

[Shri Jawaharlal Nehru.] with the good wishes that you have expressed to those of our colleagues who were Members but who in the course of things may not come back here.

**THE PRESS
(OBJECTIONABLEMATTER)
AMENDMENT BILL, 1953—concluded**

MR. CHAIRMAN: Mr. Kishen Chand.

SHRI KISHEN CHAND (Hyderabad) : Mr. Chairman, I was pointing out.....

MR. CHAIRMAN: I want to tell you one thing before you proceed. It is now 2-15 P.M. I should like to ask the Minister to answer at 3 o'clock and I wish to give 10 minutes each to two Members this side and two Members that side. You have taken five minutes already.

SHRI KISHEN CHAND: Mr. Chairman, Diwan Chaman Lal yesterday put the point that nobody in this House will have any objection to the definition of objectionable matter in this Bill and that this Bill is very essential for curbing the licence of newspapers, and the yellow Press. I would ask a counter question of the Treasury Benches. This Bill has been in operation for two years. Has this Bill been successful in curbing the activities of the yellow Press? Has it removed the scurrilous and obscene writings from our Press? I submit that it has not done so. It has failed entirely in fulfilling its objects because this Bill is wrong. It is not striking at the obscene literature; it is not striking at the abuse that is flung at our leaders by the yellow Press. Sir, I come from Hyderabad and I know that the Urdu Press there is really hopeless. For printing a newspaper in Urdu they require just *two* or three litho stones and a small hand press and in about two to three hours they can bring out about a thousand copies. You cannot ask for any security from them, because the whole

of that press would cost just Rs. 100. You can go and capture it, but on the next day they will issue a newspaper from some other place. So this Bill is really striking at the genuine activities Of the Opposition. This Bill is being utilised to curb the right of criticism against the Government by launching such prosecutions which lead to the demand of securities from newspapers and the Press. Sir, in a democracy the Opposition is a very essential thing and I hope the Congress Benches will realise the importance of the Opposition Press. They should welcome healthy criticism, but by having this type of Press laws they are indirectly curbing that healthy criticism. Sir, Mr. C. Rajagopalachari, when he was piloting the original Bill, had made a provision that the members of the profession of journalism should act as jurors and they should decide about the subject-matter as well as fix the punishment that should be given in such cases. But by this amending Bill that right is being taken away. I expected the hon. the Home Minister to widen the scope of the original Bill; I expected him to have made it compulsory that in all such prosecutions the Sessions Judges should be helped by a jury which will decide not only the question of fact but also the question of punishment to be given and also on the amount of security that should be demanded. I had expected that in this Bill the maximum amount should have been fixed. After all, it is the jurors of that particular area knowing that language who can really decide whether any matter printed in the newspaper is objectionable matter and whether it would come within the meaning of one of these six items which have been enumerated in section 3 of the original Act. When we compare our democracy with the other democracies of Europe and America, we find there is a principal difference in the liberty of the Press. In the U.S.A., the laws are so liberal that almost anything can be printed. (*Time bell rings.*) Sir, we should not use this Act in order to suppress all opposition for if there were no Opposition, democracy cannot work in our country.

DR. P. V. KANE (Nominated): Mr. Chairman, at the outset I must make it clear that I am not connected with any newspaper as editor or sub-editor or anything of that kind, nor am I a party member of any kind. The President has been pleased to nominate me and I am here as a member of the public and as a lawyer of 43 years' standing on the appellate side of the High Court. Now, I have been listening to most of the speeches delivered during the last two days, and the grounds of attack seem to me to fall under five heads. Firstly, as regards the original Act itself, that it should not have been passed. I am not going to deal with that matter at all. Then there are four other lines of attack, namely, that this present Bill by way of extension should not have been brought forward altogether, another is that, if brought, it should have been only up to a month or two after the Report of the Press Commission is presented. Then there was opposition to its being extended in the gross for two years. Then there was opposition to the additions that are being made. Now I am going to speak only on the additions—the amendments actually introduced which the hon. the Home Minister was pleased to call minor points.

I am going to say that they are the most "major" points, if I may use that expression, and that he glosses over the changes, and that he rather by a side-wind introduces these into the amendments. I would certainly have voted for the extension if the hon. Minister had simply wanted that the Act be extended as it was. Then, I suppose, he would have got at least from the independent Members some support. But he has chosen to bring forward certain amendments which are really uncalled for.

I may draw the attention of the House to the original Bill. The two most important points in the original Bill were (1) there was no right of appeal given to the Government; now, the right of appeal is given to the Government; and (2) the far more

important thing is that the function of the jury, as laid down in the original Act, has been altogether changed, namely, at the time when the original Act was passed, the jury was the judge and everything. If the judge does not agree with the jury, he has to refer the matter to the High Court which may pass an order agreeing with or varying the original order. Now, in a very clever manner this is sought to be changed. These two matters seem to me really two important matters in the amendment. In the original Act, there was no right of appeal; that means that the Government of those days was satisfied with the decision of a single court, namely, the judge and the jury. If the judge and the jury agreed, there was no reference to the High Court. If the judge and the jury agreed, the Government thought that they would be satisfied with the decision of one court. Now, the Government have got the right of appeal. That is only the thin end of the wedge. The right of appeal means the conviction may be changed into an acquittal or *vice versa*. If you go to the High Court, the High Court can change the original conviction. Now, you will remember what the criminal law on the subject says. Sir, the Criminal Procedure Code says:

"If there is an appeal in a case where there was a jury, the appeal lies only on a matter of law."

Under section 418, an appeal may lie on a matter of fact as well as on a matter of law. But in a trial by jury, an appeal shall lie on a matter of law only. You cannot say that the recommending or the demanding of certain securities is a matter of law. The disturbed state of the country or locality, the purpose of the offender, and so many things come in. It is certainly a question of fact, or a mixed question of law and fact. In the original Act, the Law Minister and the officers of the Crown. I mean the Attorney-General, who were supposed to have known the law very well, were satisfied with the trial by jury because this was an extraordinary piece of

[Dr. P. V. Kane.] legislation. The jury had two characters, namely; they were judges of everything. Secondly, the jury were not people or men-in-the-street; but the jury were people who had some connection with the journalistic activities or printing presses and allied matters. The jury was a special jury because this was an extraordinary piece of legislation. This jury was given a higher power than the ordinary jury has. May I ask the Home Minister, Sir, are the heavens going to fall if that original law is continued? May I ask the learned and hon. Minister of Government one question? His speech was a very short one; for a moment it appeared that Diwan Cham-an Lall was speaking for the hon. Minister; he took one-and-a-half hours to explain everything which the hon. the Home Minister, mover of the Bill, had failed to do. I am referring to a remark that he made. He was saying that in one case there was a perverse verdict of the jury and therefore it was that such an amendment had to be brought forward. I submit, Sir, there were, as all of us know, perverse decisions of the High Courts. In many instances the Supreme Court had said that the High Court did not understand the principles of law involved. What I ask is, what has happened in these two years that these valuable rights should be taken away? As a member of the public and as a lawyer, I think it is the thin end of the wedge; and if people view with suspicion Government's ulterior motive behind this amendment, I should think they are not far wrong. Let the mover say "Let the old Bill continue for another two years." Then, I can well understand it; but I cannot understand this kind of glossing over. He says they are all minor points. If so, what are the major points except these two? There are no major points at all. There is a complainant, there is a jury; all these are ordinary points. The most important points are these two.

Sir, one thing more. When it is a matter of law, the Member for Government says:

"It is the duty of the jury to decide whether any newspaper, news-sheet, book or other document placed before it contains any objectionable matter."

And there it ends. It is then the duty of the Sessions Judge:

"to decide whether there are sufficient grounds for making an order for the demanding of security, etc.. etc."

The principal function of the jury has been taken away, namely, to decide, looking into all the circumstances, whether a security should be demanded, and, if so, what security. These are the two points on which the jury's verdict was valuable. I do not think—just as there are medical councils, bar associations, and others—there is any Press Council recognised by the law. Therefore, as pointed out by iJr. Kunzru, at that time, the great Governor-General, Shri Rajagopalachariar, a great statesman as well as a lawyer himself, was pleased to say that it was the beginning of trial by Peers. Here, there are Peers who would try. Peers do not mean lords but equals. The Peers would be judging the journalist or printer. But, here, in the present Bill, a complete go-by is given to it and it is up to the Minister to explain these things.

Secondly, Sir, he did not give us any cases. There are at least 5,000 newspapers and about 7,000 to 8,000 presses. He did not give us any facts. He should have given at least the facts about some of the cases that were actually decided and in which securities were demanded. He did not do it. He simply said that there was this thing and therefore something should be done.

MR. CHAIRMAN: Thank you, Dr. Kane. It is time now.

SHRI H. C. MATHUR (Rajasthan): Mr. Chairman, if the Government was

really serious about this Bill being considered in earnest by this Parliament, I think they owed it to this Parliament to put certain material before us, to give us facts, figures and reasons so that Parliament could have certain material before it to judge whether the extension of this measure was at all justified or not. But, Sir, nothing whatsoever has been done. If they had any sense of responsibility, they should have certainly submitted a report about the working of this Act during the two years that this special enactment was in operation. The flimsy and fragmentary information which was supplied to Parliament during the course of the hon. Minister's speech is really ridiculous. If he expects that anybody here can come to any conclusion on the basis of certain figures which he gave out, it would really be, in my humble opinion, almost a contempt of this Parliament. Just by his reading a certain passage from here and another passage from there—from certain unknown papers—if he thinks that the Members of Parliament would form any opinion about the extension of this Act, I think, it will be doing us the greatest injustice. The hon. Minister has stated not only in this House but also in the other House that all Bills and all enactments passed by Parliament are just very ordinary laws. He can make no distinction between one law and the other law. But, Sir, Parliament passes certain enactments which are to be placed on the Statute Book on a permanent footing, and there are certain other enactments which are there only to meet a particular emergency. And this is one of those enactments which were there only to meet a certain emergency. And this is one of those amendments which were there only for a limited period of time. If that period of time was to be extended, it certainly was the responsibility and the duty of the hon. Home Minister to have placed all facts which would have satisfied us. And I definitely wish to lodge my protest against the way in which Parliament is treated in such important measures. To say, Sir, that this Bill

is of an ordinary type is just to ridicule the very sense of jurisprudence. And further to say that the amendments which have been proposed are of a minor nature is really still more ridiculous. I do not know, Sir, of any place or of any law where in a preventive measure the Government has taken a right of appeal. The Government has a right of appeal in certain cases. That is true. But I would like the Home Minister to tell us whether in a preventive measure or whether in a measure where a security has been asked for, the right of appeal has been taken by Government. This special right of appeal has been taken by Government in what is called the minor amendment.

Sir, I wish to submit that the Home Minister was further misleading the House when he stated that there was a judicial process from beginning to end. Nothing of the kind. You can forfeit certain publications, and those publications can be forfeited simply by obtaining a certificate from the Advocate General. The Advocate General is of course a most responsible person I have nothing to quarrel about there. I would rather in that strain submit that all the officers of the Government are responsible persons. And why, should you require a certificate from the Advocate General? The Home Minister himself is an eminent lawyer. The Law Secretary is an eminent lawyer and can always be a good lawyer. I cannot think that the Advocate General is not a part and parcel of the executive machinery. The Advocate General is responsible to the executive Government. Without casting any aspersion on the office of the Advocate General, I definitely wish to submit that it would be absolutely misleading to say that all the provisions of this Bill are such as may be called a sort of judicial process from beginning to end. Sir, we must know what are the reasons. Are we really living in such abnormal circumstances that we require such laws at this formative stage of our democracy and when we require a very healthy climate for our democracy? What for are these laws? I am

[Shri H. C. Mathur.] afraid, Sir, that the Government is having some sort of fear complex, and this Parliament would be doing the greatest favour to the Home Minister by coming to his aid and taking him out of this fear complex. And that could be done only by refusing such sort of Bills which are brought before the House. Sir, if this ghost of "Government in danger" or "State security" is buried, I am sure the ghost of "Democracy in danger" will bury itself. They are twins; they live together. I do not see what is that danger. And where they ought to deal with a strong hand they do nothing. We have not been able effectively to do anything to put down these scurrilous writings and obscene writings. Our complaint on the other hand is that very little has been done in that matter. I would like to know, Sir, from the hon. Home Minister as to what action has been taken by him in those particular cases which were quoted on the floor of this House. Have any proceedings been launched against them for inciting murder and for inciting all these things? Is it not very inadequate and very puerile to ask them for a little security? Those people must *bi* punished with a very heavy hand. I should like therefore to know whether proceedings have been launched. And what is the result of those cases? He says that such a sort of thing is going on in every corner of this country. We would like to know, Sir, what action has been taken under the Indian Penal Code and under the various provisions which are already there. The Home Minister made a very strong point and said "We make no encroachment on the liberties of the Press because all the offences which are actionable under this Act are the offences under this Act or that Act." That exactly is my complaint. You must, in the first instance, satisfy us that you cannot take adequate action under those enactments which are already there. (*Time bell rings.*) Is it not a fact, Sir, that the Press Laws Enquiry Committee made a very strong recommendation in this matter, and they said that there should be no special

enactment for the Press, that the ordinary law was quite adequate to meet the situation? If that is so, then what is the justification for not accepting the recommendation of a committee which was appointed by the Government? At least, it would have been very fair if those recommendations had been accepted and if we had proceeded on those very lines till the Press Laws Enquiry Commission submitted its report. That would have been only fair.

SHRIMATI VIOLET ALVA (Bombay) : Mr. Chairman, contemplating the "Thank you" that you offered to Mr. Kane in front of me, I really do not know where to begin, since yesterday and day before Members were allowed to speak at length and they spoke for 60 to 80 minutes each and now I shall have to begin at odds and ends.

To begin with scurrilous writings, I do wish to tell the Minister in charge of this Bill that objectionable matter has been described and defined in the Act itself which makes it so vague that he has not been able to take any action. Let me give an illustration. On the other side, "some Members flaunted some pornographic periodicals. I am flaunting this book here. Its title is "The Art of Letter Writing". This is a book for students, and I purchased it to give it to my son, a boy of 14, but on the last page there is an advertisement on "Modern Sex Life, and Sex Technique," a guide on sex education, sex organ, birth control, wedding night, pregnancy, etc. This shows where exactly -the Home Minister has failed to act. If we go about the right way in implementing the Act that was passed some two years ago, we should have cleaned up the book-stalls of this country. I am sure one and all of us without any party label, would have joined hands with the Home Minister in cleaning up the book-stalls of this country of this kind of filthy literature. The Railway Minister the other day said that the railway book-stalls were very clean, but when we travel up and down the country, what catches our

eyes in the book-stalls are books like the 'Kama Sutra'. As a great Sanskrit scholar, you will understand what is it, Sir. Is that a book to be studied by us, much less by adolescents who travel frequently in the trains? What about them? When are we going to begin this great task of ridding this country of this utterly filthy literature? I would approve of this Bill, if we go about it the right way. (*Interruption.*) Sir, I do not want any of these interruptions, as I have no time.

Now, I want to come to the next point. If it is a question of merely extending the time limit of this Bill, I would have been with you, but when the Minister comes forward with certain important amendments, one has to sit back and analyse, because we, the smaller working journalists in the country, will be in a dangerous position. We have also known what it is to receive warnings, warrants, search warrants and what not. We have appeared before courts of law in connection with security depositions. I have experience, however small it may be, I have been a journalist, and as a lawyer also I have had to appear for my paper *Forum* and my editor before three Judges of the Bombay High Court. If the judiciary had not been sound in the British days, many of these papers would have disappeared, but the judiciary was sound and is still sound, and that is why journalism can have a fair deal. When you talk of incentive to industry, incentive to commerce and incentive to education, etc. —you have left everything on journalism to the Press Commission—do you know that there are four thousand to six thousand papers in the country, and that all of them are not financially sound? What are you doing to help the smaller papers? So far as the profession of journalism is concerned, on facts we stand to be corrected, but on opinions, never. We shall hold on to our opinions. In a democracy, freedom of expression is absolutely vital, and we must have the right to give our opinions. This is a democracy and not a totalitarian State Sir, I have not

the time to read what Metcalfe said in support of the freedom of the Press about a 100 years ago. It appears on pages 5 and 6 of the Press Enquiry Committee Report of 1947. I shall read only one line on page 7 which says:

"Metcalfe had to pay dearly for his convictions in that he was superseded for promotion in his official career."

Diwan Chaman Lall was a Member of that Committee and he must have studied it.

Sir, we who represent the small newspapers in this country have suffered and sacrificed in support of the freedom of expression. Do you know how difficult it is these days to run a small weekly or daily? The only alternative is for a few small papers to join together and make use of a common printing press so that overheads can come down. But would any job printer agree to print several papers of varying political views when he knows that, whether the Act has been abused or not, almost any kind of writing can be brought under the wide and vague definitions of "objectionable matter"? It is no consolation to him that he is likely to be acquitted by a court. Hereafter only those persons can come into this industry who, because of their vast economic resources, can afford to take risks. One more nail will have been struck in the coffin of small journalism. The bigger papers get away with anything, but it is the smaller papers who suffer. Sir, there are papers and periodicals in the country which, week after week, incite people on communal lines, in which we read all sorts of rubbish, but what have you done about them? There are in my own State a few papers who use filename of a Minister alongside the word "prostitute" and publish the picture of a Minister alongside that of a monkey. I have been to see my Ministers about this, but their answer is, "What can we do?" Your Act is there, and still the question is, "What can we do?" Are you able to suppress these journals which you should? I want to say to the-

[Shrimati Violet Alva.] Home Minister that, what will die on account of this Act, will not be the yellow journalism in the country, but the independent national journalism, it is we who will suffer and not those that are financially sound. Sir, it is not easy to live on journalism in a democracy. In a democratic State, you have to create positive conditions in which the smaller independent papers can survive.

I shall now come to the cases that -were launched. After all, out of the 20 cases that went to the courts under section 3, sub-clauses (i) and (v), 16 resulted in acquittal. It is clear from this that in these cases there has been an abuse of the process of law. It is not the process of law that we journalists are afraid of. It is the abuse of the process of law that represses and in the end wipes us out, leaving only the cartels and the monopolies and the yellow press in the field. I am happy - to see that Diwan Chaman Lall is nodding his head in his seat. Perhaps he is in favour of what I am saying. This is the actual state of affairs.

Now, Sir, time is running out. I -would like to say many more things, because I have been a sufferer both under the Press Emergency Law as well as under the present law. We want opinion to be created, and that is why we want that free expression of opinion should not be smothered indiscriminately. I shall now come to the question of the jury. Both the Home Minister and Diwan Chaman Lall defended the change in the status of the jury. I do not know how Diwan Chaman Lall, a journalist and a Barrister of note, agreed with this change in the status of the jury. Do they -really think that this is right? Previously the position was that, if we -were to be hanged, we would be hanged by our own men, by men of the press, the printers and a few public men. Now, you are whittling it down. You expect us now to be hanged by a jury of all kinds of people, and we shall be forced to stand before a jury among whom we cannot see any

friends who understand our trade. I feel very strongly about this change in the changed status of the jury men. When Mr. Rajagopalachari first launched the Bill in the other House, the Indian Federation of Working Journalists waited on him and remonstrated with him that the definition of 'objectionable matter' was too sweeping, was too vague and did not provide for the application of the intention 'men-sure' of the writer. He said that he was attacking not the writer but what he called the 'machine'. Therefore he agreed to make a concession and said that the trial would be done by a jury of their own men. Later on, Mr. Rajagopalachari agreed to add printers and public men after the debate in the other House. But now, that jury system is changed. Where do the journalists stand? Please remember that all journalists do not belong to cartels and monopolies. There are smaller journalists too.

SHRI B. RATH (Orissa): Mr. Chairman, before I go to discuss about the nature of the amendments that have been given here, I must pay a compliment to Dr. Katju, not in my own language but in the language of a paper which was created by him perhaps or at least by the Prime Minister of India, viz., the *National Herald*. The *National Herald* pays him a compliment with a headline saying "Dr. Katju's Black Bill" and it starts like this:

"For a lawyer of his reputation, Dr. Katju performed poorly in the House of the People debate on the Bill seeking to extend the life of the Press Act and amend it. To those who watched the performance it seemed pathetic, and he would not have shone even in the company of Crerars and Maxwells."

Now, Sir. I will not go further. I make a present of the editorial to those friends who have an opinion which is contrary to my own opinion. I wish that they should read it and try to revise their opinions.

Now, with regard to the Bill, what does Dr. Katju want? He wants to suppress the newspapers and periodicals which publish certain types of news which had been mentioned in the printed Act of 1951. What does he want to do besides the punishments that he will give to the editors and others? He wants now to attack the tools that produce those papers—the presses. We know that whatever may be the utterances of Dr. Katju or friends who agree with him, the real intention is not to see that these scurrilous writings are eliminated but it is the honest criticisms which are to be suppressed, whatever they may be

SHRI P. SUNDARAYYA (Andhra): He is going to ask security from the *National Herald*.

MR. CHAIRMAN: You go on, Mr. Rath.

SHRI B. RATH: If they express honestly what they want really to do, I have no quarrel with them. Let them say that they want to suppress the Opposition. Let them say that they want to suppress the criticisms of the Ministers and their high officers, however corrupt they may be, however inefficient they may be. Let them say "Whatever they might do, we want to see that they are not criticised." If such Members who agree with Dr. Katju frankly express it, I will understand that it is with this definite purpose and with honesty that they are having such an Act and I will have no quarrel with them, but we have seen how the expressions of sentiments, and the assurances given in this House -after the Act was passed were never kept, how it is always the Opposition Press which has suffered the worst at the hands of Dr. Katju. It is the Advocate General who will recommend, the Government will ask for security, the person will, if he cares, go to the Sessions Judge who will be sitting with the jury and then if he does not succeed there, he will have to go to the High Court and in this litigation

process he will have to spend a huge amount. Thus Dr. Katju's aspirations are served. If the persons fail to give the security, let them spend in the law court and get completely killed in the process. Or if he survives, he will be very careful to see that he does not criticise the Ministers or the persons who are desired to be saved by the Ministers from any criticism. My friend Mr. Pattabiraman started attacking the Communists the other day. I have no grudge against him because he belongs to the other camp and since he is a post-1942 patriot, he has every right to criticise the patriots. That I can understand.

SHRI GOVINDA REDDY (Mysore).
What model of patriot are you?

SHRI B. RATH: That everybody knows and you ask your people who are with you from Orissa. I am not going to certify myself, but all that I can say is that those who overcome Brahmins newly in our side after the sacred ceremony, for some days they perform *Sandhya* and while taking their food they also do something. I have forgotten it. But as they grow in age, they forget these. So also these new patriots; they remember 1942, but the old patriots might have forgotten it because they have not bothered about it. Now what I would suggest is, let them think how far this Act is going to suppress the Opposition. And it is our firm conviction that it is meant to suppress, the Opposition. When the Preventive Detention Act was passed, they were assured that it would never be used against the Opposition but what has been done in the different States? Even when there is a genuine campaign against the multi-point sales tax, those leaders have been put in jail under the Preventive Detention Act. When there is a genuine trade dispute, they take the leaders under the Preventive Detention Act because you cannot put them in jail under any other law and you cannot suppress the agitation otherwise. So it has always been done like this. Whenever there is any strike, our Ministers come forward and they send

[Shri B. Rath.] aie military to West Bengal where the police is not considered adequate there. For any strike however peaceful it may be, the military must be sent to threaten the workers. So, Dr. Katju, through this Bill threatens all the presses, threatens all honest and genuine presses. If he says "I want to suppress them and oppose the political parties through this Act", I will say "Dr. Katju, I agree with you and I am glad that you have expressed your intention. You pass this Act." I will have no quarrel with him. But since he does not come forward with an honest declaration and he wants to keep what he wants to do in his mind and comes out with a different explanation which does not convince anybody—even his own paper as I have shown you—so I have to say that it is with a *mala fide* intention that this Bill is being brought. That is why, instead of extending the time, he wants to amend it, because he has seen that during the last 2 years, in spite of the fact that there were 83 cases, he has failed in the majority of the cases. Only in a few cases he has been successful. Therefore, in order to see that he succeeds in all cases, the amendments must be there. The Sessions Judge and the jury must be separated. The Sessions Judge must have some other power and the jury will have only to say whether the writing is really objectionable or not and they cannot go further than that. Wonderful Jury and Sessions Judge! This is both against the very fundamentals of the functions of the jury and the Criminal Procedure Code. I am not a practising lawyer. I did not want to practise. The practising lawyers are asking about it, but this is an attack' on the fundamentals of the law as I understand it. All that I want to say is that the jury is being murdered here. Here the Sessions Judge will be becoming the absolute authority and as such there are instances when we see that the Sessions Judge, in order to please the higher officers, has to do anything that they want. There are also such persons who refuse to do and

with this law he will even make the judiciary subservient to him. He will kill the jury, he will kill the Press, he will kill the independent opinion *c/* the newspapers and thus he will try to survive all criticisms and so I oppose this Bill.

3 P.M.

THE MINISTER FOR HOME AFFAIRS AND STATES (DH. K. N. KATJU): Mr. Chairman, during this three days' discussion, my name has occurred so much in the speeches that I am really rather becoming shy in making a speech. Lots of things have been said. I shall have to deal with them very briefly. But let me begin with one thing that was said just now by the hon. Member who preceded me and the same comment was made by my hon. friend Shri Bhupesh Gupta. Reference was made to certain editorial articles which had been published and the argument was: "Look at it. This Bill is horrid, it should not even be looked at." And why? Because the newspapers say so. Strong language. I was accused of using provocative language, of being guilty of what was called forensic trickery. Some papers said that I had not been putting my case in the proper way. That means that there was a case, but that I had only put it in a bad way. It is rather curious. I have not read the whole history, all the proceedings of the debates in 1951, but I think some hon. Members did do me the honour of saying that I was a very poor substitute for the previous Home Minister. I revere Rajaji as a leader. I revere him as a man of great wisdom. But the House would be rather amused to hear that over and over again, in the speeches which were delivered in September and October 1951, it was said that Rajaji was a brilliant advocate and he was in the habit of making two and two appear as either three or five. So, that is rather a consolation. But when it comes to newspapers, I should like to ask hon. Members present here—I think Dr. Kunzru might be able to tell us—how many newspapers were there which supported the Bill in 1951..

there may be one or two exceptions. There are this time also. Why? I may not know anything else in this world, but practice in the law courts makes one a good student of human nature. I have never heard of an accused person or a person who considers himself to be an accused person, paying great compliments to the advocate for the prosecution or to the prosecution itself. Rightly or wrongly, that is my

SHRI B. GUPTA (West Bengal): Sir, do I understand that newspapers are "accused" in the eyes of the hon. Minister?

MR. CHAIRMAN: Yes, go on.

DR. K. N. KATJU: Rightly or wrongly, the Press of India, as my hon. friend Shri Rama Rao said, has consisted itself into a class. I do not want to do any injustice to Mr. Rama Rao, but he said, "I am speaking on behalf of my class". And, therefore, every newspaper, whether of the Right or the Left or of the Front, thinks it its bounden duty to condemn this Bill.

SHRI B. GUPTA: A good job done.

DR. K. N. KATJU: I want to cut short this particular phase of my argument. The matter was put much more beautifully by Rajaji than I can ever expect to do and you will kindly permit me to read two or three, not lines, but two or three sentences as part of my submission before you. This was on the closing day of the debate. He referred to the Press Association and some resolutions which had been passed by the Press Association and then he said:

"They have been met by answers. But these answers do not satisfy them. I have been reading everyone of the leading articles that have been appearing in all the papers".

And the same story is being repeated here And Rajaji went on to say:

«.....and there have been quite plenty of them appearing day in and

day out—arguments round and round, very skilfully and forcefully written. My friends know how to write. They are well practised in it. But they come back to one single argument, the fundamental objection that there should be no separate treatment of the Press as apart from, the ordinary individual, which I fear I cannot accept and I do not think it can be accepted at all."

And, Sir, if you read these articles, apart from the unfortunate points, about the jury and the right of appeal. I respectfully say that there is nothing else in them. Then Rajaji goes on:

"I have often heard the talk about the volume of opinion. I know the volume of opinion is very large. Why?"

And Shri Bhupesh Gupta also wanted us to consider the volume of opinion, the newspapers of the South, of the North, of the East and of the West and the centre and everybody,—I will not use the word "shouting"—but everybody has been writing about it. And I know the volume of opinion is very large. And he says: "I know the volume of opinion is very large. Why?" He asks himself. "Because it is the voice of opinion itself that is touched here." Rajaji is a very wise-man and his sayings are very pithy. "It is the voice of opinion itself that is touched here," and when you do that, the voice of opinion squeals and it becomes very loud, because it is the voice of opinion itself that is touched:

"I am dealing with the Press and is there anything surprising that the Press has a large trumpet voice with which to protest its protest? Certainly, the voice is very large."

Yes, and it has a trumpet voice. And, Sir, if I had said any of these things, these editorial articles would have said that I was a very bad man. But inasmuch as Rajaji has been praised here and Rajaji has been acclaimed as a very wise leader, I do hope that this will be taken note of as a wise

LUR. K. N. KATJU: pronouncement that no weight need be attached to these leading articles coming from a quarter which thinks—and thinks wholly wrongly—as having been attacked.

Now, Mr. Chairman, in this particular matter, there are other ways of eliciting public opinion. As a matter of curiosity, I would like to know how many letters from correspondents have been published in the newspapers themselves in their correspondents' columns, protesting against the old Press Act or the extension of the old Press Act. People say—I do not accept it myself—that sometimes these letters are written in the sub-editor's chambers. But I accept that every letter which purports to come from A or B is actually written by A or B.

SHRI B. GUPTA: Just wait a little and then see how many you.....

PR. K. N. KATJU: Yes, I know they will now come, of course, they will now come in large numbers.

That will now come but today how many have been published? Has the public protested? The second thing -is this. The Prime Minister is not here but I imagine that the Prime Minister receives something like 300 to 500 of telegrams of protest a day.

SHRI S. N. MAZUMDAR (West Bengal) : And replies to a very small number.

DR. K. N. KATJU: I think he receives many letters and his correspondence must be about 1,500 or so a day. So do I, but not in so enormous a volume; and inasmuch as I was the guilty party in this case, a sort of dragon who was doing it, I might have received some telegrams from some corner of India, "Oh, you are throttling the Press; you are crushing democracy, a very infant democracy. You do not allow us to express our opinion", but no letter has been received, not a single letter has been received.

{Interruptions by Shri B. Gupta.}

MR. CHAIRMAN: Will you go on⁷

DR. K. N. KATJU: This question and answer will give me a little break. I am very much obliged.

MR. CHAIRMAN: Go on, Dr. Katju.

DR. K. N. KATJU: Then, Sir, there was another complaint. Dr. Kunzru knows in what great esteem and admiration I hold him. I look upon his life as one of living sacrifice but he suffers from a great and chronic complaint, which has not been cured; I cannot cure him

SHRI H. P. SAKSENA (Uttar Pradesh): It will never be cured.

MR. CHAIRMAN: No, no, Mr Saksena.

DR. K. N. KATJU: He has always been asking for material: "Is there any material for this action? Is there any material for that action? What is the material for your now trying to extend this Bill for two years? Has the cursed Home Minister placed anything before us? Has he placed anything before us for the purpose of taking away the powers from the jury?" As a matter of curiosity, Sir, this is exactly what he said to Rajaji also, exactly the same thing was said; and I will only ask the House to bear this in mind that this is an old complaint of his. If Rajaji could not satisfy him, I really cannot even make an effort to satisfy him.

SHRI V. K. DHAGE (Hyderabad): In spite of that, you do not give any material.

DR. K. N. KATJU: In one of his speeches he began like this.....

SHRI H. C. MATHUR: You are the disciple of Rajaji.

DR. K. N. KATJU: This is on the 3rd of October 1951. Before the House was the report of the Select Committee which had sat upon the Bill, of which my hon. friend was a very valued

Member, and the motion before the House was that "the report of the Select Committee be taken into consideration", and this is what my hon. friend said: "Before I proceed to deal with the report of the Select Committee, I should like to join the previous speakers in deploring the failure of the Government to place before us adequate material showing in what respects the Press had been delinquent in order to enable us to judge the character of the remedy and the extent of the safeguards that should be provided. I asked for such information in the House and I asked for it again in the Select Committee. When I asked for it on the second occasion the Home Minister's face wore an expression of good-humoured surprise. He smiled benignly at the irrelevance of my question and at my complete want of contact with the realities of the situation".—I do not say that; I will only leave it to Rajaji to say that— "and there the matter ended.

"While my hon. friend the Home Minister did not directly place before us any evidence of the transgressions of the law or of the rules of propriety by the Press, he made a statement when winding up....."

So, this is nothing new. This is something with which we are familiar.

SHRI H. N. KUNZRU (Uttar Pradesh): But the conduct of the Government is also the same.

DR. K. N. KATJU: I do not go into it; I shall leave it.

SHRI H. C. MATHUR: But is that an argument?

DR. K. N. KATJU: This demand for material is a sort of temperamental habit whether the Home Minister is Rajaji or somebody else or whether Rajaji is guilty of not meeting my hon. friend's most important, emphatic and relevant demand. Well, I will only say this much that no material was supplied; my hon. friend fought the

Bill tooth and nail at every stage. Many did, all sections of the Press did it, and the Bill was passed.

SHRI P. SUNDARAYYA: Why do you look at the Chairman?

DR. K. N. KATJU: Two years have expired and we are now in 1954. What is the material required now? I cannot go back to 1951". All that is settled, a closed chapter so far as these two years are concerned. Firstly, you have got the 83 or 86 prosecutions and you have got the other figures that I have given.

Secondly, speaking quite seriously, my hon. friend is one of our great statesmen, revered.....

SHRI H. N. KUNZRU: But?

DR. K. N. KATJU: The 'but' is this: Will you please reflect as to whether the conditions of today, in March 1954, because of a variety of reasons, American military aid to Pakistan. Korea, my friends, and so many others, are the same as before? My hon. friend has not cared to change? Is it less grave today? (*Interruptions.*)

MR. CHAIRMAN: Go on, Dr. Katju.

DR. K. N. KATJU: Does not my hon. friend realise that whatever may have been the situation in October 1954.....

MR. CHAIRMAN: October 1951.

DR. K. N. KATJU: October 1951, it has quite definitely changed in March 1954? It has become worse, fairly dangerous, more critical than before. Some of my hon. friends said vigorously that attempts were being made to interfere with the loyalty of the Armed Forces. That charge was most vehemently denied. Of course, my hon. friend says so and the pity is that my hon. friend may not know. Probably my hon. friends do not remember that in a well-organised Party, the Party works in compartments. The fact that they may not know it does not show that it does not exist; it exists, but they

[Dr. K. N. Katju.]
are not taken into confidence. There
may be—I am speaking with a full
-sense of responsibility

SHRI P. SUNDARAYYA: It is true, Sir,
that the Americans do not take us into
confidence.

DR. K. N. KATJU: There are different
assignments. I am talking of well-organised
parties.

SHRI P. SUNDARAYYA: I am also
talking of a well-organised party.

DR. K. N. KATJU: One section of the
Party is in charge of the legalistic activities of
the party, parliamentary activities; raise
questions, always talk about democracy in
action and the fostering of democracy,
introducing Bills and amendments and saying,
"Do not talk about Telangana for the time
being; do not talk about PEPSU as to what T
(Dr. Katju) saw there in 1952 (when I went
there)". You should know, Sir, that that is
being put under some other section of the
Party, what is called the Politbureau and so on
and so forth, but I say that the danger is a real
danger. I am not displeasing you; you are a
very valued friend.

SHRI P. SUNDARAYYA: Thank you.

DR. K. N. KATJU: But, as I said,
you had better settle it with your own
Party. Now I say that with the con-
ditions prevailing, international,
national, the question of different com-
munities and other things, the situa-
tion is definitely much worse than it
was in 1951. I am really, Sir,—I said
so in the other House—sometimes pain-
«d and sometimes amused when I see
airs of great innocence being displayed
here. My hon. friend Dr. Kunzru is
one of the most widely read men; he
has got a library and I think he sees
about forty papers a day, at least he can
do so—papers from Bhopal, from Hy-
derabad, from Aligarh, from Gwalior,
from Indore, from different parts of
India, from wherever they are publish-
ed.....

SHRI H. N. KUNZRU: But?

DR. K. N. KATJU: Is it said that they are
all very fine, delicate things, I ask you? And,
what is the good of my reading them? If I
read something and in the year 1952-53, no
action was taken, then the question is, "why
did you not take action? This act has been
ineffective. You have been a sluggard". I
answer that that is not my fault but that it is
the fault of the State Governments and after
the House passes this Bill I shall see to it now
that the State Governments act in a very
energetic fashion.

Now if I read from 1952 and 1953, that is
the complete answer. If I read something in
1954 about which action may be taken, then it
may be said, "You are trying to gag the Press.
Before taking action you come in this House
and you make a great point about it." It is
very unfair to the respondents, and, further as
Mr. Chaman Lall said, I think it is very
undesirable to give publicity to these matters.
It is for these reasons that in spite of all this
criticism I have not deliberately either read or
given the names. Please remember one thing.
I have not read them all. In all the
newspapers, in all the editorial articles, there
is on the one hand a great condemnation and
on the other a recognition of the existence of
what is called the gutter Press or the yellow
Press. The main point has been: "Don't take
us as a closed society. Deal with us under the
ordinary law." The existence of the despicable
Press has not been denied.

My hon. friend read to me the *Hindustan
Times* and other papers. Everywhere that is
recognised and when we are discussing these
things it is a relevant question: Can my friend
give me a single case in which an attempt
was made by any State Government to
suppress any expression of political
opinion—I am not saying right or wrong—
any expression?

Now I went to Travancore-Cochin. There
are about 20 papers there. As

you know, Mr. Chairman, we are proud of our Travancore-Cochin. I think it has the highest literacy in India. And those 20 papers are owned by different political parties and I was told that the combined circulation of those 20 daily papers in the regional language is over two lakhs. There has been the election there recently and my hon. friends of the Leftist group, they were carrying on there for years. Has there been any prosecution there? Any attempt to suppress liberty?

SHRI B. GUPTA: Yes. Sir. In today's *Hindustan Standard* there is a report which says: A case under the Punjab Security Act is pending against *Naya Zamana*, a daily paper.

DR. K. N. KATJU: Now my hon. friend Mr. Bhupesh Gupta referred in a very grandiloquent way and he said, "Action was taken against *Crossroads*. We only published some very minor feeble articles, and yet action was taken." Yes, action was taken against one of those articles. It was said that the King of a neighbouring country was suffering from a complaint—I will leave it there—and things of that kind. The case was taken before the Sessions Judge. He tried it. He found that it was filthy. And what did he do? He asked for a security of Rs. 5,000 from the paper. Now whose verdict will the House accept? The verdict of the Chief Presidency Magistrate who was functioning there as a Sessions Judge under the Act. or the verdict, of my hon. friend who is a member of the Party which owns that paper? Let them carry an appeal to the Calcutta High Court. The Calcutta High Court has got great traditions of protection to civil liberties and if the paper was right the judgment will be reversed.

SHRI B. GUPTA: In such cases the King in question can easily take legal action against any paper. Now why Dr. Katju is objecting to these things, I cannot simply understand.

DR. K. N. KATJU: My respectful submission is that when hon. Members

here come to form their final judgment in this matter, they will please take this into consideration. Has the Act been abused? Has the Act been misused? The Act should be there because the gutter Press is admittedly there. The yellow Press is admittedly there. The writings are abominable. Only yesterday we read a judgment of the Bombay High Court in a particular case. I am only quoting from the judgment of the Bombay High Court. What happened was this. 'Devadas' had been converted into 'Devadasi' and what is 'Devadasi' everybody knows and what is 'Devadas' everybody knows. Now this type of thing is happening every day, calculated to ridicule, humiliate and abuse your political opponents and the Government of the country.

I am indebted to my hon. friend Diwan Chaman Lall for taking the House into every one of those six clauses. Each one constitutes a crime defined in a section of the Indian Penal Code. As my hon. friends are full of praise for Rajaji, I had hoped that they would have read his speech. One of the greatest credits that he claimed to himself was that he had done a good job. What was the job? He said: "Beginning from the year 1910 up to the year 1945 or 1947, the entire Press legislation was full of provisions giving the executive arbitrary discretion to pass an order of forfeiture or demand for security." He said: "Here I come in this new Free India and I am making a great change. I am abolishing all that. I am converting this executive process into a judicial process. It will be a judicial trial." He says: "For each of these things if it was an ordinary trial, the man would be convicted whether he is a printer or whether he is a publisher or whether he is a writer. But out of my tenderness for the Press, so that the Press people may not suffer. I am providing an alternative procedure, namely, asking for a slight security, giving you a chance.

3-30 P.M.

Unfortunately in the other House I put it in the form of a dilemma. I said

[Dr. K. N. Katju.]
 •"I present this offer to you" and I was deeply cursed. I am going to live for at least 50 years more because of the number of curses that I have received. But this was exactly what Rajaji had said. He said, 'I am giving you an alternative procedure; I am going to treat you with leniency. Instead of going to prison or getting a sentence of fine probably you might be sentenced to pay a fine of Rs. 2,000, we will take the security and you carry on. If you do not behave well in future then of course we will take it. Please remember that under the criminal law the instrument by which an offence is committed can be confiscated. If you shoot with a rifle, that rifle is confiscated; if you assault with a dagger the dagger is gone. Similarly if you continue to print horrible criminal stuff in a press, I imagine—I am not quite certain about it—that the press may well be ordered to be confiscated by the criminal courts. I tell you, Sir, I was astonished—I do not know whether it was of a Standing Committee or a Sitting Committee—that my hon. friend Mr. Rama Rao quoted before you some extracts of the resolutions passed by the All-India Working Journalists Association. Incidentally, I do not know what the meaning of the word 'working journalist' is

(Interruptions.)

SHRI B. GUPTA: That only shows your ignorance.

DR. K. N. KATJU: But did he tell you of any working journalist suffering under this Act at all? It is very easy to speak in an eloquent manner, but has any working journalist suffered at all? The main ground of complaint, I told you, as Rajaji said, is this, "We do not want to offer security; we want to go to the law courts." But the law courts take enormous time, even six months. The Bombay case took four years on the civil side. Just consider this Mr. Chairman. I tell you, I really wondered. Here is a man who says, 'please try me before a criminal court where I may be liable to be sentenced

to life imprisonment. But if you propose trying me before any other court for the same offence with the result that I am called upon to furnish security to the extent of Rs. 3,000 or Rs. 4,000, you are doing an enormous cruelty to me.' Sir, it is a laughable matter. That is why I have been saying over and over again

SHRI P. SUNDARAYYA: Whenever you proceed under this Press Act you are not going to proceed under any other Act, the Indian Penal Code, the Criminal Procedure Code. etc. and to that extent you are going to repeal all those sections and keep only these powers.

DR. K. N. KATJU: It was a very sensible observation which I shall bear in mind. Now, I wonder what is it that they have in mind. Where does the shoe pinch? How does it hurt? It is a criminal proceeding all the same. It is not as if under the guise of something else it is less than a criminal proceeding.

Then my hon. friend Mr. Bhuposh Gupta said that the securities demanded had been excessive and Mrs. Alva said that she was a poor journalist and they could not carry on. It came as news to me—not her case—the way she put it. Now, what are the securities demanded? I was looking into the figures. Lots of cases are pending. The securities in Bombay—all the securities that I have noticed here are cases which have been decided—vary between Rs. 2,000 to Rs. 5,000. There are some pending cases in two cases of which the security is Rs. 15,000 and Rs. 20,000. Please remember, Mr. Chairman, that there are two sections in the Act which clearly provide that it is within the competence of the Sessions Judge if he so feels to reduce the amount of security and in the judgment which has been delivered, and in at least two or three cases that has already been done. We must take a fair view of it. In one breath we are all praising our judiciary as the most impartial, independent and fearless holding the scales even between the

State and the citizens; in the next, they say, "No, no; this will not do. We must be something, a class apart." I say that really no ground has been made out for any complaint against the Act itself. The other question raised was that the Act should not have been passed in 1951. Most of the arguments have been on the basis that the decision of Parliament in 1951 was wrong. I do not want to labour this point any further. They spent about six days over it and they came to the conclusion that the Act was well justified and that it was an improvement on the existing state of affairs and also that it in no way constituted an encroachment on the liberty of the Press. If anything it was a lenient measure and as I said—I repeat it again—when the Press Commission's report is received, may be within 12 months, may be within 18 months, as soon as may be, and of course the recommendations of the Press Commission will carry with us the greatest weight—that if the burden of the song is, "Do not make a special Act, do not make an Act called the Press Act, whatever it is, bring us under the general law" that can be easily arranged. All these provisions could be inserted in the Penal Code or the Criminal Procedure Code.

SHRI P. SUNDARAYYA: That has never been our contention.

DR. K. N. KATJU: Please remember that every offence is not provided for in the Penal Code. There are offences which are governed by other ordinary laws. Take for instance the Railways Act. If you travel without a ticket, you will be punished. Take the Food Adulteration Act. If you sell impure milk or adulterated milk you may be sentenced to three months or six months.

SHRI H. C. MATHUR: Are they emergency provisions for a limited time?

DR. K. N. KATJU: That was a mistake. I am trying to correct it. Now I say that simply by having an extra Act with an extra name, that Act does

fi C. S. D.

not become an abnormal law; it does not cease to be an ordinary law of the land. It is an ordinary law of the land. Therefore I do not wish to detain the House any further on this aspect of the matter, namely, that the Act was justified when it was passed in 1951 and that the conditions of today justify its extension for two years.

Now, there have been many amendments of which notice has been given. Some say it should be only till the Press Commission's Report is received, or for two months, 3 months, 4 months, six months, one year and so on. I do not want that the time of this August Council should be wasted on a further discussion of this matter. This period of two years I have put down because it may be that the Press Commission's Report may not be available to us sufficiently early and we may not be able to formulate our comprehensive Press Bill within 12 months. The assurance that I give is this that as soon as the Press Commission's Report is received and it is considered by the country at large and by the State Governments, we shall proceed to frame our Bill and that Bill will supplant the present Act. Whether it takes six months' time, 18 months' time or 24 months' time, the point about period is of no importance.

Now I come to the two amendments. I am not complaining. My hon. friend Dr. Kunzru—as I said, I hold him in great regard—said that he was very sorry that there was not a court of morals established in India probably where I could have been shot or held guilty of high crime, and misdemeanour or of offences involving moral depravity, because I had ventured to describe and I still venture to describe—those two amendments as being of an informal nature, of minor importance. My hon. friend Dr. Kane—he has been for three years at the Bar.....

AN HON. MEMBER: No, 43 years.

(Interruption.)

DR. K. N. KATJU: Now, I ask what is the offence that I have committed?

[Dr. K. N. Katju.] It is all a question of language. I consider the amendments to be of a minor character; my hon. friend says, 'No, no; they are of gigantic importance.' Well, it is a question of mere difference of opinion. Now, what are the two amendments?

Firstly, consider this, Mr. Chairman. The cry of the Press is that there should be no distinction made between them and the ordinary citizen of the land. I humbly accept it. What is the consequence? In Bombay and Calcutta jury trials were held. A man is committed on the most serious charge. A jury is convened and what is the function of the jury? It is to pronounce upon a consideration of the evidence on the guilt or otherwise of the accused. Not as to what the sentence should be. I say it and I repeat it again with some emphasis that nowhere in the world do you find in any court of law that this function of what the sentence should be has been entrusted to a jury.

SHRI B. GUPTA: But here we are not concerned with the criminal case.

DR. K. N. KATJU: Criminal case; I am tired of thinking of criminal case and security as there is something between a criminal case and a security case and a security case and a criminal case. I ask, have you got anywhere in any country where a jury system prevails, where the jury has been entrusted with the task of not only pronouncing as to the guilt or innocence of the accused or the respondent but also saying what should be the punishment? Now, Rajaji did it. I bow to him. He is a very wise man.

SHRI H. N. KUNZRU: Hear, hear.

DR. K. N. KATJU: He is a very wise man; but his hopes have been completely belied. Sometimes, it appears from one case that the system is a rotten system. The case to which I refer is one from Delhi and to which my hon. friend Diwan Chaman Lal referred as a very important matter. I do not want to take the name; I do not want

to take any name. The jury said it was an objectionable matter, but no action need be taken. It was a shooting matter, if there had been duelling, the man would have been killed.....

DR. F. V. KANE: What did the judge decide?

DR. K. N. KATJU: Therefore, I say it is an unfair

SHRI H. N. KUNZRU: Did the Judge ask the High Court to set aside the verdict of the jury?

DR. K. N. KATJU: He accepted the verdict of the jury. That is why I wanted to have a court of appeal against the Sessions Judges also. I have dealt with Sessions Judges of all kinds.

Take another case, the tram strike business in Calcutta. I think it will be accepted without any offence that the Calcutta Press went off their heads...

SHRI B. GUPTA: I protest;

DR. K. N. KATJU: Then I don't say heads, they went off their shoulders.

(Laughter.)

SHRI B. GUPTA: There is nothing much in the shoulder

DR. K. N. KATJU: Something happened near the Ochterlony Monument.....

SHRI B. GUPTA: The Howrah Bridge also. Why name the monument? What has the 'monument' got to do with it?

DR. K. N. KATJU:there, some photographers and Press people were manhandled. That completely upset the Press. And for ten days, every single newspaper vied with the others both English and vernacular Bengali, in cursing and abusing the police officer, this, that, etc

SHRI B. GUPTA: No; only because you beat the Press in a pre-planned manner

DR. K. N. KATJU: They said something like this: "They are objects of shame to their mothers' wombs who gave birth to them", etc.

SHRI B. GUPTA: That is the same "thing which Rabindranath Tagore says in this book. I shall read it if you want.....

DR. K. N. KATJU: I say, you are irrepressible.

(Shri B. Gupta rose.)

MR. CHAIRMAN: He says: You are irrepressible.

DR. K. N. KATJU: Supposing you had a case in Bengal under the Press Act. Could anybody have trusted—it is a strong word—could anybody have trusted, or would it be even fair to the jury or journalist of Calcutta to ask him what should be the.....

SHRI B. GUPTA: Sir, the journalist in question was entrusted by the Prime Minister himself to do a very great literary work; for journalistic reasons I will not divulge his name....

DR. K. N. KATJU:and he can easily

SHRI B. GUPTA: I am proud of it, yes.

DR. K. N. KATJU: It was a point of discrimination; it went against the Constitution. A whole section of people were to be brought under the security or penal sections so far as our countrymen go but one section of them was concerned. They may be prosecuted; but they should be placed on a pedestal. The sentences should be pronounced by their own people. I do not know whether Rajaji thought about it. He is a very wise man. It was not possible to take a complete view two years ago and foresee events and therefore this was introduced. My hon. friend, Mr. Kane

was saying that this was something 'magnificent'. Has he considered how it is 'magnificent'? Supposing the publisher is asked to pay a security of Rs. 300 or Rs. 3000; the jury says: No; No, no security need be taken. Supposing in that very case, the publisher is prosecuted, in the case of Calcutta or in the case of Bombay, by the jury;—it will be in the hands of a jury; the judge has no right. Dr. Kunzru says that a valuable right is taken away. Nothing of that kind. The real question is whether he is guilty or not guilty. Sir, I have said enough about the case. In the Delhi case, it is said: Look at the propriety of the Delhi Government; a security of Rs. 30,000 was demanded; but, so far as the judge was concerned—there is a clear section which says that the judge may reduce the security and even reduce it to a warning. Therefore, I say that this is something of the ordinary law of the land in keeping with the ordinary criminal procedure. The jury tells us whether the man is guilty or not; and the judge says: give a security of Rs. 5 or Rs. 5,000.

Another thing, the right of appeal. I am astonished that my hon. friend did not see the implications of this amendment. Under the Criminal Procedure Code, every citizen of India has the right of appeal. You may condemn the system as a barbaric system, but in the Criminal Procedure Code as it stands today, Government has been given the right of appeal against every acquittal. Everyone, if it is a jury trial, on points of law. What has been provided in this Bill. It is not a question of oral evidence or of the veracity of evidence or the assessment of evidence. It is all printed matter. It may be 2, or 3, or 4 newspapers which are supposed to contain the offending articles and supported that way by other newspapers. The Sessions Judge reads it; the jury reads it and comes to certain conclusions. If it were said let us cut short these proceedings, let the Sessions Judge be the final adjudicator, this I can understand right or wrong. If the Sessions Judge says it is all quite simple there is

IDr. K. N. Katju.J nothing, then the respondent, the ac- I cused has a right of appeal. If the Sessions Judge, on reading it says: "It seems to me to be quite all right", then there is no appeal. If you even then say: You are putting the defence of the Press, the freedom of the Press in jeopardy by allowing an appeal. I say with all respect and humility, being a lawyer of some standing

SHRI B. GUPTA: There are provisions in English common law

MR. CHAIRMAN: You will get your chance.

DR. K. N. KATJU: Is this unfair in any way? We are not going to say that the appeal shall lie to the Governor or to an executive officer; but the appeal will lie to the High Court; and there also, it will be heard by two or three judges; and over that appeal, there is an appeal to the Supreme Court by the leave of the High Court. All discussion about the propriety of these minor amendments is really an attempt to side-track the House from the main matter. It is this. Till the Press Commission reports, till the position crystallizes, let us wait. There will be plenty of material. The Press Commission will give you a considered report; probably there might be quotations in it. We will consider it and put it through. We will have those recommendations; we will consider them fully.

In conclusion, Mr. Chairman, I might say that I have not been able, to understand all this violent criticism and enormous excitement that has been roused by these innocent people. (*Interruption.*) Of course, they won't agree.

SHRI B. GUPTA: Because your mind is impregnable.

DR. K. N. KATJU: In the House of the People Sir, the Advisory Committee, or whatever it is called, said "We want 12 hours to discuss it." before I had said a single word. So everybody can see that they were

determined to beat the big trumpet of creating political opinion and making political capital out of this harmless Bill.

SHRI B. GUPTA: This Bill itself is a standing provocation.

MR. CHAIRMAN: The question is:

"That the Bill to amend the Press (Objectionable Matter) Act, 1951, as passed by the House of the People, be taken into consideration."

The Council divided:

Ayes: 91

Noes: 25.

[MR. DEPUTY CHAIRMAN in the Chair.]

AYES—91. Abdul Shakoor, Molana. Agnibhoj, Shri R. U. Agrawal, Shri A. N. Agrawal, Shri J. P. Ahmad Hussain, Kazi. Aizaz Rasul, Beganu Akhtar Husain, Shri-Amolakh Chand, Shri. Anant Ram, Pandit. Barlingay, Dr. W. S. Bhuyan, Dr. S. K. Bisht, Shri J. S. Biswas, Shri C. C. Borooah, Shri L. Budh Singh, Sardar. Chaman Lall, Diwan. Chandravati Lakhanpal, Shrimtrti. Chauhan, Shri N. S. Das, Shri Jagannath. Deogirikar, Shri T. R. Deshmukh, Shri R. M. Dharam Das, Shri A. Dinkar, Prof. R. D. Sinha. Doogar, Shri R. S. Dube, Dr. R. P. Faruqi, Moulana M.

Gupte, Shri B. M. Gurumurthy, Shri B. V. Hardiker, Dr. N. S. Hathi, Shri J. S. L. Hemrom, Shri S. M. Hensman, Shrimati Mona. Inait Ullah, Khwaja. Indra Vidyavachaspati, Shri. Italia, Shri D. D. Jafar Imam, Shri. Jalali, Aga S. M. Kapoor, Shri J. R. Kaushal, Shri J. N. Khan, Shri Samiullah. ;Kishori Ram, Shri. Lakshmi Menon, Shrimati. XaU, Shri K. B. Xeuva, Shri P. T. TVIahtha, Shri S. N. Malkani, Prof. N. R. !Maya Devi Chetty, Shrimati. Mazhar Imam, Syed. Misra, Shri S. D. Mitra, Dr. P. C. Mookerji, Dr. Radha Kumud. Mujumdar, Shri M. R. Mukerjee, Shri B. K. Nagoke, Jathedar U. S. Narayan, Shri D. Narayanappa, Shri K. Onkar Nath, Shri. Parmanand, Dr. Shrimati Seeta. Pattabiraman, Shri T. S. Pawar, Shri D. Y. Fheruman, Sardar D. S. Pillai, Shri C. N. Pustake, Shri T. D. Raghu Vira, Dr. Raghubir Sinh, Dr. Hajagopalan, Shri G. Reddy, Shri A. B. Reddy, Shri Channa.

Reddy, Shri Govinda,
Beddy, Shri K. C.

Saksena, Shri H. P. Sarwate, Shri V. S. Sharda Bhargava, Shrimati. Sharma, Shri B. B. Shetty, Shri Basappa. Shoila Bala Das, Kumari. Shrimali, Dr. K. L. Singh, Capt. A. P. Singh, Babu Gopinath. Sinha, Shri B. K. P. Sinha Shri R. B. Sinha, Shri R. P. N. Sobhani, Shri O. Sumat Prasad, Shri. Tajamul Husain, Shri. Tamta, Shri R. P. Tankha, Pandit S. S. N. Vaidya, Shri Kanhaiyalal D. Valiulla, Shri M. Varma, Shri C. L. Vyas, Shri K.

NOES—25. Angre, Col. C.S.R. Banerjee, Shri S. Biswasroy, Shri R. Deshmukh, Shri N. B. Dhage, Shri V. K. Dwivedy, Shri S. N. Ghosh, Principal Devaprasad. Gupta, Shri B. Gumswami, Shri S. Imbichibava, Shri E. K. Kane, Dr. P. V. Kishen Chand, Shri. Kunzru, Shri H. N. Mahanty, Shri S. Manjuran, Shri M. Mann, Lt.-Col. J. S. Mathur, Shri H. C. Mazumdar, Shri S. N. Misra, Shri C. G. Narasimham, Shri K. L. Prasadaraao. Shri. Ranawat, Shri M. S.

Rath, Shri B.

Sokhey, Maj-General S. S.

Sundarayya, Shri P.

The motion was adopted.

4 P.M.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill. Motion moved:

"That clause 2 stand part of the Bill."

There are five amendments.

SHRI S. N. DWIVEDY (Orissa): Sir, I move:

3. "That at page 1, for the existing clause 3, the following be substituted, namely: —

'2. *Amendment of section 1, Act LVI of 1951.*—In section 1 of the the Press (Objectionable Matter) Act, 1951 (hereinafter referred to as the principal Act), in sub-section 3, for the words "for a period of two years from the date of its commencement", the words "till the report of the Press Commission is published" shall be substituted'."

SHRI PRASADARAO (Andhra): Sir, I move:

4. "That at page 1, line 9, for the words 'four years', the words 'two years and two months' be substituted."

SHRI B. GUPTA: Sir, I move:

5. "That at page 1, line 9, for the words 'four years' the words 'two years and four months' be substituted."

SHRI P. SUNDARAYYA: Sir, I move :

6. "That at page 1, line 9, for the words 'four years', the words 'two years and six months' be substituted."

7. "That at page 1, line 9, for the words 'four years', the words 'three years' be substituted."

MR. DEPUTY CHAIRMAN: Amendments moved:

"That at page 1, for the existing clause 3, the following be substituted, namely :

'2. *Amendment of section 1, Act LVI of 1951.* In section 1 of the Press (Objectionable Matter) Act, 1951, (hereinafter referred to as the principal Act), in sub-section 3, for the words "for a period of two years from the date of its commencement", the words "till the report of the Press Commission is published" shall be substituted'."

"That at page 1, line 9, for the words 'four years' the words 'two years and two months' be substituted."

"That at page 1, line 9, for the words 'four years' the words 'two years and four months' be substituted."

"That at page 1, line 9, for the words 'four years' the words 'two years and six months' be substituted."

"That at page 1, line 9, for the words 'four years', the words 'three years' be substituted."

The clause and the amendments are now open for discussion.

SHRI S. N. DWIVEDY: Sir, my amendment is very simple. It has been stated in the Statement of Objects and Reasons and also by the Home Minister in moving the Bill that, when the Press Commission's report is published, he will bring forward a comprehensive Bill. Therefore, Sir, I want it to be embodied in the Act itself that this measure will not be continued on the statute book after that report is published, because, as you know, when the Press Commission submits its report, naturally before it is published, it will receive consideration at the hands of the Government and they

would take necessary action on that. I feel that the continuation of such an Act on the statute book even for a moment longer than is necessary will be a slur on the fair name of India. Therefore, if the Home Minister is really anxious that he would not take recourse to any special measure, then he should have no objection to accept this very simple proposal; *i.e.*, instead of keeping this for two years, he should bring forward another Bill and this will be allowed to lapse, as soon as that report is published. The argument may be advanced as to what would happen between the period when the report is published and the actual legislation in this House. I do not think that, if the Government is prompt, the period would be long. They can bring it forward as quickly as possible. Even if they do not, there will not be much harm done within a period of one month or 15 days; the heavens would not fall. The Government would not crack, and the country also would not be misled by the sort of publications which you want to suppress. With these words, I hope the Home Minister will see his way to accept this amendment.

SHRI P. SUNDARAYYA: Mr. Deputy Chairman, we have moved a number of amendments to this clause, reducing the period to two years and two months, two years and four months, two years and six months and even to three years, or at least till the Press Commission submits its report. If the Press Commission takes a longer time than four months or six months, certainly the Act can remain. This is the minimum that they can do, if they are not prepared to withdraw it. That is exactly why these amendments have been given. In view of the further strict restrictions which the Government propose in the amendments which they have brought forward in the Bill, certainly the minimum that they could do is that they accent the time limit to be not more than two years and another six months at the most. *The* main argument which the Home Minister may advance is that after the Press Commission submits its report, that report has got to be sent to the

various States for them to study, the Home Ministry will have to draft a Bill, including the recommendations which they like and rejecting the recommendations which they do not like, and that by that time the Act will lapse, but this argument is not going to be accepted by us, because we know how Government, whenever they want to delay, can take not only six months or eight months, but they will see to it that these two years' period is extended. That is exactly the reason why we don't want to give a free hand for two years for this Act to continue and that is why the amendment limits it for 6 months or a maximum of one year or till the time the Press Commission actually submits its report. As such I want the Government to accept anyone of these amendments in which case some of the provisions may be at least covered with sugar to gulp this wretched Act.

SHRI PRASADARAO: The Home Minister in introducing the Bill has said that there is danger to the country and therefore there is the necessity of extending this Bill. Yesterday the hon. Member Diwan Chaman Lal also said that there is some emergency because of the US-PAK military alliance etc. Dr. Katju has, today referred to Communists and the US-PAK alliance and stated that these combined together had created a national emergency and therefore there was necessity for this. But I could not understand with all the arguments that he has put forward how this so-called national emergency in their imagination warrants such a drastic Bill which will completely muzzle the whole press. If there was really an emergency, other measures also would be required but were they taken? He said it is because of the US-PAK military alliance—and it is true—that some danger arises from that. We don't minimise that but on that account, have they increased the military budget? Have they thought that a national emergency has arisen and for that all our resources have to be pooled for the defence of the country as if the country is going to be attacked very tomorrow? Has the President

[Shri Prasadarao.] in his Address to Parliament mentioned that it is an emergency, that it is a big danger to the country? Nothing of the sort. Only to get this Bill introduced and passed it is said a big emergency has arisen. Secondly, he says that an emergency has arisen and he has instanced some writings in some yellow press or gutter press, whatever we call it. But do those few writings warrant the passing of such a drastic Bill as will curtail the freedom of the press? If supposing some small paper is writing that, what is the circulation of that paper which he thinks.....

MR. DEPUTY CHAIRMAN: Please speak on the clause, Mr. Prasadarao.

SHRI PRASADARAO: Yes, Sir. That is why I am saying that this Act should not be extended for two years but should be limited only for 2 months as there is no such emergency to warrant its extension for two years. If the circulation of such a paper is big and the whole political, social and cultural life of the people are being contaminated by it, then certainly we could have understood the urgency of this Bill but there is no such thing. Out of the 6000 presses and papers, only a few papers came under this and even of those, only very few were convicted. So taking the instance of a few cases you cannot condemn the whole press for that and try to extend this Act for two years. There is also another way by which you can fight those papers that carry on such scurrilous or venomous campaigns. The people themselves will refuse them. We have seen many such papers which were refused by the people and which have died in course of time. So such measures should be adopted and not this drastic Bill which curtails the freedom. So we have moved that this should not be extended for 2 years but should be extended only for 2 months. I therefore think that even now the Home Minister should consider. The press people themselves have said that if there are any such writings which imperil the safety of the country or our social life, then they themselves

would chalk out a code of ethics. The Press Commission is also going to make its recommendation. Therefore it is by such measures that you have to control the press and not by these measures. So this should not be extended for two years but its life should be limited.

SHRI B. GUPTA: (West Bengal):
Mr. Deputy Chairman.....

MR. DEPUTY CHAIRMAN: Are you prepared to give 4 months?

SHRI B. GUPTA: Yes. As the leader of our Group has spoken and also another hon. Member, I need not say much. I should like to make one or two additional points. Sir, let us have as little of the evil as possible and therefore so many propositions have been placed here by way of amendments. These are alternatives and, as it has been suggested, it is for the hon. Home Minister—he is not listening to my speech now but is engaged in some conversation—to accept one or the other amendment out of these. Sir, why do we want to say that? It has been suggested that the Press Commission is likely to give its report. Now the Home Minister himself said in the course of his speeches that he would be prepared to attach importance to the public opinion expressed otherwise than in the columns of the press. In fact he made a very bold offer saying that if he were to go to the public and discuss dispassionately the measure, 95 per cent, of the people would support it. This is what he said. Let us then restrict the time-limit for this law to a period of time for eliciting public opinion in a manner in which he thinks it should be elicited. I would like only to point out again to the editorial that has appeared in 'The Statesman' today entitled "Fairer Offer". In the editorial it is said:

"Finding that the Press unmistakably prefers the ordinary law, he now in the Council of States maintains that dislike is confined to the Press and that, if the measure were discussed "dispassionately" in

public, 95 per cent, of the people would favour it. This stand is safer than the previous one, because the claim is not readily verifiable; but we do not believe that it is better founded. Dr. Katju also asked the House not to treat the question as a "party matter". Had it not been so treated in 1951, there seems reason to doubt whether the original Act would have been passed."

This is what the 'Statesman' said. According to the 'Statesman' Dr. Katju now, in the Council of States, has chosen a safer ground. We want to meet him on that ground precisely which according to the 'Statesman' is safe for Dr. Katju. Therefore let us have 2 or 3 or 4 months if he likes when we can go to the public to test as to how the public reacted to it, in a manner in which he wants to test the public opinion. This is one point.

The second point is that we want to limit the time because of the speeches that had been made and all the more because of the speeches that had been made by certain Members of the Government Party. Here was the gentleman, Diwan Chaman Lall, and he must have been almost in a political laboratory by now going through a very varied process of metamorphosis. I am not dealing with him—nobody attaches any importance to him—not even the Congress Party. Had it been so he would have been.....

SHRI T. S. PATTABIRAMAN (Madras): On a point of order.

MR. DEPUTY CHAIRMAN: It is not necessary.

SHRI B. GUPTA: I am speaking to -the Home Minister. I know it is inconvenient but how can I say very nice and palatable things? Sir, what he has been doing all the time? He has been quoting certain editorials; but I say Sir, that not one of the editorials of the Bengal papers from which he has quoted justifies the existence of this Act even for a single moment. On the contrary he is criticising in that manner editorials which have been des-

cribed by well-known personalities in the field of literature as pieces of literature. I find that he has been deriding these things and therefore, we know that this power will be abused, especially after what he has said here. He referred to an editorial of a Calcutta paper in defence of his case—though he had no case at all—and he said, "Look at this article writing about 'shame of the mother's womb' ". This was quoted in the other House. Diwan Chaman Lall repeated it here and he flaunted it. I would only like to draw the attention of the House to Tagore's writing here in this book to a poem which is called "*Gandharir Abedan*". In that Duryodhan indirectly is described as the shame of mother's womb. So this expression occurs there in this great poem. The word "womb" occurs here. Let him know that. Secondly, at this rate he would be banning Kalidas. After all he can pick out a few words from Kumar Sambhav or from Ritu Samhar and say that these things are obscene, that they contain obscene expressions. I am not prepared¹ to extend the time as has been suggested in the amendment, in order to enable such ignoramuses to sit in judgment over the literary works of our people, the great literary heritage that we possess. Now, that particular editorial came in question before the enquiry committee which was appointed to look into the great police beating of the Calcutta journalists in July last and the question was put to Mr. Ray who was at one time the editor of the *Searchlight* and now happens to be the chairman of the Bengal Working Journalists' Association. The question was put straight to him, "What do you think of that editorial?" He said, "I consider it a great piece of literary work." And the person who said that—Mr. Ray—is a Congressman to the last fibre of his being and that is what he said. The whole of Bengal reads that editorial as a magnificent piece of literary work, while we find that in this Parliament, that is being said by ignorant people. I do not expect them to know the Bengali language. That is quite understandable. But they

[Shri B. Gupta.] I should refrain from making such scurrilous comments on an editorial which has been deemed by eminent men in the field of literature as a piece of literature. Therefore, I say: to allow an extended period to this Act, to allow it a longer period would be setting in motion these ignorant people, these men to whom literature and art mean nothing today, but power means everything to go against the creations of literature, to hit out against such writings in the name of scurrilous writings and to hold these to public opprobrium and thus suppress the Press. It is regrettable that I have to speak today in support of the editorial of a paper which supports the Congress, while the hon. gentleman who owns that newspaper and happens to be a Member of this House, is not present here to defend his case. But we make no party issue of it and we defend his cause because that cause is a right one. Therefore, I say the hon. Home Minister should accept one or the other of the very legitimate amendments and give up the opposite line which spells danger to literature also—apart from limiting rightful activities in the field of journalism.

DR. K. N. KATJU: Sir, I greatly regret that I am not very much moved by the appeal made to me by the hon. Member and

SHRI B. GUPTA: I never had any illusions of that sort.

DR. K. N. KATJU: I can only repeat the reason which I have already advanced, namely, that this period of two years is not a fixed period. We are proposing to bring in a Bill as soon as the Press Commission's recommendations are received by us.

SHRI B. RATH: Then why this Bill?

DR. K. N. KATJU: So far as the very eloquent comments on the Calcutta paper are concerned, they do my heart good. But may I ask my hon. friend to read the report of Mr. Justice P. B. Mookerji on the happenings in Calcutta?

SHRI B. GUPTA: May I ask the hon. Minister to ask the Bengal Govern-

ment to publish it? It is not being published. Why not make it public?

MR. DEPUTY CHAIRMAN: Order, order.

DR. K. N. KATJU: I would request my hon. friend to kindly make an effort to be kind to other speakers also. I say, the report of Mr. Justice Mookerji, will, I think, be useful reading.

SHRI B. RATH: Sir, just a word. The hon. Minister says, "Read the report". May I request him through you, Sir, to place that report on the Table?

SHRI B. GUPTA: Yes, we want to read it.

MR. DEPUTY CHAIRMAN: You can write to him and you will have it.

SHRI P. SUNDARAYYA: Is it in the Parliamentary library?

MR. DEPUTY CHAIRMAN: Now,, does the hon. Member press his amendment? Anyway, he has not read anything from that report. You can write to him for it.

SHRI P. SUNDARAYYA: It is not a private business.

DR. K. N. KATJU: Sir, I am not accepting the amendment.

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 1, for the existing clause 3, the following be substituted, namely:—

'2. *Amendment of section 1, Act LVI of 1951.*—In section 1 of the Press (*Objectionable Matter*) Act, 1951 (hereinafter referred to as the principal Act), in sub-section 3, for the words "for a period of two years from the date of its commencement", the words "till the report of the Press Commission is published" shall be substituted'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Out of amendments Nos. 4, 5, 6 and 7, I shall

put the first and if it is negatived, the others will be deemed lost and if it is carried, then we can take up the others.

The question is:

4. "That at page 1, line 9, for the words 'four years', the words 'two years and two months' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: So amendments Nos. 5, 6 and 7 are barred.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

MR. DEPUTY CHAIRMAN: Motion moved :

That clause 3 stand part of the Bill. Amendment No. 8 is a negative one and so it is out of order. Out of the other amendments, I find that only amendment No. 9 (k) is in order, the others are out of order.

SHRI P. SUNDARAYYA: They are in order, Sir.

MR. DEPUTY CHAIRMAN: How do you say they are in order?

SHRI P. SUNDARAYYA: Sir, all the amendments that have been suggested in this connection are in order, Sir, because they all come under section 2 of the Act which is clause 3 of the present amending Bill. When the Government has got the right to bring in an amending Bill and want to enlarge the repressive powers.....

MR. DEPUTY CHAIRMAN: Each is an independent clause, Mr. Sundarayya.

SHRI P. SUNDARAYYA: This is a definition and in the definitions there are a number of definitions and they are all interlinked. For instance,

amendment 9 (k) is about "unauthorised news-sheet".

MR. DEPUTY CHAIRMAN: That is the only amendment that is in order.

SHRI P. SUNDARAYYA: If that is in order, when the question of "unauthorised news-sheet" comes in, then, the question as to what an authorised news-sheet is, also comes in. Unless we know what an authorised news-sheet is, how can we say what an unauthorised news-sheet is? In the amending Bill they have brought in the question, of unauthorised news-sheets and for that you should define what an authorised news-sheet is, as is sought to be done in 9(f). If you read carefully, you will see that news-sheet means any document other than a newspaper containing published news or comments on public news. It means.....

MR. DEPUTY CHAIRMAN: Unauthorised news-sheet has been defined in (k).

SHRI P. SUNDARAYYA: That is true; but when the news-sheet is defined to include anything except a newspaper, it would mean that it can be a book, it can be a document, it can be a leaflet, or a music-sheet, a chart or anything.

Now they can come under news-sheets. When you define law like that it will mean that even a book if it contains public comment can come within the scope of this.

MR. DEPUTY CHAIRMAN: If you read (f), you will find 'a newspaper containing public news and comments on public events'.

SHRI P. SUNDARAYYA: That is true, Sir.

MR. DEPUTY CHAIRMAN: So, a book cannot come under it.

SHRI P. SUNDARAYYA: Suppose a book publishes comments, a leaflet I contains comments then certainly it

[Shri P. Sudarayya.] comes under the scope of this, and therefore, sometimes a book can be included if it contains comments on public news. They are so inter-related sections. My submission is that since these definitions are not separate • clauses—though they are put as separate clauses, they are inter-related—the whole underlying idea is to get as many printed articles as possible to come under the scope of this Bill. After defining the "news-sheet" they go on to define "unauthorised news-sheet" and here also they have tried to enlarge the definition. The latest definition includes not only news-sheets that have not paid the security demanded but also those sheets which do not contain the name of the printer or publisher. This wide definition is being utilised not only for the news-sheets in the normal sense but also for the purpose of subsection (f) which means that a book, -a document or anything which has got published in it a comment on public news can also be brought within the scope of this. As such, when the -Government, by bringing in an amendment to one section, tries to extend the repressive powers to include books, charts of music, paintings and such other wider things—it also includes visible representation—it is the right of this House and it is within the scope and powers of this House to move amendments to restrict such wide application. When they want to extend the powers, should we not have the right? Of course, in an amending Bill, we cannot move amendments to other sections but when they bring an amendment to section 2 to enlarge the powers, have we not got the powers to move amendments to limit the powers? When they bring forward amendments, they ought to have anticipated that there may be also others in the House who would like to restrict the grant of such powers. So, I hope, Sir, that you will rule in my favour.

MR. DEPUTY CHAIRMAN: I am sorry, I cannot accept your interpretation, Mr. Sundarayya.

Amendments Nos. 8 to 26 are amend-*ments* to clause 3 of the Bill. Clause 3 of the Bill seeks to amend clause (k) of section 2 of the Press (*Objectionable Matter*) Act of 1951. This section is the definition section of the Act and the definitions are set out in the various clauses of the section. Unlike other sections of the Act, each clause of section 2 relates to an independent subject-matter and, therefore, should be treated as provisions not necessarily related to each other. It would, therefore, follow that any amendment to clause 3 of the Bill should be relevant to and within the scope of clause (k) of section 2 of the principal Act. In other words, all amendments which are not relevant to clause (k) will be outside the scope of clause 3 of the Bill.

Accordingly, amendment No. 9 [except in so far as it relates to clause (k)] and amendment Nos. 10 to 24 and 26 will be out of order. Amendment No. 8 is a negative one and I have already ruled it out of order. So, you may move amendment No. 9 (k), as also amendment No. 25.

SHRI B. GUPTA: Sir, I move:

9(k). "That at page 1, for the existing clause 3. the following be substituted, namely:—

'3. *Amendment of section 2, Act LVI of 1951.*—In section 2 of the principal Act, for clause (k), the following clause shall be substituted, namely:—

"(k) 'unauthorised news-sheet' means any news-sheet in respect of which security required under the Act has not been furnished within a period of six months, when no appeal has been preferred or, when an appeal is made, within a period of six months from the date of disposal of the appeal;"."

SHRI P. SUNDARAYYA: Sir, I beg to move:

25. "That at page 1, after line 14, the following be inserted, namely: —

'and the following proviso shall be added to the said clause, namely:

"Provided that no such news-sheet shall be deemed to be unauthorised news-sheet before the lapse of six months from the date on which an order requiring security has been made or before the disposal of an appeal against such order whichever happens later; and".' "

MR. DEPUTY CHAIRMAN: Both the amendments and the clause are open for discussion. Yes, Mr. Gupta.

SHRI B. RATH: On a point of submission, Sir. Although amendment No. 9 deals with so many definitions.....

MR. DEPUTY CHAIRMAN: Are you speaking on the amendments, or are you speaking on my ruling?

SHRI B. RATH: Sir, I am submitting that in view of.....

MR. DEPUTY CHAIRMAN: If you are speaking about the relevancy of the amendments, I have already given a ruling. If you are speaking on the amendments, I will call you afterwards.

SHRI B. RATH: I would request you just to reconsider your ruling because although they are independent, they are inter-related.

MR. DEPUTY CHAIRMAN: I am sorry, Mr. Rath. Yes, Mr. Gupta.

SHRI B. GUPTA: First of all, Sir, I would like to draw your attention to the original amendment that has been proposed. Here, Sir, "news-sheet" has been defined as follows: "or any news-sheet which does not contain the name of the printer and the publisher". You will have noted, Sir, that this thing has been very widely defined. What we want to propose in

its place is a certain saving clause, if the situation could still be saved to some extent. Therefore, we say that after you have demanded of an unauthorised news-sheet, which under the original Act, means a news-sheet in respect of which security has been, required under the Act—but has not been furnished, a quite complete idea— as far as it goes—a security, there should be a time-limit. In the amending Bill, you have sought to include also any news-sheet that does not contain the name of printer and the publisher which means that a news-sheet which does not contain the name of the printer and publisher would, *ipso facto* be regarded as unauthorised.

SHRI S. MAHANTY (Orissa): Is there a quorum, Sir? I don't think there is.

MR. DEPUTY CHAIRMAN: Do you want to take a count?

SHRI S. MAHANTY: Yes, Sir.

MR. DEPUTY CHAIRMAN: (*After counting.*) Yes, there is.

SHRI P. SUNDARAYYA: No, Sir. now now.

SHRI S. MAHANTY: I think now there it is.

MR. DEPUTY CHAIRMAN: People will be coming and going.

SHRI B. GUPTA: Meanwhile, is there a quorum?

Anyhow, Sir, you will have noted that it has been, if I may say so, a most fantastic idea. It may be a pamphlet; it may be a leaflet or it may be anything, coming from various types of people, various organisations and may be that in some cases, the-technical thing, as far as the law is concerned, may not be known to the people who publish them. That is one reason why we have moved an amendment to safeguard such people. Now, you demand a security. We want that six months' time should be given after a demand has been made for a security—six months from the time of

[Shri B. Gupta.] appeal and, if he does not appeal, from the time of the alleged publication of this thing. It is a reasonable request. It conforms to commonsense because we do not know what is the security that will be demanded. The amount of security to be demanded is not known. That, according to Dr. Katju, should be left in the hands of the Judge whereas we want that to be left in the hands of the Jury. We shall see how it ends ultimately; it seems that even if there is no quorum, the majority will not be wanting to have it passed. Therefore, I say, that we do not know as to what is going to happen and that a reasonable time-limit should be given to find the money.

Now, I am taking his impossible position that money must be demanded, since he must insist on his pound of flesh. Now, Sir, if he insists on his pound of flesh, he should not give up absolutely the dicta of Shylock. There are very reasonable people, who can behave reasonably. There are bandits, dacoits, thieves, who also behave reasonably these days. We are living in the midst of the twentieth century.

Now coming to the point, there should be a time-limit for the press to find the money, to collect the money, to explore legal ways and means and see whether the Government action against the press can be checkmated. It may also be that the aggrieved party may like to appeal to the Government or may like to move other quarters so that things are set right, the party's grievances are met and some relief is obtained. But here, as it stands, it comes down heavily upon the person immediately anything is determined that it is an unauthorised news-sheet. An unauthorised news-sheet, according to this amending Bill, would be almost anything that comes out by way of publication. Therefore, Sir, we say that this is not fair; this is absolutely unjust. Any one who has the slightest sympathy for the press—unless he condemns the whole press, unless he condemns everything that comes out in print, unless he has not the slightest

est confidence in the people bringing out newspapers—will not come out with this kind of measure which leaves no opportunity whatsoever for exploring ways and means for relief or even for finding the security money. Money is not after all an easy thing to secure for the poor people. I do not think they have in mind the profiteers and the blackmarketers. Here it is the common people who would be affected, the small people who live in debt and on deficits. How to find the money immediately? But you ask for the money. Therefore, Sir, a time-limit should be put so that the party is not so cruelly put to hardship. That is what I want to say.

SHRI P. SUNDARAYYA: Mr. Deputy Chairman, I only submit that our amendment that a time-limit should be prescribed should be accepted and the paper should be considered as an unauthorised news-sheet only after six months have elapsed. Suppose you ask a security of Rs. 5,000 or Rs. 10,000 or in some cases as he said, Rs. 30,000, it may not be possible for them immediately to pay that security. We have other amendments which will come later on, where we have said that the whole proceedings should be stayed till the appeal is disposed of. We don't have any hopes that the Home Minister is going to accept that. This amendment is in consonance with that later amendment. Supposing for argument's sake that he is going to accept that till the appeal is disposed of, no proceedings should be taken against the paper. That means that no security need be deposited till then. The time-limit that has been provided for appeal is only sixty days in which it will be very difficult for them to collect the money. In consonance with the later amendments that we have tabled we say here that no news-sheet should be considered an unauthorised news-sheet before the lapse of six months from the date on which an order requiring security has been made or before the disposal of an appeal against such order, whichever happens later. It is exactly to see that the small press, which may be in the danger of

being asked security, is given enough time within which to get the money and deposit it that greater time is required and therefore this is a very moderate amendment. You should not consider it an unauthorised news-sheet, if there is an appeal pending, till the time the appeal is disposed of. If an appeal is not pending, then also give them more time to collect the funds. As such I hope the Home Minister would be charmed with our reasonableness and accept our amendment.

DR. K. N. KATJU: I am sorry, Sir, I am unable to support my hon. friend's case because the amendment is really intended to make great fun of the whole Act. The proceedings last months, sometimes one year. The Act prescribes a period of twenty-one days and if any security is demanded under sections 4 and 5 of the Act, that security must be deposited within twenty-one days and if it is not deposited within twenty-one days, the result follows. The amendment says "six months" and we will carry on. It is ridiculous. I am unable to accept this amendment.

MR. DEPUTY CHAIRMAN: The question is:

9 (k). "That at page 1, for the existing clause 3, the following be substituted, namely: —

'3. *Amendment of section 2, Act LVI of 1951.*—In section 2 of the principal Act, for clause (k) the following clause shall be substituted namely: —

"(k) 'unauthorised news-sheet' means any news-sheet in respect of which security required under the Act has not been furnished within a period of six months, when no appeal has been preferred, or when an appeal is made, within a period of six months from the date of disposal of the appeal:—"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

25. " That at page 1, after line 14, the following be inserted, namely: —

'and the following proviso shall be added to the said clause, name-ly:-

"Provided that no such news-sheet shall be deemed to be an unauthorised news-sheet before the lapse of six months from the date on which an order requiring security has been made or before the disposal of an appeal against such order whichever happens later; and"."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

MR. DEPUTY CHAIRMAN: Motion moved: That clause 4 stand part of the Bill.

There are amendments.

SHRI B. GUPTA: I move:

27. "That at pages 1-2, for the existing clause 4, the following be substituted, namely: —

'4. *Amendment of section 20, Act LVI of 1951.*—In section 20 of the principal Act,—

(a) in sub-section (3) for the words "Such officer as may be appointed by the State Government in this behalf", the words "An officer who is or has been a High Court Judge and who is appointed in this behalf by the State Government" shall be substituted and shall be deemed always to have been so substituted;

(b) to sub-section (3), the following proviso shall be added and

[Shri B. Gupta.] shall be deemed always to have been so added, namely:—

"Provided that no person shall be entitled to serve as a juror if he has any proprietary interests in any newspaper as defined in the Press Registration of Books Act, 1867 (XXV of 1867) or in any printing press valued at more than rupees twenty-five thousand." ;

(c) to sub-section (5) the following proviso shall be added and shall be deemed always to have been so added, namely:—

"Provided that for the purposes of section 277 of the Code an enquiry under this Act shall be deemed to be a trial before the High Court."; and

(d) after sub-section (5), the following sub-sections shall be added and shall be deemed always to have been so added, namely:—

(6) In any enquiry under this section it is the duty of the jury to decide whether any newspaper, news-sheet, book or other document placed before it contains any objectionable matter and also to decide whether there are sufficient grounds for making an order for the demanding of security or for directing any security which has been deposited, to be reduced or any part thereof to be forfeited to the Government or for directing further security to be deposited.

(7) It is the duty of the Sessions Judge to decide on the admissibility of oral, documentary or other evidence and to make an order in accordance with the decision of the jury.' "

SHRI P. SUNDARAYYA: I move:

28. "That at pages 1 and 2, for the existing clause 4, the following be substituted, namely:—

'4. *Amendment of section 20, Act LVI of 1951.*—In section 20 of the

principal Act,—

(a) In sub-section (3), for the words "Such officer as may be appointed by the State Government in this behalf" the words—"An officer who is or has been a High Court Judge and who is appointed in this behalf by the State Government" shall be substituted and shall be deemed always to have been so substituted;

(b) to sub-section (3) the following proviso shall be added and shall be deemed always to have been so added, namely:—

"Provided that no person shall be entitled to serve as a juror if he has any proprietary interests in any newspaper as defined in the Press Registration of Books Act, 1867 (XXV of 1867) or in any printing press valued at more than rupees twenty-five thousand and provided that such juror is an Indian and a working journalist.";

(c) to sub-section (5) the following proviso shall be added and shall be deemed always to have been so added, namely:—

"Provided that for the purposes of section 277 of the Code an enquiry under this Act shall be deemed to be a trial before the High Court" ; and

(d) after sub-section (5), the following sub-sections shall be added and shall be deemed always to have been so added, namely:—

(6) In any enquiry under this section it is the duty of the jury to decide whether any newspaper, news-sheet, book or other document placed before it contains any objectionable matter and also to decide whether there are sufficient grounds for making an order for the demanding of security or for directing any security which has been deposited, to be reduced or any

part thereof to be forfeited to the Government or for directing further security to be deposited.

(7) It is the duty of the Sessions Judge to decide on the admissibility of oral, documentary or other evidence and to make an order in accordance with the decision of the jury'."

SHRI PRASADARAO: I move:

29. "That at page 2, lines 9 to 19 be deleted."

SHRI P. SUNDARAYYA: I move:

30. "That at page 2, after line 39. the following proviso be inserted, namely: —

'Provided that the amount of security demanded or forfeited at any time does not exceed one thousand rupees.' "

MR. DEPUTY CHAIRMAN: Clause 4 and these amendments are open for discussion.

SHRI P. SUNDARAYYA: Sir, here is another controversial clause which the Home Minister says is only a minor one. It is a major clause and it is a major amendment even according to eminent scholars like Dr. Kunzru and Dr. Kane. As such, Sir, we have to press for this amendment, namely, "in sub-section (3) for the words 'Such officer as may be appointed by the State Government in this behalf, the words 'An officer who is or has been a High Court Judge and who is appointed in this behalf by the State Government' shall be substituted and shall be deemed always to have been so substituted;". In the Bill it says: "(3) Such officer as may be appointed by the State Government in this behalf shall, consistently with the provisions contained in sections 319 and 320 of the Code in so far as they may be applicable thereto, prepare and make out in alphabetical order a list for the

6 C. S. D.

entire State of persons residing within the State, who by reason of their journalistic experience or of their connection with printing presses or newspapers or of their experience in public affairs are qualified to serve as jurors, and the list shall contain the name, the place of residence and occupation of every such person."

Sir, we want that not any officer should do these things but only a High Court Judge should be empowered to do this thing.

The second thing is to sub-section (3), the following proviso shall be added and shall be deemed always to have been so added, namely: —

"Provided that no person shall be entitled to serve as a juror if he has any proprietary interests in any newspaper as denned in the Press Registration of Books Act, 1867 (XXV of 1867) or in any printing press valued at more than rupees twenty-five thousand and provided that such juror is an Indian and a working journalist."

Sir, we are carrying the sama idea. If ultimately you have to decide the guilt of a press, it should be done by the working journalists. The whole idea behind our amendment is that it should be done by working journalists. There is no use having a big list of jurors in which the big proprietors will have a predominant voice in which case the rights of the smaller press are likely to be endangered and as such we should have more working journalists who know how to write, who feel the difficulty in writing, and they should sit in judgment whether any such writing is prejudicial or comes under the mischief of section 3 of the principal Act. That is why. Sir, we have defined these things, namely, that the personnel of the jury should be Indian working journalists who do not have any proprietary rights in any printing press

fShri P. Sundarayya.] valued at more than rupees twenty-five thousand. Then to subsection (5), the following proviso shall be added and shall be deemed always to have been so added, namely: —

"Provided that for the purposes of section 277 of the Code an enquiry under this Act shall be deemed to be a trial before the High Court."

This is another important proviso which we wanted to add. Now, here is a jury being provided in a Sessions Court. It is not provided there now. We want to make it absolutely clear that when the Press is brought before a Sessions Court the case should be treated as if it would be before a High Court. For in a High Court the accused can certainly object, up to six persons, to any person whom he does not like from the jury list whereas that right may not be there in a Sessions Court, because the jury in a Sessions Court are only assessors. Therefore because we are providing for a special kind of a jury in this particular case the provisions that apply for a trial before the High Court should apply in this case also. That is the suggestion.

Then, we want to add this subsection: "In any enquiry under this section it is the duty of the jury to decide whether any newspaper, news-sheet, book or other document placed before it contains any objectionable matter and also to decide whether there are sufficient grounds for making an order for the demanding of security or for directing any security which has been deposited or any part thereof to be forfeited to the Government or for directing further security to be deposited." Sir, by this addition we want to restore the position as it is there in the original Act of 1951. When that Act was brought in 1951, even then there was no emergency and there was no need for that. And that is exactly

why the whole Press opposed it; even at that time the Government was unable to produce any material to justify that Act. After two years even now the Government is yet unable to produce any material to justify this measure. When that is the position, why should further extraordinary powers be given that the right of the jury to decide what amount of security has to be demanded and what amount of security has to be forfeited should be taken away from the jury and be given to one single person, the Sessions Judge? This we cannot accept and as such by my amendment I propose to see that the original position as it is in the Act is restored and that the position is not worsened.

Now, the last point is, it is the duty of the Sessions Judge to decide on the admissibility of oral, documentary or other evidence and to make an order in accordance with the decision of the jury. This is only a simple procedural point. If there are no regular rules and other things, the Sessions Judge could decide on the admissibility of oral, documentary or other evidence, but I want that he must act in accordance with the decision of the jury.

So, Sir, this is a comprehensive amendment putting the whole question in its proper perspective, in its proper understanding, and ensuring, even if this obnoxious Act is to continue, that the position is not further worsened; but at the same time the powers of the jury may be enlarged so that the proceedings may be considered as if it was a trial before a High Court. I hope that the Home Minister will at least agree to have the High Court procedure before the Sessions Court.

SHRI S. N. DWIVEDY: Sir, the purpose of my amendment is very clear. The Home Minister has said that this Bill is meant only for a temporary period and I fail to understand why he is so very anxious to amend the present Act. Therefore I have brought forward this amendment that this clause should be deleted so that the clause as it existed in the Act should

remain. But perhaps there is no necessity to explain this because, as I find, the Home Minister is determined not to accept any amendment whatsoever.

SHRI B. GUPTA: Sir

MR. DEPUTY CHAIRMAN: You have got to be very brief, because we have got another Bill. Otherwise we will have to sit beyond seven.

[THE VICE-CHAIRMAN (SHRI AKHTAR HUSAIN) in the Chair.]

SHRI B. GUPTA: These are very clear amendments and hon. Members have spoken on them. Still I would like to add a few more points. (*Noticing the Home Minister in conversation with Mr. Sundarayya*) Since the Home Minister has come near to us, well, Sir,

DR. K. N. KATJU: I am always with you.

SHRI B. GUPTA: I hope conversion of heart is also taking place.

DR. K. N. KATJU: No, no. I am going away. It is dangerous.

SHRI B. GUPTA: Now, the position is this. This amendment relates to the appointment of the jury. As it has been pointed out in the course of the discussion—and it has not even been disputed by the Government—that the matter should be left, according to them, to some persons with some expert knowledge or experience. If that is so, then the appointment of such people becomes a very important job and the selection of such persons is undoubtedly a very important job. Who should be entrusted with it? Who should prepare a list of such persons? It has been suggested that the High Court Judge should do it. Unless you specify the person, we are left absolutely in the dark. We do not know what will happen; we do not know whom the Government will appoint as the competent authority under this particular section.

Sir, forgive me if I say a few things which may not seem very palatable. There may be, for instance, in the Government people who would like scurrilous literature, who would like to see nude pictures and all these kinds of things. There are very many people high up who read such literature and they are the greatest patrons of such literature. Suppose some such Minister or some such people in the Secretariat are to decide on the question of appointment of a competent authority under this Act, it may be that they will appoint somebody who will relish such literature. Therefore, Sir, from that angle also, there is this danger, because we do not trust many people who sit in high places. We have been to some of their houses and when we looked at their shelves we did not see Tagore or other literary works, but we saw all sorts of American stuff. Therefore we say, let it be clearly defined as to who will be appointed and in whose hands the power to draw up a panel of jurors will be given. It is very important. Otherwise, take our own State. In the Council of Ministers we have people who are fairly ignorant of anything good, whose literary capacity is very very little and who do not seem to know even ordinary things. When they make speeches in a session they would read out something which they do not mean or say something which they do not mean, or would mean something which they did not say. Perhaps the Police Commissioner is likely to be appointed in Presidency towns as the competent authority. I cited the case of the Spotlight. Here is a complaint against the Police Commissioner. I do not say he is the competent authority. Such people in the Department, usually the Police or people connected with the Intelligence Branch will be appointed as the competent authority, where ignorance is the most. They do not know how to spell a simple word in any language. Such would be the people who would be appointed. We want protection against it. Therefore, we say, give this task to a High Court Judge. We are not enamoured of High Court Judges. But since the hon. the

[Shri B. Gupta.] Home Minister is very much fond of trumpeting the independent qualities of our High Court Judges, I accept them. Let him appoint a High Court Judge. There are plenty of High Court Judges; almost in all the States High Court Judges are available. Appoint one of the Judges of your choice as the person who will draw up the list of jurors. That is the first point. It is quite a reasonable proposition. I am not asking him to appoint Mr. Sundarayya as the competent authority, nor am I asking him to appoint anybody from this side of the House. I am asking a High Court Judge to be appointed—a Judge of your High Court—the shrine of your worship and where you pay your homage. Take one person from there and appoint him as the competent authority.

5 P.M.

This is a very reasonable proposition and should sound very reasonable even to the nodding head (pointing to *Dr. Katju*).

Then, of course, there is the question: who should be appointed jurors. Among the journalists, there are men of experience in public affairs and all these things. We say, they should be appointed from 'working journalists'. *Dr. Katju* would say: I do not understand what working journalists means. I fail to think that *Dr. Katju*, of all people could not understand what a working journalist is. Yes, confronted with our argument, he has chosen to plead ignorance. It may be a sign of humility. We say, appoint working journalists as jurors. They know the difficulties, the problems, the ethics of journalism; they are people who have shown a very high standard of public behaviour even though they are beaten by the police under the Congress regime. They maintained their composure and integrity and behaved very well. I say, among the working journalists you have a vast field of choice. You have people like *Devadas Gandhi*,

also myself—if you do not grudge it, and so many others. You may choose

1 whoever you want, but make it a working journalist. In some of the newspapers you may find the name of an 'Editor' who has never written anything in his life. In Bengal we have one editor—of a very important paper—who has never written a single column in his paper. The only contact between him and the paper is that his photograph will appear in print; that is the only contact so far as his paper is concerned. Some of them may be multi-millionaires; they may be useful to you for other purposes but not quite for this one. That is point number 1.

Then point No. 2 is this. In our country, the newspaper has developed in a particular way. That a handful of people are controlling the entire press. They always have got the eyes and ears of Government. So, the tendency is, naturally, to appoint them when they are no men of journalistic experience. They get things written by others instead of themselves writing them. Let Government do anything; have counsels with them, if you like; but do not make them jurors. To quote the hon. Minister's words: "It is putting a heavy-burden on them to place them on the Board of Jurors where they will face the Pressmen or will be asked to give judgment in respect of certain press matters." They do not know anything; they will not be able to give

[any proper judgment or verdict. There are plenty of journalists and reasonable and decent journalists—whatever you may think of them. A huge army of people you have got; choose from them. Sir, this is a very legitimate and reasonable suggestion.

I do not wish to say anything more on this thing. It has been suggested that the jury should be given proper powers, in our amendment No. 6. The jury will be called upon to exercise their judgment. In that case it is necessary for him to look into the matter, specially to look into the surroundings of the situation. The jury

will be called upon to examine what probable effect a particular writing will be creating upon the minds of the readers. He should also be allowed to have the opportunity for looking into the intentions, antecedents of the writer. He should not be placed in a position where he could pick up a particular line or a particular sentence or a particular editorial even. Assuming that I write a series of articles on a subject; in one editorial, some of the lines are found objectionable. Assuming that the matter is left to the judgment of the jurors, what I now say is that the jurors should be so encouraged as to look into the other issues of the paper apart from the editorial in question. Therefore, he should be given a free hand in this matter as to what things should be examined and how the grounds of action should be considered. After all, the grounds should be such as would be absolutely valid even for such a law. It is necessary, therefore, to invest him with the necessary power. It is no use just sitting there. He should be in a position, directly and indirectly, to come to a conclusion to which a reasonable man, exercising his reasonable judgment with regard to the special circumstances of the case can arrive at a proper conclusion. Therefore, our amendment No. 6 in this connection is very very important and I don't think that the Government should be unnecessarily adamant in not accepting it.

Now, I come to deposit and other things. What I have said holds good here also. I would beg of the hon. the Home Minister not to get away with the idea that the question of deposit is a question of law. It is not something which you can interpret. I am not going into English jurisprudence; in English common law, there are jurors or assessors, who decide questions of damages. He will see that the case of deposit here is not a criminal case. The cases under this measure are not criminal cases; they are all civil cases. We do not accept the contention that they are criminal cases; they are not criminal

cases at all. It is a civil case like libel or defamation, etc. Here, something by nature of security is demanded. It is money. It is something which can be counted. It can be found out as to how much money should be demanded having regard to the circumstances of the case. All the circumstances should be considered and the security should be demanded. This is a matter which should be entirely within the discretion of the juror; and the juror should be given as much latitude as possible for demanding that amount. Here is the question of putting a bigger amount; in that case the financial stability of the Press will have, naturally, to be considered. Suppose I take the case of *Hindustan Times*. Here, of course, Rs. 2,000 would be nothing. Dr. Katju might say: Rs. 2 crores of deposit should be demanded. He can do like that. Shri G. D. Birla can produce that cash in no time, at a moment's notice; it is nothing big for him. But, supposing a small journal is involved; you should not demand a very heavy deposit from that. You should not try to penalise him. If that is so, this question should be left to the jurors who will be learned journalists; and they should be left with the problem of deciding as to what amount should be asked to be paid as deposit. Now, Sir, this is very important. I cannot say why Dr. Katju, a man of sound experience, does not understand this simple question. Why is he not having that much confidence in the jurors and placing them in that position? Leave it to them and see how they behave. If you think that they are behaving in a narrow, sectarian and partisan manner, even from your point of view, Parliament is open to you; majority is there; small amendments can always be produced; you can always do it. But why are you prejudging things? You are trying to suggest indirectly by legislation and by your speeches as if they are going to do something which would be a kind of fraud on the law. That is a very uncharitable attitude to take with regard to those people. Therefore, Sir.

[Shri B. Gupta.] that is also a very important factor. Let the journalists decide this question within the four corners of your vicious law; you have manacled them; you have put them under internment. And now, let them, within that limited sphere, exercise as much judgment, as much discretion, as much good sense, as is possible. That is a reasonable approach, and certainly I think that Dr. Katju, if he is not absolutely impervious to arguments, would be amenable to accepting this amendment.

SHRI H. N. KUNZRU: Sir, if I ask for facts to prove the necessity for the amendment proposed in the Bill, the Home Minister will again say "A plague on this man for asking information. Shri Rajagopalachari did not supply him with any information on any point, and I am going to follow in the footsteps of so worthy and wise a man; I too am not going to supply him with any facts. Why can't he take my word for it and vote for the amendment that I have proposed?" Sir, his long experience at the Bar and the knowledge of human nature that he gained there has taught him that there is no need for evidence in order to prove one's case. If the counsel says that the party is pleading for certain reliefs and that the party is justified in asking for certain things, then its request must be granted. I do not know, Sir, whether there are many advocates whose experience at the Bar has taught them the same lesson. But what I feel is that the Home Minister would be an admirable functionary in a dictatorship that his mind is yet not attuned to a democracy, and that he does not realise that in a democracy where you want to persuade others, who do not belong to your Party or who are not of your point of view, to agree with you, you must take all possible steps to place such evidence before them as is necessary. Now, Sir, the Home Minister referred to some case in which the jury, in his opinion, had not acted rightly. He did not give us the full facts about that case. He was merciful to the judge concerned. Probably I

he did not think that it was in the public interest to give any information, either to the other House or to this House about this case, but it was in the public interest that his assertion should be acted on. Sir, I refuse really to accept anything at the dictation of the Home Minister. Even supposing, that in one case the jury has acted wrongly, does that show the need for amending section 20 in the manner proposed by him? In so many cases-trial by jury has taken place, and yet there was cause for complaint, in the opinion of Government only in one-case. I think that is a sufficient proof to show that the juries have, in an overwhelming majority of the cases, acted with a high sense of discipline. My hon. friend, the Home Minister, has admitted that Shri Rajagopalachari wanted not only that journalists should decide whether any newspaper has published objectionable matter or not, but they should also decide as to how it should be punished. But he says that this is not done in any other case and there is no reason why it should be done in this case. Now, Sir, let us consider what the purpose of the provisions that the Home Minister seeks to amend was. The journalists were always critical of the Government; they treated it as an outside authority which was inclined "to find fault with the press and which" was interested in curtailing its liberty. Now, Sir, Dr. Katju's predecessor wanted that they should themselves join the Government in considering those cases in which journalists had either disseminated falsehoods or had been guilty of improper conduct in any other way and decide themselves as to how the guilty person should be treated: When the Government punished a-journalist, a great deal of dissatisfaction was aroused and it was thought that the authorities were trying to suppress the freedom of the press. That is why, Sir, section 20 was passed. It was done in order to eradicate that feeling and make the journalists: themselves in the first place know that their brethren were doing things that were highly reprehensible, and at the-

same time to allow them to decide what should be done with such people in order to correct them. This amendment was made in order to have the journalists on the side of law and order and also in order to make the journalistic profession feel that they would not in future be able to get away with the argument that they were being unjustly dealt with by a Government that was opposed to the freedom of the press. Now, is it enough in such a case to say that the law should be changed merely because it provides for a procedure that is different from that followed in other cases? It is his refusal to understand the distinction between these cases and the other cases that made him repeat not merely that the changes proposed by him were minor but that the whole Bill was innocuous. If the Government are determined not to understand the position, nobody can compel them to do so. They have a majority behind them and they can, without placing any facts before the House, get any measure that they have set their heart on, passed, but I am certain that had the Home Minister been still a member of the Bar, he would not have indulged in an advocacy of the kind that he has indulged in today on behalf of the Government. For my part, even granting that the case to which the Home Minister referred and about which we know nothing, was such as to give rise to dissatisfaction, is that any argument that the law should be changed? I should have thought that he would be able to cite a number of instances in support of the need for a change, but he has not done so. It shows that his case is as weak as it could possibly be and he therefore cannot expect us to give him the slightest support.

DR. K. N. KATJU: Mr. Vice-Chairman, it is a common saying I have often heard it that reason, common-sense, fairness, good judgment, equity and every possible good thing in the world is always with the Opposition.....

SHRI H. N. KUNZRU: They are always with the Government.

DR. K. N. KATJU:and that, so far as the Government is concerned, it is only fortified by its brute majority and with the strength of its brute majority, it is able to carry through any Bill. Of course, this is a very comforting thought. Let my hon. friends indulge in this kind of talk if they want to, but I was surprised at what my hon. friend who spoke just now said. He says, 'I do not know anything about the case.' I do not know how many times it has to be repeated here. It is not as if they are bulky volumes. It is a very short matter repeated over and over again. I mentioned it. Diwan Chaman Lall mentioned it. A charge was made against a high officer of the State who is at present not here but serves his country elsewhere—an abominable case. It was said that he had raped and abducted a woman and that sometime thereafter, in order to conceal his shame, he had gone through a process of marriage. It was from top to bottom false. He had been married years before, and they had been leading a very happy married life. The jury said that this was a very objectionable matter but that no further action was necessary and the Judge said, "The jury says so. Obviously they are very respectable people, great journalists. I agree."

SHRI H. N. KUNZRU: What was the demand made on behalf of the Government?

DR. K. N. KATJU: The demand might have been for Rs. 30 lakhs, but that does not matter to me at all.

SHRI H. N. KUNZRU: It matters to us.

SHRI B. GUPTA: Was it within the competence of.....

DR. K. N. KATJU: My hon. friend has interrupted me so many times. He has stood up at least 20 times when I was speaking.

SHRI B. GUPTA: May I ask whettwar the jury had the power to reduce it?

DR. K. N. KATJU: Instead of Rs. 30,000, it was open to the jury and to the judge to say, under section 4, that it should be reduced to Rs. 300. I have learnt some law. It is not that I am praising myself. I am not nattering myself when I say how a human mind works. There is always a tendency to protect oneself unconsciously. I say I am conferring a great boon on the jury when I relieve them from this very onerous task of pronouncing judgment. You may not accept it. When this Bill was under discussion, when this particular clause was under discussion, —my hon. friend will recollect it—a great opponent of the measure right through—he opposes it even now—JPandit Thakur Das Bhargava, said, "I do not want juries. I want to go to the common people, if you have a jury." It is not as if I suffer from any obstinacy about it, but I cannot understand why newspapermen should be singled out for a privilege, which in my opinion is not a privilege at all. It is a great discrimination. My hon. friend has been saying, "I want instances, instances and instances." There have been 13 convictions. The cases have not been 200 or 300. Here was a horrid case. We had a long discussion about it. My hon. friend was appealing to me. It is not a question of my agreeing to this or that. We are doing everything in the public interests. In this House, the names were given,

[MR. DEPUTY CHAIRMAN in the Chair.]

When I heard the names of the jury, it was astonishing. They are all sensible men, but in a matter like this, an abominable charge like this, the jury just said, 'No action need be taken.' I really cannot understand it. I got irritated. I have never heard of a case like this happening anywhere. My hon. friend says, "We want instances". Nowhere, in no country, is the jury given this particular function. It is the judge who has to exercise it in the common public interest, in the light of all things. Why it was done I am not concerned. It may have been from the purest, of motives but I do say in the

first place that it was wrong, in the second place that it has not succeeded and in the third place that the journalists themselves will be quite happy to be relieved of this awful burden. This is my argument. My hon. friend has been saying lots of things about me personally. I am a very innocent individual I don't boast to be a man invested with any great authority of any kind. I want to place matters before the House in a purely non-partisan manner; it is a matter of public importance. The Congress has nothing to do with it, as I imagine the P.S.P. has nothing to do with it. We are not going to, so to say, play to the gallery in any way viz., if we get the jury, then the press will be happy with us and we might have full editorials praising us and if we don't get this, the editorial will be against us. I hope none of us will be proceeding on this basis. I respectfully submit so far as the other points were concerned, my hon. friend raised one new point. Mr. Deputy Chairman, you know that in the old Act the system was that the list of jury was to be published district-wise. This was *not* possible in many cases. So we now say that the list should be State-wise by competent persons appointed by the Government—may be anybody. My hon. friend says "No". They are powerful and most important people. Therefore this task should be entrusted only—to whom?—to the High Court Judges or somebody who has retired as a High Court Judge. There is no one in the State competent to prepare a list of jurors according to my learned friend except High Court Judges.

SHRI B. GUPTA: That is not our contention. I said.....

DR. K. N. KATJU: I will have no question. Something ought to be done by the Chairman to restrain him. Now that is one point. The other point is defining the functions of the jury and the judge. They have been fighting about it. It has been discussed. Then my hon. friend said that the period of sixty days is not sufficient for appeal. It ought to be six months i.e., you can

go on writing anything you like. You just file an appeal and it will take 3 months or 2 years or 12 months and you go ahead. It is making a joke of a very serious matter. I don't want to detain the House any longer. I oppose all the amendments.

SHRI P. SUNDARAYYA: May I know from the Home Minister whether the same procedure which is adopted in a High Court trial will be applied in the Sessions Court also with regard to the jury?

MR. DEPUTY CHAIRMAN: He wants to know whether the same procedure which is adopted in the High Court will be adopted by the jury in this Court also.

DR. K. N. KATJU: My hon. friend probably knows it as a lawyer. I don't know. The High Court has got unlimited precedents that unless and until the advocate for the appellant satisfies the High Court that the verdict of the jury is a perverse verdict which no 5 or 10 or 12 reasonable and sensible men would have brought, the High Court never interferes.

SHRI P. SUNDARAYYA: That is my question. In constituting the jury in this case, will the procedure which is adopted for trial before the High Court and that adopted before the Sessions Judge be the same?

DR. K. N. KATJU: I cannot answer that straight off but the jury procedure has been defined in the Courts and that will be followed.

SHRI P. SUNDARAYYA: Is it not the same thing as in the High Court?

DR. K. N. KATJU: I am not conversant with that. Therefore I cannot answer that.

MR. DEPUTY CHAIRMAN: The question is:

"That amendment* No. 271 be adopted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That amendment* No. 28 be adopted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That amendment* No. 29 be adopted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That amendment* No. 30 be adopted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That Clause 4 stand part of the Bill."

The motion was adopted. Clause 4 was added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 5. Amendment No. 31 by Shri Dwi-vedy is out of order. It is a negative amendment.

SHRI P. SUNDARAYYA: Sir, I move:

32. "That at page 2, for the existing clause 5, the following be substituted, namely: —

'5. *Amendment of section 23, Act LVI of 1951,—In section 23 of the principal Act, for the words "sixty days" the words "six months" shall be substituted.*'"

SHRI B. GUPTA: Sir, I move:

33. "That at page 2, line 32, for the words 'The competent authority or any other', the word 'Any' be substituted."

[Shri B. Gupta.]

34. "That at page 2, line 34, for the word 'sixty', the words 'one hundred and eighty' be substituted."

SHRI PRASADARAO: Sir, I move:

35. "That at page 2, line 34, for the words 'sixty days', the words 'six months' be substituted."

SHRI B. GUPTA: Sir, I move:

36. "That at page 2, after line 35, the following proviso be inserted, namely:—

'and the following proviso shall be added to the said section, namely:—

"Provided that immediately an appeal is preferred and filed, all action under this Act shall be stayed"."

SHRI P. SUNDARAYYA: Sir, I move:

37. "That at page 2, after line 35, the following be inserted, namely:—

'and the following proviso shall be added to the said section, namely :—

"Provided that immediately an appeal is preferred and filed, all action under this Act shall be stayed, till the disposal of that appeal". "

MR. DEPUTY CHAIRMAN: The amendments and the clause are open for discussion.

SHRI P. SUNDARAYYA: I will not take much time on this amendment because whatever arguments are advanced, they do not have any effect whatsoever on the Home Minister.

DR. K. N. KATJU: Have you considered the admissibility of the amendments to clause 6? If you think they are in order, it is all right.

MR. DEPUTY CHAIRMAN: We are considering clause 5.

DR. K. N. KATJU: I am sorry.

SHRI P. SUNDARAYYA.: I am saying that I don't intend taking much time of the House because whatever argument is advanced not only by us but even by eminent persons like the hon. Dr. Kunzru, are not having any effect on the Home Minister. So there is not much use wasting our breath. Still I say—that he should accept my amendment and give them more time to file the appeals. I know he will not accept it. It is for giving more time that

I I have moved my amendment.

I Through my amendment No. 37 I say that if you are not prepared to give even six months then I say that immediately an appeal is preferred and filed, all action under this Act shall be stayed, till the disposal of

J that appeal. The question is, when, an appeal is there, you don't consider that as a criminal act. You only want to take security. Now Government itself has taken the right to appeal against the judgment of the jury as well as the judge. When such is the position, when the journalist or the editor of the paper has to undergo so much expense and on the top of it, if he has to deposit security and then only he can go to appeal, then it will be doing more injustice to the paper concerned. Therefore till that whole question is settled by the High Court, this security deposit should not be asked. That is my amendment. Heavens are not going to fall if you accept my amendment and this will also be a healthy provision so that Government may take steps to see that the High Court gives judgment as early as possible and not delay it for 2 or 3 years and subject the journal concerned to unnecessary expense. In fact the Home Minister has already introduced a Bill to see that justice is hastened. Therefore he need not fear that there will be too much delay. I request him to accept this amendment so that no journalist need pay security till the appeal is disposed of.

SHRI B. GUPTA: Sir, since questions of legal right do not weigh with our Home Minister, I don't think there is much point in trying to argue the case out with him. Nevertheless if it is in the public interest to press this measure, it is also in the public interest that we advance the arguments. Here, of course, the question is very simple. We do not propose to give the right of appeal to the Government. Now, Dr. Katju would ask, say: "Why on earth don't you give the right of appeal to the Government when that appeal is given to the newspaper printer and the keeper of the press." He would say that they should be placed on the same footing. But, Sir, we do not accept that logic, because this measure as we have said and would continue to say, is for the curtailment of the rights of the Press. It encroaches upon some of the very basic and cherished liberties and privileges of the Press, as we understand them. And here the Press cannot be put on the same footing with the prosecutor if you like to call it a prosecution, because of this extraordinary Act, I am not calling it an extraordinary Act, just because it has been extraordinarily presented, but it is an extraordinary Act, whether it is appended to the Indian Penal Code or not; that does not matter. When the process is stated against a journalist, he goes to the court of law and he faces there all the consequences and all the hardships and sufferings and other difficulties that would come in his way. After all that, he fights out his case and he gets a verdict in his favour. After that, why should the Government pursue this matter in a court of appeal? Government will say that justice has not been done. We say that the whole thing is unjust and probably the injustice has been minimised in such cases and so the matter should not be pursued in that manner. Now, there are cases like that in law and this is nothing new where appeals are not allowed in favour of the prosecution, in favour of the Government against the aggrieved party, against

the accused person in a case, whether they are under the criminal law or in other cases, I am not going into that. But there are countries where you get, in the interests of the rights and liberties of the people, in the interest of not controlling and restraining the rights and liberties of the people, in the interest of not narrowing down the freedom of the citizens, the Government without such a right of appeal. Here why does the Government take upon itself this right, unless it is their intention to harass the people? How they will harass, I shall show. Suppose I publish a newspaper in a district town, a bulletin or something. Something happens and the Government asks me to appear before the Sessions Court. The hon. the Home Minister who had been, in his own way, very great at the bar at one time must have known how money is mulcted out of the people. For if his fees had been Rs. 2 and Rs. 3, he would not have shot into the limelight so quickly as he has and so he should agree with me when I say that the fees are very high and especially if my case comes to Calcutta, then the Government Counsel will be the Advocate-General to conduct the Government case. Now, certainly you cannot expect me to go there to fight the case which is being conducted by the Advocate-General on the Government side by engaging a junior lawyer who has just passed out of the university, or by employing a *Mukhtiar*. I mean. I cannot do it. It would be as good as not fighting the case, it would be as good as pleading guilty. The ordinary newspaper would be unable to appoint a lawyer who is a peer with the Advocate-General or the Government Counsel. So what does it mean? It means cash down and the hon. Minister would bear me out when I say that thousands of rupees would be required even to conduct the case. I do not know how he will collect all that money. After all that, he may get an acquittal. Then he is taken from the district town to the high court, say to the

[Shri B. Gupta.]

Calcutta High Court. Sir, the journalist might not even have the train fare to go to Calcutta. If the appeal goes there, he will have to engage a lawyer from the High Court who can practise in the High Court. No district lawyer can be employed by him because that lawyer is likely to be barred from appearing in the High Court. He should engage an advocate who can practise in the High Court. What happens? He will have to pay money. All the time he has to pay through his nose. The penalty is there, but the penalty does not lie merely in getting the security. The whole process is such that it can be easily described as a crushing engine of oppression and that is what they are trying for and that is why they want this right of appeal. That is why they want the right of appeal to the prosecution. We say it is all unjust. It is not a question of putting people on an equal footing. You cannot do that with those who are on unequal footings. On the one hand there is the Government with its ruthless machinery and plenty of cash and on the other hand there is the small press, the poor journalists running the business, poor people who do not have the resources for making both ends meet. The conditions are so unequal. So the question of equality does not arise at all. Therefore I say if after all these things before the Sessions Court the man gets an acquittal, the Government should abide by that judgment. At least the hon. Minister should abide by the judgment. He should not be very vindictive and carry it to the higher court. It is not a legal • question. It is a question of conscience, of honest public behaviour, a question of public morality. Therefore, I say that the rights of the Press should not be jeopardised by injuring the Press. And that is why we say that this amendment of ours should be accepted and I hope— though since the hon. Minister has come out of his temple of the legal profession and is now in some other shrine. I do not know how he will

react to my comments. I hope he will allow his mind to go back to the legal profession to those days when he used to say the same things that we are saying now and see the basic justice of what we are claiming now and accept this amendment.

DR. K. N. KATJU: All this emotional appeal will apply—every single word of it—to every appeal against an acquittal. There are hundreds of cases every year in different high courts and sometimes appeals are allowed and people are sentenced to death. Let me give in confidence to my friend for his use whenever occasion arises, one bit of advice taken out of my experience. It is a very— what shall I say—unfounded impression that it is the lawyer who wins the case. It is the case which wins itself. If you have got a good case, do not engage a lawyer, or engage a very junior lawyer and you will find that the junior lawyer, fortified by the good case, will be able to beat the Advocate-General and even the best lawyer in the world. He is bound to win for (*Interruptions by Shri P. Sundarayya*). This is all bunkum, I tell you, and I am speaking to you in confidence.

Now, my hon. friend Shri Bhupesh Gupta seems to have forgotten an ordinary procedural matter, namely that the moment you file an appeal in the High Court you apply for a Stay Order and you get it. So automatically it is stayed. And then of course, he will see that the appeal never comes up for hearing, that he always gets ill and it never comes up. I know all these tricks. Sir. And so I say, I oppose the amendment.

MR. DEPUTY CHAIRMAN: The question is:

32. "That at page 2, for the existing clause 5, the following be substituted, namely:—

'5. *Amendment of section 23, Act LVI of 1951.*—In section 23 of the principal Act, for the words

"sixty days" the words "six months" shall be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

33. "That at page 2, line 32, for the words 'The competent authority or any other', the word 'Any' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: I think amendments Nos. 34 and 35 are the same practically, one hundred and eighty days and six months. It has been already negatived, same as amendment No. 32.

SHRI B. GUPTA: We can certainly save the time of the House.

MR. DEPUTY CHAIRMAN: They need not be put.

I will put No. 37. This covers No. 36 also.

MR. DEPUTY CHAIRMAN: The question is:

37. "That at page 2, after line 35, the following be inserted, namely: —

'and the following proviso shall be added to the said section, namely: —

"Provided that immediately an appeal is preferred and filed, all action under this Act shall be stayed, till the disposal of that appeal"."

The motion was negatived.

MR. DEPUTY CHAIRMAN: Amendment No. 36 is barred by No. 37.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

MR. DEPUTY CHAIRMAN: Motion moved:

"That clause 6 stand part of the Bill."

SHRI B. GUPTA: Sir, I beg to move:

38. "That at page 2, for the existing clause 6, the following be substituted, namely: —

'6. *Amendment of section 29, Act LVI of 1951.*—In section 29 of the principal Act,—

(a) in sub-section (1), for the words "sub-inspector", the word "superintendent" shall be substituted and shall be deemed always to have been so substituted; and

(b) for sub-section (2), the following shall be substituted and shall be deemed always to have been so substituted, namely: —

"(2) Whoever carries on any search in or enters upon any premises or seizes or detains any property except under an authority duly conferred under sub-section (1) shall be punishable with imprisonment which may extend to three years or with fine which may extend to two thousand rupees or with both"."

SHRI P. SUNDARAYYA: Sir, I beg to move:

39. "That at page 2, for the existing clause 6, the following be substituted, namely: —

'6. *Amendment of section 29, Act LVI of 1951.*—In section 29 of the principal Act,—

(a) in sub-section (1), for the words "a Magistrate", the words "the District Magistrate" and for the words "any police officer not below the rank of sub-inspector", the words "the Superintendent of Police or anyone of the same-

[Shri P. Sundarayya.] rank" shall be substituted, and to the sub-section the following proviso shall be added, namely:

"Provided that searches can be made only of the places declared and known to be the office or store of the particular concern." and

(b) for sub-section (2), the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"(2) Whoever carries on any search in or enters upon any premises or seizes or detains any property except under an authority duly conferred under sub-section (1) shall be punishable with imprisonment which may extend to three years or with fine which may extend to two thousand rupees or with both and shall be dismissed from Government service which he may be holding and shall be debarred from employment under the Central or any State Government or any local authority".'

ME. DEPUTY CHAIRMAN: The clause and the amendments are open for discussion.

(Interruption by Shri Tajamul Husain)

SHRI P. SUNDARAYYA : In any case, if you are tired, I am not yet tired out.

Mr. Deputy Chairman, I move this amendment because section 29 is a section which concerns the question of searches. Section 29 of the original Act authorises any sub-inspector to seize and detain any property ordered to be forfeited and to enter upon and to search for such property in any premises. Since the question of search and the question of confiscation of property is involved, > especially press property, we have

brought in an amendment to say that this power should not be given even to a sub-inspector. We have got very bitter experience. (On April 23rd, 1948, our *Praia Saktt* press was seized merely on the basis of a report that the Government has banned the publication of our daily. They did not even wait for the order to come into their hands but merely on the basis of a press report, a sub-inspector came round and then closed down the press without even showing the order. What did they do after that? Even without any legal order for confiscation, they put our library into the *bon fire*, they put it into the dung-heap. They destroyed our press and we suffered loss to the extent of one lakh of rupees. After that, for one full year they did not hand over the press back to us and only when we went to the High Court did they give a rump of a press back to us. We have suffered a loss of one lakh of rupees. You may ask us as to why we did not go to the High Court. We did not and could not because the Government took precautions to see that we did not go to the High Court by having issued warrants for the arrest of everyone of us. As such we had to find ways and means and find persons who could take up this case before the High Court. That is only one instance that I have given. Almost all our presses have suffered during these years. It is not because that we had been advocating violence that those presses were raided. I will tell you of one particular instance, after the 30th January, when Mahatmaji was murdered and when the people in all towns rose against the R.S.S., the Government of India, instead of suppressing the R.S.S. said that it was the Communists who were rousing the people against the R.S.S. They dared not take the murderers of Gandhiji to task but people who condemned the R.S.S. have met with such a fate. Therefore, Sir, we do not want to give the right to search and forfeiture of property to any sub-Inspector of police: let that be given to a more responsible officer. With that in view, we have suggested that

only a person of the rank of a Superintendent—he may be an Assistant Superintendent or a Deputy Superintendent or a District Superintendent of Police—should be given such power. If the contention is that it did not matter whether the police officer is a sub-inspector or a Superintendent as they will all act in the same way, we have no argument but if they accept that as between the sub-inspector and the Superintendent, the Superintendent is a more responsible—at least in the hierarchy of Government or in the police hierarchy—certainly my amendment which says that the right of search of the press premises and the right of forfeiture of the press material should not be given to a sub-inspector but only to a person of the rank of Superintendent is relevant.

There is no use giving powers to a person to search premises. The power should be given to search only those places declared and known to be the office or store of a particular concern. We have got bitter experience under the British Imperialists. Whenever any repressive measure came up, irrespective of the fact whether the offender is there or not, they went on raiding houses for which there was no justification whatsoever and put people to unnecessary trouble. That is why also we want to restrict the places of search. So, our amendment is that if the police officers do not carry out their duties according to rules—the rules of Government—but that they carry on illegal methods and go on raiding houses, seizing things and doing damage to press material, such people should be drastically punished and the punishment should be specified here. Perhaps people may say that if anybody does such things, we could go to the courts and launch a prosecution. We feel that specific warnings should be there that if anyone does such things, he will be punished with a sentence of three years' imprisonment and a fine of Rs. 2,000 and that he will not be employed in any Government. Unless such drastic

curb is there on the police officers, liberties of the press and of the people will always be in danger. When we give the right of search and seizure, let us have some curbs also on the police officers who may indulge in illegal seizures. It is with this purpose that we have moved the amendments.

MR. DEPUTY CHAIRMAN: Do you want to speak, Mr. Gupta? Your Leader has already spoken.

SHRI B. GUPTA: Since my name appears there, let me speak; otherwise, Dr. Katju won't like.

Sir, when a police officer enters any premises to conduct a search, it is like a bull in a China shop. It upsets everything and the propensities are such that whenever there is anything, the police comes into certain presses which are not to their liking. That is what happens. My hon. friend has given certain instances; I can quote a number of instances in Calcutta where you find that whenever anything happens, on the slightest excuse, the Intelligence Branch troops out from its quarters and searches various premises including presses. I had been myself experiencing such things at the hands of the police. I find them suddenly rushing to our home, without any warrant; if we ask for it they say that there is no warrant required. Whenever they come, they are very offensive and we are very peaceful people generally and we do not like such things.

SHRI TAJAMUL HUSAIN (Bihar): Question.

SHRI B. GUPTA: I will tell you a simple story about human mentality. In the district headquarters of my district, there are some very naughty people whose business is to get on at the cost of some other people. There was a fire some day and those people entered a sweet shop, took away the *rasagullas*, *sandesh* and all the sweets and started eating them in the name of rescuing these things from the fire. Exactly that type of things happen here. If an illegal leaflet

[Shri B. Gupta.] comes out somewhere in the city, the whole army of policemen spread out all over the city; the targets are of course, always fixed, they enter those premises and behave like bulls in a China shop. Therefore, Sir, it is necessary to control such activity. The Superintendent is, of course, a person in whom we do not have much faith either but we should fix the responsibility in the administrative side—according to you of course—so that the guilt can be fixed straightaway. Why we say this is because we feel that in such a case, there will be more chances to check and less chances of misbehaviour, in the name of searches. Section 29 of the original Act gives plenty of powers of search to the police. And this power should undoubtedly be controlled. We should not be made over to the police in the name of search. Therefore I think it is a very reasonable proposition and should be acceptable and since the Police Superintendents very much belong to his party there should be no objection to this amendment.

DR. K. N. KATJU: Mr. Deputy Chairman, the House should note the rather amusing part of this amendment. In the Bill what is sought to be added is that if an order is passed declaring any particular thing to be contrary to the law, then that order should extend throughout India and the power to seize that particular book or article or newspaper should be exercised throughout India. My hon. friend wants to add an amendment of half a page dealing not with this particular amendment which is sought to be made. They accept it. What they say is how the search is to be made. No one had said anything complaining about the search. It is said that sub-inspectors are very low officers in so far as journalists are concerned and therefore it should be the District Superintendent of Police himself always as though the journalist is somebody to be venerated, worshipped and held in very high regard and that if a press is to be searched it

must be by a Superintendent of Police and if there is any irregularity in the search the man must be sentenced to three years' imprisonment. I do not want to add anything which is really much too good. I oppose it.

MR. DEPUTY CHAIRMAN: The question is:

38. "That at page 2, for the existing clause 6, the following be substituted, namely:—

'6. *Amendment of section 29, Act LVI of 1951.*—In section 29 of the principal Act,—

(a) in sub-section (1), for the words "sub-inspector" the word "superintendent" shall be substituted and shall be deemed always to have been so substituted; and

(b) for sub-section (2) the following shall be substituted and shall be deemed always to have been so substituted, namely:—

"(2) Whoever carries on any search in or enters upon any premises or seizes or detains any property except under an authority duly conferred under sub-section (1) shall be punishable with imprisonment which may extend to three years or with fine which may extend to two thousand rupees or with both." "

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

39. "That at page 2, for the existing clause 6, the following be substituted, namely:—

'6. *Amendment of section 29, Act LVI of 1951.*—In section 29 of the principal Act,—

(a) in sub-section (1), for the words "a Magistrate", the words* "the District Magistrate" and for the words "any police officer not below the rank of sub-inspector" the words "the Superintendent of Police or anyone of the same

rank" shall be substituted, and to the sub-section the following proviso shall be added, namely: —

"Provided that searches can be made only of the places declared and known to be the office or store of the particular concern"; and

(b) for sub-section (2), the following shall be substituted and shall be deemed always to have been so substituted, namely: —

"(2) Whoever carries on any search in or enters upon any premises or seizes or detains any property except under an authority duly conferred under sub-section (1) shall be punishable with imprisonment which may extend to three years or with fine which may extend to two thousand rupees or with both and shall be dismissed from Government service which he may be holding and shall be debarred from employment under the Central or any State Government or any local authority".'

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill. Clause 7 was added to the Bill.

MR. DEPUTY CHAIRMAN: Motion moved. That clause 1 stand part of the Bill. There are two amendments.

SHRI PRASADARAO: I move the second amendment. I move:

2. "That at page 1, lines 4-5, for the words 'on the 29th day of January, 1954', the words 'from the date of enactment' be substituted "

MR. DEPUTY CHAIRMAN: Are you speaking on this, Mr. Prasadarao?
6 C.S.D.

SHRI PRASADAKAO: JNO.

MR. DEPUTY CHAIRMAN: You are opposing the amendment?

DR. K. N. KATJU: Yes.

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 1, lines 4-5, for the words 'on the 29th day of January, 1954', the words 'from the date *it* enactment' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

DR. K. N. KATJU: I beg to move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI B. GUPTA: Sir, now the zero hour has really struck. Dr. Katju having fought a morally losing battle will emerge out of this House with his measure which has been condemned on all hands and by all the Press in the country. Today he may not like the Press, but I know tomorrow because of the necessity for propaganda for the Congress Party, he shall be lying prostrate before the Press barons for publicity. We think that there was hardly an occasion in this country when we got so much unity over evidently so small an issue. As far as the size of the Bill is concerned, it was a small Bill but the whole country and the whole Press attacked it and took it as a challenge to their cherished right and freedom and therefore

[Shri B. Gupta.]

regardless of political differences, regardless of ideological divergences, regardless of whether the Press is owned by a millionaire or by a worker, all joined in the common bold struggle against this particularly hated measure. I take my hat off to the Press for having fought a magnificent battle despite the frowns of the Government, despite the mailed fist of the Government and for having stood up in honour of their rights, in defence of their fundamental freedom. That is why even the Congress papers supporting the Government did not hesitate to stand up in opposition to this measure. It is a glorious thing and we cherish it. In these days when much of our public life has been corrupted and is sought to be corrupted by the tarnished hands of those who are in authority, in our Press there are people who uphold the good traditions. In our patriotic Press there are still people whose voice cannot be silenced by either intimidation or by the frowns of the powers that be. This is a very glorious thing; we welcome it. I know the Press has not fought a losing battle because the moral cause is on their side and justice is on their side, and they know how to fight their cause. We know that this Bill even if it passes as a result of the majority of the votes on that side of the House by putting in motion the steam roller, still there will be the Press outside to uphold its banner and that is something to which we shall now look forward. We cannot accept Dr. Katju's assurances because they mean nothing. I am not here concerned with the individual intentions, nor am I concerned with what a particular Minister or a Deputy Minister or even a Council of Ministers feel. Here is a law which goes to the executive, the egregious executive which will try to use it in its own way and a whole army of competent authorities will be created who never know how to respect the Press but who know now to dictate to it and these people

will play havoc with the Press. Dr. Katju may say that it will not be done, but what I would like to have is a categorical assurance that this will not be used to suppress political opposition. I fear that it will be used for suppressing political opposition. Why do I say this? I say this because the mood of the Congress mind is changing. As the speeches were delivered from the Congress Benches in support of this measure their mind was unveiled before the public view. The more support they gave, the more real their mind became and their mind was revealed in all its nakedness. When the ground is shifting from under their feet, when they feel politically isolated, when their bureaucrats have lost their heads—although those heads do not contain much—when the Congress Ministers become desperate, in order to keep themselves in seats of power they will try to utilise it to suppress the opposition. In what way they will do it, I cannot say. Vicious are the ways of the powers that be. That is why I say that this measure threatens above everything else the opposition and if it threatens the opposition it threatens also the entire Press, especially the working journalists. I speak now for the working journalists because I am one of them and I am proud of it. Now, Sir, you have seen how Dr. Katju tried to quote certain articles from various newspapers and one of those articles was an article by a very leading journalist of Calcutta and it is to the eternal shame of our rulers that such a person should have been criticised in that manner. After all he is the man—I will not divulge his name—in whom the Prime Minister of India when he was President of the Congress reposed very great responsibility and the responsibility was in connection with very important literary work. That person has been maligned in this House. His writing has been called in question by the people who cannot, as far as the literary field is concerned, even lace of his shoes. That is what I want to say.

MR. DEPUTY CHAIRMAN: Order, order, You have mentioned all that. You need not repeat.

SHRI B. GUPTA: Sir, nothing out raged me so much as when I heard.....
(Interruptions).

MR. DEPUTY CHAIRMAN: You must use more dignified language.

SHRI B. GUPTA: It is dignified language. Is it obscene language? Is it scurrilous language? I thought I was using an English idiom used by a very eminent English writer. If you wish, I would not like to use it.

MR. DEPUTY CHAIRMAN: Please do not use that language.

SHRI B. GUPTA: Now, Sir, this man has been maligned.

Then, again, it has been said: Look here, you have used these words like 'It is a shame to your mother's womb', etc. Sir, read Rabindranath Tagore, read Kalidasa's work; there, you will find these kinds of expressions which follow a literary pattern which these people cannot judge. Therefore they had the temerity to question those words. I know, Sir, that Dr. Katju is a learned man. If even he thinks like that, imagine, Sir, what will happen if the uneducated and uncultured people who are placed in the position of the competent authority are to sit in judgment upon the literary work of journalists who know how to speak and how to write. When I think of it, I shudder. I know, in Calcutta, the Police Commissioner 'wanted to censor Rabindranath Tagore's work. It is our great heritage that is being defiled. So, Sir, the law in operation would be a menace to our culture, not only to the Press but to the cause of our thought, our culture and our literature. Much has been said about scurrilous and obscene literature. We cherish our culture; we look forward to a very fine culture. We are opposed to scurrilous literature, to obscene literature. They should be put a stop to. But these are being encouraged by the authorities. White

the Soviet literature is removed from the Railway book-stalls, as we have pointed out, this scurrilous American stuff is allowed to have a bumper trade there. In Calcutta, when so much has been said about the Calcutta Press, when cases were started against them for calling certain American gangs of stooges of Dulles & Co. and all that, no case was started when posters, big huge posters were put up all over Calcutta calling the Soviet leaders assassins, calling Stalin and Malenkov assassins. These huge posters were put up by the so-called Defence of Freedom of Asia Society, which is an American organisation. Government did not take any action at that time. They were allowed to remain there until the citizens of Calcutta came out in the streets and tore them up and removed that shame from the city life. Where was that action then? Why not that Police Commissioner who brought this action against this particular press, moved in taking action against this American, scurrilous, obscene literature which created discord between the nations. There is no use telling us that action will be taken against them, because they have their fingers in very high quarters, they know they can pull their strings. More and more action will be taken against the progressive Press of the Country.

Then, Sir, if I criticize an officer, why should I be made liable under this Act? There is the law of defamation. Dr. Katju will say: "It may be more difficult." I do not accept it. When I say things against the Minister or the officer, I will not say it unless there is in my defence truthfulness and justification. I have appeared in a number of libel cases. Once a case against our paper was started by a former Chief Minister. We (the paper) went to court and pleaded justification and started cross-examination. The ex-Chief Minister came on his knees to say: "Let us put an end to the case; I want to withdraw this case". We said: "No, we have to go through the case and see it

[Shri B. Gupta.] through". We got, in the end, a complete acquittal. Therefore, Sir, we tell the Government "Don't use this measure for criticism against your officers; it is not for you to judge what the criticism is like and what the criticism is likely to do. That is for the court to decide." If any hon. Minister's or any officer's reputation is affected, ask him to go to the court of law and face the music of cross examination. We shall face the charges, we are not afraid of even this ordinary law, and we shall by cross examination show every syllable of what we write and say as just and true. We are denied that right. The working journalists, Sir, will suffer. Why will they suffer? They will suffer under constant threat and intimidation. It is not as if they are going to be sent to prison, but their bread and living will be affected. Why? Because this measure will constantly intimidate them. Their conscience will be affected. They will be in a state of fear as to what they should write and what they should not write. Sir, if the press is asked to furnish security, if the newspaper is asked to furnish security, it is the journalists who will be affected adversely and they will have to bear the incidence of this measure, because it is they who write. They will be put under extreme difficulties and limitations, extreme fear and intimidation. Therefore, Sir, this measure hits the journalists. Dr. Katju could not see how it would hit ultimately the journalists, the working journalists. It hits the working journalists like a tax, like an indirect tax, which is imposed upon the people. However much this measure may be directed against the press, it also brings within its ruthless operation those working journalists who try to earn a living by serving a very noble and honourable profession. That is what I want to say, Sir. Let us not get away with the idea that it would not affect the working journalists. Sir, our journalism is being pushed into a reign of terror. The terror has begun; I do not know where it

I will end. I do not know even as to how the journalists of all shades will fight it. But I know, Sir, that here is an attempt, a very deliberate and coldblooded attempt, to encircle them, to manacle them, to put them to ransom. I know, Sir, that the Government press will never be affected by it because it is endeared by the Government. It is the working journalists, Sir, who come in the first line of victims to be attacked. Therefore, Sir, they will certainly be affected. The press, the Indian press, despite all attacks against them and limitations have developed certain traditions which they want to defend. That is why any difference has not been allowed to come here. Speeches have been made against the Communist Party. Speeches have been made against the Communists, but the people who have opposed this are not all friends of the Communist Party. Why did they do so? Here is a case which transcends such differences. Here is a case of fighting for a fundamental right which is sought to be given even by a limited Constitution such as ours. That is why people have stood on the same plank having eliminated all their differences. Sir, I make a final appeal to the Home Minister—if I may make such an appeal to him. Let him stand up and say even at this hour that this measure will never, never be used against their political opposition in the country, that this measure will never, never be directed against those people who are fighting for their rights, for their bread, for their living, fighting for their social rights. Let him say this that this measure will never, never be used against any political party which does not share the views of the Congress Party. Let him say, if he likes, also that this measure will be used to stamp out the scurrilous and obscene literature that is pouring into this country from the United States of America. Let him say that he wants to take away from public places all these obscene materials which are infiltrating into our homes. It is only then that we can understand him. I would like

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to have that assurance. Sir, this measure has a life of two years

MR. DEPUTY CHAIRMAN: You need not go back. There is another Bill to be got through.

SHRI B. GUPTA: Everything is running very fast. Within two years, by the time this period ends, what will happen? The general elections will have come, and we know how this Act would be utilised. It is not true to say that this has not been used against the opposition press. We have cited examples. Dr. Katju could have controverted them, but he has done nothing of the kind. I hope that in his concluding speech he will say that this measure will never, never be used against the opposition or against the democratic press in the country which stands for its rights in its own way.

MR. DEPUTY CHAIRMAN: Dr. Katju.

SHRI H. P. SAKSENA: I want only five minutes. I do not want anything more.

MR. DEPUTY CHAIRMAN: We have got another Bill to get through.

SHRI H. P. SAKSENA: Dr. Katju can spare me five minutes out of his time.

DR. K. N. KATJU: Why does he ask me? Let him ask the Deputy Chairman.

SHRI H. P. SAKSENA: Sir, the first question that I would like to ask my friend, Mr. Bhupesh Gupta, is.....

SHRI B. GUPTA: I cannot answer him.

SHRI H. P. SAKSENA: whether he has read Milton's famous book on the freedom of the press known as 'Aereopagetica'. If he has read it, then I can understand it that he has some knowledge of the press and press laws, otherwise not. If it were a medical man, I would discover a sort of injection which may be a cure

for obsession, because I find that every Member on the Opposition Benches is suffering from the disease known as 'obsession' that this Bill will necessarily and essentially be used to suppress the party in opposition. This is fantastic nonsense. Nothing of the sort. All upright, honest and responsible journalists have got nothing to fear from this amending Bill, because it specifically says that it will be applied only where the matter is considered as 'objectionable matter'. Honest, upright and responsible journalists have got nothing to fear from it. So far as the freedom of the press is concerned, I bow to none in upholding and maintaining it. The press should be as free as the air that we breathe, but that air should not be foul air. It should be free air, invigorating air and not polluted air. Had it been anything objectionable I would have been the first to oppose it and the working journalists—and I style myself as a working journalist—may say what they like but I am a journalist and I believe in the maxim that once a journalist, always a journalist and I look upon myself, even though I am not a working journalist, in the present sense of the term, as a journalist and if there had been anything objectionable in this Objectionable Matters Amendment Bill, I would never have supported it. So what I want to press is this that the provisions of this Bill do not stand against the interests of any Party whether it be the Communist Party or the Praja Socialist Party. These are difficult times—that is undeniable and it is accepted on all hands and it is just necessary. If you have the interests of the country uppermost, then it is in the fitness of things that the Government should be armed with certain emergency powers. Now if you have extra territorial allegiance, then that is a different matter.

SHRI S. N. MAZUMDAR: Is that not an obsession?

SHRI H. P. SAKSENA: Now my friend Mr. Bhupesh Gupta in moving one of his amendments appealed to

[Shri H. P. Saksena.] the hon. Home Minister not to prejudge things. As a matter of fact he is himself guilty of that prejudging. He has prejudged that the Bill will be used to the cost of his Party. May I respectfully ask from him how many times during these two years any Member of the Communist Party or any organ of the Communist Party has been punished simply because it was a Communist organ? So far as objectionable matter is concerned that is a penal offence and it shall be punished. These rags and gutter presses and yellow press must have some fear with regard to this Bill otherwise for honest and responsible journals, there will be no fear and I feel it my duty to support the Bill.

DR. K. N. KATJIT: Mr. Deputy Chairman, many questions in a very theatrical manner have been put to me as my hon. friend said just now. I would ask Members opposite and the pressmen in general throughout India just to consider whether they have been carrying on the profession of journalism, the publication of newspapers and magazines and other things with any sense of jeopardy, anywhere because I tell you—now that we are finishing the debate—the whole thing has struck me as extremely unreal. The last speech of my hon. friend reminded me of Burke and Sheridan. There was no question of any relevance, but just raising your voice and crying "Here is wolf, wolf, wolf". Everybody is crying "we are being throttled". This Act has been on the Statute Book for two years. Has anybody, anyone felt—and I repeat it once again—any sense of insecurity and felt "Goodness knows what may happen tomorrow? Just a sub-inspector may come and search us!" You have only to read the two years' papers to see what has been happening. The complaint has been made here and more strongly in the other House that the Act has been ineffective, has not been properly used, should have been used much more firmly. I am inclined to share that opinion to some extent and I can say this thing that so far as political

parties are concerned and political comments are concerned—I am not concerned whether they are right or wrong, whether they are strongly expressed or weakly expressed—but so long as they really deal with politics and the affairs of the country, they can go ahead and our press is the most free press in India—not only in India but throughout the world. What I am concerned with is that there should be no encouragement of crime as defined in various sections of the Penal Code which are summarised in Section 3 of the Act and so far as that is concerned, I shall see what can be done. My hon. friends have been making a great show of what they call film publications in Railway bookstalls. I shall see what can be done in that way. We will not allow this Act to be played with. That I can assure the House. And so far as political parties are concerned, they can go ahead. I was reading the reports of the proceedings of 1951 and I find it was said by some that the Congress Party were past-masters and the Bill was being passed why? Because they wanted to control the general elections which were going to be held in the winter of 1951-52. Hon. Members can see whether the Act of 1951 or anything in it was so utilised in any way or anywhere throughout any part of India, during the course of the general elections. Some hon. friends also mentioned in a passing way the coming elections. I really object to these insinuations. These are all responsible people here. This is the sovereign Parliament of India and we are dealing with 36 crores of people. I sit on this side and they sit on the other side; but the basic conditions or rather the basic motive is the improvement, the prosperity and the welfare of India and I do respectfully submit with all humility that there should not be anything of the theatrical nature in this House. The Act is a very simple Act. It has done no harm to anybody. Every newspaper has been flourishing and in order to arouse ideas of fright-fulness about it so many observations were made. Hon. Members wanted assurances. I have given several

I can repeat them, first, that it will not be applied against genuine political activities, none whatsoever. Secondly, I shall repeat it that the glory, the prosperity and the name and fame of the Indian Press are as dear to me as to anybody here or outside or outside India, even journalists themselves. It is part of our national life. Whoever comes here reads our papers and he says to me, and when he returns to his own home he says it there, "The Indian Press is free." Anyone who comes to Delhi can get the five or six papers. Let him say whether it is not free. There is no restriction by anybody. Unfortunately, as you will observe, they raise cries, this is in danger, liberty is in danger, the Press is in danger and so on. But nothing is in danger. The other assurance that I repeat is that as soon as we get the report from the Press Commission, we shall consider the matter and we shall consult everybody and everybody will have a say and there will be all the materials that many hon. Members required and they can come to any conclusion they want, and I do hope that in the winter session we might have a comprehensive Press legislation and, as far as I can possibly do it, I shall see that it becomes part and parcel of the normal law of the land which is loved so much by everybody in this country.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed." The motion was adopted.

THE TRANSFER OF EVACUEE DEPOSITS BILL, 1954

THE MINISTER FOR REHABILITATION (SHRI A. P. JAIN): Mr. Deputy Chairman, I move:

"That the Bill to provide, in pursuance of an agreement with Pakistan, for the transfer to that country of certain deposits belonging to evacuees, the reception in India of

similar deposits belonging to displaced persons, and matters connected therewith, as passed by the House of the People, be taken into consideration."

Sir, this is a short, simple and wholesome measure. It is the outcome of an agreement between India and Pakistan. The Council will remember that in 1950 there was an agreement about the moveable properties between ad Pakistan. Some of the items of that agreement were the deposits in the civil and revenue courts belonging to migrants, deposits belonging to the migrant minors under the Guardians and Wards Act, and deposits of the migrant wards under the Court of Wards. It was intended at that time that all these deposits would, as far as possible, be transferred *en masse* from one country to another and in order to give effect to those provisions, India and Pakistan were to enact similar laws. We tried to come to an agreement about the draft law but it was not found possible for three years to do it. However as a result of the last July-August talks. I am glad to say that it has become possible for us and Pakistan to agree to the draft. Pakistan has enacted an ordinance; we also enacted an ordinance and this law is intended to replace that ordinance.

Now, hon. Members may look at the definition of "deposit". That definition includes (1) deposits in the civil or revenue courts, (2) deposits of minors under the.....

MR. DEPUTY CHAIRMAN: Court of Wards.

SHRI A. P. JAIN: No, Sir. Guardians and Wards Act, and¹ (3) deposits of heads with the Court of Wards. It also includes deposits that come under
r Encumbered States Acts.

Now, in regard to these deposits, where all the parties concerned are migrants they will be transferred *en masse*. Where one or more of the parties, but not all the parties, are migrants each case will be examined by