

SHRI P. SUNDARAYYA : Sir, I move :

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 renumbered—

(i) 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 ; 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 ;".

In clause 6 of the parent Act the two sub-sections are like this that if a person on whom a detention order is passed does not come to surrender, then a notification has to be issued and action under the Criminal Procedure Code has to be taken against him. Sections 87 to 89 deal with that. My amendment is if the Government wants a person to be detained and if he does not come, then Government can proceed against him and issue warrant of arrest and take any action but the Criminal Procedure Code sections 88 and 89 not only proceed against the person concerned, it proceeds against his property. That property is not only his, but his family is there and the attachment of property and selling away his property, because the husband or son has not come to Government, is only punishing the family concerned. It is very unjust and very undemocratic. Even though Dr. Katju may get angry when I say.....

DR. K. N. KATJU : I always smile.

SHRI P. SUNDARAYYA : You should not penalise the family for the crime if that is called a crime of escaping the illegal order of detention. It is very unjust on the part of Government to attach the property of detenu and make the family starve. My first amendment says that if the detenu refuses to surrender himself to the Government, you may proceed against him but not against his family. My amendment says that sections 88 and 89 be omitted.

My second amendment is that if a detenu refuses to come before a Magis-

trate, he should not be punished for more than 3 months or with a fine not exceeding Rs. 250. If you are prepared to agree, I will certainly move that. I thought I may move the heart of the hon. Minister. He may also say outside that even Mr. Sundarayya has agreed with it.

KHWAJA INAIT ULLAH : After all you agree to punishment ?

SHRI P. SUNDARAYYA : Provided you agree also to my amendment. If you don't, I also don't agree to punishment. The act makes the maximum period of detention as one year. If the maximum period is one year and if a detenu refuses to come to Government then why should he be again sentenced for one year more because the detention order is not cancelled? He is going to be detained for one year and why should he again be sentenced for another year for not surrendering? The reasonable thing would be not more than 3 months or a fine not exceeding Rs. 250. I commend my amendment to the House.

MR. DEPUTY CHAIRMAN : Mr. Kakkilaya.

SHRI B. V. KAKKILAYA : I want to speak on that.

The Council then adjourned for lunch till three of the clock.

The Council re-assembled after lunch at three of the clock. **MR. DEPUTY CHAIRMAN** in the chair.

MESSAGES FROM THE HOUSE OF THE PEOPLE

I. THE ESSENTIAL SUPPLIES (TEMPORARY POWERS AMENDMENT BILL, 1952

II. THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 1952

SECRETARY : Sir, I have to report to the Council the following messages received from the House of the People, signed by the Secretary to the House : I

In accordance with the provision of Rule 148 of the Rules of Procedure and Conduct of Business in the House of the People, I am directed to inform you that the House of the People, at its sitting held on the

11th August 1952 agreed without any amendment to the Essential Supplies (Temporary Powers) Amendment Bill, 1952 which was passed by the Council 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 taken into consideration and agreed to by the House of the People at its sitting held on Monday the 11th 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 his 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 may 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 attach-

ed 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 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,