1 ith August 1952 agreed without anj amendment to the Essential Supplies (Tempoiary Powers) Amendment Bill. 1952 which was passed by the Counci] of States at its sitting held[on the 30th July 1952."

"In accordance with the provisions of Rule 119 of the Rules of Procedure and Conduct of Business in the House of the People, I am directed to inform you that the following amendment made by the Council of States in the Bill further to amend the Code of Criminal Procedure 1898, at its sitting held on the 31st July 1952, was :tken into consideration and agreed to by the House of the People at its sitting held on Mondav the llth August 1952:

That in clause 7 of the Bill, at the end of clause (a) of the proposed Section 132A of the principal Act, the words 'so operating, shall be added."

THE PREVENTIVE DETENTION (SECOND AMENDMENT) BILL, 1952— *continued.*

MR. DEPUTY CHAIRMAN : Mr. Kakkilaya may move bis amendment.

SHRI B. V. KAKKILAYA : Sir, I move :

That at page 1, line 35 for the word 'every' the word 'no' be substituted.

MR. DEPUTY CHAIRMAN: Amendments Nos. 44 and 45 have been moved.

DR. K. N. KATJU : Mr. Deputy Chairman, the amendments raise very simple points. The House is aware that when under the Criminal Procedure Code a person against whom a warrant is issued does not surrender himself, a proclamation is issued and after some time had elapsed after the issue of the proclamation further proceedings are taken, namely, his property becomes liable to attachment. An order for the attachment is issued and then opportunity is given to all and sundry to come forward and to put forward any objections they ma)' have on the ground that the property does not belong to the person concerned, that is to say, in other words, there has been wrong attachment. When these objections are disposed of, then the property remains attached and it remains attached for a very long time. Of course, if it is ! perishable then it is sold, otherwise it remains attached and after the expiry of one year it is sold and the sale proceeds remain in the treasury for another two years and in between every opportunity is given to the person concerned to come forward and if he is able to explain to the Magistrate that his absence and his non-surrender were due to any sufficient cause, his ignorance or something else and if the property is unsold, it is returned to him or if sold the sale proceeds are given to him. That is the normal procedure.

Now my friend there is very particular about it. He asks, "Why punish the family?" Well, sometimes this argument has appealed to me very strongly, not only with re-regard to cases of detention but in regard to other cases also. Take for instance a person who has murdered. He is convicted and the murderer is hanged. He is hanged and finished; but his children, his infant child, young wife, they remain to suffer and they have got to suffer. That is one of the results of these human laws. A man commits a crime. He is sentenced to two years imprisonment. This punishment does not only go to him. The punishment goes to his wife and children also. He probably was the bread-winner of the family. So they all suffer. You have got to put up with that. You cannot make any distinction on this ground, between detenus and any other individuals. I have again and again referred to under-trials. People remain under-trials for years, may be two years or more and ultimately may be acquitted. The family suffers. I do not want people of this description in any way to suffer under any discrimination. Nor do I want that my hon. friends there, their advocates, should lay themselves open to this objection, that we are going to make it very soft for them, namely, that they may go underground and the property is not touched, the result being that nobody suffers. His duty,

[DT. K. N. Katju.]

I probably am repeating it for the hundredth time, is, as soon as an order is issued, to surrender and be done with it. If you have got a good case, if the order is issued under a mistake, say so to the District Magistrate or the Advisory Board and be done with it. Why all this prolonged processes? Why not take proceedings under section 87 or 88 ? Why this discrimination and that discrimination? Why that favour and this favour? And so far as the penal provision is concerned, if a warrant is issued and if you do not surrender to the warrant, the punishment is not for the original offence. The punishment- is for another offence, namely, disobedience of the law. And if you do not obey the law, you suffer punishment, may be one year's imprisonment and I don't know how much fine. But why do you make a distinction ? "Look at my generosity" says my friend, reduce the period by three months or reduce the fine to Rs. 250. But why pay any fine at all? After all the person may be absolutely innocent.

On the other hand, he may be implicated in doing something atrocious, atrocious in this way,— tiying to incite violence, trying to interfere with the country's safety. But, why are you taking it all upon yourself, as if the whole thing is intended for you and is going to hit you. It may hit anybody else. The law is general ; the law is not going to be made for one particular individual. They sometimes suggested : why not we have recourse to normal law? On the other hand, when the ndrmal law hits them, they say .'Please wipe out the normal law or soften the normal law or amend it or somehow or other do away with that part of the normal law'. I suggest that in this matter, the normal law should have full effect. I oppose the amendment.

MR. DEPUTY CHAIRMAN : Both the amendments ?

DR. K. N. KATJU : Yes, I oppose both the amendments.

MR. DEPUTY CHAIRMAN: The question is :

That at page 1, line 32, after the words 'shall be renumbered as sub-section (1) thereof' the following be inserted :

"and in sub-section (1) as so numbered—

(0 in clause (a), for the words and figures 'sections 87, 88 and" 89' the word and figure 'section 87' shall be substituted, and the words 'and his property' shall be omitted i and

(ii) in clause *(b),* for the words 'to one year or with fine or with both' the words ,to three months or with a fine not exceeding rupees two hundred and fifty' shall be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

That at page 1, line 35 for the word 'every' the word 'no' be substituted.

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is : That clause 5 stand pan of ihe Bill. The motion was adopted. Clause 5 was added to the Biil.

SHRI S. MAHANTY : Sir, I move :

That for clause 6 of the Bill the following be substituted, namely:—

"6. *Amendment of section* 7, *Act IV oj* 1950.—In sub-section (1) of section 7 of the principal Act, for the words 'as soon as may be' the words 'within twenty-four hours from the time of detention' shall be substituted."

SHRI V. K. DHAGE : Sir, I move :

That at page *2,* line 3 for the words 'as soon as may be, but not later than five days from the date of detention', the words 'along with the order of detention' be substituted.

SHRI B. V. KAKKILAYA : Sir, I move :

That at page 2, line 3, for the word 'five days' the words 'two days' be substituted.

SHRI B. GUPTA : Sir, I move :

That at page 2, line 3, after the words 'from the date of detention' the following be inserted,.

'and for the word 'grounds' the words 'grounds and other materials,"

SHRI P. SUNDARAYYA : Sir, I move :

That at page 2, line 4, after the word 'substituted' the following be added, namely:—

"and for the words 'and shall afford him the earlist opportunity of making a representation against the order to the appropriate Government' the following words shall be substituted, namely :—

'•and all such other particulars as are necessary for the detenu to make a proper representation and shall afford him the earliest opportunity for making such representation'."

SHRI B. GUPTA : Sir, I move :

That at page, 2, line 4, after the words 'shall be substituted' the words, brackets and figures 'and sub-secticn (2) of that secticn shall be omitted' be added.

SHRI J. R. KAPOOR : I am not moving my amendment, Sir.

MR. DEPUTY CHAIRMAN: Amendments 46, 47, 48, 49, 50 and 51 are open for discussion, along with clause 6.

SHRI S. MAHANTY : Mr. De puty Chairman, the fate of all the pre ceding amendments, has damped my spirit. Sir, we had advanced so much of argument ! The hon. the Home Minister, in his reply to the general debate was pleased to observe that whatever it was the Opposition had come here only to hinder. Now, in the second reading stage, we had given so many arguments. We could give only arguments, Sir, but we could not give the heart and the brain. That is .....

SHRI GOVINDA REDDY : You will acquire it sometime later.

SHRI S. MAHANTY : .... our misfortune. Now this amendment is also a simple and innocent one. It suggests that in sub-section (1) of section 7, of the principal Act, the words "as soon as may be" may be replaced by the words "within twenty-four hours from the time of detention". In the Constitution, clause 5 of article 22 says that if any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order. Now, these words 'as soon as may be' have also been used in clause 1 of article 22. Here it is said that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, etc., etc. Clause (1) relates to those who have been detained under normal law and clause (5) relates to persons who have been detained under an illegal law. Now the ratio of the time-lag between the time of detention and communication of the grounds in the normal operation of law is zero whereas in the other case it is five days. Therefore, my submis-sion is at least,—because it is an illegal law because it is preventive detention— instead of 120 hours at least make it 24 hours. It is not because of any sense of chauvinism or just to create some little hindrance that I have been motivated to move this amendment. Ab-solutely not. I refute all such ideas, if it persists in the mind of the hon. the Home Minister that the^Opposi-tion has been actuated by one sublime idea of hindering the progress of legislation. It is never the case. My sug-gestion is that these five days is too much and I have been myself a victim of it, when the hon. the Home Minister was Governor of Orissa. I am talking about 1948. For 39 days I was kept in prison under the Maintenance of Public Safety Act and for this long 39 days Government could not cook up any story. My fault was that in my journal I took up a very strong attitude about certain policies of the Ministry. I read some time back in some newspaper that—probably it was in Madras—a certain District Magistrate was interested in his neighbour's wife and, therefore, he had to hold up that man under the Public Safety Act. If the Minister says "Look here, this is preventive detention, whether there are grounds or no grounds ; it is quite

clear that we want to prevent you, we want to detain you because we consider you to be a menace to liberty,

[Shri S. Mahanty.] a menace to the society, security of the State and so on"—if he says that, the matter finishes there. There would have been no need for us to move so many amendments, but then he says that there should be Advisory Board, that the grounds should be communicated and so on. If you are going to detain a man, detain him by all means. But, then, how will 5 days be immutable ? Now, I am astonished that our Home Minister, an eminent jurist should try to talk about the matters j from a practical point of view. I j would have liked him very much to have talked from a juristic point of view. Why not ?

In my amendment therefore I sug gest that instead of five days, that is being provided for in this amendment, it should be only 24 hours for two reasons. One is that.....

PANDIT S. S. N. TANKHA (Uttar Pradesh) : It means one day only.

SHRI S. MAHANTY: .....no where in the Constitution has a time-limit been set, that it should be five days. Secondly the grounds must have been ready. Whether it is the District Magistrate or any other Executive Officer, he must have been acquainted with the grounds—at least a pretension, of grounds *;* a shadow of grounds. There must be some grounds at least ;. why a man is going to be robbed of his' liberty. My point is why do you want five days to cook up a story ? If your officers are imaginative enough you can cook it up beforehand. Bet ter still an indexing system can be main tained in the Home Ministry about every citizen of India.

MR. DEPUTY CHAIRMAN : Please confine your remarks strictly to your amendment.

SHRI S. MAHANTY : What I was saying was that 24 hours should be quite enough for cooking up grounds. So why do you want these five days ? I feel very strongly on this point that if you want to be honest you accept my amendment. Of course you can say : "We can detain him; it is our sweet will ". Do it by all means, but if you want a sham justice to be done, I am not prepared for it. If you want to have grounds communicated to him, you should communicate to him within 24 hours. Otherwise, if you extend the time limit, there is further scope for much mischief for cooking up false grounds as I have indicated earlier in two instances. With these few words, Sir, I submit that my amendment should be accepted.

SHRI V. K. DHAGE : Sir, my amendment says that the grounds should be given along with the order of detention. I have already narrated that we in Hyderabad had found that many people were detained without even a detention order being served on them and the grounds for detention have been served very much later, in certain cases after a week, two weeks and even after a month. When a question like that, arose under the Detention Act, the courts said that that position of arrest without any order being served was a matter which, under ihe Act, they were not empowered to go into. While the Detention Act has provided that no arrest should take place without the order of detention having been served- and arrests have taken place without the order being served. Now that is a point which goes against article 22 of the Constitution itself. There is no remedy at all to a person who is illiterate, who is a rustic and who knows no way of finding relief. Now there is a ruling of the Supreme Court in which it is stated that when a detention order is served, the grounds for detention must be ready. I will just read out to you the pertinent portion of the ruling that has been given by the Supreme Court, on page 158 of A. I. R. 1951. It reads as follows : "Patanjali Sastri and Das J.J.—article 22 (5) postulates two rights. The first part of article 22, clause (5), gives a right to the detained person to be furnished with the grounds on which the order has been made and that has to be done as soon as may be. The second right given to such person is of being afforded the earliest opportunity making a representation against the

order. It is obvious that the grounds for making the orders as mentioned above are the grounds on which the detaining authority was satisfied that it was necessary to make the order. These grounds, therefore, must be in existence when the order is made." Now, Sir, if the grounds for detention are there at the time the detention order is made and there can be no arrest without the detention order being served, then there should be no difficulty for the grounds for detenton also being served simultaneously with the order of detention. That is a perfectly logical situation as Mr. Mahanty has pointed out and therefore my amendment .says that along vvih the detention order, the grounds for detention also must be served.

MR. DEPUTY CHAIRMAN : Home Minister.

SHRI J. R. KAPOOR : Sir, I would like to speak on this clause now unless you propose to give me another opportunity.

MR. DEPUTY CHAIRMAN : I have already called upon the hon. Alinister to reply.

SHRI P. SUNDARAYYA : Sir, there are other amendments on which we would wish to speak.

MR. DEPUTY CHAIRMAN : But you did not get up.

SHRI P. SUNDARAYYA : I wanted to do it as soon as he finished.

MR. DEPUTY CHAIRMAN : After he sat, I waited for nearly half a minute. You should be alert in the House.

SHRI P. SUNDARAYYA : We are alert. While he is speaking we cannot be on our legs and we did not know whether he was finishing or whether it was just a pause in the middle.

MR. DEPUTY CHAIRMAN : So you want to speak ?

SHRI P. SUNDARAYYA : Yes, Sir.

MR. DEPUTY CHAIRMAN : Yes, But be brief.

SHRI P. SUNDARAYYA : Sir, my amendment is that the detenu be given all such other particulars as are necessary for him to make a proper representation and to afford him the earliest opportunity for making such representation. Here in this clause it merely says, "shall afford him the earliest opportunity" but the question of supplying all the material is not given. The detenu is expected to get only the grounds on which he is detained. I have read—and the Home Minister has also on a number of occasions mentioned in the other House—that the law courts have been discussing this question of the grounds quite a number of times. "Grounds" mean specific grounds. The grounds may be specific but merely supplying the grounds will not enable a detenu to answer his charges and convince the members of the Advisory Board that the allegations that were levelled against him were false. And many a time the allegations are cooked up and he will not be able to prove to the satisfaction of the Advisory Board unless he knows what are the facts and what are the materials that have been placed before the Advisor}' Board and in the hands of the officials before he could make any representation at all either to the State Government in the first instance or later on to the Advisory Board. That is why we stress the necessity not only of supplying the grounds for detention but also of other particulars which are necessary for the detenu to make a proper representation. Sir, I think it is a very reasonable thing. If you are providing an Advisory Board, if you are giving him the right to make a representation, you must also enable him, by providing him all facts and such other particulars, to refute the allegations made against him. It is a very innocuous thing. If there is a provision in the Constitution that anything that is considered to be against the interest of tb<? public could be withheld, we are not

[Shri P. Sundarayya.] asking for that which the Government thinks is against public interest, but all other particulars certainly could be given to the detenu so that he could make a proper representation. I think the Home Minister will see his way to accept at least this amendment.

SHRI B. GUPTA : Mr. Deputy Chairman, my amendment also relates to this, but I would like to add some new points. We insist that along with the grounds, other materials should also be placed before the detenu, so that he can make proper representation before the Advisory Board. The grounds are generally drawn up frcm a number of reports and information that are available to the police, I do not know how actually that is drawn up. But sometimes an important police officer draws them up, and at other times probably somebody else in the Secretariat draws them up. But they are generally drawn up on the basis of the reports that are available to the Intelligence Department. Now, they of course collect reports from various places. The grounds are also very briefly drawn up. Some of the grounds contain two or three lines. They are very brief statements. It is very difficult on the basis of the statements that are made in the charge-sheet to make any representation to the Advisory Board, because it is not possible for the detenu concerned to explain his position and, if he has any extenuating circumstances to show, to state them, or to expose them if they are false grounds or to throw some light on the matter otherwise. It is not possible for him to do that because the grounds happen to be very brief. Therefore, it is essential that along with the grounds, other material should be given.

I will take the case of a person who has been detained for making what is called a prejudicial speech. As you know, when the police go to the meetings and take down reports, some of them take down shorthand reports, and others take down longhand notes. And there have been many sedition cases in the past where these reports have been commented upon by High Courts and by various other Courts. Suppose the charge-sheet is drawn up on the basis of the report of a particular speech. If the detenu has to make a representation to the Advisory Board, he must know exactly what is the report of the speech. He would like to show that the speech was not prejudicial—that if the speech was taken as a whole, it could not be interpreted as prejudicial. When you interpret a document, it is very necessary to take the document as a whole, and not just a line here and there. That has been laid down by courts of law starting with the case of Bal Gangadhar Tilak. There have been may cases of sedition where these decisions have been stated very categorically. When you look into a speech in order to find out its probable effect on the public or on the audience, you must consider the entire speech ; you must not take just one sentence here or another sentence there and put some construction on it. I have here an extract from a charge-sheet against Nityanand Chaudhury from Bengal:

"At a meeting held at the University Institute Hall on 19-9-47 you criticised ihe Government and threatened the Minister. At a meeting held on 21-9-47 at the Irdian Association Hall which was alter de d ty j cu, resolutions were adopted supportirg the strike at the Basanti Mill."

Now, suppose I get a charge-sheet of this sort. I have a representation to make. How can I make it ? I do not know exactly why this particular speech should be considered prejudicial with a view to bringing it within the scope of the Preventive Detention Act. Unless I get the whole speech, I cannot possibly make a representation which I would otherwise have made in a court of law had I been put up for trial there on a charge of sedition or on some other charge. All that I know from the grounds is that I made certain speeches which have been taken exception to by the Government. That makes things difficult. Therefore, it is essential in such cases that the grounds along with the report of the speech on which the grounds have been drawn up should be furnished to the detenu so that he can draw the attention of the Minister or whoever looks into the matter to point

out that the interpretation put by the executive is not warranted by the speeah he made. I know in a number of sedition cases, even on the basis of the police reports of the speeches you can make out a very good case that the speech in question is not seditious or prejudicial. We have had experience of handling such cases under the Defence of India Rules. When the entire speech came, it became very difficult for the Government to uphold the prosecution. That is one of the very important reasons why with the grounds the other material also should be furnished.

Besides, Sir, in many charge-sheets it is stated : "You spoke at this meeting and said this sort of thing." My case is this. I do not see the report. I would like to have the whole report in order to enable me to rebut the Government's case or the case of my prose-•cutor and prove that there is no basis to warrant this kind pf conclusion. For instance, I can mention various other factors provided I get to know the other materials on which the grounds have been drawn up. Unless I know all that, I am completely helpless. The hon. Minister may not agree, but I am completely helpless on account of the absence of other materials. Therefore, it is absolutely essential that we should have a provision of this sort. There must be some material on Which the grounds are based, and this material should be available to the detenu so that he may be enabled to make a representation to the Government so that the Government or the revising authority at the top will be in a position to look into the matter much more carefully than before. They would see if the grounds have been drawn up properly and if they are really warranted by the facts at the disposal of those persons who are entrusted with the drawing up of the charge-sheets.

All these amendments relate to section 7 of the principal Act. The other amendment is to the effect that subsection (2) of section 7 should be deleted. Sub-section (2) of section 7 of the principal Act reads as follows :

"Nothing in sub-section (1) shall require the L authority to disclose facts which it considers to be against ihe public interest to disclose."

Something has been said about it. I can only add that the Government case is not very tenable. The Government case is that it will not be in the interests of the public to divulge the sources of evidence. If that stand is taken, it becomes very difficult for an accused person even under these restrictions to defend himself. It will not be much of a defence before the Advisory Board, but even so he should be given minimum facilities to defend himself. If certain facts are there, they should be. disclosed. If the Government is in a. position not to disclose facts at its discretion, it means that whatever is. inconvenient for them and whatever is convenient for his defence would not be available to him. So far as" the question of public interest is concerned,, very many important cases have been tried in this country. There was the. Meerut case, there was the Lahore case,, and there were various other cases which were brought up before the courts-and witnesses were produced. It does, not mean that it leads to the unfolding of the secret machinery of the Government. It does not necessarily lead to that. In the Meerut case, for instance,, where they brought up many witnesses and produced thousands of exhibits, it did not lead to the exposure of the Intelligence Department of the Government of that time. Similar was the case in many other trials. Therefore, the argument that if this amendment is accepted it would lead to a complete exposure of tne intelligence services or that it would expose the witnesses to dangers of all kinds is not tenable either in principle or in practice.

Now, Sir, take for granted that I am an accused man, a detenu. I have been charged with some offence. Now it is my duty to defend and it is the duty of the Government also after having arrested me to give me enough chance to defend myself. Certain evidences and witnesses should be placed at my disposal. I am not in a position to cross-examine. I am not in a position to test the evidence in the normal way in

[Shri B. Gupta.]

which evidence should be tested. I am not at all in that position. At least I must know what is the evidence against me. I must know the factors I that have led to the formulation of a particular charge-sheet so that I can formulate my defence case. Now, Sir, I myself consider that to detain a person without trial is very much against the public interest. Having done that act, at least you should minimise the mischief that has been committed. That is to say, give him a chance to defend himself as much as he can. After all he is prevented from defending himself in the way he should have done if it were a trial in an ordinary court of law. Since it is not there, give him a little chance to put up an eftective case, an effective defence. Now if this is there, it means the Government is at liberty, the executive is at liberty to say that it would not disclose any facts. There is nothing to compel the Government to disclose any facts to the detenu. That is a very dangerous position in which a detenu is placed,-in which a defendant is placed. Now, Sir, that goes against all the canons of justice. There is not an iota of justice in this procedure. I am not talking about the "due process of law" as they have in the U. S. A. Under any process of law or whatever procedure is prescribed, give a detenu some chance of effectively putting up the defence which would at the same time give the Government some chance of looking into the other man's point of view. If this is not done, the Government would not be in a position to weigh the representations of the detenu against the facts and materials that have been •accumulated against him in order to put him under detention. There will be no justice left. I have listened to the hon. the Home Minister's speech very carefuily. He has tried to make out that by this Amending Bill he has removed some of the rigours or likely injustices or likely abuses. But on vital points the Amending Bill does not offer any remedy at all. Unless on those vital and salient points you give some remedy, it is difficult to get anywhere. Other things would look like a mere window-dressing. There will not be any relief to a detenu who would be arrested. Therefore, I submit that this amendment should be accepted and nothing really would be disclosed, if it is accepted, to the extent that public interest would be endangered. Certain inconvenient facts and matters no doubt will see the light of day but they would not create a situation whereby public interest will be endangered. Two things must be kept in mind. One is public interest. The other is interest of certain individual or party in power. These two things are not interchangeable terms. Public interest will not at all be hindered and affected if this amendment is accepted. Therefore, Sir, I would request the hon. the Home Minister to accept this amendment.

SHRI J. R. KAPOOR : I am glad at least for one thing that during the course of this discussion the members of the Communist Party in this House have made a clean-breast of everything that they have in their mind. And the latest instance of this is an amendment that has been moved by my friend Shri Bhupesh Gupta who suggests that sub-section (2) of section 7 should be deleted. Sub-section (2) of section 7 says, Sir, that nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against public interest to disclose. What they now want is that everything which is against public interest should be disclosed. He wants that public interest should be in jeopardy and chaos and confusion spread in the country. I therefore think that no heed be paid to the suggestion that has been made by my friend here.

Now, Sir, clause 6 of this Bill provides that the detained person shall be provided with the grounds of detention within five days so as to enable him to make a proper representation to the appropriate Government. Now, the appropriate Government in the case of an order passed by a District Magistrate or in the case of an order passed by the State Government is the State Government itself and in the case of an order passed by the Central Govern-

ment the appropriate Government is the Central Government. Now I submit, Sir, that this representation which a person detained makes and which is to be sent to the appropriate Government, must be sent over to the Central Government also alter the order of detention is passed by the District Magistrate or the State Government. We have under clause 4 of this Bill provided that a new sub-section (4) should be added to section 3 of the Act according to which the grounds of detention shall be sent over to the Central Government by the State Government after the order of detention passed by the District Magistrate has been confirmed by it. It does not specifically provide, Sir, that along with that copy of the order of detention the representation which the detained person makes shall also be sent over to the Central Government. I hope, Sir, the hon. the Home Minister will see to it by issuing necessary direction in the matter that whenever the State Government sends over the papers to the Central Government, the representation which has been made by the person detained shall also be sent to it. Otherwise the Central Government will not be in a position to look into the other side of the picture. Under section 13 of the Act, Sir, it is open to the Central Government to quash the order passed or confirmed by the State Government. When examining all the papers it must have before it the representation made by the person detained. That is my one point, Sir. And I consider it all the more necessary in view of the fact that this representation ordinarily will never be before the State Government when it confirms the order of the District Magistrate for the simple reason, Sir, that in their enthusiasm and in their anxiety to condemn the Government my hon. friends on the other side have not looked to the interests of the person detained at all and in the other House they have insisted and have persuaded the Government to accept their amendment to the effect that the State Government must pass its final order within 12 days of the date of order of detention. Now, Sir, within 12 days of the date of the order of detention it is almost impossible for the person detained to make out a proper representation and send it to the jail authorities who will then forward it to the District Magistrate, who in turn will forward it to the State Government. Now five days will elapse before the grounds of detention are furnished to the person detained. It would certainly take two or three days for the -person detained to make a request to have legal advice which I suppose the hon. the Home Minister is going to provide in some way or the other. Now the legal adviser must have at least two interviews. The second interview will take place after a gap of 3 or 4 days. So about ten days will elapse before the person detained is able to prepare a representation. Now, Sir, only two days are left. Even if the representation does reach the State Government during this period it will hardly have any time to apply its mind to the representation. And in some cases when the person is not arrested within twelve days of the order of detention the order will be approved by the State even before the person is detained and the question of its considering the representation does not arise at all. But then as it is, Sir, on the insistence of my hon. friends of the Opposition in the other House Government has acceded to their request. The Government I suppose, Sir, would have been well advised not to accept that suggestion of theirs for, the anxiety of the Government should not only be to accommodate the Opposition but its main purpose should be to safeguard the interests of the persons detained.

Let, therefore, at least the Central Government consider the representation. I would be very happy if a categorical statement to this effect is forthcoming from the hon. the Home Minister that in every case, a copy of the representation will also be sent over to the Central Government.

My second point—and it is more important—is that in the matter of the preparation of the representation, legal assistance must be given to the detenu.

[Shri J. R. Kapoor.] Sir, I am not unaware of the fact—I remember very well—that the hon. the Home Minister during the first reading of the Bill has assured us that he will see to it that instructions are sent to the State Governments that in particular cases if it is considered advisable that the facility of a legal adviser should be given to the detenu in the matter of the [1] preparation of his representation, it may be given. Now, Sir, that appeared to me to be a very halting assurance. I would therefore request[1] the hon. the Home Minister that he should see to it that in every case every State Government draws up rules to the effect that a person detained shall have two interviews with a legal adviser to help him in the preparation of his representation. -In the first interview, tbe person detained may hand over the grounds of detention and tell him what he has to say to enable the legal adviser to prepare the representation. In the final interview, the final representation may be drawn up. Without that, Sir, I submit that the right of making a representation comes to very little. I am agreeable to the contention of the hon. the Home Minister that it is not necessary that the person concerned should have, in his own interests, the right to be represented before the Advisory Board. It is not in his interests to do so, I agree, but in the matter of preparing his representation, he must have legal assistance. I hope the hon. the Home Minister will not be content with merely giving this halting assurance, but will categorically assure us that he will see to it that all the State Governments in every case, without any exception, do permit the person detained to have two interviews subject to such rules as may be framed, e.g. within sight and outside the hearing of the jail authorities, and so on.

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU) : Mr. Deputy Chairman, the amendments can he divided into two groups. The first is about the point of duration within which the grounds of detention should be served. Now, the Constitution uses in sub-clasue 5 of article 22 the words "as soon as may be", within 24 hours or within three weeks. Really I am sometimes thinking as to whether, in prescribing a period of five days we have not acted a bit incautiously in trying to improve upon the wisdom of the Constitution-makers. One amendment says you should serve the grounds of detention at the time of the detention. The other says do it within 24 hours. I do not think this will be possible. If the detenu is arrested at headquarters, the District Magistrate has issued the order of detention, I suppose the grounds of detention have already been drafted. SuppSsing it is Delhi, the man is arrested and is handed over the grounds of detention then and there or in the course of the day. But let us take it in this way : Supposing it is my own town of Allahabad, and he is arrested within the district, some 42 miles away. Now, you cannot expect a copy of the grounds of detention being passed on to every single police station qfficer in charge to whom the information is given that such and such order of detention has been issued, the person concerned is not available, he is "u.g." please keep an eye on him and arrest him if you catch him. Not only that, the detenu may be arrested anywhere. The order may be issued by the District Magistrate, Allahabad, and he may be arrested by the District Magistrate or the Police in Meerut. How can you have the grounds of detention travelling along with the intimation ? It is an utter impossibility. When he is arrested he is sent back. Information is given to the District Magistrate intimating the fact of his arrest. This will take some time. That is why I said that we are laying ourselves open to the charge that we are trying to improve upon the wisdom 'of the Constitution-makers. In the Joint Select Committee, I was really carried away by the persuasions of the members of the Joint Select Committee—especially the Opposition members—and they have brought a simple man like me into their way of thinking. It may not be practicable, I submit, in 5 days, and there may be some difficulties about it. It may be that we may have to send the detenu by aeroplane or the papers may have to

be sent by aeroplane within five days. So, if it is the suggestion that it should be handed over to him at the time of the arrest, it is an utter impossibility. It should be presented to him within 24 hours or within two days—both are impracticable. I may assure you that we will try to carry out the requirements of the Constitution both in the letter and in the spirit, viz. that it shall be done as soon as may be, and of course you have got this that it should be within five days. I would ask the House to accept the other amendment. There is no question of principle involved in it. I am as anxious about the freedom of the individual and about his having an opportunity to know what the grounds of his detention are, as anybody else.

Then come to the suggestions of my hon. friend. He put it in two ways. We have inserted another clause, viz. that the State Government should inform the Central Government of this matter. But please remember the State Government has to be informed by the District Magistrate who issues the order of detention and he has to receive the approval of the State Government within 12 days. He issues the order today and the p'erson concerned has disappeared. He has to inform the State Government that he has issued such and such order of detention on such and such materials, and he receives approval within 12 days. The gentleman may be arrested actually, if the order is approved, weeks later, and there will be no grounds of detention available at that time. He has not been arrested at all.

4 p.m.

Secondly, the other thing is this. You may prescribe a date by which the grounds of detention may be given, but you have not prescribed any date for the submission of the representation. I imagine that when the State Government is informing the Central Government of this fact that so and so has been detained by them, well they will have sense enough, when they are sending the papers, to forward any representation from the person concerned if by that time he has actually submitted one. You don't require any assurance from me that they will do so. It does not require any advice. Every sensible man will do so, but how can I say to them that you must send a representation because there may be no representation at all. If necessary, we may say 'You may send any representations that you may have received'. The State Governments are carrying on Governments of huge populations of about 6 crores, or 2 crores or 5 crores. They are sensible. They may even take it as an insult and say 'You are pointing out the obvious and palpable things'. To oblige my friends, I will do so.

Then comes the question of inter views. Let there be no mistake about it. Mr. Gupta corrected me fjiat there is no question of any new thing. In Bengal they have already got the right of applying for legal interviews for the purpose of enabling a detenu to draft his representation. I cannot compel.....

SHRI B. GUPTA : It is not for drafting that the legal interview is allowed.

DR. K. N. KATJU : I cannot compel a detenu to ask for a legal interview. Supposing a person concerned is himself a lawyer, a very competent individual, he says 'I am going to do it myself. I cannot thrust it upon him. Don't consider this representation is a sort of written statement or plaint or a pleading. It is only a denial. "Did you make such and such speech— answer yes or no". "Did you say to so and so that the villagers should act as guerillas and shoot—answer yes or no, whether you have said so or not". "Did you say any of these words— answer yes or no". I tell you again and again that the thing which comes straight from him has more appeal, is more persuasive than the thing which comes through the attorney. If you have noticed it, a plaint coming in his own words has always more effect than when it comes from Messrs. A, B or C, Co. saying 'Under instructions from our clients, we are directed to say this

[Dr. K. N. Katju.]

or that'. It becomes formal and it becomes almost lifeless and it has no persuasive power. As I said, I am not acquainted with the rules which are in operation in the different States but I shall advise every State Government if thev have got no objection—they will write to me if they have—to so arrange their rules that any detenu if he applies for an interview with the lawyer of his own choice to enable him to draft the representation, should be afforded those facilities.

The question, I think, is not of 2 or 3 interviews. That is a matter of detail. I don't want to conceal anything. I said in the other House what happened to me. If hon. Members would like to hear, I would repeat it. It is an interesting case. What happened was this. About 30 years back I received a letter from the District Magistrate of Allahabad saying that such and such person has applied for an interview, legal interview, with you and the legal interview has been granted and it will be available to you at io o'clock this morning. When I read it I did not know what it was, or where it had come from. But there it was. But the name was given, I know it now, but I do not want to mention it, it will not be proper. There had been a case in Allahabad, rather a well known case in which te torist who had come to Allahabad was sitting under a tree and the police were after him. They wanted to arrest him- He had a pistol or a revolver and there was regular firing. He fired and the police fired and he was killed. The tree was uprooted. The British people did it because they did not want the place to become a place of pilgrimage. So you don't know now the place where this thing took place. In connection with that the police were making enquiries and this man was brought from Punjab. So when I got this letter I did not know what to do and what it was about. I mentioned it to one of my children and the children seemed to know more of it than myself. They said this man is one of the associates of Bhagat Singh. Well they knew the name. So I went there to the lock-up. There were the two gates and he was in one of the cells and a police constable was walking up and down. When he saw me and the gaoler who took me there, then the policeman, out of consideration for me probably, kept away, So I stood in front of the bars. After the usual courtesies, I asked him, "What is it ?" He said, "Doctor Saheb, you see I had come here and I have been here for eight to ten days and I had got very lonely. I did not know anybody in Allahabad. I have heard of you. I had been to your house once. You were sitting in your office and there was some meeting of the Working Committee and some guests were staying there, some members of the All-India Congress Committee. I had asked you whether such and such an individual was staying in such and such room, and you said, 'No, he is in the other room'. That was the only conversation that I had with you. I do not know you. But I thought I had better send for you and so I wrote that I wanted legal interview." I asked him, "Do you require any assistance ?" "Nothing, I am quite all right". "Any clothing, a paif of shoes or anything I can do for you, to look after you or help you?" "Nothing" he said, '-I wanted a little tall; that is all". And so we talked for about twenty minutes. He was a fine youngman and he must be alive now, I wish he was alive, a very fine youngman. When I was coming away, he said, "I just wanted you to do one thing". "What is it ?" I asked. "You know such and such a person ?" he asked me. "Yes". I think my hon. friend Dr. Kunzru knows him very well, but he is now dead. "I know him", I said. "You know this constable going up and down ? He is a very reliable person. I have settled it up with him", he said. I had not.noticed it myself. "Just go outside this lock-up a little distance and there you will find a petrol pump". There was a petrol pump, a petrol station. "The arrangement is that this man the police constable will go there at the petrol pump at 3 o'clock tomorrow and you would kindly ask my

friend to send me a letter about certain matters which I had referred to him. This warder would be waiting there. He can, without hesitation hand over the letter to him and I will get the message." Well, that was the only legal advice that I was supposed to give him. My hon. friends here know much more about these matters than I do. I am an innocent man about these things.

There are legal interviews and legal interviews and I have no doubt that the State Governments, having more experience about these matters than I have, may become a little suspicious about legal interviews. A gentleman, completely competent, giving lectures, public speeches, leader, and going about the country up and down, if he wants legal interview and names a particular person of well-known sympathies, I should not be surprised if the State Governments were to become a little surprised as to the nature of this legal interview between such persons.

PROT-. G. RANGA : May I inform my hon. friend that it is not such an important person against whom action is being taken; it is only the ordinary common folk who are involved. The important people get off scot-free.

DR. K. N. KATJU : I am entirely in sympathy with my hon. friend Shri Jaspat Roy Kapoor that in suitable cases, almost in every case, there should be legal assistance, perhaps not legal assistance but proper assistance given to a "man who requires such assistance in drafting representation. I can only advise the State Governments and tell them that there should be uniformity of procedure and I am sure that they will do so. They would themselves like to have a proper re-presentation. I think that would satisfy my hon. friend but the matters are not so easy as they look. You must try to look below the surface. Mr. Ranga has raised an important point. I have been wondering about this since day before yesterday.

SHRI J. R. KAPOOR : We could perhaps have a panel of lawyers. This is only a suggestion—that just struck me first; I mention it for what it is worth—that we could have a panel of lawyers who alone may interview the detenus.

DR. K. N. KATJU : I have come across a panel of doctors for this purpose and a panel of lawyers for that purpose.

MR. DEPUTY CHAIRMAN : You are opposing all the amendments ?'

DR. K. N. KATJU : Yes, Sir.

MR. DEPUTY CHAIRMAN : The question is :

That for clause 6 of the Bill the following be substituted, namely:—

"6. *Amendment of Section* 7, *Act IV oj* 1950.—In sub-section (1) of section 7 of the principal Act, for the words 'as soon as; may be' the words 'within twenty-four hours from the time of detention' shall be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

That at page 2, line 3 for the words as soon as may be, but not later than five days from the date of detention' the words 'along with the order of detention' be substituted.

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

That at page *2,* line 3 for the words-'five days' the words 'two days' be substituted.

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

That at page 2, line 3 after the words 'from the date of detention', the following be inserted :—

"and for the word 'grounds' the words, "grounds and other materials".

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

That at page 2, line 4, after the word 'substituted' the following be added, namely: —

"and for the words 'and shall afford him the earliest opportunity of making a representation against the order to the appropriate Government" the following words.

[Mr. Deputy Chairman.] shall be substituted, namely:—

'and all such other particulars as are necessary for the detenu to make a proper representation and shall afford him the earliest opportunity for making such representation."

The motion was negatived.

MR. DEPUTY CHAIRMAN : The question is :

That at page 2, line 4, after the words 'shall be substituted' the words, brackets and figure 'and sub-section (2) of that section shall be omitted' be added

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.

MR. DEPUTY CHAIRMAN : Clause 7.

SHRI S. MAHANTY : Sir, I beg to move (Amendment No. 53) :

That for sub-clause *(a)* of clause 7 of the Bill, the following sub-clause be substituted, namely :—

"(a) for sub-section (2), the following sub-section shall be substituted, namely —

' (2) Every such Board shall consist of—

(a) a judge of a High Court who shall be the Chairman of the said Bcaic and

(p) two other persons who have been or are qualified to be appointed as Judges of a High Court'. "

SHRI L. GUPTA : Sir, I move Comeridment No. 54) :

That for sub-clause (re) of clause 7 of the Bill the following sub-clause be substituted, namely :—

"(a) for sub-section (2), the following sub-section shall be substituted:

'(2) Every such Board shall consist of three persons who are Judges of a High Court and such persons shall be appointed by the Central Government or the State Government, as the case may be, for a period of one year, or the duration of the Act, whichever is less'."

MR. DEPUTY CHAIRMAN : Amendments (55) and (56) are the same as these. They may speak on these. Now, Amendments Nos. 53 and 54 are for discussion.

SHRI B. GUPTA : Mr. Deputy Chairman, this is a very simple amendment which says that members of the Advisory Board shall be Judges of the High Court, not retired Judges, and also that they should be appointed for a period of one year, or for the duration of the Act, whichever is less. Therefore this amendment falls into two parts—one, as to the personnel of the Board and the other their duration of office as members of the Advisory Board. Why I say, Sir, that they should be Judges of the High Court, rather than retired Judges, is that these people—first of all let us start with retired Judges ; I do not cast any reflection on them, not at all— these retired Judges have put in a lot of service in this and the previous . regime and they have developed such an outlook and have acquired such a legal education which is rather conservative and which is not amenable to the promptings of the times. I mean their social outlook seems to be coming in their way. Of course I do not blame them for it. After all they have functioned for a long time which makes it difficult for them to adjust themselves to changed conditions. Now the Judges of the High Court who are now being recruited from the Bar and also from the Services, they are people—and again, I do not unnecessarily speak highly of them—they are people who are conversant with the affairs of the day. That is one thing. And besides they are the people who are at present engaged in a certain kind of legal activities and that also enables them to learn better than others. That is why I say that they should be there, because younger people with perhaps a broader outlook can come to be appointed to the Advisory Board only if you take such people who are working as Judges of the High Court. Retired Judges—people who are absolutely at the fag end of their lives— if they are put in such positions, with all the best of intentions they may have, they would not have the mental stability and stamina to go into these matters in the manner in which they should be gone into, and that makes

things a little difficult. Then there are other questions also, but I need not go into them.

Now, why I say that the period should be one year or some other definite period is this. As I understand it, these Advisory Boards will be appointed by State Governments. Now, if you do not fix a time limit, the State Government may change any member of the Advisory Board whenever it likes. Suppose an Advisory Body finds out that a number of cases are unjust and the detenus should be released, and if it releases a number of them, there may be Ministers in some States who would like to have the Advisory Board changed altogether. I am not saying this on some kind of hypothesis or in imagination. I speak on the basis of some experience. That sort of thing we had in Bengal during the days of the British and that we are likely to have and are perhaps having even now. I do not know how things are happening at the moment, bit during the days of the British I was a detenu for four years. What happened ? A certain gentleman who was on the Advisory Board took a different view from the view taken by the two other members of the Board. At that time the Board was probably called the Reviewing Board or something like that. I admit here that those Boards had less powers than the existing Board. I will admit that. But what happened ? That gentleman was removed by the British Government. It is possible for them to remove them. That is what I fear. That is what I fear in Bengal. The hon. Minister has had the advantage of knowing Bengal, not from the place from where I come, but from another place. That is to say, he was the Governor of our State, and I assume he knows certain things. I do not expect him to admit things here, but I suppose he knows certain affairs in our State—good or bad. He knows that in Bengal we have a Ministry which is dogmatism incarnate, whose attitude is absolutely irresponsible. We were not released until the Prime Minister intervened. Dr. Roy thought that wc were very dangerous people and should be kept in detention for as long a time as possible. Now, the Advisory Board knew Dr. Roy's political views and his attitude to detenus...

DR. K. N. KATJU : Mr. Deputy Chairman, I rise to a point of order-I do not think it is fair that any State Minister by name should be criticised here. He is not here to defend himself. The hon. Member may criticise me and name me. I am here to listen to his benediction or otherwise.

SHRI B. GUPTA : I will put it this way : Suppose the Chief Minister B of a State Government W takes the view that the Advisory Board is being a little lenient towards the detenu, it can be removed. He has the power to remove it, because the Advisory Board is not appointed for a definite period. This danger is very great. It exists in State X, Y or Z. That is why I say a time limit should be fixed ; otherwise it gives an opportunity to the executive, if the executive becomes unreasonable or if the Ministry becomes unreasonable, to make changes in order to frustrate whatever remedy is expected to be given through the Advisory Board. If the Advisory Board is filled with persons of the Minister's choice, then things become very difficult. If, for instance, a Board functions in a manner which is not to the liking of the Ministry in power, the Ministry in power may remove it at will. That is why a time limit should be fixed, so that those who sit on the Advisory Board would know very well that for the duration of their office not even the State Ministry can remove them from office, and that they are there to function according to their lights and can do full justice to their job. This is very important. Otherwise what I fear from the bitter experience that we had of the Advisory Board is that there would be a lot of manipulation there and a lot of changes, not in the interests of citizens or of the detenu but in the interests of the people who are very keen on keeping certain people in detention for some time or for all time.

[Shri B. Gupta.] They will get the upper hand and the Advisory Board will be turned into a kind of body that would do whatever it is asked to do. That would frustrate the object of the Advisory Board. Therefore, this is a very reasonable amendment. There is no harm in fixing a time limit. That the Ministry is keen on appointing the Advisory Board I concede .....

MR. DEPUTY CHAIRMAN : No repetition.

SHRI B. GUPTA : ..... but a definite time limit should be fixed, so that once the Advisory Board has been appointed, the Ministry cannot go and interfere with its work in any manner. The Board will get a free opportunity of handling its business in the way it likes. Detenus will have the assurance 'that members of the Advisory Board will not be removed just because they do not- oblige, shall we say, Chief Minister B of State W. The danger is inherent. I do not say it is obvious, i but is latent. I do not say that it is very real in every case, but when we J pass legislation, we must take all consi- i derations into account and think of cases that are likely to happen. That is my request to the hon. the Home Minister. After all, it is only a minor thing, but it has a major implication in practical working.

SHRI S. MAHANTY : Mr. Chairman, Sir, my amendment is that a Judge of the High Court should be the Chairman of the Advisory Board and two other persons who have been or are qualified to be appointed as Judges of a High Court, should be its members. I would draw your attention to article 22 (4) which says: "an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court". The Advisory Board should be formed by persons of such description.

[MR. CHAIRMAN in the Chair.]

What I intend to say is that if you analyse this very amendment, you will find at the back of it j the very faith of getting justice from the Advisory Board has been really shaken because in a majority of cases the High Courts have let off those detenus whom the Advisory Board consigned to detention. Now, Sir, when we say 'preventive detention', there is no necessity for having all these things as grounds of detention, Advisory Board, this or that, because in the case of Liversidge V. S. Sir John Anderson (1942), preventive detention was defined as the detention of a person without trial, in such circumstances when the evidence in the possession of the authority is not sufficient to make a legal charge or to secure the conviction of the detenu by legal grounds. You are not going to succeed in condemning a man in open trial by adducing legal grounds. Therefore you are going to condemn him by a secret trial. Well, you may do so but the fact remains to be said that justice is an absolute concept and no consideration, however expedient it may be, should transcend the end of justice. And probably that consideration has permitted our Government to provide for the mechanism of an Advisory Board. Now I have no objection to having an Advisory Board but the fact remains to be said that the Chairman of the Advisory Board should be a Judge, a sitting Judge of the High Court so that the great traditions of the judiciary,— of which our hon. the Home Minister has been so proud—would be maintained and our confidence would not be shaken that the Advisory Board is going to be a handmaid of the executive that wants to condemn a man, by means which are not strictly legal.

Now I would refer to the British Advisory Boards—from a book "Freedom under the law" which has been written by Alfred Denning a Lord Justice. He has mentioned that :

"The war-timed power to detain suspects represents the high-water mark of power of the executive of this country. Looking back it can safely be said that the power was not abused. The -reason was that it was administered by men who could be trusted not to allow any man's liberty to be taken away without good cause. The legal advisers who advised the Regional Commissioners, and

the Chairman of Committees who advised the Home Secretary, were, most of them, King's Counsel who gave their services without reward and who, by all their experience, training and tradition, could be trusted not lightly to interfere with any man's freedom. Indeed many of them now hold high judicial offices. Finally, there was a conscientious and careful Home Secretary who was answerable to Parliament which was ever-vigilant in defence of liberty."

Now, Sir, we cannot possibly expect that standard of conscientiousness here on the part of the Executive and the Advisory Boards in India for obvious reasons. Therefore my submission is that these Advisory Boards should be presided over by a sitting Judge of the High Court. It is only for this reason that the traditions of the judiciary will always keep him alive to the necessity of individual liberty. He will not easily interfere with the individual liberty of any person. I want that the other personnel of the Advisory Board should also come from the judiciary, if possible ; so that they will also be actuated by that tradition. In the Constitution it is said, *who have been or are qualified to be appointed as Judges of a High Court, may be members of the Advisory Board" . The Constitution says' so many things 1 The other day in the course of the Kashmir debate, our Prime Minister said that the bonds of the heart were stronger than a Constitution. Why should we always quote the Constitution? There are many things that transcend the limitations of the Constitution. Let us not always quote in a pedantic way what the Constitution says. The Constitution says so many things. It says in the Directive Principles that you should give food to every man, clothes to every man, shelter to every man, and if you are going to stand by the Constitution, why don't you declare them to be justiciable rights ? The Constitution says so many things. Let us not always quote the Constitution. Let the Constitution be liberally interpreted. We must not always say that a comma has been given here or a full stop has been omitted there. I agree with the Prime Minister that the bonds of the heart, the dictates of the heart, transcend the limitations of the Constitution. I do not ask for anything extraordinary of the hon. the Home Minister. I only want that on the Advisory Board, which is a judicial mechanism, you should have members of the judiciary functioning. That is all. I do not want to waste any more time of the House. That is my only submission.

SHRI KARTAR SlNGH (Pepsu): Sir, I support clause 7, but I have got some apprehensions with regard to Part B States, and in this connection I believe they are well-founded. We had 600 odd States. Now, in this clause it is said that one of the members of the Advisory Board should be one who is or has been a Judge of the High court. All those 600 odd States have been integrated, and there are now 7 or 8 Part B States.

Those 600 States had their own High Courts. Even States with ona, two or three lakhs of population had their own High Courts. This clause is so wide that any of the Judges of those High Courts can now be appointed as a Chairman of this Advisory Board. In Part B States there are many who have been Judges, but who were not Law Graduates and some of them were not even Graduates. The idea as expressed by the Home Minister was that in the presence of those eminent Judges the detenu as a matter of fa'ct does not stand in need of much legal assistance from outside. Therefore when we come to Part B States—and I have some experience of these States during the last 15 years that even non-matrics were appointed as High Court Judges— rather I have seen that in the matter of appointments the lower the qualifications, in services the higher was the job given to them, and the higher the post', the less was the qualification of the individual who held it. The very purpose would be frustrated if some caution is not taken in the matter. Since by virtue of article 371 the President works through a State Minister, who is responsible for the States and fortunately for us this Department is Under Dr. Katju. While making appointments in these Part B States

[Shri Kartar Singh.] I will simply invite attention of the Home Minister that he should kindly see that properly qualified persons, people who are qualified in law and are otherwise eligible for being appointed as Judges in accordance with the qualifications given in the Constitution, are appointed, because we find that the retired Judges in Part B States did not possess the qualifications mentioned in the Constitution. I submit that this matter requires his personal attention that when a Judge from Part B States is to be appointed, a person with sufficient legal experience should be appointed so that this amended clause is observed both in letter and spirit. Thank you, Sir.

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU) : Mr. Chairman, I shall deal with the point to which attention has been drawn by my hon. friend who spoke last immediately. He raised an important point and I may assure him and assure the hon. Members that the appointment shall be made of persons who are, in terms of the Constitution, qualified to be Judges of the High Court which has now been constituted and are now functioning in each of these State . Unions. For instance, we have got a High Court in Saurashtra, there is a' High Court for Madhya Bharat, there is a High Court for Rajasthan and we shall see to it that persons who are appointed to these Advisory Boards are persons who have been Judges of these newly constituted High Courts or are qualified to be Judges of those Courts. There shall : never be taken into consideration the,! mere fact that the person concerned j was a Judge of the High Court of a ' pre-existing State. I entirely agree that in every State—the tiniest of them were called High Courts and they had very big names but the High Court Judges were of all kinds and of varieties. That will, I hope satisfy my hon. friend. So far as the two amendments are concerned, one deals with the personnel of the Advisory Board. We have gone into it at great length. The personnel and the qualifications ' are laid down in the Constitution itself. When we discussed the matter in the Joint Select Committee, the only question was about the chairmanship and after a great deal of consideration we came to the conclusion that it was desirable that the chairman should be a gentleman of experience, of judicial experience, wisdom, maturity and all that. And inasmuch as a person who may be qualified to be a Judge of a High Court may be a very junior man in age, and therefore junior in experience—you can appoint anybody as a Judge of a High Court who has been ten years at the bar or ten years in the Judicial Service, it was thought that a Sitting Judge of a High Court or a Retired Judge of the High Court is bound to be a senior man. As a matter of fact, a Retired Judge of a High Court is bound to be over sixty years of age, profound in wisdom, profound in knowledge, and what is more important, profound in the knowledge of human nature. And therefore, we deliberately put it that the chairman shall be efther a Sitting Judge or a Retired Judge. Now my hon. friend's amendment is that it is partiality for the Sitting Judge. Well, I have always shown great reverence for Sitting Judges and my reverence has not decreased simply because a Judge had retired from the bench and become a Retired Judge. Suppose we had a Retired Judge of the Supreme Court—I do not know whether any Judge would be willing to serve—then it would be a great ornament to any Advisory Board if a Retired Judge of the Supreme Court were to serve on it. Would there be my objection to that ? So I suggest this really proceeds—I do not know what kind of impression it is,—upon an impression that a Sitting Judge has got certain qualifications, qualifications which other people do not possess. I repeat it once again that this is a question of tradition. A man who has been on the High Court for five or ten years or has retired from the High Court imbibes certain attitudes. He :ultivates a detachment of mind, or •ather he should cultivate certain aloof-less from mundane politics and then te has got a fair notion of partiality and mpartiality, independence and so on.

ihese tend to become part of his skin. They do not lose these qualities just because they have retired. If they were to lose them they would be less than human beings.

So far as the others are concerned it was a defect of language probably. I am not complaining of it j but it is rather curious. "Two other persons who have been or are qualified to be appointed as Judges". These are the words. You do not require Sitting Judges there. Now, literally it would mean one Sitting Judge as Chairman and either two persons eligible for appointment as Judges or two persons who have been Retired Judges. Now," I do not share that view. Today in Bihar, if my information is correct, the Advisory Board consists of all three Sitting Judges. In Allahabad, in Uttar Pradesh, I think last year the Advisory Board consisted of two Sitting Judges and one other gentleman. One of them had died and I do not know whom they had substituted now. Therefore I would respectfully say that this is not really a matter for controversy. You had better leave the clause as it has emerged from the Joint Select Committee after great consideration. Now, so far as the second amendment is concerned, moved by my hon. friend, Mr. Gupta, in which he said that the Advisory Board should be appointed for a period of one year, I shall be quite frank. The reasons that he gave, I think, cast a great reflection upon any State Government and have rather prejudiced me, because there are 22 Advisory Boards; in some States there is more than one Advisory Board. I have never heard a complaint that the States have be^n manipulating their Advisory Boards or have been imposing their will upon any Advisory Board. They appoint the Advisory Board and leave it there. Whenever any change takes place, I think the vast probabilities are that the learned Judge himself says T do not want to be a member. I want to retire or there has been some transfer.* Anyway to suggest, Mr. Chairman, you were not here, but what was suggested was there may be a Judge or a member of the Advisory Board who may be much too soft for the Government. He might be playing to the gallery, if I may use that word, and, therefore, they are trying to get rid of him and bring in somebody else more reliable. Now, I say that insinuation is not proper, that charge is not justified and should never have been made. There is no justification for it and it is in that spirit, I think personally fhat there is really no merit in this amendment, also, that I beg to oppose.

MR. CHAIRMAN : The question is:

That for sub-clause (a) of clause 7 of the Bill, the following sub-clause be substituted namely:—

" *(a)* for sub-section (2), the following sub-section shall be substituted, namely:—

' (2) Every such Board shall consist of—

(a) a Judge of a High Court who shall be the Chairman of the said Board, and

(b) two other persons who have been or are qualified to be appointed as Judges of a High Court.' "

The motion was negatived.

MR. CHAIRMAN : The question is:

That for sub-clause (a) of clause 7 of the Bill, the following sub-clause be substituted, namely:—

"(a) for sub-section (2), the following sub-section shall be substituted:

'(2) Every such Board shall consist three person; who are Judges of a High Court and su:h persons shall be appointed by the Central Government or the State Government, as the case may be, for a period of one year, or the duration of the Act, whichever is less' "

The motion was negatived.

MR. CHAIRMAN : The question is :

That clause 7 stand part of the Bill. The motion was adopted. Clause 7 was added to the Bill.

MR. CHAIRMAN : We now pass on to clause 8.

The motion is :

That clause 8 stand part of the Bill.

SHRI B. GUPTA : I move :

That at page *2,* line 26, for the word "thirty" the word "seven" be substituted.

SHRI S. MAHANTY: Sir, I move:

That at page 2, line 26, for the word 'thirty" the word "fifteen" be substituted.

That at page 2, line 28, after the word "grounds" the words "and all particulars" be inserted.

MR. CHAIRMAN : Amendment No. 60 is covered by 59.

SHRI B. GUPTA : Sir, I move:

That at page 2, line 28, after the words 'grounds" the words "and other materials" be inserted.

MR. CHAIRMAN : Clause 8 and the amendments are now open for discussion.

SHRI B. GUPTA : My amendment relates to the period of time within which the grounds have to be communicated to the Advisory Board. Now, Sir, it is 30 days in this Biil here. My amendment says that it should be done within seven days. Now, if a detenu has been arrested, if a person has been arrested under the Preventive Detention Act, it is presumed that a certain case has already been made out against him ; certain materials had been in the possession of the Government, otherwise the Government would not have arrested him. Now, I am not thinking of the arrests that are made on the spur of the moment. These arrests are absolutely without any justification and do not usually stand any scrutiny. Suppose a person has been arrested— I take it—normally under the Preventive Detention Act, it could be assumed that certain materials had been in the possession of the Government before the arrest. If that is so, why should they take 30 days to place these materials before the Advisory Board ? I think the materials and the grounds should be expeditiously placed before the Advisory Board. What happens in some cases, when the time limit is so big, is this : The Government arrests a person, then the Magistrate or the Secretary, if the arrest is made in Calcutta, or the Intelligence Branch tries to cook up some sort of a case. For instance, suppose a procession or a. demonstration takes place, persons are arrested by the police. If the demonstration had not taken place on that particular date, probably nobody would have been arrested. Now certain people are picked out for dealing with the procession. Some are put in jail under the Preventive Detention Act and some others are kept as under-trial prisoners. Now Government make use of this long period—it is not an insinuation *;* it is a very reasonable fear—to cook up some case or other. Often what they do is : they go and interview the detenu's family asking .them various questions and that way they gather certain facts and then put up a certain case which otherwise it would not have been possible for them to do.

MR. CHAIRMAN : You seem to be very tired today.

SHRI P. SUNDARAYYA : No, Sir: he is following your advice.

SHRI B. GUPTA : Normally, these cases are of two kinds. I had the privilege of looking through a large number of charge-sheets during my detention and I found many of them were on the face of it absurd. If I could bring those charge-sheets from the Dum Dum jail and place them before the hon. the Home Minister he would himself probably find the absurdity of quite a good many of them. The trouble was that when we get the charge-sheet we had no remedy. Now we have got something—the right to appeal to the Advisory Board and things like that. They use this long period of time not with a view to testing the evidence that they have already got, not with a view to protecting the rights and liberties of the citizen,, but with a view to buttressing their act of arrest. When somebody has been arrested, the police department makes it a point somehow oi* other to establish a case against him. They frankly go about hunting all sorts of tacts and things and produce a charge-sheet. Take my own case. In my charge-sheet my address was given as

31/2 Hartaki Bagan Lane, Ogilvie Hostel. It is the address where the students of the Scottish Church College put up. So the charge-sheet carried absolutely an address where I could never live, unless I become Superintendent of the Hostel. Apart from student?, some servants are supposed to be living there. This is how a charge-sheet is made and placed before the Advisory Board. The time is utilised for cooking up a case. If Government has really got a case against a person in mind when he is arrested—and it is assumed that a case is there in the possession of Government—then why should there be delay ? Let the case be immediately placed before the Advisory Board, and let not the Government, the Executive Officer or the police officer get any chance of cooking up a case against him after arrest. That is why I say that the time limit should be reduced. I think seven days would be quite sufficient for placing it before the Advisory Board for the Government, for the district magistrate or the Commissioner, as the case may be.

SHRi S. MAHANTY : Mr. Chairman, Sir, the steam-roller has crushed all my amendments and I am also feeling fagged. What I intended to say was that acceptance of this amendment would not be so injurious, because it relates to a matter of procedure only. Where an order has been made under the Act, the appropriate Government should place it before the Advisory Board within 30 days. I want to substitute 15 days for 30 days. The reason is very simple. The grounds are there. The charges are there. You are simply to place it before the Advisory Board. I do not know why full 30 days are required for the purpose. You can also argue this way : Suppose a man has been arrested in one corner of the State and the Advisory Board sits at another. I cannot imagine that there can be any place in a State which it will take 30 days to reach. This figure of 30 days is a'n arbitrary fixation. I want that it should be 15 days, in the interest of the detenu, in the interests of liberty.

If you peruse all the amendments that I have proposed, you will find them motivated by one consideration only ; that justice should not be denied, justice should not be delayed. I emphasise that justice should not be delayed. That is my only submission. The stcum-roller is there whether it is 30 days er 20 days. But I humbly submit that they should at least accept the figure 15 which I have suggested. The period should be 15 days instead of 30 days.

The second point is that all the particulars should be there. The grounds should not be an isolated fact. It should not be just an isolated incident. This has been dealt with at length by previous speakers, and I myself on another occasion stressed this point. It means eveiything. They should not take up an isolated event and make it a ground. If that ground relates to another incident, the report of that incident also should be appended to the grounds. These are the only two suggestions that I have to make.

SHRI J. R. KAPOOR : My hon. friend over there, Mr. Bhupesh Gupta, has been calling many a thing absurd, but I cannot conceive of a greater absurd ity than this amendment which he has moved—No. 57. This time I almost seem to hear a wail from the detenus crying out, "save us from our friends ; save us from innocent suggestions coming from innocent-looking friends ; and save us from our lawyer-advocates." What does this amendment proposed by my hon. friend mean ? That the Board should be seized of the case within seven days of the date of detention. That means that even before the order of detention in many cases has been confirmed by the State Government, the Board should be seized of it. The State Government has been given 12 days' period to confirm the order of detention from the date of the order. In some cases the order may be executed several days after the date of the order. In many cases the person would be arrested within a day or two of the order of detention. If this suggestion of Mr. Gupta is ac- I cepted, then it means that within 9 days ' of the date of the order the whole case

[Shri J. R. Kapoor.] must be placed before the Advisory Board,so that the person detained should not have the advantage of an order of release by the State Government or by the Central Government. 5 p.m.

The same is the case with regard to the suggestion that the whole thing must be placed before the Advisory Board within 15 days. I therefore submit, Sir, that these two amendments are on the face of it absurd and not in the interest of the person detained. Then, Sir, if the whole thing is placed before the Advisory Board in 7 days, or 15 days they will not be in possession of the representation of the person detained. You do not expect that the person detained should submit his representation within 7 days of his detention. How will that be possible ? So do they want that the person detained should not have the advantage of subm itting his representation for the consideration of the Advisory Board ? That is all that I have to submit to oppose the amendments.

DR. K. N. KATJU : I am very grateful to my hon. friend Mr. Kapoor for stating the arguments so clearly and much nnre forcibly, if I may put it so. I therefore need not waste your time about it.

So far as the second amendment is concerned about these ever-green, constantly repeated grounds and particulars, I have dealt with it over and over again that there is no need for it and it is all over-cautiousness. I therefore oppose both the amendments.

MR. CHAIRMAN : The question is :

That at page 2, line 26, for the word "thirty" the word "seven" be substituted.

The motion was negatived.

MR. CHAIRMAN : The question is :

That at page 2, line 26, for tlie word "thirty" the word " fifteen" be &ubstituted.

The motion was negatived.

MR. CHAIRMAN : The question is :

That at page 2, line 28. after the word "grounds" the words "and all particulars" be inserted.

The motion was negatived.

MR. CHAIRMAN : The question is :

That at page 2, line 28, after the words "grounds" the words "and other materials" be inserted.

The motion was negatived.

MR. CHAIRMAN : The question is :

That clause 8 stand part of the Bill.

The motion was adopted.

Clause 8 was added to the Bill.

MR. CHAIRMAN : The motion is that clause 9 stand part of the Bill.

SHRI K. C. GEORGE (Travancore-Cochin) : Sir, I move :

That in sub-clause (a) of clause 9, in the proposed sub-section (1) of section io of the principal Act, after the words "desires to be heard" the words "and to be given facility to place evidence to counter the grounds of the order of detention" be inserted.

SHRI S. MAHANTY : Sir, I move :

That in sub-clause (a) of clause 9, in the proposed sub-section (1) of section io of the principal Act, after the words "after hearing him in person" the words "or through the lawyer of his choice" be inserted.

SHRI B. GUPTA : Sir, I move :

That in sub-clause (a) of clause 9 of the Bill, in the proposed sub-section (1) of .section io of the principlal Act—

(a) for the words "after hearing him in person", the words "after hearing him in person and/or through his lawyer, and examining such evidence or witness that may be called *suo mow* or by the person detained" be substituted *;* and

(6) for the words " ten weeks" the words "four weeks" be substituted.

SHRI P. SUNDARAYYA : Sir, I move :

That in sub-clause (a) of clause 9 of the Bill, in the proposed sub-section (1) of section io of the principal Act, after the words "after hearing him in person" the words "and after giving him facilities to produce such evidence as he considers necessary" be inserted.

SHRI H. N. KUNZRU : Sir, I move :

That in sub-clause *(a)* of clause 9 of the Bill, to the proposed sub-section (1) of section io of the principal Act, the following provisos be added, namely :—

"Provided that the Advisory Board may, before, the person concerned is heard in person, furnish him with such further particulars as are in its opinion sufficient to enable him to present his case to the Board:

"Provided further that the Advisory Board may, if it considers it necessary so to do, allow the person concerned an opportunity of consulting a legal practitioner of his choice to prepare his reply."

SHRI B. RATH : Sir, I move :

That in sub-clause *(a)* of clause 9 of the Bill, to the proposed sub-section (1) of section io of the principal Act, the following proviso be added, namely :—

"Provided that the Advisory Board may, before the person concerned is heard in person, furnish him with such ' further particulars as are in its opinion sufficient to enable him to present his case to the Board and for the purpose the Advisory Board may allow the person concerned the opportunity of consulting a legal practitioner of" his choice."

SHRI B. GUPTA : Sir, I move :

That for sub-clause (6) "of clause 9 of the Bill, the following sub-clause be substituted, namely:—

"(fc) Sub-section (3) shall be deleted."

MR. CHAIRMAN : Now all these amendments are moved and the clause is before the House.

SHRI K. C. GEORGE : Sir, in moving this amendment I do not ask for much. I only ask for simple justice. What I want by this amendment is that necessary facilities be given to a detenu to place evidence so that he may be able to refute the charges that have been levelled against him. My point is that by granting this concession the purpose of this piece of legislation is not at all defeated because what the Government wants is that a person who is dangerous to society or who is out to subvert the Constitution should be prevented from committing any offence.

By this Preventive Detention that purpose is served. Then, what I ask is, if that has been achieved, why should not the detenu be given an opportunity to prove that he is innocent ? So, I want to add the words in this clause " and to be given facility to place evidence to counter the grounds of the order of detention." I only ask that he should be given facilities to consult a lawyer. There has also been an amendment to that effect. The hon. Minister may perhaps say that it may not be in the interests of the detenu to do it, but justice demands that he should be givue this facility. As has been pointed out by several hon. Members today there are so many cases of unjust detention. If a lawyer is an absolute necessity in the case of educated people, it is more so in the case of poor ignorant people. We should remember that it is not only educated people who are arrested and kept under detention but also the unlettered people in the villages, the poor peasants, are detained. Such people would require the services of a lawyer. So, that becomes under the present conditions of society a necessity. There are thousands of people who do not know how to make an application. They may know that an injustice has been done to them, but there are certain formalities that are necessary. The hon. the Home Minister has been almost contemptuously saying that, if a detenu is in the hands of a lawyer, then there is no escape for him. If that is so, may I ask if he is going to scrap the Criminal Procedure Code under which lawyers have got to appear ? Justice demands, Sir, that a detenu should be given the facility of consulting a lawyer. He actually needs that concession. Sir, I move my amendment.

SHRI P. SUNDARAYYA : I support the amendment moved by my colleague, Mr. Bhupesh Gupta, that the detenu should be allowed to represent his case through a lawyer. The Home Minister has been eloquent about the vices of lawyers and has been narrating instances of how prisoners during the period of British imperialism have utilised the services of the hon. the Home Minister also to carry messages to people outside. By bringing in these incidents, his whole purpose is to ridicule himself as well as the other lawyers. If he is

[Shri P. Sundarayya] really serious and if he is really convinced that lawyers are useless and they are more a hindrance rather than help in the rendering of justice to the detenus or other accused, then I would suggest that he, being the Minister of Home Affairs and a lawyer also should abolish all the law courts and all lawyers. The same Home Minister says that the Constitution provides that a person who is, or has been, or is qualified to be" appointed as, a Judge of a High Court, should serve on the Advisory Boards. That means that an advocate often years' standing can serve on the Advisory Board.

So a lawyer is quite decent enough to serve on the Advisory Board, to give judgment as to whether a detenu is properly detained or not but when the same facility is asked for the help of a detenu in putting forward his case to defend him before an Advisory Board he thinks the lawyer is an obstacle and the Home Minister comes down as if he is the champion of the detenu. We ask this facility because in Hyderabad itself 6,000 detenus have been interned. Many of them could not, even if you give them the opportunity to represent, go and appear in the presence of the Advisory Board and argue their own case and they could, if at all, only say that they had been illegally detained. If that statement only would satisfy the Advisory Board though he does not know why he has been detained, then I would ask why hundreds of detenus, who were illiterate and who could not argue, have continued to be in detention even after the constitution of these Advisory Boards. The Home Minister said that if the members of the Advisory Board would see them, then they would come to the conclusion. 'He is rustic, therefore what is the use of detaining him ? ' Unfortunately, our experience is exactly the opposite. That is why we want this provision. I will give you another instance. In Kistna District in the place Kammavarupalam there was a water carrier who had nothing to do with politics and he was arrested and detained and his name was Raghu-ramaiah. He was kept for iwo yeats in detention after which the Government came to the conclusion that there was no use of detaining him and they were prepared to release hirn. He requested the Government to send a man who could take him from Crddalore to his native place. There are hundreds of cases like this. How could you expect that such persons should prepare their cases and defend themselves and if the Advisory Board brings more material against them, to argue it before them ? Even as recently as two months back a large number of detenus was brought before the Supreme Court in connection with their representations, but they could not argue their own cases and of course they were not rich enough to engage lawyers also and therefore even to ask for an adjournment so that they could get a lawyer, somebody else who was there in the Court had to intervene. This is the position of the detenus. It is for such cases that we are asking this help. My amendment is :

"and after giving him facilities to represen this' case through a legal practitioner if he so desires.*

A few minutes back the Home Minister was saying 'How could you force a legal practitioner on every detenu ?' Nobody wants you to force a legal man on a detenu. If he wants to avail of the services of a legal practitioner, why should you have any objection ?

Secondly, a detenu should be allowed to produce evidence and refute the allegations made against him. Certain allegations art made and certain material is supplied to the Advisory Board but the same material is not supplied to the detenu. The Government is not prepared to give the detenu the material that it is prepared to give to the Advisory Board. The result is that you are prejudicing the Advisory Board by giving cock and bull stories without the same material being placed before the detenu so that he could refute them. Even on the materials that the Advisory Board may be pleased to place before the detenu he hss to argue and how can he do that unless he is given the opportunity to produce evidence ? A mere declaration that, he is innocent of the charges levelled against him is no-

defence and by that no one is going to be convinced. That is the reason why we ask that the detenu should be allowed to produce evidence which he thinks necessary to refute the allegations made against him. Without this even an Advisory Board with High Court Judges will not be able to come to correct conclusions about the case. They will not come to the conclusion that the detenu is innocent and should be released. These allegations are mostly based on information of police agents, paid police informers who bring information to the Government. On such information and on that advice only the Advisory Board will have to go, without letting the detenu have a chance of refuting the allegations by producing his evidence. So we request that the detenu should be allowed the right tc produce evidence and he should also have the right to be represented by a legal practitioner if he considers it necessary.

Then there is another amendment to the effect that the Advisory Board shoulc make its report not within ten weeks, but four weeks after the case has been referred to it. Four weeks elapse before the case is referred to the Advisory Board. Four weeks more will be taken by the Advisory Board to submit its report. This means that the detenu will be in detention for two months when the Advisory Board submits its report. If the Board comes to the conclusion that he has been unnecessarily detained then he would be released after two months' detention. In the original clause which we are trying to amend, the Advisory Board was to submit its report within four weeks of the reference of the case to it. Though now the time in which the case has to be referred to them has been reduced from six to four weeks, the time given to the Advisory Board to give its report has been increased from four to six weeks. . Therefore the detenu will not get any benefit as far as the time factor is concerned.

Therefore, I would request the House to accept these minimum safeguards for the detenu to put forward his own case so that he may prove his innocence and in this way the abuses which are likely to be done in this Act by the executive can be checked to some extent at least.

SHRI P. V. NARAYANA : I want to make a submission. I was not doing, well and so I could not come in time when the discussion on clause 9 was started. I have an amendment.....

MR. CHAIRMAN : That is all right. It has been included and you are not losing anything. The substance of your amendment is found in another amendment which has been moved.

SHRI P. V. NARAYANA : May I be permitted to speak ?

MR. CHAIRMAN : You may say a few words.

SHRI P. V. NARAYANA : Mr. Chairman, as you have said the substance of my amendment has been covered by other amendments here, given notice of by other hon. Members. There is provision in the Bill to say that the person can be heard in person. Then you have to provide him with the facilities for getting legal advice so that he might prepare his representation and submit it to the Board and prepare his-case for the defence. Sir, the law books do not speak,. They have to be interpreted by eminent lawyers. The hon. Home Minister, who I learn was an eminent lawyer—and I have great respect for lawyers—was saying something against lawyers. That may be his personal view. Sup-_ posing an innocent man like myself is detained, how is it possible for me to represent my case properly to the Advisory Board ? There must be a lawyer and if I am rich enough I shall pay for him or my friends will pay. There is no trial and nothing whatsoever ; so, whv should the detenu be deprived of even legal assistance ? Under the Criminal Law if he is not able ro engage a lawyer, it is the duty

[Shri P. V. Narayana.J of the Government to engage a lawyer for him. Here, we are not going to that extent but only ask that he should be given facilities so that he may secure legal assistance without the help of the Government. I really wonder why our Home Minister objects to it. I think such simple and reasonable suggestions from the Opposition must be accepted by him ; they may pass any legislation because of the majority. This morning I heard him say about some sensible man or something like that. We do not always charge them ; sometimes what they say is right but, the minority is a minority and they should regard our criticism, and give it due consideration. I hope the Home Minister will see that the detenus are provided with all facilities for having legal assistance for representing their cases.

MR. CHAIRMAN : Would you like to speak, Dr. Kunzru ? *(Addressing Shri Rajagopal Naidu)* I will call you next.

SHRI H. N. KUNZRU : Sir I should have asked for your permission before I moved my amendment, to drop the second proviso. Unfortunately, I forgot to do so but, I hope, I have now your permission to move only the first proviso.

MR. CHAIRMAN : With the permission of the House, the second proviso may be dropped. Does the House accord him permission ?

(Permission to withdraw the second proviso was accorded.)

SHRI H. N. KUNZRU : The first thing that I should like to point out is that there is nothing in the proviso that I have moved which is inconsistent with clause (5) of article 22. Article 22 of the Constitution requires the authority ordering the detention of a person to communicate to him, as soon as may be, the grounds on which the order has been made. My proviso says that the 'Advisory Board may, before the person concerned is heard in person, furnish him with such further parti culars as are in its opinion sufficient to enable him to present his case to the Board.' The Board, if it thinks that the grounds that have been furnished to him are quite sufficient need not furnish him with any further particulars; but, if the Board feels, in any case, that it might help the detenu to defend himself better if further particulars are communicated to him, there is no reason why the Board should not be permitted to do so. It may be said, Sir, that as the detenu will make a representation to Government after having the grounds of detention and as this representation will be placed before the Advisory Board, of what use will it be to him if the Advisory Board subsequently furnishes him with any particulars ? There is nothing either in the Constitution or in the Preventive Detention Act to debar a person after receiving such further particulars as the Board may consider desirable to communicate to him, to make another representation to the Board or to appear before it in person to reinforce the arguments contained in his representation. I shall, in .this connection, draw the attention of the House, even at the risk of displeasing my hon. friend the Home Minister, to the procedure that was followed in England in connection with Regulation 18-B which was passed under the Defence Powers Emergency Act .....

MR. . CHAIRMAN : The hon. the Home Minister.

(The hon. Minister was away from his seat.)

SHRI H. N. KUNZRU : Sir, I am not very particular about troubling the Home Minister, because I know what the fate of my amendment will be. By not listening to me, he has made it more eloquently clear that what is in his mind is that he is not going to pay even the slightest attention to our arguments, whatever they may be.

SHRI C. G. K. REDDY (Mysore) : Not even listen to the arguments.

SHRI H. N. KUNZRU : I recognise that we are in an extremely difficult

position, yet we have to discharge a public duty. Sir, I said that I should like to draw the attention of the House to clauses 4 and 5 of Regulation 18-B in England. Clause 4 says : "It shall be the duty of the Secretary of State to ensure that any person against whom an order is made under this Regulation shall be afforded the earliest practical opportunity of making to the Secretary of State representation in writing with respect thereof and that he shall be informed of his right whether or not such representations are made to make his objections to such an Advisory Committee as aforesaid". This clause clearly shows that the Secretary of State had the grounds on which an order of detention was passed against a person communicated to him, otherwise he could not make representations to the Secretary of State, although he had a further right, in the language of this clause, to make his objections to the Advisory Committee. That means, the procedure obviously was that when a man was detained, he was informed of the grounds on which he was detained and was given an opportunity to submit a representation to the Secretary of State against his detention.

Now, consider, Sir, clause 5 of the same Regulation. Any meeting of an Advisory Committee held to consider such objections as aforesaid shall be presided over by a Chairman nominated by the Secretary of State and it shall be the duty of the Chairman to inform the objector of the grounds on which the order has been made against him and I ask the House, I draw the attention of the House to these words: "and to furnish him with such particulars as are in the opinion of the Chairman sufficient to enable him to presem his case ." So you see, Sir, that the grounds on which a man was detainea were communicated to him by the Secretary of State and he could make a representation to the Secretary of State against the order of detention. Nevertheless it was the duty of the Chairmar to inform the objector, i.e., the detenu of the grounds on which the order hac been made against him and then tc furnish him with such other particular* as he might consider sufficient to enable the detenu to present his case. I am here casting,no obligation on the Chairman of the Board or on the Board at all. I am leaving the whole matter to the discretion of the Board. If this amendment—taking the impossible to be possible—is accepted, the procedure will be the same as it was in England. The detaining authority will communicate to the detenu the grounds on which he is detained. He will then make a representation in writing to the authority concerned. This representation will be referred to an Advisory Board. Up to this point the procedure will be the same as the procedure that was followed in England. But I ask that the Board should be allowed to communicate further particulars to the detenu if it thinks that the communication of such particulars will enable the detenu to present his case better. The procedure that has been laid down in the Bill does not provide for this. I see no reason why the Advisory Board should not be given the power that my amendment seeks to confer on it. If this procedure could be followed in England, in war time, I see no reason why it should not be followed here. And let me repeat that the communication of further particulars to the detenu was obligatory ; it was the duty of the Chairman to communicate the particulars to him. Bat I have not cast any such duty on the Chairman or on the Board. I have merely given a discretion to the Board to communicate further particulars to a detenu if it considers such a course desirable. There is, therefore, nothing in my amendment or in the circumstance's existing in India that prevents the acceptance of my amendment. I move,

SHRI RAJAGOPAL NAIDU (Madras) : Mr. Chairman, I rise to support amendments Nos. 63 and 64 that legal assistance should be provided for the detenu. I have been listening with great amazement to the arguments of our Home Minister both in the Select Committee as well as before us for the last two days. I

[Shri Rajagopal Naidu.] had also followed to a certain extent his arguments about this point in the Lower House. I may say, Sir, that his arguments are no doubt very clever. That only shows how intelligent our Home Minister is. He has been one of the greatest lawyers of our country for a number of years and it certainly pains me, Sir, to hear his amazing arguments with regard to the advocates not being allowed to give legal assistance to the detenus. I have made certain notes from the speeches that came from his mftuth. I find, Sir, in one place the Home Minister says :

"The atmosphere in law courts is that of an indoor ward in a hospital."

And in another place, he says :

"If 1 a detenu had an honest case, I cannot imagine his getting a better tribunal than this Advisory Board to be set up under the Preventive Detention Bill."

As a lawyer he could say "that a lawyer would not sit in before Panchayats and Advisory Boards of that description, where the proceedings were carried on in an informal way. The accused himself would make a more lasting impression than he would do through a lawyer in such an atmosphere." Again, Sir, when the next stage arrived, namely, the examination by the Advisory Board, no question of lawyer would arise. "It was a question of a face-to-face discussion between the detenu and three friends, i.e., the members of the Board". ,Sir, he has called those members "as friends of the detenu". "If the detenu was a rustic he would excite greater sympathy so far as the Advisory Board was concerned. If he was a leader, the J}oard would get suspicious." Again, Sir, he says :

"I do not want to have any third party interfering at that stage, riot do I want any legal adviser to interview the detenu at that stage. I am perfectly certain that the detenu will get the fairest hearing we can imagine. I am not repeating it as an argument. This is my innermost convicticn."

Sir, Bills cannot be drafted by innermost convictions. Again he says :

"If I were to be tried on a murder charge, if I am honest, instead of going before a Magistrate and Sessions Judge, I would like to go straight before three Judges of a High • Court and talk to them."*

"If one brought in a lwyer between the (\dvisory Board and the detenu, he will be :ausing more harm than good."

Well, Sir, these are all the utterances of the Home Minister.

May I point out, Sir, that the tribunals are quasi-judicial authorities ahd is it not reaspnable, Sir, that before a quasi-judicial authority as the tribunal is constituted, the lawyer should be allowed to argue the case of a detenu *1* The Home Minister also would have been aware of the percentage of illiteracy in our country. In England where the percentage of literacy is so high, even during war time, Sir, lawyers were allowed to defend the detenus. I say it with authority. And why not that privilege be extended in our country, Sir, where 90 per cent, of the popula-lation is illiterate, where a person cannot defend his own case ? I can understand, Sir, if in a country like Russia or any other country such privileges are not given to the accused. But you call yourself a democratic country. I put this question straight to the Home Minister, Sir. In cases where the accused are not defended in the criminal courts, are not the Judges allowed to have *amicus curiae* ? Secondly, in cases of certain serious offences where the accused is not defended do not the courts appoint State defences, Sir ? In all such cases the court requests a willing lawyer to defend the accused. And where the accused cannot have his own advocate, where he cannot afford to have his own counsel, certainly the State comes forward and pays for the counsel and sees that he is properly defended. This is a right type of democracy.

Well, Sir, the hon. the Home Minister takes his shelter under the Constitution of India and says that it has not provided for a counsel being engaged to defend a detenu at any stage. If that is so, let our Constitution be amended. Let us provide for legal advice for all those detenus.

Then I will only refer to two or three matters. I invite the hon. Minister's

attention to the American Emergency Detention Act. What does that Act say, Sir ? This provides for the Attorney General to issue a warrant. Then the person arrested is brought before the Preliminary Hearing Officer. Then he issues the detention order if there is any necessity for it. Then the detenu is allowed to consult his counsel. The detenu is allowed to present his evidence in his own behalf. The detenu is permitted to cross-examine his accusers. Again, Sir, Regulation i8(£) of the Defence of the Realm Act of 1939 of England, what does it say ? The Chairman of the Advisory Board has to inform the detenu of the grounds of detention and furnish him with such further particulars as would enable him to present his case. He can have the assistance of a lawyer in preparing his case. Then, Sir, the utterances of the Home Secretary of England in the House throw more lig'it upon this" point and they are mentioned in the Minute of Dissent submitted by my hon. friend, Mr. Kunzru. These are the privileges of detenus enjoyed in foreign countries. Sir, if we know the history of this legislation in our own country, the Defence of India Act lapsed, if I am correct by 1946 or 1947. For three years, Sir, there was no all-India legislation in this country like this. Then in 1950 .the Preventive Detention Act came into force. Its life was mentioned as one' year. In 1951 its life was again extended by another year. In the Objects and Reasons now it is mentioned that such cases are dwindling. There are only very few cases before the Government and the tempo is reduced. I believe that is the language used. If the tempo is reduced, then why extend its life for two years ? Why should a man, in a democratic country, be detained without trial ? For what purpose he is detained, he is not told. Absolutely no grounds are given. No particulars are given. And then the Advisory Board is not taken into confidence. The Government may not repose any confidence in the detenu, but strangely enough the Government is not reposing any confidence in the Advisory Boards also. Under these circumstances, Sir, I very strongly support the amendment moved by my hon. friend Mr. Bhuoesh Gupta, and I would appeal to the hon. the Home Minister that mere appearance of the accused before the Advisory Board would not carry his case far. I may say, if the hon Minister does not mistake me, he has the appearance of a Jew, but can he be taken for a Jew, Sir, though his name is Katju ?

SHRI B. RATH : Mr. Chairman, Sir, the opposition of the hon. the Home Minister to a detenu being represented by a lawyer before the Tribunal and also to his taking the assistance of a lawyer in the preparation of his representation is based on two reasons. These are not reasons, I believe, but his personal experiences because he, being a lawyer of great eminence, being well-versed in the criminal law of the country, having practised for 30 or 40 years, probably knows that allowing a lawyer to go and meet a detenu in j ni would be against the interests of the State. His own experience is that, when he had contacted a prisoner in jail, he perhaps carried some personal message to the people outside and that is why he is against any lawyer meeting a detenu in jail. His second argument is that . if a lawyer is allowed to represent the case of the detenu before a Tribunal then the Tribunal would be prejudiced against the detenu. It is the clever argument of a lawyer, a well-experienced lawyer, who is sitting in the *gaddi* of the Home Minister.

We know it is not tliat all the detenus are educated. Not all the detenus, who had been detained in the past or may be detained through the grace of the hon. Home Minister in the future, are educated and can defend themselves. Some of them may rot be knowing even the language in which the detention order is written. So the Home Minister wants these detenus to go and present themselves before the Tribunal in which one of the Members or of which the Chairman will be a

[Shri B. Rath.] Judge of the High Court so that at any question from an eminent person like a High Court Judge the person, the detenu, may shake before him. As a clever lawyer he knows that when a person is subjected to a cross-examination by an eminent lawyer, the witness shakes and that is how perhaps he wants the detenus to go and face the eminent judge in the Advisory Board. He may not even understand the question put to him and he will be asked to answer the question. That means the Home Minister wants the detenu to be placed at a most inconvenient position. There was a Tribunal in Orissa. I know several cases went before it. It is not right to say that nobody is allowed to go before a Tribunal. It is the C. I. D.—people starting from the Constable, Sub-Inspector and Inspector—who hive the privilege of going before the Tribunal when any detenu is taken before the Tribunal. I think if the Home Minister does not know of this practice let him know that the C. I. D. officers of the State Government are sent before the Tribunal when any detenu appears before them and not only that they even put questions to the detenu. In one of the tribunals where one retired Sessions Judge was the Chairman, he himself allowed the detenu to be questioned by the C. I. D. Inspector of tha town of Cuttack.. Under such circumstances, whether the lawyer helps him or not at least he can defend the detenu against these police officers. It may so happen that the Advisory Board may put the detenu in such circumstances that the presence of a third person is necessary to defend the detenu. Under such circumstances I submit that lawyer must be allowed to be present in the court while the tribunal is sitting to discuss about the merits of the case.

Now with regard to J:he point mentioned bv Dr. Kunzru, I only wish to say that I strongly support it. Secondly, I would say that the detenu must be allow ed at least the privilege of con-sultin g a lawyer before he submits the reply to the charges that are framed against him. Sir, wc have heard the promise of the Home Minister that he would write to the State Governments asking them to give this privilege to the detenu. He has given us that assurance. I only want that assurance to be embodied in the law. I want this because we have had many assurances. We have heard many assurances on different occasions and we know how these assurances are quite conveniently forgotten with the progress of time. This being a law for two years, it may so happen that the Home Minister who is here today and who gave us the assurance may not be here tomorrow. In that case, if this is actually embodied in the law and in the Statute itself, that will be binding upon all. So the promise given in this behalf, the assurance given on the floor of the House must be put in the body cf the Statute. That is my submission.

SHPI M. L. PURI (Punjab) : Just a tew words, Sir. I want to say some-thins? with reference to the amendment which has been moved by Dr. Kunzru. He quoted precedent from the procedure which is followed in England. But I think he has failed to notice the amendment which has been passed by the House of the People which more than amply provides for what he proposes to do by his amendment, i.e., amendment No. 71. Clause (a) of sub-section (1) of section io as passed by the House of the People reads as follows :

"The Advisory Board shall, after consi dering the materials placed before it and, after calling for such further information as it may deem necessary from the appro priate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person ....."

Dr. Kunzru's amendment only provides that the Board may, if it so desires, furnish the detenu with further particulars as are in its opinion sufficient to enable him to present his case I to the Board. Naturally, when giving

hearing the Board will ask for., further information from the detenu and ask explanation for things which require explanation. Again opportunity is given to the detenu.....

SHRI H. N. KUNZRU : May I draw my hon. friend's attention to the words that he is speaking about ? The words he is discussing are these :

".....after calling for such further in formation as it may deem necessary from the appropriate Government or from any person called for the purpose through the appro priate Government or from the person con cerned....."

So here the Board asks another man for further information. It is not communicating any further information to the person. The words are " or from the person concerned". It does not say that it will communicate any further information to anybody.

SHRI M. L. PURI : The amended clause as passed by the House of the People makes it obligatory on the Board to hear him in person. It does not mean that the Board will sit mum and ask him to go on speaking. They would naturally tell him, "This thing or that thing requires explanation. What have you to say about it ?" 'Hearing him in person" necessarily includes communication, if the Board so wants it, of the particulars which are in their possession, which they have not so far communicated to him and which in their opinion require explanation. So all that Dr. Kunzru proposes is already provided in the Bill. The Board is given the authority to enquire from the person, concerned with respect to any matter on which they want information. Secondly the Board has "to hear the detenu in person' which necessarily implies that they wil put questions to him, communicate tc him the matters on which his explanation is further required so that his ex-planations are to the point and precise and on matters on which he has no given any explanation and on matter which are likely to influence their de cision, the Board will necessarily pu questions and hear his explanation

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The amendment moved by Dr. Kunzru is, in my opinion, unnecessary in view of the amendment which had been passed by the House of the People. In fact, the amendment passed by the House of the People gives effect to what the English practice is and what Dr. Kunzru wants to be introduced.

DR. K. N. KATJU : Sir, my hon. friend, the distinguished advocate of the Punjab High Court has very much lightened my task and, further, I do not want to tire the House, for, on this very topic I must have spoken off and on many a time. The first thing I learnt when I started practice in Allahabad was a dictum from a very distinguished and experienced Judge "repetition does not add strength to the argument". Therefore, I do not propose to repeat myself. If my hon. friend believes me, it pains my heart to differ from him ; but, the misfortune is that I have to sustain that punish-ment, so to say. The Act, as it stands, the section which was read out, is clear and, shall I say, let us not try to be too subtle. "Oh ! it only says 'ask for information and communicate nothing'." Are the Judges fools ? Are they there to put a halter round the neck of everybody ? I read out to you the experience of, somebody said in the other place, my cousin, the Minister for Home Affairs in England who said that he had found that, generally speaking, every Advisory Board had a bias in favour of the detenus. In the- same breath you say that you require Judges, retired, sitting and eligible, and the first thing that the Judge learns is not to condemn a man unheard. I speak without any offence to the Members of this House, but what are the Judges for ? Do you mean to say that they are going to condemn any man even for a day's detention or one year's detention, without hearing from him as to what he has got to say in reply to the charges made against him ? It is nearly 6 o'clock and I am not going to tire you, but I refer all friends concerned to the law courts. Everywhere, when a man becomes a judge, sessions judge or even a lawyer, he leains by heart section 342 and, there the requirement

[DR. K. N. Katju.] is that before the accused is called upon to enter on his defence, the Judge must question him generally on the whole ca?e and must put to him the evidence that is against him and ask for his explanation. That enters into the blood of every Judge. Here is my friend, saying "Well, look at the language of the words 'the Advisory Board considering the material before it, namely the papers, and sending for such further nformation as they may require, etc.'." Now comes the difficulty that we have. There were doubts, I have no doubt myself that they may send for anybody, any person whom they think necessary and get information from him. 'Get information from the person concerned'—what does that mean ? They will say to the detenu "Well, here are the things appearing against you. What have you got to say to that ?" As a matter of fact, let me tell the House quite frankly, the fear exists that the Judges having become accustomed to that judicial habit of mind may disclose State secrets of which advantage may be taken of, not by that particular detenu because nothing remains concealed, but by others. It is the ingrained 'udicial habit to hear both sides.

6 p.m.

My hon. friends said we must have lawyers and one hon. Member even said that I had become a sort of a renegade. I know what the profession is ; I know what the lawyers are. Many of our friends know the atmosphere of a court. The Judges sit there and the distance between the Judge and the members of the Bar is about io yards. The accused is in the dock ; the court is crowded and then of course the learned Judge says : "Will any one of you look into this case ?" Some judicial counsel, some judicial assistance, *amicus curiae* it is called, *amicus curiae* merely means a friend of the court and what ire the courts ? These friends of :he court just look into some of the details, into certain points of evidence. Then there will be admissibility of evidence" and all sorts of things. We are not going to have that atmosphere here. The Advisory Bjard will sit across the table and carry on the consideration of the cases. That is the picture I have in mind. I am for giving the detenus the fairest opportunity and I repeat it once again. Now, if a man is innocent, if I am an innocent individual, if my conscience is clear, if I have no fear and if I have done nothing, then I would not go before a Judge or a Magistrate. I will go before the Advisory Board and I will throw myself at their discretion and get away within two days or half an hour. But we are talking of lawyers and lawyers. I have spent the whole of my life in law courts and I know where the lawyers can function well and where the lawyers cannot function well. I do not want to detain you any more. We have discussed it thoroughly and I have dealt with it at length when I made the speech moving for consideration of the Bill. I cannot add anything more useful to it. It has been a matter which has been well thought out and I am not in a position to accept any amendment.

SHRI P. SUNDARAYYA : Sir, I would like to make a submission before you put Amendment No. 71 to the vote. Amendment No. 72 covers ' 71 also and allows the Advisory Board I to give more particulars as well as the assistance of legal practitioners. Since it covers both the points, I would suggest that you put 72 to the vote.

MR. CHAIRMAN : Is that all right ? I would like to ask the House whether it would be all right for us to allow the Members to withdraw all amendments except Amendment No. 72 which covers all the points. Amendment No. 72 reads :

"Provided that the Advhory Boat! may, before the person concerned is heard in Dersoti furnish him with such further particalar* a? are in its opinion sufficient to enable hin ti present his case to the Board ail for th; purpose the Advisory Board may allow the person concerned the opportunity of consulting a legal practitioner of his choic;."

I should like to ask Dr. Kunzru whether he wrald like his am™ Iment also to be withdrawn.

SHRI H. N. KUNZRU : I am agreeable to it. I dropped the second prôviso out of deference to what the Home Minister said yesterday or the day before with regard to the provision of legal assistance to detenus. I think what he said was that he would ask local Governments—the State Governments—to consider the matter and where such assistance was called to enable a detenu to consult a lawyer of his choice.

MR. CHAIRMAN : Is that agreeable to you all that all the other amendments to this clause 9 are withdrawn and only one particular amendment, namely Amendment No. 72, which is comprehensive is put to the vote?

SEVERAL HON. MEMBERS : Yes.

PRINCIPAL DEVAPRASAD GHOSH: Is No. 72 comprehensive ? Does it cover No. 69 ?

MR. CHAIRMAN : The essential points are covered.

The question is :

That in sub-clause (*a*) of clause 9 of the Bill, to the proposed sub-section (1) of section 10 of the Principal Act, the following proviso be added, namely :

"Provided that the Advisory Board may, before the person concerned is heard in person, furnish him with such further particulars as are in its opinion sufficient to enable him to present his case to the Board and for the purpose the Advisory Board may allow the person concerned the opportunity of consulting a legal practitioner of his choice."

The House divided :

AYES—23

Banerjee, Shri S.
Deshmukh, Shri N. B.
Dhage, Shri V. K.
Dube, Shri B. N.
George, Shri K. C.
Ghose, Shri B. C.
Ghosh, Principal Devaprasad
Gour, Dr. R. B.
Gupta, Shri B.
Imbichibava, Shri E. K.
Kakkilaya, Shri B. V.
Kishen Chand, Shri.
Kunzru, Shri H. N.
Mahanty, Shri S.
Manjuran, Shri M.
Mazumdar, Shri S. N.
Narasimham, Shri K. L.
Ranawat, Shri M. S.
Rao, Shri Venkat.
Rath, Shri B.
Reddy, Shri C. G. K.
Sundarayya, Shri P.
Suryanarayana, Shri K.

NOES—8r

Abdul Shakoor, Molana.
Abid Ali, Shri.
Agrawal, Shri A. N.
Agrawal Shri J. P.
Ahmad Hussain, Kazi.
Aizaz Rasul, Begam.
Akhtar Hussain, Shri
Amolakh Chand, Shri.
Anant Ram, Pandit.
Barlingay, Dr. W. S.
Bhuyan, Dr. S. K.
Bisht, Shri J. S.
Biswasroy, Shri R.
Budh Singh, Sardar.
Chaturvedi, Shri B. D
Chauhan, Shri N. S.
Das, Shri Jagannath.
Dharam Das, Shri.
Dinkar, Prof. S. D. Sinha.
Doogar, Shri R. S.
Dube, Dr. R. P.
Gilder, Dr. M. D. D.
Hemrom, Shri S. M.
Hensman, Shrimati Mona.
Inait Ullah, Khawja.
Italia, Shri D. D.
Jafar Imam, Shri.
Jain, Shri Shriyans Prasad.
Jalali, Aga S. M.

Kapoor, Shri J. R.
Khan, Shri Barkatullah.
Khan, Shri P. M.
Kishori Ram, Shri.
Lal Bahadur, Shri.
Lall, Shri K. B.
Leuva, Shri P. T.
Madhavan Nair, Shri K. P.
Mahtha, Shri S. N.
Maithilisharan Gupta, Shri
Majumdar, Shri S. C.
Mazhar Imam, Syed.
Misra, Shri S. D.
Mitra, Dr. P. C.
Mookerji, Di. Radha Kumud.
Mujumdar, Shri M. R
Mukerjee, Shri B. K.
Narayan, Shri D.
Narayanappa, Shri K.
Nausher^Ali, Syed.
Nihal Singh, Shri.
Onkar Nath, Shri.
Pande, Shri T.
Prasad, Shri Bheron.
Puri, Shri M. L.
Pustake, Shri T. D.
Rao, Shri Rama.
Rao, Shri Krishna Moorthy.
Ray, Shri S. P.
Reddy, Shri Channa.
Reddy, Shri Govinda.
Saksena, Shri H. P.
Sarwate, Shri V. S.
Savitry Nigam, Shrimati.
Shah, Shri M. C.
Sharma, Shri B. B.
Shetty, Shri Basappa.
Singh, Capt. A. P.
Singh, Shri Kartar.
Singh, Shri R. K.
Sinha, Shri R. B.
Sinha, Shri R. P. N.
Sobhani, Shri 0.
Srivastava, Ur. J. P.
SiuiiBt Prasad, Shri.
Sutecdxa Rum, Shri V. M.
Tajamul Husain, Shri. Tankha, Pandit S. S. N. Thakur Das, Shri Vaidya, Shri Kanhaiyalal D. Varma, Shri C. L. Vyas, Shri K.

The motion was negatived.

The question is : That clause 9 stand part of the Bill. The motion was adopted.

Clause 9 was added to the Bill.

PROGRAMME OF BUSINESS

MR. CHAIRMAN : Now before we adjourn, I want to find out the pleasure of the House with regard to the programme for tomorrow. We have now disposed of 9 clauses and have to dispose of io, 11, 12 and clasue 1 and we have got 4 hours and 45 minutes tomorrow morning. If we dispose of these clauses which are not contentious in an hour and 45 minutes, there will be three hours tor the third reading stage. In that case if it is necessary we may have an hour or so in the afternoon and then proceed with the Auxiliary Air Forces Bill which is before us. If we are able to dispose of it tomorrow, it will save time and also save cost to the Government. I want to know whether it is your pleasure to have this discussion on the Preventive Detention Bill concluded tomorrow either at one or say at four and then have the other Bill taken up at 4 o'clock and go on with it till 6 o'clock or if necessary half past six.

SHRI P. SUNDARAYYA (Madras) : We have no objection to conclude the discussion tomorrow by 4 o'clock provided we get adequate opportunity to express our views and not the Congress Benches exclusively. We can sit a little later, if necessary.

SHRI C. G. K. REDDY (Mysore) : Sir, I feel that we had very little discussion in the$_L$ sense we have got very little opportunity toiriorrow onthehtfd