation there, or this measure should be unnecessary there. Both cannot be correct. If the situation there has improved then certainly there is no necessity for a measure of this kind. If it has not, then the Minister should certainly correct his earlier statement. Without doing anything of that sort, the hon. Minister comes and says that the situation has improved. However, he still says that there are certain areas in which it is there, that it has spread to the plains, that there are only a few people who have to be dealt with and so on. If that is the case, I do not understand why, for dealing with a few people, such a drastic measure giving our armed forces very wide powers is necessary at this particular juncture. If we are to take the Government seriously, I think this measure will be politically inexpedient, practically it will be a blunder, and psychologically it will be foolish. It has been

[Shri V. Prasad Rao.] pointed out umpteen times from the side of the Government as well as by the Prime Minister that when we are dealing with such people, the humane approach must be applied. I do not know whether by humane approach you mean bullets and slugs to be pumped across the bodies of the Nagas who oppose you. The Minister says that we must be considerate towards those Nagas who are loyal to us and stem towards those Nagas who oppose us. Certainly; but then, is such a wide gulf existing between the loyal Nagas and those who oppose you? The difference is a very thin one. Those Nagas who by the provocation of the other foreign imperialists and the foreign missionaries have gone over to the other side can be won over by us and so there is no such wide or big gulf separating those Nagas from the Nagas who are loyal to us. So, to categorise them as those who are loyal to the Indian Union and those who are opposed to the Indian Union is not a correct approach. In fact, if we go with such an approach, we are going to alienate them completely. So, I think this measure is neither pertinent nor necessary at this stage. There are nearly 2,00,000 Nagas who are residing in those areas. Even according to the statement of the hon. Minister, most of them are perfectly loyal. After the last Kohima Conference, we were told that things had certainly improved; at the time of the creation of the separate division for Tuensang, we were told that the situation had certainly improved. If such be the case, it is beyond our comprehension why the measure now before us is being brought forward to this House. Sir, however well-meant or well-intentioned this measure may be, once bullets fly across, there is no room for a humane approach, there is no room for logic and there is no room for clear thinking. Once you give this power, especially in a backward area like the tribal area where it is very difficult to control the excesses of the military, results exactly the opposite of what you desire will come about. We

know from our own experience as to what the troops stationed in troubled areas do. In Telangana, where they were given a free hand, instead of doing anything good they did much harm and alienated the people of the tribal area there. So, Sir, it is not exactly as we wish that these people, the Naiks, the Lance Naiks and these N.C.O.s and Officers are going to use these powers. They are certainly going to use them indiscriminately because they know only one language and that is the language of force, the language of bullets. I am not casting any aspersions on our armed forces as such but, in fact, by training, by disposition and by the circumstances, they are prone to use force, they are prone to use a different language and a different kind of approach from the one that we want used at this particular moment. If the Government wants to solve this problem of the Nagas, it must adopt a different approach. For nine years we had been told that more and more progress is being achieved, that more and more of Nagas are being won over and all that but now, after the ninth year, we are told that the problem still exists, that it is spreading to the plains and so on. I fail to understand how the Government can say that this problem is on the verge of settlement. The Government has dismally failed in solving this problem. In spite of the platitudes that were expressed here, in spite of the so many pious resolutions that were passed demanding that a political approach be made, we see it only in terms of the military approach, in terms of annihilation of the people and in terms of subduing the rebel Nagas. I think never was a political solution sought. No political question is solved by a military approach. I think it is high time Government gave serious thought to this problem, had a fresh reappraisal of the policy towards the Nagas and then pursued it. With all humility, I would suggest that Members representing all parties in this House and in this Parliament should go there and study the problem at first hand. If the Government is prepared to allow facilities for the Members to

go and study the problem, we, on behalf of our Party, are prepared to go there and contribute our mite to see that this problem is solved in an amicable way. Even at this stage, I think the Government of India should seriously look into the matter. It is unfortunate that they think in terms of military, that they think in terms of solving this problem with this kind of approach. This is incorrect. If they cannot solve the water problem, they call in the armed forces; if they cannot solve the transport problem, they call in the military. The other day, some housewife in North Avenue was pointing out that water came only after the military had come in and added, "Why not hand over the Government itself to the military?" I have to point out, Sir, that such a kind of approach will lead to a shortcut, will lead to the psychology that only the military could solve the problem. I think this should be given up. Political problems must be solved and settled on the political plane and no shortcut solution of using force should be resorted to. I think, even at this stage, the Government should withdraw this Bill and see that a sober, political and humane approach as proclaimed by the Prime Minister is resorted to.

Thank you, Sir.

SHRI HARIHAR PATEL (Orissa): Mr. Deputy Chairman, the hon. Minister, while introducing this Bill, explained that this Bill seeks to allow the armed forces to operate in the disturbed areas of Assam and Manipur and to control the situation. He also later on narrated as to how the Naga rebels have infiltrated into those areas and are creating trouble but I am sorry to observe, Sir, that he did not narrate in detail so as to convince the House about the necessity of having such a Bill. At the moment, we have only read the newspaper reports about some rebels creating trouble by infiltrating into those areas and the House cannot come to any conclusion on such premises. It is not correct on the part of the hon. Minister to keep us in the dark about the situation

and about the incidents happening there which have necessitated the passing of such a measure. However, as we have read in the papers, it may be possible for us to give a smooth passage to the Bill but, at the same time, I would be failing in my duty if I did not express my opinion on the proposed Bill. Firstly, the Bill is not happily worded. It lacks clarity and it does not observe the principles of legislation in many respects, e.g., it does not explain what a "disturbed area" means. The Bill proposes to give absolute jurisdiction to the Governor of Assam and the Chief Commissioner of Manipur to form an opinion about an area to be declared as a disturbed one. Such a proposition is, of course, natural when an emergent situation has arisen; in an emergent situation, so many things are obvious and so many things are manifest. But the Bill as it is does not contemplate of declaring an emergency situation there and yet seeks to invest persons with discretion, authority, power and judgment, which are only proper to be conferred on them in an emergency situation. If for any reason it has been thought that the declaration of an emergency to precede the operations of the armed forces in the disturbed area should not be incorporated in the Bill, at least some objective criterion for declaring an area as disturbed should have been there to make the Bill appear rational and not arbitrary. 1 P.M.

MR. DEPUTY CHAIRMAN: Will you take more time, Mr. Patel

SHRI HARIHAR PATEL: Yes, Sir.

MR. DEPUTY CHAIRMAN: Then you can continue after lunch.

The House stands adjourned till 2-30 p.M.

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

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI HARIHAR PATEL: Mr. Deputy Chairman, Sir, I was complaining that no objective criterion has been laid down for coming to the conclusion that an area is disturbed. The use of the word "Such" in clause 3 is very unhappy. It makes the whole question of forming an opinion about some area to be disturbed completely subjective. If the Governor of Assam or the Chief Commissioner of Manipur whimsically declares an area to be disturbed, there is nothing to hinder or restrain that. There is no contemplation, even implied, to make them see with others or to judge about any situation with others, and there is nothing to prevent them if they utilise this unfettered power for other purposes. If in place of the words "such" some other word, say, "manifestly" would have been used with the necessary corrections in the sentence, the objection raised above would have been possibly obviated to a certain extent. It is for the hon. Minister to consider about this.

Secondly, Sir, clause 3 seems to me defective from another point of view. It enables both the Government of I and the Chief Commissioner of Manipur to form an opinion about an area to be disturbed. But it will be seen that the power to issue any notification declaring an area to be disturbed is conferred only upon the Chief Commissioner of Manipur because the words used there in clause 3 are "he may" and "he" can refer only to the Chief Commissioner of Manipur. "he" cannot stand for "the Government of Assam." I do not know if I am wrong in my analysis, but if I am right there is no doubt that clause 3 is defective and it may lead to serious complications. I hope the hon. Minister will look into this point.

With these few remarks I resume my seat. Thank you, Sir.

SHRI BHUPESH GUPTA (West Bengal): Mr. Deputy Chairman, Sir, I would like to make a few observations on this Bill. Of course some general

criticisms have already been made against this measure from this side of the House and from our party.

First of all I want to register my protest against the manner in which the Ordinance was passed. Time and again in this House and in the other House we submit that Ordinances should not be so readily passed. It appears that Government is much too prone to this kind of procedure despite the general feeling of both sides of the House against this easy recourse to legislation by Ordinance. I think it would be good if the Government tried to explain as to why it was so necessary to pass the Ordinance instead of waiting for a few days or a few weeks. I would like to know it from the Government. It is no use telling that they felt the need for the measure and they had to pass this Ordinance. They would not have of course gone in for the Ordinance if they had not thought that something of this kind was necessary; that I understand. But was it so essential, so imperative, so desperately urgent that they could not wait for the House to meet? This is the question I put before them. One may or may not like the provisions of the Bill; for the present I am not going into it, but then there is the question about the Ordinance made by the Government and I think this question should be treated a little more seriously than the Government has been hitherto treating it. For the sake of expediency an extraordinary procedure cannot be justified. I can understand some situations when it becomes necessary for the Government, in the interests of the people, to take certain measures, to forestall certain bad things and act before it is too late. Were the circumstances here such that this argument could be applied, that this could be held valid, I would like to know from the Government. It is not for me to say, because from the newspaper reports we find that possibly nothing would have been lost if the Government had waited till the Parliament had met. This is our impression. But much of the thing does not

appeal in the press, of what is going on in that particular area.

Then I would like to know whether the Government of Assam was consulted in this matter and whether the Government of Assam also pressed that an Ordinance should be immediately passed in order to meet certain situations. That is also very important. I know that the Central Government have got some specific responsibilities in that particular area; at the same time the Government of Assam also figures very prominently, and it is for the Government here to tell us as to whether the whole thing was done, that is to say, the promulgation of the Ordinance, was done in consultation with the Government of Assam. As far as I can make out, it does not seem so. It may be that they decided to pass an Ordinance and informed the Assam Government of their decision or it may be that the Assam Government came to know of this Ordinance when it had been passed. We would naturally ask for a clarification over this matter.

I think the practice of issuing Ordinances whenever the Government likes should be stopped. Only on exceptional grounds Ordinances should be passed and should be passed in regard to measures which are patently in the interests of the people and are of a non-controversial nature and which can brook no delay. This kind of a guiding rule in this matter should be followed. I know when the hon. Minister gets up to speak, he will refer to the Constitution, to the relevant provisions. I think article 123 of the Constitution would be referred to by him, but this is neither here nor there, because we are aware of this particular provision in the Constitution. Even so we contest the attitude and the conduct of the Government in promulgating such Ordinances. So far we have been given no satisfaction over this matter.

Then let me come to the measure itself. This is a very complicated problem in a way; I do not deny it.

But then we have been told by the Government and it has been always our point of view that it is essentially a political problem.

It is not a military problem that we are facing and tackling in that area. The Naga problem in spite of all the violent activities associated with it is fundamentally a political problem that needs to be politically approached, politically handled and politically solved. This is the main thing. I am not at all suggesting that it is not necessary for the Government to use armed forces; in some cases to protect life and property and to prevent an outbreak of violent hostile activities recourse to arms may be necessary by the armed forces. I am not at all ruling that out but that should not be the centre of all things; that should not be the main feature and on that the Government's reliance should be as little as possible. Now, for the last three years or so we have been discussing this problem and we read in the newspapers—and we are otherwise aware also—that a delegation of some Naga leaders came to Delhi and they had some discussions with the Prime Minister. What passed in these discussions we do not know, but it appeared that some kind of an understanding was arrived at. Then there was the Kohima Conference of some Naga leaders and that Conference adopted a certain resolution and the Government immediately thought; that, by the mere fact that a conference had been held and a resolution had been passed affirming loyalty and affirming peaceful means for the solution of problems, the whole problem had been solved and I think a lot of exaggeration was made about the importance of that Conference. I am not going to suggest that this Conference was absolutely unimportant. Every such step which is in the interests of peaceful solution of the problem is undoubtedly of some importance and therefore that particular Kohima Conference of the Naga leaders was certainly in that context somewhat important. I attach the

[Shri Bhupesh Gupta.] importance that is due to it but then the Government exaggerated its importance. We from the Opposition pointed out to the Government that the importance of it and the possibilities of it should not be exaggerated but it should be taken as a starting point. But it appeared that some people in the Government and in the Administration wanted to divide the Naga leaders who came to that Conference against the rest, the hostiles and the rest. That was not the right approach because it was well known that Phizo and his followers have got considerable help from among the Naga population. How much it is, we may not like it but the objective position is this that a considerable amount of support is still obtained for the Naga leaders who are still engaged in violent activities from the Naga population. The question therefore was how to make a political approach to that area. The question was not one of mere propaganda that something had been done, propaganda that the Kohima Conference had been held, propaganda that the problem had nearly been solved or was approaching solution. The problem was how we could consolidate the position that we have achieved through negotiations and otherwise and then advance into other areas with some political approach for bringing about a peaceful solution of the problem. It is necessary for the Government to tell us what steps in that direction had been taken by them before they call upon Parliament to give such sweeping powers to the armed forces. I think the hon. Minister is not quite aware of the magnitude of this measure, the implications of it. Extraordinary powers are being sought to be given to the armed forces to deal with a situation which is an internal situation. Of course it involves internal security or that way law and order you may call it. Here the armed forces are to be given sweeping powers to act and without practically any restraint. There are some restraints; I do not deny it but

if you see, the Bill as it is will give enormous powers of discretion, powers of action and powers of decision to the members of the armed forces to act in a given situation. And the normal restraints on them will not be there. Therefore it is important for the Government to explain the situation. Why has it become so necessary today to ask for such enormous powers when we should have been solving the problem otherwise for the last three years or so? It is essential for them to explain to us. It is no use trying to draw a very horrid picture of the violent activities of the Nagas or the depredations that are being carried on in certain areas. We are aware of all these things that some of their activities are undoubtedly violent and we shall all be very glad if they were put a stop to. But there is no use trying to overdraw the picture and then justify this measure. Where do we stand, we would like to know from the Government. Above all, we would like to know from the Government what political steps they had taken in order to create a situation when military actions of this kind would be less and less necessary. That should be the approach of a politician. That should be the approach of a political party which preaches certain things. Now, we have not had any expression on that score from the Government at all. We regret it very much. Sir, I think that the Government policy in the matter of the Nagas needs a radical orientation. And that is my main contention in this connection because until and unless that orientation is made the use of such measures as are envisaged in this Bill, I am afraid, may even complicate the situation, increase the tension and give a spurt to rebel activities or hostile activities as they are called. I do not think by the sheer weight of metal and by fire we can suppress the Nagas. It will not be possible and neither is it desirable because we do not want to turn that land into a graveyard. We do not want the whole thing to go underground. What is essential is to draw the best forces, the democratic forces, peaceful forces and on the

basis of that operate in that field so that we can put this kind of measures and the military operations in the background gradually. That is what I consider to be most important.

Now, you will find that the entire administration has been left in the hands of the executive and certain members of the armed forces, military officials and all that. Political parties have little to do. I do not think that is the right approach because here is a problem which is political and which has also got some human aspect. The Prime Minister has time and again told us that the Nagas are simple people, excellent people, very good people, but unfortunately they are being misled. If that is so, how to conquer their hearts and how to win them back to the path of peace, to democracy and bring them within the fold of the democratic life that we are fashioning out today? That is the problem. In that sphere the Government has not done anything. The entire power is with the military and the bureaucracy. Now, Sir, with all respect to the hon. Ministers and their understanding, I do not think that the executive officials and the bureaucrats, whether they are members of the I.A.S., I.C.S. or persons particularly fitted for fulfilling political functions of the kind that we have in mind, will have the right approach. Their approach inevitably becomes bureaucratic. Their approach inevitably is to somehow or other get some immediate benefit rather than seek a lasting solution to the problem. However strenuous the effort may be, that is not their way. As far as the military is concerned, well, the example that the Government has set before the military is not very good. We see they call for the military for all kinds of things. We know how the military have been called out in connection with the port Strike. The military was called to come in and suppress them. Naturally when they are faced with a situation where there is violence from the other side, then it becomes an exchange of fire. It becomes a military action and counter-

action; violence and counter-violence and terror and counter-terror. That is how things move.

When are we going to get out of that position? Is it possible or is it not possible? Have the Nagas declared war against India? Yes, they are indulging in violent activities. It is a question of law and order if you like. It is a question of dealing with some kind of situation of civil disorder in that area. But surely we do not look at it as if some external enemy has attacked our country and now the decision shall be the decision of arms, that arms shall be the arbiter in this matter. We do not view this question in that way at all. Therefore, I say that here again the Government goes wrong. Then, normal provision is there. The Criminal Procedure Code provides that in aid of civil authority the military could be called out. That matter we have discussed here in connection with a number of questions. Section 129 of the Criminal Procedure Code empowers the magistrate to call out the military in aid of civil authority. That avenue is open to them. The military authorities could be called out in case of dire necessity by the civil authorities under that particular provision. That is there. Now, it seems that it is not found adequate. Then, I would like to know how had that measure been tried? Why is it not found adequate? Why all these powers are being given? The hon. Minister should explain to this House. From all these things the inference inevitably arises that the Government is relying mainly if not solely on military measures for tackling a problem which is fundamentally a political problem. We are opposed to this thing.

Now, Sir, it has been pointed out by various other people who are interested in the problem that the Sixth Schedule of the Constitution would require a drastic change to tackle the Naga problem. This is something which is also to some extent recognized by the Government and in fact they created an area. But the

[Shri Bhupesh Gupta.] question is to enlarge their autonomy within the framework of the Indian Constitution. Unfortunately the Sixth Schedule does not offer the necessary autonomy that we must introduce there. You may call it 'regional autonomy, you may call it local autonomy, whatever it is; the Sixth Schedule does not offer it. As long as the Sixth Schedule remains, I can understand the difficulty of Government in extending the autonomy and the democratic rights and liberties under the autonomy—real, so to say—to the people there. Then, it is necessary to review this matter in order to see how and in what manner the Sixth Schedule has got to be amended. When this Sixth Schedule of the Constitution was passed, possibly such problems vaguely, hazily, the Government had in mind, or the Constituent Assembly had in mind. As we gather experience, as life begins to unfold itself before us, it becomes necessary to adjust to realities—realities that were unseen yesterday and that had become a potent force today, realities that are growing today. Now, therefore, it is essential] to review this whole thing in the light of the existing reality, not what existed some years ago, but of the reality that exists today. And the experience that we have gathered by reacting upon this reality, all this should be carefully gone into in order to devise, in order to bring our constitutional and legal position in line with the realities. That should be the approach of the Government. There is no such approach. Some little thing was done, but then they stopped doing anything. Again, I would emphasise that this question should be gone into. I say this because ultimately it is necessary for the Government to convince the so-called hostile Nagas that they need have no fear within the framework of the Indian Constitution, that we wish them well, that the fullest measure of autonomy, fullest opportunities will be extended to them, so that they can re-model their life, mould their ways of life, culture, expression, as they think best and that they will

be given material assistance and moral support. That must be done. We must carry conviction not by pious declarations on the floor of the House. We must carry conviction by concrete measures. I am not suggesting that you introduce all these measures in one single day. Perhaps that is not possible. But then it is possible to chalk out a line of development step by step; firmly but steadily we unfold another picture before the Nagas so that those who are on the other side, those who still take to hostile activities, those who do not see eye to eye with us, those who had been driven to take recourse to violence and such action, would begin to see that here is a new path, a path that attracts them, a path that opens before them enormous possibilities of self-expression, a path that shows their own heritage, their own culture, their own aspirations, their own ways of thinking. That is how they should be attracted towards us. It is an entirely different approach. It is a difficult approach. Precisely, because it is a difficult approach, it means not merely consultation between the Ministry on the one hand and the military and civilian authorities on the other, it is essential also for the Government to consult the political parties, Congressmen, Communists, P.S.P. and other people, especially people who have got some experience of that area. Why cannot there be a conference in Assam to discuss such matters? Let us sit together across the table, put all the cards on the table, critically review the activities of the Government and come to certain conclusions in the light of what we have learnt all these years—whether we are near a solution of the problem, whether we are satisfied because some Nagas have affirmed their loyalty to us, why there are others shooting at our forces. Only then it becomes necessary to pass such measures. That line has stood condemned. Some other line, some other approach and policy have to be evolved. I suggest, therefore, that such discussions will be necessary on the part of the Government.

Now, Sir, with regard to this I need not say very much. An hon. Member here said that there should be some objective tests as to when an area should be called a disturbed area. Unfortunately in this Bill it is not given. It will be seen that the authorities can declare any particular area of Assam or even the whole of Assam as a disturbed area and you will see, Sir, that the difficulty with this Bill is that nowhere it is mentioned that the declaration of a disturbed area, whether in respect of part of Assam or the whole of Assam, should be made only in connection with dealing with the Naga disturbance. The Bill is an omnibus measure. Nowhere it is stated. The Statement of Objects and Reasons will have no legal validity. All that the Bill provides for is that the appropriate authority, here the Governor or whoever he may be, would be in a position to declare any area or the whole of Assam or the Union territory of Manipur a disturbed area. Well, we are not prepared to give so much power and I do not see as to why the Government does not specify the grounds on which an area could be a disturbed area. The objective tests that are to be applied before an area is declared disturbed are to be provided. Otherwise, what will happen is some petty official of the Government can declare the whole area a disturbed area.

SHRI B. K. P. SINHA (Bihar): May I know what objective tests the hon. Member would suggest? Is it possible to frame objective tests?

SHRI BHUPESH GUPTA: Well, I should have thought the hon. Member, who has some connection with the Supreme Court of India, would be a more fit person to lay down some objective tests. But if the hon. Member wants me in this matter to lay down certain objective tests, certainly, in an *extempore* speech it is a very difficult job. But immediately after this I can lay down certain tests and I would invite certain suggestions. Let all suggestions come. Out of that you

I can lay down tests. I do not say that¹ what I say is gospel truth or we will I lay down the tests and no one else. I But certainly we can lay down objective tests. For instance, the word 'Naga' in connection with the Naga disturbances, the area where Naga disturbance has taken place, is not even mentioned. The authorities are not bound, as far as this measure goes, not to declare any other area as disturbed area but only such areas where Naga disturbances have taken place. If, for instance, some other disturbances take place—according to them many things are disturbances, because they are disturbed by so many things; they are in a state of perpetual disturbance because their mind is disturbed—therefore, they may declare at any time any area to be disturbed. What is the guarantee against that? Nothing. Then immediately come into force all these things. The military come into operation and they deal with the situation. They take sweeping powers, they begin to shoot, begin to act, and begin to carry on the military operations. Why? Are we passing a measure to give powers to a Field Commander as if in a state of war or are we passing a measure to give certain powers to the civil authorities by way of assistance in order to deal with what is entirely a domestic situation, what is no war situation at all? I could have understood if General Thimayya had been given such powers to deal with some trouble on the frontier, to deal with some situation outside. Nothing of the kind. Here is an entirely different proposition. An objective test could be laid down, and I think an objective test should be laid down and hon. Members should offer suggestions as to the test. We are not in a hurry to pass this Bill. The Ordinance will be there and it will continue till six weeks from the date of meeting of this House. Therefore there is no hurry at all. The Bill can be delayed. We can discuss this thing. We would not like to have this Bill at all. We do not think it is necessary. We think the situation can be tackled without this

[Shri Bhupesh Gupta.] measure. But if you insist on this measure being passed, then sit down and discuss as to how you can qualify it in order to take away the abuses that are likely to occur in respect of such a measure inevitably.

Then, Sir, every officer will be empowered to do anything he likes, shoot at sight. What is the restraint? Nothing. Now think of the reactions, the reactions of this measure on the Nagas, because Phizo is an intelligent man. Remember he is an intelligent person and he knows a bit of propaganda, and you know the moment the measure is passed, there will be propaganda on the other side: "All this talk about autonomy, about sympathy for the Nagas, about other things is moonshine talk. Actually they want to settle the problem by the mere force of arms, by letting loose their military machine." That will be the propaganda. We shall be somewhat disarmed by this propaganda. I am not suggesting that the propaganda would be hundred per cent right, but we are giving on the one hand extraordinary military powers in the hands of some people on our side, and on the other hand we are giving certain propaganda ammunition to the hostile Nagas in order to consolidate their position and to whip up passion and feelings so that the situation may aggravate and the fight may go on. Is it a political approach? We were told this morning that there should be Panchsheel in the domestic field and even in the family. As far as I know, the Indian family does observe Panchsheel, the husband, and wife do observe it. That advice is not necessary.

SHRI N. M. LINGAM (Madras): Any way it does not apply to you.

SHRI BHUPESH GUPTA: I think the hon. Member does follow Panchsheel in his family life, I hope he does because there is no United Nations Assembly to settle such domestic quarrels. You have to settle it yourselves.

Now, Sir, take the case here. I am not saying, withdraw all the armed forces. Here is a case where something akin to Panchsheel approach could be there, co-existence with the hostiles, and an approach of friendliness, I mean an approach of winning over the hostiles. They may be touchy against using strong language against the Americans, against the British because their feelings may be outraged. But then, what about this measur? That will give offence to large sections of the Naga community, and talking in a military sense it is a declaration of a kind of war against them, it is investing the authorities with powers who will go in for military action. Therefore, I say that on that score it is a kind of war.

Finally I would appeal to the hon. Members of the House not to lend their support to the measure. When I make this appeal, I am clear in my mind that the problem has got to be settled peacefully and that it is necessary for us to make it known here that we disapprove of the actions of the Naga rebels who have taken to hostile activities. We should appeal to them to stop such activities. Whatever influence we have got, Congress, Communist and other parties and men of influence, we should exert our influence in order to impress on them that this is a suicidal path. That should be the approach. Here the Government, specially Mr. Datar who has been a votary of the police has become a votary of the military, and now he comes with quasi-military measures. I should have thought that the Defence Minister would be the better person to sponsor a measure of this kind. Anyway, we would appeal to the Government, we would impress upon the Government that they must abandon this method of 'big stick', this method of settling the issue by sheer force of metal, by sheer force of weapons. I would appeal to them to take to the political path, the path of sympathy, the path of consideration. I know that it may be costly to us, but this is the only way through which we can arrive at a solution. It is possible to

solve the Naga problem, it is possible to win back those Nagas into the fold of peaceful existence, into the fold of our democracy, provided we act with statesmanship, we act with imagination, we act with generosity of heart and statesmanship in approach which is required of us.

Sir, I would like the Government to note another thing, that behind them, the Nagas, are also the same Americans. They are provoking them. I read in the American newspapers very often long accounts of hostile activities by the Nagas, more or less approving them pointing out as to how India is suppressing the Nagas and as you know, Phizo's photograph together with his letter and statement were published in the *New York Times*. We draw the attention of the House and the Government to this matter. So far we have received no explanation from them as to how such a thing could get there. Well, they will say that they do not control the hostile areas. I concede that thing. But the American agencies function within your reach in this country, their establishments and other things. It must have gone through that channel or through some other channel. If it is outside our borders, I can understand it. But it is necessary to make some investigation. I am again pointing out that there are very many interested elements involved in this. Therefore, it is all the more necessary to be extremely cautious, restrained, politic and statesmanlike in our approach in handling this problem. This kind of solution, of quasi-military or military proposals would not lead us anywhere. We shall be fighting with one another, brothers shall be fighting brothers, which none of us likes, and we want to put an end to it. For that we demand a complete reorientation of the policy of the Government including necessary changes in the Sixth Schedule of the Constitution.

Thank you, Sir.

SHRI PURANA CHANDRA SHARMA
(Assam): Mr. Deputy Chairman, Sir, J while Mr. Bhupesh Gupta has spoken j

at length against the law itself, I congratulate the Home Ministry for having kindly brought forward such legislation for the protection of the people round about the borders of the State of Assam as well as of Manipur. This legislation has been necessitated by the circumstances of the locality. Mr. Gupta has been perhaps having a mania about these Nagas alone. Nowhere in this Bill is there any mention of the word 'Naga'. Referring in this way to certain activities of these people amounts to an encouragement of those persons rather than any support to the law and order situation in the country.

In the border districts of the Naga Hills, there are peace-loving people who have been disturbed in their normal life by a certain section of their own local people aided by some Nagas as well as by some other people. The circumstances under which this Ordinance has had to be taken recourse to were perhaps not known to many in this House. Those who were reading the newspapers of the time when the Naga Hills were to be separated from the State of Assam knew the situation that was prevailing at that end of the country, caused by the hostile activities of a section of the Nagas. Now, it is not the Nagas against whom alone this legislation is being enacted. The Nagas are being aided in the borders of the Naga Hills by some other people, some people who have infiltrated from Pakistan. We have reports in the newspapers as well as otherwise of how some of these Naga people had gone into Pakistan as well as that there were some people sheltering them. This was on the borders of Pakistan as well as the Naga Hills. When the law and order situation could not be controlled by the police forces, the Government had to take help from the military which could not otherwise be done except by such an Ordinance or such a legislation. As the Ordinance is due to expire, this legislation come in due course because Parliament is now in session, within six months of the issue of the Ordinance.

[Shri Purna Chandra Sharma.] The law and order problem is not only in the Naga Hills area, but also in the neighbouring districts—in Sib-sagar, in North Cachar Hills as well as in Cachar. In these districts, people are generally panicky on the border areas. Nobody knows at what time gangs of people would come and rob whatever they have and sometimes kill the police people in the police outposts. In the tea gardens on the borders of these districts, nobody lives in peace. There is almost a curfew in those areas, because the people have got to get into their houses before nightfall. No one could go out of the house during evening hours. Nobody is safe. You cannot know at what time and from which side any gang of people, most of whom are Naga hostiles, of course, will come and attack people and sometimes kill them. The police people cannot remain safe in any of the police outposts in the entire border areas of the Naga Hills. It is true that after tightening the administration with the Naga Hills, these hostile people have gone out of those districts. They are getting there not only money, but also foodstuffs. They attack whoever has any granary or money. They attack the shops and loot them. They torture people for lights, cigarettes and those sorts of things. All the shops had practically to be closed down in these border areas only because they were afraid of being looted or even killed. In such a situation, only the military could probably save the people. The police themselves were panicky. The police could not follow these people. Those who know the topography of the area will see that it is full of terrains and jungles and these people could not be pursued. The police do not know their tactics. It is only the military people who could tackle and handle them. Only after a run of ten feet, anybody could escape from the sight of the follower. In such a situation, it is only the Army which can be depended upon to look after the safety and take care of the local population.

So, in view of all these, we feel

much happy that the Government has been able to ask the Armed Forces to keep some sort of an order in that border area. This will continue till these hostile elements can either be driven out of certain parts of Assam as well as Manipur or can be brought under control, arrested or killed, whatever it is. We want the law and order situation to be maintained under all circumstances. No gangsterism, no hooliganism, should be allowed—whatever it is—a Naga or anybody. Peace and Order which is the most important thing for the peaceful progress of a population should be maintained at all costs. So, as early as possible, we want, whether it is the Army or the Air Force—whatever is needed—that the situation should be brought under control. Therefore, I congratulate the Home Ministry for bringing forward this piece of legislation and I hope that, the situation will be brought under control as early as possible.

SHRI H. P. SAKESNA (Uttar Pradesh): Mr. Deputy Chairman, Sir, an eminent lawyer and an advocate of law as the hon. the Leader of the Communist Party is, he made so many admissions in his speech that my task is very much lightened. He agreed in 99 per cent, perhaps with the provisions of the Bill and said that the Bill was indeed necessary. So, his case was like that of a lawyer who was pleading the cause of the defendant but who spoke everything in favour of the plaintiff. Similarly, with the exception of his customary 'ifs' and 'buts', all that he did was to support the replacement of the Ordinance by this Bill which is before us.

The Ordinance, as we all know, is a measure of emergency. Nobody is happy at the promulgation of an Ordinance. Neither the President himself who has got to do the unpleasant task of promulgating the Ordinance is ever happy after he has promulgated it. But as every student of politics knows, when Parliament

ts not in session and an emergency arises, then the President has got nothing else to do but to issue an Ordinance. And the same thing was done in the case of the Ordinance which was promulgated by the President on the 22nd of May of this year.

Sir, all that he said was that the situation in Assam and in Manipur territory was of a special character and it needed special treatment. One thing, of course, slipped out of his lips perhaps unconsciously, and it was that the Nagas were being aided and assisted and he used the word 'misled' by some persons. Who was misleading them? Was it the Americans who come all the way from U.S. to mislead these people? Where is the necessity for them to be doing that hard and difficult task when they find that unfortunately for our country, there are people nearer home who are ever ready and who have -volunteered their services for misleading the Nagas and therefore that is the only reason why the Nagas are still continuing their hostile attitude and not conforming to the general way in which the Constitution is at work in the rest of the country. The Ordinance, as I have already submitted, was a matter of emergency. The Bill is necessitated by the fact that the age of Ordinance, the period of the Ordinance is after all a limited one and it is going to expire very soon. In place of that, we must have some powers which will save the State of Assam and the territory of Manipur from chaos and disturbance. Now may I tell my friend, Mr. Gupta that If it is a case of his taking a genuine pleasure in the spread of unrest and disorder, if he is wedded to that principle or guiding principle Of life, that is a different matter? We are not wedded to it and we want complete peace and orderly conditions to prevail in the whole of the country including the State of Assam and the territory of Manipur. I have gone through the Bill very carefully and I studied it with an additional

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amount of care because I knew, I was not unconscious of the fact that by handing over the situation to the army was after all, a dangerous weapon to exercise but then there are cases of emergency, there are cases of life and death when these things have got to be done. Therefore I find that there is no need for any Conference among the Members of Parliament sitting together and evolving a formula. If a formula is to be evolved, then our friends who are responsible for misleading them should go to the leaders of the Nagas and have a conference with them and then come to terms with them and tell them that India means well by them. We are not on war terms or on war path and we don't want any disturbance from our side nor do we want them to reciprocate in a hostile manner. So, I think the situation is not so alarming as it was depicted by my friend, Mr. Gupta, and I therefore support this Bill.

SHRI H. N. KUNZRU (Uttar Pradesh) : Mr. Deputy Chairman, Sir, this Bill is meant to enable members of the armed forces in the disturbed areas in the State of Assam and the Union Territory of Manipur to exercise certain special powers. Clause 3 of the Bill authorises the Government of Assam or the Chief Commissioner of Manipur, as the case may be, to declare an area as a disturbed area, Now what is the scope of this clause? It has been said by one or two other Members who have spoken that this does not refer to the Naga Hills district. I don't think that this statement is correct. The House knows that last year we passed an Act known as The Naga Hills-Tuensang Area Act. Section 2 of that Act says:

"As from the commencement of this Act, there shall be formed a new administrative unit in the State of Assam by the name of Naga Hills-Tuensang Area comprising the tribal areas which at such commencement were known as the Naga Hills District and Tuensang Fron-

[Shri H. N. Kunzru.] tier Division of the North East Frontier Agency."

As the Naga Hills district now is administered, not by Assam but under the authority of the Central Government, it has been supposed that the Naga Hills district does not form part of Assam any longer. But section 2 of the Act which I have just referred; to shows that although a new administrative unit containing the old Naga Hills District and the Tuensang Frontier Division has been formed, this area is in the State of Assam.

SHRI P. N. SAPRU (Uttar Pradesh): Can you have a Central area in a State? If it is Central area then it is distinct and separate from the State.

SHRI H. N. KUNZRU: I have read out section 2 of the Naga Hills-Tuen-sang Area Act. However strange it may seem to the hon. Member, Shri Sapru, that an administrative unit under the control of the Central Government should form part of a State, the fact is that the Naga Hills District although it forms part of an administrative area under the Central Government, is nevertheless, because of section 2 of the Naga Hills-Tuensang Area Act, a part of Assam. It is obvious therefore that if the Government of Assam so wishes, it can declare the Naga Hills District a disturbed area. I don't know really what is the position there at present. There is fighting going on there.

SHRI N. M. LINGAM: It is not for the Government of Assam but it is-for the Governor of Assam to declare.

SHRI H. N. KUNZRU: It is said here in clause 3 'If the Government of Assam or the Chief Commissioner of manipur is of the opinion . . . '.

SECRETARY: There is a correction alip. It is 'Governor.'

SHRI H. N. KUNZRU: I have not got the correction slip. Anyhow it comes to the same thing.

MR. DEPUTY CHAIRMAN: He is the Head of the State.

SHRI H. N. KUNZRU: But you have to remember that the Governor of Assam can declare the whole of the State of Assam to be a disturbed area. It is the whole of the State of Assam. He may, for certain purposes be under the Central Government but under the Bill that we are considering; he can issue a notification declaring the whole of the State of Assam or any part of it to be in a disturbed or dangerous condition. Unless the Tuensang Naga Hills Area forms part of the State of Assam, he cannot bring that part of the State of Assam under the operation of any notification that he may issue under clause 3 of the Bill that We are discussing.

MR. DEPUTY CHAIRMAN: Is it your case that that particular Act takes out the jurisdiction of the Governor of Assam and so this Act does not apply?

SHRI H. N. KUNZRU: No. What I say is, although a new administrative unit called the Naga Hills-Tuensang. Area has been formed, nevertheless, this area has not been taken out of the State of Assam, but it still forms; part of the State of Assam.

Clause 3 of the Bill under discussion, authorises the Governor of Assam to declare the whole or any part of the State of Assam to be ur such a disturbed or dangerous condition that the use of armed forces in: aid of the civil power is necessary, and he may in that case, by notification in the Official Gazette, declare- that the whole or any part of the State is a disturbed area.

MR. DEPUTY CHAIRMAN: What i* the actual wording in that particular Act?

SHRI H. N. KUNZRU: Which Act?

MR. DEPUTY CHAIRMAN: The Naga Hills-Tuensang Area Act. Does it take away the area from the jurisdiction of the Governor?

SHRI H. N. KUNZRU: Section 2 of the Naga Hills-Tuensang Area Act which was passed last year says:

"As from the commencement of this Act, there shall be formed a new administrative unit in the State of Assam . . ."

—the words used are "in the State of Assam"—

"... by the name of Naga Hills-Tuensang Area comprising the tribal areas which at such commencement were known as the Naga Hills District and Tuensang Frontier Division of the North East Frontier Agency."

SHRI P. S. RAJAGOPAL NAIDU (Madras): But that is now under the administration of the Central Government.

SHRI H. N. KUNZRU: I mean, the effect of this Act is to take this area out of the administration of the Government of Assam. But it still remains or forms part of the State of Assam. (*Interruption by Shri P. N. Sapru.*) My hon. friend who is still doubtful on this point should see the Naga Hills-Tuensang Area Act.

SHRI P. N. SAPRU: Please do not misunderstand me. I am not questioning the correctness of what you say. I am only expressing surprise that care should not have been taken to make it clear that the administration of that unit has gone out of Assam.

SHRI H. N. KUNZRU: The purpose was not to take that unit out of the State of Assam. The purpose of that

Act was, while keeping that area in the State of Assam, to enable the Central Government to administer it. We can all understand the reasons for which this was done. There was a political reason behind it, and I think a very legitimate political reason.

SHRI P. N. SAPRU: It was in the nature of an excluded area.

SHRI H. N. KUNZRU: No, no. It did not become an excluded area at all. In a particular sense, you may say it is an excluded area. But nevertheless, for the purpose we have, for our present purposes, it must be regarded as part of Assam.

I do not know what is the position of the Naga Hills area at the present time. It was in such a dangerous condition that our troops had to be sent there. Notification of the same character which the Governor of Assam can issue under clause 3 may already have been issued there. But I do not know what the exact position there is. It is clear that if the Governor of Assam declares the whole of the State of Assam to be in a disturbed or dangerous condition, he can issue and he can declare the whole State of Assam as disturbed area and then the notification will apply to the Naga Hills-Tuensang Area, even though this area may not be regarded as a disturbed area at the present time. If such a notification is issued, any commissioned officer, warrant officer, non-commissioned officer or any other person of equivalent rank in the armed forces may exercise certain powers, which are detailed in sub-clauses (a), (b), (c) and (d) of clause 4. I should like to refer to two of these powers which are referred to in sub-clauses (a) and (b) and (c). A military officer of the categories mentioned by me:

"If he is of opinion that it is necessary so to do for the maintenance of public order, after giving due warning, as he may

[Shri H. N. Kunzru.] consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons or of fire-arms, ammunition or explosive substances:".

This is sub-clause (a) of clause 4. It is clear from this sub-clause that even when a notification declaring an area to be a disturbed area has been issued by the Governor of Assam or the Chief Commissioner of Manipur a military officer cannot fire upon or otherwise use force; unless there is in that area any law or order in force prohibiting the assembly of five or more persons or the carrying of weapons etc. So two conditions must be satisfied before a military officer can use force against a person.

As regards sub-clause (b), the military officer is authorised to destroy any arms dump, prepared or fortified position etc. and also under sub-clause (c) he can arrest without warrant any person who has committed a cognizable offence or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence etc. Therefore, it is clear that two conditions must be satisfied before a military officer can use force against any person.

He can, even if no law or order is in force in the disturbed area prohibiting the assembly of five or more persons, etc., arrest without warrant any person against whom a reasonable suspicion exists that he has committed or is about to commit a cognisable offence and may use force as may be necessary to effect the arrest. Now, Sir, in the present state of things in Assam, I am not surprised

that the Government have come to the Legislature to ask for authority to confer special powers upon the members of the armed forces in disturbed areas in Assam and Manipur. We all know, Sir, what is happening in the area formerly known as the Naga Hills District. We also know that armed gangs go out from time to time from this area to the North Cachar Hills and possibly to other areas, commit depredations, kill people and otherwise disturb law and order. Apart from this, Sir, we know that arms are being smuggled into the State of Assam through Pakistan. The police authorities have not been able to cope with the present situation and indeed it is extremely difficult for any police force to deal with gangs as well armed as the gangs that go to Pakistan or in the North Cachar Hills but there is one point which requires attention. Once an area has been declared to be a disturbed area and a law or order is enforced there prohibiting the assembly of five or more persons or the carrying of weapons or things capable of being used as weapons or of fire-arms, ammunition or explosive substances, a military officer can use force to any extent. What I should like to know is whether there is any way of controlling the military officers after the issue of a notification and the passing of a law or the making of an order prohibiting the assembly of five or more persons, etc. It seems to me that the only way of controlling the military officers, if we pass this measure, will be for the Governor or the Chief Commissioner to withdraw the notification issued by him. Short of that, the civil authority will not be able to exercise any control over the military officers. That seems to be a defect in the Bill. If this power had been given to the police, the civil authority could have exercised control whenever it wanted to do so but, when the military officers come in, the civil authority can exercise no control over them. The highest military authorities may be asked to control their officers but, legally speaking, neither the Governor

of Assam nor the Chief Commissioner of Manipur will be able to control the activities of the military officers. He may, Sir, let me repeat, do so indirectly through the superior military officer in the Naga Hills area or in Assam but he cannot do so directly. That, I think, Sir, is a defect in the Bill. We should not give unlimited powers to the military officers.

SHRI P. N. SAPRU: ' Except in the sense that the Central Government can sanction legal proceedings instituted against officers who act in a *mala fide* manner.

SHRI H. N. KUNZRU: The Central Government does not come in here at all. This Bill deals with Assam and Manipur.

MR. DEPUTY CHAIRMAN: Please wait, Mr. Sapru. You will get your chance.

SHRI H. N. KUNZRU: This Bill deals only with Assam and Manipur.

I think, Sir, this Bill is unsatisfactory from the point of view mentioned by me. The military officers concerned may act in a very responsible manner. Nevertheless, they cannot be controlled except through their superior military officers over whom neither the Governor of Assam nor the Chief Commissioner of Manipur has any control. Now, Sir, had the state of things been so bad as to require the proclamation of martial law, then the situation would have been different because under a proclamation of martial law, the military officers would have been amenable to military discipline. They would have been legally controlled in the exercise of their powers by the superior military authorities but the declaration of an area as a disturbed area is not the same thing as a proclamation of martial law. The position that this Bill creates, therefore, requires a little more attention than Government seems to have given to it so far. I do not know whether martial law is in force even in any

part of the Naga Hills area but, Sir, what I mean to say is this. We should have either military control or civil control. What we ought not to have is a state of things in which the military officers while exercising a great deal of power will not be under the control of the civil authority whose notification will enable them to exercise special powers.

SHRI P. N. SAPRU: Mr. Deputy Chairman, I confess that I am not quite happy with this Bill. In the first place, let me say that I have not been able to appreciate why this Bill was first enacted in the form of an Ordinance. Parliament was sitting here till the 10th of May and the Ordinance was enacted on the 22nd of May. Now, did the emergency or the reasons which necessitated the issue of this Ordinance came up all on a sudden? Now, is it the case of the Government that between the 10th and the 22nd of May, a situation arose which necessitated the issue of this Ordinance? I think ordinarily the power of Ordinance-making should not be resorted to when you have the legislature sitting and in this case, I think a Bill could have been brought before us before the 10th of May. I am not suggesting that I am opposing the Bill. For reasons which I shall elaborate I have decided to give my support to the Bill.

My second criticism of this Bill is that it is a permanent measure and the law which it enacts is of a very very drastic character, and it places that law permanently on the statute book. Now a Bill of this character can be justified on grounds of extreme necessity; I grant that, and I think in the particular case of Assam there is necessity, but a necessity or an emergency or an emergent necessity cannot be a permanent thing. I mean to say, after all the situation in Assam will improve and improve in one, two or three years. Therefore the Bill should not be enacted as a permanent measure. A time limit should have been placed and the time limit may have been three years and after

[Shri P. N. Sapru.] three years the measure should have come before us so that we might have been in a position to review the situation created by this Bill or this Act. I think that this legislation, which is admittedly of a draconian character, is not the type of legislation which should find a place on the permanent statute book of the land. Therefore I regret that this aspect of the matter was ignored by Government when it promoted this measure. My suggestion, for whatever it is worth, would be that this measure should be enacted, say, for a period of three years. Three years is a long enough period in the life of a statute, and I think the suggestion which I am making is not of an unreasonable character.

The third point which I would like to stress is that once the Governor of Assam or the Chief Commissioner of Manipur decides that a particular area is a disturbed area and he transfers authority to the military to deal with the situation in that area, he goes out of the picture. The civil authority, as Mr. Kunzru rightly pointed out, will thereafter have no control over the situation. Now this is rather a strange piece of legislation. I can understand your having martial law and martial law is, after all, a temporary law. Martial law you don't have for three years; you don't have for two years; you don't have for a year. Martial laws are for a different reason, and if you have martial law then the military is in control of the situation, and the officers who contravene the law are subject to the jurisdiction of courts-martial; here they will not be subject to the authority of the civil servants and authorities; they will be subject to the authority of the army. An erring officer who has acted in a *bona fide* manner can still be proceeded against under this Act. I am referring to clause 6. Under clause 6 it would be open to the Central Government to authorise prosecution, suit or other legal proceeding against any person in respect of anything done or purported to be done in

exercise of the powers conferred by this Act. That is, the Central Government has reserved to itself the right of deciding whether it will allow any prosecution or suit or legal proceeding against a person who has done certain things under this Act. I hope this permission will not be unreasonably withheld.

Then I would like, Mr. Deputy Chairman, to invite your attention to clause 4 of the Bill. I think that clause 4 of the Bill is very very widely worded. "Any commissioned officer,"—I have no objection to your giving the power to a commissioned officer, "warrant officer,"—Well, I suppose warrant officer is a person of the rank of a sub-inspector of police or something like that in civil life; he would be like a sub-inspector of police. I have no objection, "non-commissioned officer".—Well, I do not know what exactly is meant by non-commissioned officer. I suppose he would be a person of the rank of a head constable in civil life.

SHRI N. M. LING AM: Much more than that.

SHRI P. N. SAPRU: All right, much higher than that, "or any other person of equivalent rank"—Well, I have no objection to your giving these powers to these persons because they would be, comparatively speaking, responsible people, but then let us come to the powers that you have given, and I would like to invite your attention, Sir, to the powers that have been given in clause 4. "(a) if he is of opinion that it is necessary so to do for the maintenance of public order". The test is absolutely subjective; necessarily it has to be subjective, after giving such due warning as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person who is acting in contravention of any law or order for the time being in force in the disturbed area prohibiting the assembly of five or more persons or the carrying of weapons". That is to say, he

can fire upon a person who just happens to be a member of an unlawful assembly; he need not be carrying any arms. It is not as if the requirement is that he must be found to be carrying arms. The requirement is that he should be a member of the assembly. That I think is giving very wide powers, which may be misused, and it will be difficult for any superior officer or any civil court or criminal court to say that the exercise of the power was not reasonable, because the test here laid down is of a completely subjective character. If the officer is satisfied then he can do any of these things, nothing can be done to check him; the satisfaction is of the officer concerned. That coupled with the fact that even an innocent passerby can be shot at seems to me to demonstrate that the power vested in these persons is of a very drastic character, "because it may just happen that there are five persons or six persons or seven persons who are just there; one may be quite innocent, may be there innocently. Well, he is shot at and nothing can be done. That is the position.

I have got nothing to say about Sub-clause 4Cb); I have got nothing to say about sub-clause 4(c), and on the whole I agree with sub-clause 4(d). But I would have liked the wording of sub-clause 4(a) to be somewhat different.

4 P.M.

Then, Mr. Deputy Chairman, I come to certain other issues. This Bill will extend or can extend to the whole of Assam and it has been pointed out by Dr. Kunzru that the whole of Assam includes what in the language of the Government of India Act would have been regarded as a completely excluded area, that is to say, it includes the new Naga Hill Districts. The disturbed area has to be defined by the Governor or the Chief Commissioner. I suppose if the disturbed area happens to be situate within that part of the State of Assam which is governed by responsible !

Ministers, the Governor would act upon the advice of the Ministers. If the disturbed area happens to be situate within that portion of the State which is under his exclusive control subject to the supervision, direction and superintendence of the Central Government, the order that the Governor will pass will be in his individual discretion. So far as the Chief Commissioner is concerned, everything he does will be in his individual discretion and the only control over him will be the constitutional control of the Union Government. That I think is the position. Now, I would like to say that we were under the impression that things were improving in Assam in the Naga Hill areas. I know that on account of its being a border area—we have these border raids from Pakistan—the State is in a state of disturbance. We know that arms are being smuggled from Pakistan and we know that there are gangs in operation in that area. These gangs have probably nothing to do with the Nagas but these may be good grounds for having a special law of this character for a temporary period but the question I want to pose is somewhat different. We have been having trouble in the Nagaland for the last eleven years. We achieved our independence in 1947 and we are now in the year of Grace 1958. For eleven years we have been having trouble in the Nagaland. Now the problem of this Nagaland is not a problem of law and order only. It is a problem calling for the exercise of the highest gift of statesmanship; it is a problem calling for the exercise of the highest gift of imagination; it is a problem calling for the exercise of wisdom. We have to take, therefore a very big view of the whole situation. And may I suggest in all humility without venturing to criticise the Home Ministry or the Government of India that the time has come for a reappraisal of the policy that we have been pursuing in regard to Nagaland? I was very happy when the Kohima Conventio

[Shri P. N. Sapru.] took place. At the Kohima Convention certain decisions were arrived at. I do not agree with my friend, Mr. Sharma, that the policy of the Kohima Convention was a wrong policy. I think the policy of the Kohima Convention was a right policy. I can understand his feelings as a respected citizen of Assam but we have to take in these matters an all-India view and I think that the policy embodied in the Kohima Convention was a right policy. Now, I would like to know whether that policy has been implemented and if so to what extent. That policy visualised some form of limited regional autonomy for the people of the Nagaland. We have the Sixth Schedule and under the Sixth Schedule we can have District Councils and we can have Regional Councils and I suppose the Government's view is that the District Councils and the Regional Councils will satisfy the aspirations of the people of Nagaland. It may be that the Nagas cannot be given autonomy of the same type and to the same extent as the people of Uttar Pradesh have or as the people of Bihar have or as the people of Kerala have. It may be that I am not suggesting that you should treat these units as completely autonomous units within the Indian Union but is it not possible for us to think in terms of some autonomy larger than the autonomy envisaged by these Councils? We had Part C States and we had Part B States before the reorganisation of the States. Is it not possible for us to have some such real representative institutions in this area, some beginnings of what you may call popular Government in this area? If an attempt or an effort is made on these lines, then must we assume that that effort will fail? Is there any reason to think that the people of Nagaland are unbending in their attitude? Are there no moderates among them? I am just posing these questions because it is a serious matter for any Member of Parliament to vote for a drastic measure like this. I am I

just posing these questions for your consideration because I want to know whether we have evolved any constructive policy in regard to Nagaland or not. What is the constructive policy that we have evolved? What is the type of officials that we are sending to Nagaland? Are the persons whom we send there men of vision, men of imagination, men of high purpose, men who will enter into the feelings of a highly sensitive people? Are we doing anything, and if so what, to ameliorate their economic conditions? Are we endeavouring to preserve, and if so in what way,, their distinctive culture?

Now, the Prime Minister, I think, said that there should be a human approach to this problem. I am quite certain that there is a human approach to this problem because the Ministry of Home Affairs is presided over by one of our most eminent statesmen.. I know that he is a man of great humanity. But I would like some light to be thrown on the constructive activities of Government. I am making this suggestion in a friendly spirit, in an inquisitive spirit. I want to know because I have not been to that area. Most of us have not been to that area. We would like to see something of that area. I would like emotional integration of the people of other areas with that area and I would like to impress upon the Government the necessity of considering this question in a large hearted spirit, and I am sure that they are considering it. I would like them to give us, place before us, all the information which would enable us to feel that everything that is possible is being done to conciliate these people. May I, Mr. Deputy Chairman, say that I have a personal aversion to coercive legislation? This is something personal with me. I cannot just get over it. I dislike it. There is much that I admire in the philosophy of Marxism. But there is a frontier which, speaking for myself, I can never cross and that frontier is represented by the attitude of our I Marxist friends or our Marxist-Leni-

nist friends or our Leninist-Stalinist friends towards civil liberties, j When I read of the execution of Imre Nagy, I felt revolted. I have a definite feeling of revulsion against this system in which these things are possible. But it is not necessary for us to be communists in order to appreciate that the problem of the Nagaland cannot be solved by a mere policy of firmness. This is the philosophy which I have accepted for myself and this is the philosophy for which I shall plead. I believe in firmness plus conciliation. We should exhaust no method, we should exhaust no means of bringing home to the people of the Nagaland or these tribal people in Assam that we mean well by them, not in a patronising sense. We do not look upon ourselves as superior to them or as men who are carrying with us a superior civilisation or who are there on a civilising mission. We shall not think like that. So, I would say that the Home Minister should place before us the facts in regard to the situation as it is in the Nagaland. We want that before we pass this measure we should have this information supplied to us. Thank you.

SHRI P. S. RAJAGOPAL NAIDU: Mr. Deputy Chairman, after hearing the hon. Home Minister the other day when he moved the Bill for consideration, I feel there is necessity for the introduction of a measure like this. But *my* difficulty in understanding the Bill is how far this Bill, ns it is presented before us, goes in satisfaction of the provisions of our Constitution. Two learned speakers before me, Pandit Kunzru as well as Mr. Sapru, had dealt with two aspects under which it will be difficult to bring in this legislation strictly within the framework of our Constitution. The difficulty that I experience in understanding this Bill is that clause 3 of this Bill empowers the Governor of Assam and the Chief Commissioner of Manipur to declare the whole or any part of Assam or the Union territory of Manipur, as the case may be, to be a disturbed area. I shall

come to the other point later, the point, namely, who can declare a particular area as a disturbed area, whether the Governor of a State, under any delegation to him under the Constitution, can make such a declaration or whether the President of India alone can do it under article 352 of the Constitution. I shall come to that later. But let us assume for the moment for the purposes of argument that such a declaration can be made under the provisions of this law by the Governor. Then, Sir, it is provided under clause 4 of this Bill that he can requisition the services of the military for the purpose of maintaining law and order, not, in the simple manner in which we understand the maintenance of law and order by the police, but in a very firm sense, namely, they are even given powers to shoot. Now, as I have already said, assuming for the moment that such a power can be delegated under the provisions of this Bill to the Governor, the Governor under this Bill is authorised to delegate the powers of maintenance of law and order to the military authorities. Now, Sir, we all know that military is a Central subject. Now, how far can the Governor, under the provisions of the Constitution, control the military when the military is a Central subject? This is one important provision which cannot escape the notice of the framers of this Bill, namely, how the military can be invoked by the Governor. And even after invoking the military, how can the Governor have any sort of control over the military, particularly when the military happens to be a Central subject? That is one difficulty which I have been experiencing in understanding this Bill. As Pandit Kunzru rightly pointed out, there is a complete surrender of law and order to the military. It is only by a de-notification that the military can be withdrawn from the field. When that is the state of affairs, we have to seriously think how far the Bill goes in satisfaction of the provisions of the Constitution.

[Shri P. S. Rajagopal Naidu.] Then, coming to the second point, as I have already said, there is no provision at all under the Constitution as to how any area can be declared to be a disturbed area, unless it comes strictly within the provisions of article 352 of the Constitution. Now, what article 352 says is: "If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect." I can understand, Sir, that the President, every time there is disturbance in this area, can come out with a Proclamation under article 352 and then delegate, much of the powers as he can under the law, to the State authorities. I can very well understand that provision being made. But here in the Bill it is provided that even without any Proclamation under the emergency provisions of article 352 being made by the President, the Governor, for ever, permanently, is given the power by a notification to call the military to his aid with powers to shoot at sight and all that.

Sir, if a Proclamation has been issued under the emergency provisions of article 352, then how that proclamation of emergency has to be given effect to is provided for in article 353:

"When a Proclamation of Emergency is in operation, then—(a) notwithstanding anything in this Constitution, the executive power of the Union shall extend to the giving of directions to any State as to the manner in which the executive power thereof is to be exercised; (b) the power of Parliament to make laws with respect to any matter shall include power to make laws conferring powers and imposing duties . . ."etc. etc. So, Sir, my argument in this matter is that in the absence of any definition of the term 'disturbed area' anywhere in the Constitution, we will

be governed only by article 352, in which case whenever there is a disturbance in an Assam area, the President has to come out with a Proclamation under article 352 in which case the provisions of article 353 will apply—Then, Sir, no doubt it is the duty of the Union to protect every State against external aggression and internal disturbance under article 355. This point in a certain way had been raised in the other House, and I remember, after going through the proceedings of the debate there, it was stated by the hon. the Home Minister that under article 258 of the Constitution the Union Government has power to legislate such things. Now, Sir, I have carefully tried to read article 258, and this is how it reads:

"Notwithstanding anything in this Constitution, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the Union extends." •

In this particular case nobody can say that the executive power of the Union extends to the maintenance of law and order in Assam and Manipur States. If the executive power of the Union extends to the maintenance of law and order in those States, certainly article 258 can apply. My point in this case is that article 258 cannot with any force be made applicable, and the only provision that can apply is the emergency provision under the Constitution, and I feel strongly in the matter that whenever there is any disturbance in a State the President will have to come out with a Proclamation of Emergency in which case any law can be made by Parliament enabling maintenance of law and order in that particular State.

Then, another point, which has been rightly raised by Pandit Kunzru, is not free from doubt at all. It is said that under section 2 of the Naga Hills

and Tuensang Area Act of 1957, that particular area still forms part of the State of Assam, but it is Centrally administered. We find clause 3 of this Bill says:

"If the Government of Assam or the Chief Commissioner of Manipur is of the opinion that the whole or any part of the State of Assam or the Union territory of Manipur as the case may be, is in such a disturbed or dangerous condition that the use of armed forces in aid of the civil power is necessary, he may, by notification in the Official Gazette, declare the whole or any part of the State or Union territory to be a disturbed area."

The hon. Minister was saying yesterday that the provisions of this Bill will apply to such areas as do not come under the Centrally administered area under the provisions of the Naga Hills and Tuensang Area Act. That is what he said yesterday.

[THE VICE-CHAIRMAN (SHRI P. N. SAPRU) in the Chair]

If the intention of the framers of this legislation is that, Sir, then with a view to seeing that there is no ambiguity at all in the Bill, I would suggest that an express provision be made in clause 3 of the Bill providing that the provisions of this Bill will not apply to the Centrally administered area under the Naga Hills and Tuensang Area Act of 1957. If that provision is made, then it will certainly be free from doubt.

Sir, it is in this manner I feel that this Bill requires a little more scrutiny, and it is not free from defects at all, both legally as well as constitutionally. As I have said, Sir, I feel that the only provision under which such a legislation can be brought is under articles 352 and 353, and there is no other provision at all in the Constitution under which such a legislation can be introduced. Further, the applicability of article 258 in my opinion does not arise at all in respect of the provisions of this Bill, unless it is that the execu-

tive power of the Union is to be extended.

Sir, it is not too late. After all the six weeks' time has not elapsed and there is still time for us to consider deeply about it. Of course it has been passed by the other House and it has come before us. We as a revisory body have got to see that any law that leaves this House ultimately should not be challenged by any court of law and be thrown out as constitutionally defective or legally defective. It is our bounden duty to make foolproof legislations, and I once again urge that we can suitably improve the Bill before we pass it and before it

श्री एल० ललित मधुबं शर्मा (मनीपुर) :

उप-सभाध्यक्ष महोदय, यह हथियारों का, विशेष शक्ति प्रयोग का जो विधेयक है, मैं उसका समर्थन करता हूँ; क्योंकि मैं खुद वहाँ का, मनीपुर का, आदिवासी हूँ। वहाँ की परिस्थिति को जानता हूँ। तीन साल से जो सुख-दुख हम लोग भोग रहे हैं उसको जानता हूँ। इसलिये मैं वहाँ की विशेष हालत को भी इस सदन के सामने रखना चाहता हूँ। साल १९५६ की ११ जून को—जब मैं उस वक्त स्टेट कांग्रेस का प्रेसीडेंट था—मैं और दो एडवाइजर और एक और आदमी, हम लोग चार आदमी, स्टेट रिआर्गेनाइजेशन कमीशन के बारे में माननीय होम मिनिस्टर और माननीय प्राइम मिनिस्टर से यहाँ मुलाकात करने और अपनी स्टेट के बारे में कुछ सलाह लेने को आये और जब हम लोग दिल्ली से वापस गये तो ११ जून के साढ़े सात बजे स्टेट ट्रांसपोर्ट की तीन बसों और तीन ट्रकों से १३२ आदमी उसी दिन लखीमपुर से इम्फाल-मनीपुर के लिये रवाना हुए। उसी दिन उस रास्ते को बन्द करने का काम शुरू हुआ था और साढ़े ग्यारह बजे के करीब नागा हिल्स में कोहीमा से तीन मील बाहर नागा उपद्रवियों ने हम लोगों के चारों ओर घेरा डाल कर गोली चलायी। हमारे तीन, चार आदमियों को मामूली गोली लगी, लेकिन

[श्री एल० ललित माधव शर्मा]

एक हडलमन गोली लगने से मृत्यु को प्राप्त हो गया। उसके बाद नागाओं ने हम लोगों को साढ़े ग्यारह बजे से रात के दस बजे तक गिरफ्तार रक्खा। पुराने जमाने से हमारे नागा हिल्स के रहने वाले लोग वहाँ के आदिवासियों और मनीपुर के रहने वालों के साथ बहुत प्रेम से मोहब्बत और मेलजोल से रहते आये हैं। नागा हिल्स एरिया सन् १८८० तक खास मनीपुर एरिया का ही एक भाग था। जब सन् १८९१ में मनीपुर में ब्रिटिश राज्य हुआ उसके बाद नागा हिल्स में ब्रिटिशर्स का एक मिलिटरी कैम्प वहाँ रहने लगा। अनादि काल से वहाँ के रहने-सहने से, वहाँ के रीति-व्यवहार से उन लोगों में और मनीपुर वालों के बीच बहुत अच्छे सम्बन्ध रहे हैं और अभी भी नागा हिल्स के लोग हमारे मनीपुर वालों पर पूर्ण विश्वास रखते हैं। लेकिन अब स्थिति में कुछ बिगाड़ इसलिए आ गया है क्योंकि नागा उपद्रवियों ने अपने ही आदिमियों पर हिंसा शुरू की और नृशंस हत्याएँ कीं। उन्होंने लड़ाई करने को लोगों को बाध्य किया और उनसे कसमें कराई और वे अगर उसके लिये तैयार न होते तो उनको मार काट डालते। तो नृशंस हत्या करना उनका काम था और इस प्रकार नागा हिल्स के अन्दर इन नागा नेताओं ने हर एक गांव में सबको जोर से, जबर्दस्ती से लड़ाई में योगदान करने की प्रेरणा दी। इस कारण से जिसके दिल में लड़ने की इच्छा नहीं थी वह उसको अपने दिल में छिपाये रखता; क्योंकि अगर मुंह से वह लड़ाई के विरोध में कुछ कहे तो वे उसको काट कर टुकड़े कर दें। ये सब हाल, और नागाओं के कस्टम के बारे में विवरण मैंने होम मिनिस्टर महोदय को दिये हैं। हमारी भारत सरकार ने ग्रामवासियों की रक्षा के लिये और उस एरिया में शांति बनाये रखने के लिये मिलिटरी तो भेजी लेकिन उसको गोली चलाने का आर्डर नहीं दिया। मिलिटरी के ऑफिसर हम लोगों को देख कर हमेशा कहा करते थे, क्यों हम लोगों को पहाड़ी

इलाकों में भेजा और गोली चलाने का आर्डर नहीं दिया, इसीलिये तो उपद्रवियों ने छिप छिप कर हमारे कितने आदिमियों को मार गिराया। वे कहते थे कि अगर हमें उनसे लड़ने के लिये कहा जाये और सरकार हम गोली चलाने का आर्डर दे दे तो हम दस, पन्द्रह दिन में उनको खत्म कर डालते। लेकिन ऐसा आर्डर नहीं था। अपनी शरीर-रक्षा के लिये भी वे गोली चलाते तो सख्त सजा होती थी। हमारे मिलिटरी ऑफिसर्स हमेशा हम से यह बात कहा करते थे। तो असल बात यह है कि भारत सरकार ने नागा हिल्स एरिया में जितनी मिलिटरी थी, उसको गोली चलाने का आर्डर नहीं दिया। ग्रामवासियों की रक्षा करने का प्रबन्ध करते करते हालत यह हो गई है कि तुएनसांग एरिया और नागा हिल एरिया में वर्तमान समय में उपद्रवी लोगों के रहने का, आश्रय देने का कोई स्थान नहीं है, इसलिए जितने उपद्रवी लोग हैं वे सीमान्त में, जंगलों में बसे हैं जहाँ उनके खाने को नहीं है और बाध्य होकर किसी सीमांत में या गांव में जाकर लोगों को लटते हैं। अगर सिर्फ लूट खसोट करते तो एक मामूली बात थी, लेकिन वे अपने लोगों को, अपनी ही जनता को मार देते हैं, नृशंस हत्या कर डालते हैं। तो इन नृशंस हत्याओं को रोकने के लिये यह जो हमारा हथियारों के विशेष शक्ति प्रयोग का जो विधेयक है वह इस समय परमावश्यक है। यह मैं इसलिए समझता हूँ क्योंकि तीन साल हो गया अब तक कोई इस प्रकार के विधेयक का प्रयोग नहीं किया गया।

तुएनसांग एरिया में और नागा हिल्स एरिया में इस समय जो उपद्रव नहीं हो रहे हैं उसका एक विशेष कारण है। नागाओं का कस्टम है कि अगर हमको कोई मारता है तो हमारा लड़का उसको मार कर उसका बदला लेगा। यदि हमारा लड़का उसको नहीं मार सके तो हमारा पोता उसको मारने के लिये वचनबद्ध होता है। इस कस्टम को नागाओं में "मकसत" बोलते हैं, यह उनका एक धर्म है। अगर फलां आदिमी ने हम को मारा है और

उसको नहीं मारा जा सका है तो उसके दूसरे लड़के को मारने की हम चेष्टा करेंगे, लड़के को भी नहीं मार सकते तो दूसरे उनके पोते को मारेंगे, इस प्रकार से तीन पुरुष तक मारने का उनम कस्टम है। ऐसी हालत में हमारी सरकार भले ही वहां के लोगों की रक्षा के लिये सेना भेजे लेकिन घर घर में तो अपने सिपाही नहीं रख सकती और जो नागा लोग हत्या करके भागे हैं वे इस भय से कि हम से बदला लिया जायेगा वापिस नहीं आते; क्योंकि उन्हें मार दिया जायगा। वे जानते हैं कि भारत सरकार हम लोगों की रक्षा करेगी, लेकिन उनके जो अपने लोग हैं उनकी रक्षा नहीं करेंगे। इन लोगों ने जिस वक्त लड़ाई शुरू की थी, गांव गांव में जा कर लोगों को लड़ाई छेड़ने के लिये उकसाया था। उस वक्त जिन लोगों ने हिंसा का विरोध किया उनको उन्होंने कत्ल कर डाला और नृशंस हत्यायों की और अब उनको भय है कि जिन लोगों की हम ने हत्या की उनकी संतान और कुटुम्बी जन अब हम से बदला लेंगे। इसलिये नागा लोग और किसी स्थान पर भारत सरकार यदि उनको बुलाये तो शायद आ जायें लेकिन अपने नागा हिल्स एरिया के अन्दर वे नहीं आ सकते। भारत सरकार उनकी हिंसाजत के लिये घर घर में मिलिटरी तो नहीं रख सकती। जिन लोगों को लड़ाई के दिनों में मारा गया है अब शांति के वक्त में उन्हीं के परिवार के, कुटुम्ब के लोग अपना बदला लेंगे। तो दोनों तरफ से यह कोठनाई है। इसलिये नागा लोग अभी तुपनसांग एरिया और नागा हिल्स, कोहिमा में ही नहीं बल्कि मनीपुर और आसाम दोनों के बीच पहाड़ों और जंगलों में बसे हुए हैं जहाँ उनके खाने को नहीं, रहने को नहीं और इसलिये शरीर को जीवित रखने के लिये वे लूटमार का आश्रय लेते हैं। लेकिन खाने के लिये हमेशा लूटने में किसी को शांति नहीं हो सकती है, वह भी मनुष्य है।

इन सब कारणों से हमारे यहाँ बड़ी अशांति है। मनीपुर की सीमा पर इंफाल,

तामंगरोंग रोड के बारे में आपने दो, तीन महीने पहले सुना होगा। तामंगरोंग मनीपुर के पश्चिमी पहाड़ में एक सब डिवीजन है। सेकेंड बल्ड थार में दीमापुर रास्ता बन्द कर दिया गया था। तीन साल हो गया है, हमें मनीपुर जब जाना होता है तो अंडर मिलिटरी एस्कोर्ट ही जा सकते हैं। इसलिये हम ने एक नये रास्ते इंफाल-तामंगरोंग रोड के लिये होम मिनिस्टर महोदय से प्रार्थना की। इसके लिये एक करोड़ ६० से ज्यादा रुपया मिल गया। यह रोड खोल कर हम एक नया रास्ता खोल रहे हैं। पहले यह काम आसाम सरकार की पी० डब्लू० डी० के नीचे होता था और अब पहली जून से उस काम का चार्ज मनीपुर पी० डब्लू० डी० ने अपने हाथ में ले लिया है और वह अपने इलाके का सारा काम करेगी।

इसके एक हफ्ते आगे यानी लास्ट वीक आफ्र मई में जो अफसर कुलियों को मजदूरी देने के लिये रुपया ले जा रहा था, उसको नागा उपद्रवी लोगों ने लूट लिया। इस खबर के बारे में आप लोगों ने पेपर में पढ़ा होगा और सुना होगा कि पी० डब्लू० डी० का जो रुपया मजदूरों को मजदूरी देने के लिये ले जाया जा रहा था उसको लूट लिया गया है। इस घटना से वहाँ के लोग घबरा गये हैं, मजदूर लोग घबरा गये हैं और रास्ता ब्लाक हो गया है। हम लोग यह चाहते हैं कि द्वितीय पंचवर्षीय योजना में हमारे यहाँ जितना डेवलपमेंट का काम हो रहा है वह जल्द से जल्द हो जाय। इसके लिये यह जरूरी है कि हमारे मजदूरों के लिये जब तक सरकार की ओर से सुरक्षा का प्रबन्ध नहीं होता तब तक हमारे यहाँ सड़कें नहीं बन सकती हैं जो कि इस साल पूरी होनी हैं। जब तक हमारे यहाँ सड़कें नहीं बनेंगी तब तक हमारे यहाँ डेवलपमेंट का कार्य पूरा नहीं हो सकता है।

अभी तक मनीपुर की पब्लिक में नागा हिल्स की पब्लिक के प्रति किसी प्रकार का कोई विरोध नहीं है। नागा हिल्स के लोग

[श्री एल० ललित माधव शर्मा]
मनीपुर में हर साल १०, १५ हजार मन खाने का सामान ले जाते हैं। लेकिन जो नागा उपद्रवी लोग हैं, जिनको अपनी जान की कोई परवाह नहीं है, वे शान्तिप्रिय नागा लोगों को, जिनके पास किसी प्रकार के हथियार नहीं हैं, उनको लूटते हैं और जो कुछ भी मिला, ले जाते हैं। हमारे यहां जो ८ हजार स्वयंसेवक मिले हैं उनमें जो गांव हैं उनकी रक्षा का प्रबन्ध सरकार को करना चाहिये। हमारे सीमान्त का उत्तरी पूर्वी और पश्चिमी हिस्सा नागा हिस्सा से लगा हुआ है। इसमें ओत्तरल, माऊ और डामडेंग रोग हिस्से के तीन सब डिवीजन लगे हुए हैं। इस सीमान्त के हिस्से में जो हमारे शान्तिप्रिय नागा लोग रहते हैं उनके डेवलपमेंट के जितने काम हैं वे उपद्रवी नागाओं की कार्यवाही से रुके पड़े हुए हैं। उन लोगों की उन्नति के लिये और उनकी रक्षा के लिये सरकार यह विशेष शक्ति विधेयक इस सदन में लाई है जिसका मैं हार्दिक समर्थन करता हूँ। लोग कह सकते हैं कि कांग्रेस तो अहिंसावादी है, अहिंसा में विश्वास रखने वाली है, इस तरह के बिल को क्यों ला रही है, क्यों नहीं इसका विरोध करती है।

एक माननीय सदस्य : क्या कांग्रेस ने लाठी चार्ज नहीं किया ?

श्री एल० ललित माधव शर्मा : लेकिन यह बिल तो किसी के ऊपर गोली चलाने के लिये नहीं है। यह तो उन उपद्रवी नागाओं से जिन्होंने लूटमार और अराजकता का राज्य फैला रखा है और शान्तिप्रिय नागा लोगों की शान्ति भंग कर रखी है, रक्षा करने के लिये बनाया गया है। इसलिये मैं इस बिल का हार्दिक समर्थन करता हूँ। यह बिल समय के अनुकूल है। नागा उपद्रव हुए तीन साल हो गये हैं, लेकिन न मनीपुर में इसका प्रयोग किया गया है और न ही नागा हिस्सा एरिया और आसाम में इसका प्रयोग किया गया है। यह बिल तो उन उपद्रवी नागाओं के अराजकतापूर्ण कार्यों को रोकने के लिये है, जो तुएनसांग

एरिया की साधारण जनता और प्रजा को लूट रहे हैं और नुकसान पहुंचा रहे हैं। इन उपद्रवी नागाओं के कार्यों को रोकने का कर्तव्य हमारी सरकार का है। इसलिये इस अशान्ति को रोकने का जो विधेयक सरकार लाई है, मैं इसका हार्दिक समर्थन करता हूँ।

THE VICE-CHAIRMAN (SHRI P. N. SAPRU) : Mr. Datar.

DR. R. B. GOUR (Andhra Pradesh): Sir, I want to speak. I hope you will not object.

THE MINISTER OF STATE *m* THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR): Then I will reply tomorrow.

DR. R. B. GOUR: Mr. Vice-Chairman, I did not want to speak in this debate but Mr. Saksena provoked me to do so. Unfortunately I was sitting on the Congress Benches when he was speaking.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU) : Has he converted you?

DR. R. B. GOUR: It is not so simple. Mr. Saksena, unfortunately—I don't know whether he wanted to say that or he had inadvertently said it,— said something and I immediately objected to it also. But I was sitting by the side of the hon. Deputy Minister and I did not want that any interruption should go from me when I was sitting by her side. When our leader Mr. Gupta said something about Mr. Phizo and the whole approach to Phizo and all that, and when he said that you should have an unprejudiced, approach to some of these problems, he meant, let us have a total approach, not merely a military approach, not merely an approach of arms but also the other approach and he therefore even asked you for a wider consultation so that we take a total approach to the problem but Mr. Saksena said—and I was really amazed to hear it from him because he rarely says anything irresponsible;

—that we have got something to do with Mr. Phizo, that we are behind that particular movement. I take very strong exception to that and I wish that it should go on record that, that particular aspersion on our Party that we are behind the Nagas is something absurd.

SHRI BHUPESH GUPTA: Did he say that?

DR. R. B. GOUR: Yes, he said that.

SHRI BHUPESH GUPTA: Mr. Vice-Chairman, . . .

SHRI H. P. SAKSENA: Why should my friend take any objection to it because it is the truth . . .

SHRI BHUPESH GUPTA: Sir, it is a serious thing because we have been speaking on this subject many times and I am surprised that a Congress Member, an old Member at that, should have indulged in such fatuous, false and fantastic nonsense and I request you to have it expunged from the proceedings because such untruth, falsity, fantastic nonsense, should have no place in the proceedings of the House and I am sorry if I have used this strong language with regard to a Congress Member for whom I have got great respect. I would request you to have it expunged or I should call upon the Member to prove it . . .

THE VICE-CHAIRMAN (SHRI P. N. SAPRU) : Mr. Gupta, this word 'fantastic nonsense' is not parliamentary.

SHRI BHUPESH GUPTA: Fantastic nonsense' is absolutely parliamentary. It is used in the British Parliament so much that one does not know whether it is a divine expression.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): I don't know. It may be used in the British Parliament but I know that in India the word 'nonsense' is not liked.

SHRI BHUPESH GUPTA: Sir, you are a very pious man. Nonsense is

that which does not contain any sense. It is a monosyllabic word.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU) : Without going into the legal niceties in the matter or the parliamentary niceties in the matter, I would request you to withdraw this word particularly as it . . .

SHRI BHUPESH GUPTA: Not only will I not withdraw, but I would ask you not to have it expunged because then we have to go through the proceedings in the Privileges Committee to find out whether the word 'nonsense' has been used. I am very sorry to say that. I have the greatest regard for you, as you know. When you say this thing, naturally I feel like withdrawing it. If you ask me to withdraw from the House, perhaps I will do that but never shall I take it: that the word I have used is not parliamentary because the parliamentary proceedings are filled with this word' in the Hansard, and the Lok Sabha and Rajya Sabha proceedings. If 'nonsense' is a word which cannot be used, I don't know how I can make sense when such nonsense is uttered.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): You can express it in a different way that he said something . . .

SHRI BHUPESH GUPTA: I know your fine sense of culture and niceties but then . . .

(Interruptions)

In any case as far as parliamentary" usage is concerned, it is absolute sense and parliamentary and even in the Supreme Court the word 'nonsense' is permitted . . .

DR. R. B. GOUR: Mr. Vice-Chairman, this problem . . .

THE VICE-CHAIRMAN (SHRI P. N. SAPRU) : As I said, I am not going' into the parliamentary niceties of this-matter. I am only making an appeal to you.

SHRI BHUPESH GUPTA: You ask me to withdraw that thing. I will withdraw everything that I have said

SHRI H. P. SAKSENA: If I am invited by my friend to give my expression to the episode that he has unnecessarily created, I am at a loss to understand what it is that has infuriated these two friends.

SHRI BHUPESH GUPTA: It is a very serious thing. You said something very serious. Really, we are ODDOsed to this kind of hostile activities. We have been thinking for months and months how best this can be put an end to. We are one with you so far as the solution is concerned, though the methods may differ. We consider these activities very harmful not only to India but to the Nagas themselves. It is the faith of our iaith. And you come with this allegation. I do not know whether it was for the sake of speaking or for some thing else. I don't know. But I feel pained when such a thing comes from such a respected Member of the House and when another respectable Member is in the Chair. I think for goodness and for maintaining the good grace of the House, I should ask the hon. Member to withdraw what he said.

SHRI H. P. SAKSENA: It was just a query I made, regarding the use of an expression by Mr. Gupta who said the Nagas were misled. I made the enquiry, by whom were they misled? I did not suggest anything. I did not suggest that you were misleading them. I simply enquired who it was that misled them. That was all.

SHRI BHUPESH GUPTA: If It was only an enquiry, then I very much xegret, for there was no need for such an enquiry. It is an obvious thing. I can tell him, if it had been suggested to him by anybody or by his inner voice, then he is profoundly mistaken and such a suggestion I call nonsense and such a suggestion is utterly false and it can definitely be described as

falsehood, which no hon. Member should either utter or believe.

SHRI H. P. SAKSENA: Neither did I make any suggestion, nor did I plead anything.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU) : Then that is all right. Let us put an end to this controversy.

SHRI BHUPESH GUPTA: I am glaa he has made no suggestion. And, therefore, I am prepared not only to withdraw the word "nonsense" but everything that I said, if you like. I take back the word "nonsense" since he has said he never made any such suggestion. Honourable men should not quarrel unnecessarily.

SHRI H. P. SAKSENA: Thank you.

DR. R. B. GOUR: AS you know, Sir, we have the greatest respect for Mr. Saksena and that is why when it came from his lips it pained us a lot.

SHRI H. P. SAKSENA: But what came from my lips you have not explained up to this moment.

DR. R. B. GOUR: It was suggested by him, I do not know in what spirit. But since he says he did not mean it . . .

SHRI H. P. SAKSENA: I never said anything to that effect.

DR. R. B. GOUR: You have made a whole speech. You cannot say you have said nothing. Anyway, our point is, that the matter should be tackled politically and when we say that, it does not mean that we can ourselves do everything on our own. We want the whole country, the whole of Parliament and the whole Government to take up this stand and that would be a political stand also, not merely a military stand. That is the main feature of this problem. When earlier the other Bill was under discussion—the Naga Areas Bill, then also the point was raised by Mr. Abdur Rezzak Khan and he said that this whole question has to be tackled

with a total approach. The military approach, of course, is required. After all, when life is in danger, when property is in danger, when the whole area is in a disturbed condition, you cannot just say that we are going to make a vegetarian, non-violent approach. Nobody says that. But at the same time, what we mean is that there should be a political approach, and a social approach also.

SHRI BHUPESH GUPTA: Vegetarians are sometimes very violent.

DR. R. B. GOUR: The Defence Minister himself, I am told, is a vegetarian. This question, therefore, has to be tackled from that angle and we would again repeat it. When we say there should be a political approach, you say: "Use your good offices" as if our good offices alone will do. That is not the point at all. These efforts must be backed up. These military efforts alone will not solve the situation entirely, because we can again repeat that if you think that it is only a certain section of the Naga leadership that is misled, that only a certain section of them are misguided, then you are under-estimating the entire situation. As our leader Shri Bhupesh Gupta has said, there are certain other forces also behind them. You have already said that Pakistani elements are there and even your own Intelligence Department has got papers and has reported that Pakistani elements are behind it. They have seized some papers. The other day, in reply to a question in the Lok Sabha the hon. Minister himself agreed that they were in possession of certain papers and that the matter is under investigation. Such matters have got to be tackled. It is a problem which has to be tackled in the Prime Ministers' meeting on the 10th of September. If you have got the papers, you have to tackle it. That is another aspect of the problem.

Then there is also a third of the matter and that is the most important aspect. Gentlemen in the fleet which we are told is on a picnic

at Singapore, some of them are also behind this problem. So this has to be taken up at another level, may be at the diplomatic level and it has to be further enquired into and investigated into.

There is another aspect of it. We know when the Naga Areas Bill was being discussed the role of a section of the Roman Catholic Church was brought into the discussion. Whether that matter has been thoroughly investigated into, we do not know. So you have to tackle the problem in so many ways.

SHRI ABHIMANYU RATH (Orissa): Does the hon. Member mean that the Roman Catholic Church is creating these disturbances in India?

DR. R. B. GOUR: Let my hon. friend not read too much in it. I say sections of the Catholic Church were referred to and there were reports published in the Indian Press also.

SHRI BHUPESH GUPTA: They referred to some missionaries.

DR. R. B. GOUR: I don't say that all the churches and all the mosques and temples are doing these things. I am only saying that this is also another aspect of the problem that has to be tackled.

You are giving this power to the military and no civil authority would be there and the military also will not be called upon to be responsible. They cannot be held responsible for this particular purpose. Therefore, this lopsided approach is not going to solve the problem. That is our humble submission. The legal question also was raised by Mr. Rajagopal Naidu and that also cannot be brushed aside so lightly. If you have to treat this area as a disturbed area, then treat it as a disturbed area under a proclamation of the President. But if you want to hand over the whole area to the military without the civil authority, with the civil authority completely removed from the picture,

[Dr. R. B. Gour.] without the civil responsibility being there and the military also not being responsible, then how are you to tackle the problem? After all the people are there and the problem has to be tackled. You are not on a war footing. These are the considerations that have to be gone into and tackled very seriously by the Ministry. We have to discuss them. Let us discuss the matter, if you like, in the Consultative Committee of the Home Ministry. Discuss it and take a total picture of the problem and take a decision which will cover all aspects of the problem. Therefore, unless this is tackled with that totality of approach you cannot succeed. That is lacking, and you take only the military approach, as you are doing at present, the military approach minus the Defence Minister, for he is not here. He is fond of laws for he said he sent the military to Jamshed-pur under some section of an Act, forgetting that, that Act does not allow the military to parade in the streets.

In conclusion, I submit that we should realise that the Naga problem is not merely the problem of certain sections of the Nagas to be dealt with as a military problem. It is a political problem and also a social problem

and also an economic problem, where other governments are involved and where other agencies are involved and other institutions are involved. So you have to take into consideration all these things and only then can you solve the problem.

Thank you, Sir.

SHRI BHUPESH GUPTA: I think the hon Minister can reply tomorrow. It is almost five o'clock, hardly a minute more.

SHRI B. N. DATAR: If the House is prepared, I shall reply just now.

DR. R. B. GOUR: Does it mean that he does not want to think about this problem at all and so wants to reply immediately?

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): You have hardly one minute.

SHRI B. N. DATAR: It is already 5 o'clock.

THE VICE-CHAIRMAN (SHRI P. N. SAPRU): All right. The House stands adjourned till 11 A.M. on Thursday, the 28th August, 1958.

The House then adjourned at five of the clock till eleven of the clock on Thursday, the 28th August 1958.