

opportune time for bringing to the notice of Government the practical effects of the operation.

MR. DEPUTY CHAIRMAN : Please do not go into details.

SHRI K. B. LALL : I think before the hon. Member interrupts he should know what he is doing. The thread of the talk is also lost in that way.

Now, I was saying that all the people were dislocated and their purchasing power also diminished and the people really came to the verge of famine although there was no famine as such. Of course, I told the Government later on that no famine was there although they had predicted that in the month of May there would be such a horrible famine. So when the State Governments approach the Central Government seeking permission for exercising control over certain things, Government should see that the power is not being abused by such kite-flying. With these few words, I support the Bill.

SHRI T. T. KRISHNAMACHARI: Mr. Deputy Chairman, I do not think I feel called upon to make a reply to an effusion which normally ought to be treated in a manner which it deserves.

SHRI K. S. HEGDE : With the contempt, it deserves.

SHRI T. T. KRISHNAMACHARI :
A little eloquence sometimes is a fine thing but when it misfires it leaves a nasty smell behind. And if my hon. friend thinks he is very clever, that he can abuse people and get away with it, well two people can play the same game. The only trouble is I think it is hardly worth while playing the game. Sometimes when an animal gets constipated, it ultimately bursts and what happens ? An unholy mess and I am afraid we witnessed an unholy mess at the end of the debate which I must say was conducted at a very high level, notwithstanding the amount of difference between the Opposition and this side of the House—a realisation of facts, an attempt at constructive suggestions and so on. From that point of view we welcome practically everything from every

hon. Member both on this and on the other side, but I think we are descending to a level in this House—and perhaps elsewhere also—which is not likely to help much. Of course, my hon. friend has not created a good precedent and I am sorry I had to say all this because probably an attempt like this—an effusion like this—if it is not replied—it would amount to an admission on the part of decent people of this House. That is my only provocation for attempting to reply to the hon. Member in the only manner a Congressman can possibly do.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill be passed.

The motion was adopted.

THE CODE OF CRIMINAL PROCEDURE (SECOND AMENDMENT) BILL, 1952

THE MINISTER FOR LAW AND
MINORITY AFFAIRS (SHRI C. C.
BISWAS) : Sir, on behalf of Dr.
Katju.....

SHRI C. G. K. REDDY : (Mysore) : May I make a submission before this House ? I think in an important Bill like this, it would be better if the hon. the Home Minister himself is in charge. Last time, you remember, regarding the other amending Bill also, there was a considerable amount of dissatisfaction in the House when the hon. Minister who ought to have piloted the Bill was not here. It would be better if the Chair could kindly ask that the hon. Minister who is in charge and who ought to pilot the Bill himself does so. That is my submission, Sir.

SHRI C. C. BISWAS : It is not possible for any one Minister to be in both Houses at the same time. The hon. the Home Minister is engaged in the other House. Whenever he was free, from there, he came over here just to find out how the land lay. He has gone back and has left this Bill to me to pilot and I assume full responsibility for this measure and if my hon. friend has any points to urge he may urge

[Shri C. C. Biswas.] them and he will have a reply from me. I am fully prepared to go on with this, as I am in regard to every Bill that is entrusted to me, and I hope I shall be able to satisfy the House on all the points that may be raised.

SHRI C. G. K. REDDY : There was no reflection on the hon. Minister. After all, he is not in charge of the Department and that is all that I said.

SHRI C. C. BISWAS: In the absence of the hon. the Home Minister, I move:

That the Bill further to amend the Code of Criminal Procedure, 1898, as passed by the House of the People, be taken into consideration.

Sir, this Bill ought not to arouse any controversy. It is a very simple measure, if the hon. Members would only appreciate the background and the reasons which have led to the introduction of this Bill. I shall briefly refer to this background because there seems to be a misconception and it has given rise to unnecessary debates.

This is a Bill to amend the Code of Criminal Procedure. If hon. Members turn to that Code, they will find that that Code, among other things, contains certain provisions of a preventive character—provisions for the prevention of offences. All these they will find in Part IV of the Code, which itself consists of different Chapters. The present Bill is concerned only with one of those Chapters, namely Chapter IX. If you turn to Part IV, you will find that it contains various kinds of provisions. One chapter deals with measures for taking bonds or securities for keeping the peace or for good behaviour. That is one of the provisions made in the Code for prevention of offences. Then comes this Chapter IX, which deals with measures necessary to deal with unlawful assemblies. Then there are other chapters dealing with prevention of public nuisances, avoiding of apprehended danger, taking necessary steps to prevent avoidable disputes, and so on.

Turning now to Chapter IX of Part IV, what do we find? What is the scheme of that chapter? It consists of sections 127 to 132 and they deal with the question of dispersal of unlawful assemblies. The scheme is this. Where there is an unlawful assembly, any magistrate or any officer in charge of a police station may order the assembly to disperse. If it does not disperse, then other measures have got to be taken, and those measures are provided in the sections which follow. If you go to section 128, the next step there laid down is that if upon being commanded by the magistrate or the officer in charge of a police station to disperse, the assembly does not disperse, then the magistrate or the police officer may proceed to* disperse the assembly by force. But this force which he is entitled to use under this section is civil force, not military force; in other words, he can call upon any private citizen to come and assist him, to help him in the dispersal of the assembly. The Section says: the officer may proceed to disperse such assembly by force and may require the assistance of any male person not being a military officer, and so on. I need not read the description of the military officer given there. It will be seen that the whole of the section deals with the question how to disperse an unlawful assembly. First of all, the magistrate or the police officer gives the direction to disperse. If they do not listen, if they do not disperse, if they do not show any inclination to disperse, he is empowered to use civil force—civil force meaning the assistance of the citizens there. Then, when that fails, provision is made in the next section, 129, for the use of military force. But then the use of this military force may not be authorised by any magistrate or by any police officer; it is only the magistrate of the highest rank present who may cause the assembly to be dispersed by such force. I will read that section—it is a very short section :

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

Then, what are the steps to be taken ? That is provided for in the next section, 130. The magistrate of the highest rank present may require a commissioned officer or a non-commissioned officer in command of the troops to disperse the assembly by military force. Now, in using military force, the military officer is required to obey the instructions of the magistrate. " In such manner as he thinks fit"—but he is strictly enjoined by the Code not to use any more than the minimum force necessary.

So, these are the provisions made here. First of all, there is the order to disperse. Then, that failing, requiring the assistance of ordinary citizens. That failing, the magistrate of the highest rank may take action : he may ask any military officer commanding troops to disperse the assembly with the help of those troops. Then again, it is provided in the succeeding section, 131, that if there is no time to communicate with the magistrate, if there is no magistrate available, this military officer himself, if the public security is in danger, is empowered to take action. He may disperse such assembly by military force. But there is the important proviso : as soon as he is in a position to communicate with the District Magistrate, he must do so, and the District Magistrate, takes command, so to say. The military officer has to take orders from him as to whether military action should continue or not.

Those are the provisions. They have been there in the Code for quite a long time. The only amendment that is now suggested is to add certain words in order to widen the scope of military operations rather of the authorities who may use military force. The military force which is contemplated in the sections as they now stand is force to be used by a commissioned officer or a non-commissioned officer belonging to what is known as the army—that is, the land army. Now, it so happens that with the integration of the States, there may be some States where military 2 SPSD

force in that sense is available; on the other hand, there are naval establishments or air force establishments. And in emergencies you ought to be able to requisition the services of the ground personnel of the naval or air force establishment. The original words in the amending Bill in the definition of "military forces" were these :

"the expression 'armed forces' means the military, naval and air forces and includes any other armed forces of the Union."

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That is in clause 7. "Any other armed forces"—such as the Territorial Army, for instance. Now, it was apprehended in the other House that the wide terms of the definition implied that the intention was to requisition the services of the air force or of the navy either for aerial bombing or for naval bombardment. Nothing of the kind. All that was intended was and this was made clear by the hon. the Home Minister at the beginning, although that was misunderstood—it was made clear that the only object of the amendment was to take power to requisition the services as ground personnel of the two wings of the armed forces—the navy and the air forces. That is all. That is the only amendment that has been made in this Bill.

Notice has been given of several amendments. One of the amendments suggests that all these sections, sections 129, 13b, 131 and 132, should be omitted—that practically the whole of this Chapter should be omitted. In other words, there are to be no preventive provisions for dealing with unlawful assemblies. Unlawful assemblies must be allowed to continue and to do what they like. This useful and very salutary provision, which was used, and used to the advantage of the community, should be abrogated; that is the amendment. But, Sir, I hope those amendments will be ruled out of order, because they do not come within the scope of the Bill. The scope of the Bill is very limited. The scope of the Bill is only to widen the applicability of these provisions and to extend these provisions to the use as ground personnel of

[Shri C.C. Biswas.] the navy or of the air force. That is the only object of the Bill. Sir, I move.

MB. DEPUTY CHAIRMAN : Motion moved :

That the Bill further to amend the Code of Criminal Procedure, 1898, as passed by the House of the People be taken into consideration.

SHRI S. N. MAZUMDAR (West Bengal) : Mr. Deputy Chairman, I very much doubt that this amending Bill is a very innocent Bill. The hon. the Law Minister has tried to make out that, this is a very innocent Bill. But Sir, all these measures which are being introduced in both the Houses of Parliament by the Government one after the other cast a very sinister shadow. The Government is trying to arm itself with more and more measures of repression and I am unable to understand why it is not satisfied with the measures of repression which are already in existence. The hon. the Law-Minister has tried to make much about the question of unlawful assemblies. But, Sir, we all know how in the name of dispersing unlawful assemblies the blood of women has flown in the streets of Calcutta and women have been shot down in the name of dispersing unlawful assemblies. In the name of dispersing unlawful assemblies very recently the demonstrators in the streets of Calcutta were lathi-charged and tear-gassed. Sir, why this emphasis is laid on this technical term 'unlawful assemblies' I cannot understand. In the matter of unlawful assemblies this country has a long memory. Beginning from the period of direct domination of British Government till now under the Congress rule the word 'unlawful assembly' has been distorted or rather interpreted according to the advantages of those who try to throttle the voice of the people. Why do the people come out in the streets? Is it because they have the love for demonstrations and laying down their lives in order to court martyrdom? They hold demonstrations because they have got deep-seated grievances, because

they find deep-seated ills, because the people have found themselves helpless. Therefore they come out to seek redress and in the name of dispersing unlawful assemblies they are faced with bullets, lathi-charge and tear gas and all these things. The Government which claims to have an overwhelming majority of the people in this country should have taken to other recourses. I feel, Sir, that if the Government was true to its own assertions about its enjoying the confidence of the people, then it should have tried to see why these people come out in the streets. But instead of doing that, the spokesmen of the Government are coming out with new and new measures of repression. In the name of dispersing unlawful assemblies wide powers are given to an officer, a district magistrate and now to military officers and they have been trained in an atmosphere under such ideas that if the people are goaded to desperation and they come out in the streets to voice their protest against the measures of the Government, they are at once dubbed as revolutionaries. It is also said of them that they have come to subvert the existing order of things. So they should be dispersed with all these measures of repression. Not satisfied with the already existing provisions the Government has come out with a proposal to be empowered to employ air forces and naval forces. The question is not that whether the air forces or naval forces would be used as ground forces. But I think the main question here is : Why is the Government so much apprehensive about the people's demonstrations? Why are they not thinking in the terms that an atmosphere should be created where there would be no such question of dispersing unlawful assemblies, but the people will have the confidence that their grievances would be redressed and their attempts to voice their grievances will not be drowned in blood or their attempts will not be met with lathi-charges or bullets? Why is the Government not trying that method if it enjoys the confidence of the majority of the people? Therefore I think, Sir, that my hon. friend the Law Minister

has requested you to rule certain amendments out of order but actually when this House should be given an opportunity to discuss and debate these amendments which rightly try to go to the root of the whole question.....
Sir, my voice is getting bad due to bad throat. So I will not be able to continue my speech.

SHRI KARTAR SINGH (PEPSU) : Mr. Deputy Chairman, I am going to support the Bill that has been brought forward by the learned Law Minister. The point is that the present Bill is simply an Amending Bill for certain sections of the Code of Criminal Procedure. It is very necessary. There is some apprehension among my friends from the Opposition that certain clauses— certain sections of the original Criminal Procedure Code may be altogether omitted. If we compare the methods of dispersing unlawful assemblies with those prevailing in England which is a more civilised and a more democratic country, we shall find that this Bill is absolutely necessary.

Now, with regard to these 5 or 6 sections that are there—it begins with section 127 which says :

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“ Any Magistrate or officer in charge of a police station may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse ;”

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It shall be the duty of the assembly to disperse accordingly. This is section 127. If the assembly does not disperse, how should one proceed ? Section 128 says that if, upon being so commanded, any such assembly does not disperse or shows a determination not to disperse, any Magistrate or police officer may proceed to disperse such assembly by force and may require the assistance of any male person for dispersing that unlawful assembly. Only the person whose help is sought must not be an officer of the Armed Forces. This assistance may also be sought for the purpose of arresting and confining the persons who form part of the assembly or bringing them before a court of law. This is section 128,

Even with the assistance of these persons if the unlawful assembly cannot be dispersed, what should the Magistrate or police officer do ? Then section 129 comes. Power is given to a Magistrate of the highest rank present to cause the unlawful assembly to be dispersed by military force. If in the opinion of the Magistrate of the highest rank present it is necessary in the interests of public security that the assembly should be dispersed, he may take the help of the Military Forces. Then section 130 says that when a Magistrate determines to disperse an unlawful assembly in the interests of public security, he may require the help of an officer of the Military Forces in dispersing the unlawful assembly, and then that officer of the Military Forces gives him aid in dispersing the unlawful assembly and if necessary in arresting or confining any of the persons in that assembly as the Magistrate asks him to do, now under these sections, the Magistrate can take the help of the military. Under the proposed amended section the help of the Armed Forces, including the Air Force, and the Navy, can be taken.

We should see that apart from these sections, there is another section which ought to be read along with these to judge as to what the powers are. There is section 42 in the Code of Criminal Procedure which provides that " Every person is bound to assist a Magistrate or police officer reasonably demanding his aid,..... for the prevention or suppression of the breach of the peace." This is the law of the land. Apart from the sections I have quoted, there is a general power that every person including male and female, is bound to help a Magistrate or a police officer. In fact, under section 42 it becomes the duty of every citizen to help the police officer or the Magistrate in the dispersal of unlawful assemblies or in the prevention of the breach of peace.

Then, there are two very important sections which should be read along with these, because we are dealing with cases where a breach of the peace is apprehended and when it is necessary in the interests of public security that

[Shri Kartar Singh.] the breach of the peace must be prevented. These are sections 149 and 151 of the Code of Criminal Procedure. Section 149 says that it is the duty of every police officer to interpose for the purpose of preventing and shall to the best of his ability prevent the commission of any cognizable offence, and under section 151 he can arrest any person designing to commit a cognizable offence and thereby likely to cause breach of peace.

My submission with regard to these sections is that they are very necessary, but my friends opposite want that they should be deleted. Let us see what the law is in England, which is a highly civilised country. In India, the punishment for being a member of an unlawful assembly is only six months or fine or both under section 143. If a person joins or continues in an unlawful assembly after it is commanded to disperse, the punishment under section 145 is only 2 years or fine or both. If a member of an unlawful assembly has committed rioting, the punishment is two years or fine or both. If he commits rioting armed with a deadly weapon, the punishment is only 3 years or fine or both. But in England they have got a special Act for dealing with rioting cases. They have got the Rioting Act of 1714. Under that Act the punishment provided for rioting is transportation for life. In India the maximum punishment is 2 years. Under section 148 I. P. C. for rioting with deadly weapons, it is only 3 years or fine or both. But in England, which is one of the most advanced countries, the punishment that is provided for these offences is transportation for life.

SHRI C. G. K. REDDY : Will the hon. Member please tell us what is the procedure under this Act ?

SHRI KARTAR SINGH : The procedure is well quoted by Tindal, C. J. in the Bristol Riot case where he says how far the military and other persons can come to the aid of the civil authorities in the dispersing of unlawful assemblies.

Section 3 of the Riot Act, 1714, says:

"If such persons so unlawfully assembled after proclamation, shall continue together and not disperse themselves within an hour, it shall be lawful to and for every Justice of Peace, Sheriff and every high and petty constable to seize and apprehend such persons continuing together after proclamation and to bring persons so apprehended before one or more of His Majesty's Justice of Peace in order to being proceeded against according to law and if any persons so assembled shall happen to be killed, maimed or hurt in the dispersing, seizing or apprehending them or in an endeavour to do so, by reason of their resisting, then every such Justice constable and all persons aiding or assisting shall be free and discharged and indemnified concerning such killing, maiming or hurting and any person convicted of any such offence shall not suffer death but be liable to transportation."

They have given every petty constable power by virtue of this Section. They can kill the person, they can maim a person without being themselves liable under the law. Then in the important judgment in the case of Bristol Riot in which C. J. Tindal made very useful observations:

"A magistrate may call in the aid of local militia, the yeomanry and the reserve forces and the territorial army and may obtain on requisition the aid of regular army. The powers of magistrates and police who disperse riots do not depend on making a proclamation. When danger is pressing and cannot otherwise be prevented, the military subjects of the King not only may, but are bound to do their utmost to prevent perpetration of outrage, to put down riot and tumult and preserve the lives and property of people. From the right to suppress riots flows the right to use such force as is reasonably necessary to disperse riots."

Then you have Section 132 of the Criminal Procedure Code which protects the military persons against prosecution. It gives powers to suppress riot and to disperse unlawful assemblies. The object of Sections 127 to 131 is that minimum force should be used in dispersing or suppressing of unlawful assemblies. The degree of force to be used in dispersing or suppressing unlawful assembly depends upon the circumstances of the case.

In England this law has been in vogue for the past 238 years. It is still there. They have further brought a new Act known as the Land Revision

Act of 1948, section 1 of which provides that no person shall repair to His Majesty or both or either House of Parliament on pretence of presenting or delivering any petition accompanied with excessive number of people at any one time with above the number of 10 persons, upon pain of incurring the penalty not exceeding £100 and 3 months' imprisonment. There is another provision in - the same Act that no meeting could be held within a mile of Parliament when the Parliament was sitting. These are the amendments and the ordinary law of the land is also there.

Supposing there is a Commander of the army in India. In his view or sight an offence is being committed by an unlawful assembly. As an ordinary citizen without being a member of the armed forces the law is there. By virtue of Section 42 of the Criminal Procedure Code, every person whether he is a military man or anybody else is bound to assist a magistrate or a police officer reasonably demanding his aid for the prevention or suppression of the breach of the peace and Section 149 of the Criminal Procedure provides that a police officer may interpose for the prevention, to the best of his ability, of the commission of a cognizable offence. Therefore my submission is that the other amendments that have been made are already there and the powers were already there with the Army, Navy and the Air Force. This Act merely makes them more explicit in terms and the amendment is absolutely necessary in the changed circumstances of the country because we have more regimental centres. We have them in Srinagar, Jammu, Pathankot, Delhi, etc. so that just to make the law more clear these innocent amendments have been introduced in this matter and I fully support the same. In more democratic countries even wider powers are given and the law is more stringent there than in India. I therefore give my full support to this measure.

SHRI S. N. MAZUMDAR : Sir, I could not continue my speech earlier. With your permission I would like to speak.

MR. DEPUTY CHAIRMAN : Mr. Rajagopal Naidu.

SHRI RAJAGOPAL NAIDU (Madras) Mr. Deputy Chairman, I thank the hon. Member very much for giving us such a nice and instructive lecture on the Criminal Procedure Code and I am glad indeed that he made a thorough research on the law of dispersal of unlawful assemblies and I am also glad that he referred to various provisions in the English law. I am not getting up to oppose this Bill but taking it for granted that the Bill is passed as it stands, what on earth is its use. I was not wanting to get up on this and speak but after listening to the hon. Minister I felt like saying something. The hon. Minister was explaining that we are going to use the Naval and Air Forces—only their ground personnel—for the dispersal of unlawful assembly. What do you mean by ground personnel of the Air Force ? Do you mean to say that you are going to use the ground personnel of the Air Force for the dispersal of unlawful assembly ground engineers going to be trained for this. I can't understand whether there is any other personnel besides the ground engineers and other staff in the air-field. I can't understand what is the meaning of the words 'ground personnel'.

AN HON. MEMBER : It is 'ground force'.

SHRI RAJAGOPAL NAIDU: He has used the word 'ground personnel'. That is why I am asking this question as to its meaning. I would like to know how the ground personnel in the Navy and Air Force can be used for this dispersal. Perhaps the Bill as it was brought in the Lower House without introducing the amendment would have meant a different thing. That means it would have meant the Air Force could have been used for bombarding for dispersal of an unlawful assembly. The Navy also could have been used for dispersal but the amendment which has been introduced in the Lower House i.e., introducing the words 'operating as land forces' certainly has brought complications

[Shri Rajagopal Naidu.] in this matter. I wish that either we delete these words or introduce the words 'operating as land forces' without carrying any meaning with it.

SHRI C.C. BISWAS: May I explain? I did use the words 'ground personnel' but without seeking to modify in any way the effect of the words used in the definition. The amended definition has the words 'operating as land forces'. What I meant was that although the Navy and the Air Force would be employed, they would be operating as if they were operating only on the land. They will not use their forces, say, from the ship or from the sky. They will be operating as if they were mere land forces. In the other House fears were expressed that we were authorising naval bombardment, aerial bombing etc. Nothing of the kind. Officers belonging to either of these two branches would be used only as if they were limited to operations on land. I did use the word 'ground personnel', as I thought that might make matters clear.

SHRI RAJAGOPAL NAIDU : That led to confusion.

SHRI M. L. PURI (Punjab) : Sir, this Bill, as the hon. Mover has just now stated, is really an innocent and innocuous one. Government have from time to time, to bring the existing laws in conformity with the existing facts due to changed circumstances. Now, Chapter IX of the Criminal Procedure Code which deals with unlawful assemblies has had these provisions dealing with dispersal of unlawful assembly ever since the Criminal Procedure Code was enacted as an all India code and they have existed almost in their present form ever since 1882. There has always been a provision, as has always been the practice in every civilised country, that in cases of serious disturbance, the civil authority may call to its assistance military personnel in case of necessity i. e., in order to help them to quell those disturbances which they are unable to do with the civil forces at their command. This has so far not been questioned by any-

body. But at the time the criminal procedure was enacted, we had unfortunately only the Army. Now we happen to possess the other wings of the armed forces and therefore this Bill puts in the words "armed forces" where the word "army" occurred before. Therefore this is only one of those formal Bills, one of those formal, verbal amendment Bills to which this House was a party only about ten days ago when under the guidance of the Law Minister we passed that repealing and amending Bill by which a number of Acts which had become useless were wiped out from the Statute Book and others with certain verbal amendments were retained. Therefore this is not a Bill to which the House should devote any great time, on a Bill on which any lengthy debate or discussion need take place, because, its only purpose is to bring the statute in conformity with existing and changed circumstances, recognising the fact that now there is an Indian Navy and an Indian Air Force in addition to the Indian Army.

The need for this measure is obvious—Suppose a disturbance takes place near an aerodrome. The cantonment may be far away and the police force may not be in sufficient strength and some ten or twenty persons belonging to the Air Force stationed at the aerodrome may be available for assistance. It should be possible for the civil authorities to ask them to assist them in quelling this disturbance. If this amendment is not there, the police officers will have to get in touch with the cantonment which as I said, may be at a considerable distance, and this may perhaps result in the danger spreading and the damage being done. Similarly, near a port, if there is a disturbance and if the cantonment is quite far away

SHRI M. MANJURAN (Travancore-Cochin) : Is the hon. Member referring to an unlawful assembly inside an aerodrome ?

SHRI M. L. PURI : Yes, inside or near an aerodrome. It may be in a village near an aerodrome

SHRI M. MANJURAN: I want to know where this will happen and the manner in which the revolt will take place. Is it to be in a village close to an aerodrome ?

SHRI M. L. PURI : The aerodromes are generally surrounded by a few villages, and suppose my hon. friends the communists in order to replenish their efforts decide to loot the aerodrome or the surrounding villages, and the solitary officer or the solitary policeman stationed there thinks that the lives of persons there and their property should be protected against the marauders. There is no other police force available, no military, no man belonging to the army is available there. But fortunately, at the aerodrome, there may be some personnel of the Indian Air Force. In that case this Bill provides it should be possible for the civil authorities in such an emergency, to requisition the Air Force and they should not feel their hands tied because of the existing provision of the Criminal Procedure Code which does not permit the use of the Air Force personnel.

Similarly, the disturbance may take place near a port and the cantonment may be far away and police force may not be available. Then the authorities should not be deprived of the assistance of the Naval personnel which may be available to them for quelling the disturbance. No new principle is being introduced in this Bill. We are only recognising the essential fact that our Armed Forces today consist not only of the Army, but they also contain the Navy and the Air Force.

As regards the general question whether the civil authorities should at all be authorised to requisition military aid to quell civil disturbances, that question is not really before the House now. That should not be raised when we are discussing this amending Bill. But suppose it were before the House, I would ask, is there any civilised country in the world which denies to itself the use of its military personnel to quell dangerous disturbances which

the civil authorities found themselves unable to control.

SHRI K. C. GEORGE (Travancore-Cochin) : What about.....

MR. DEPUTY CHAIRMAN : Order, order. Let him proceed.

SHRI M. L. PURI : It is no use referring to countries from which my learned friends draw inspiration, countries where the rule of law is unknown and individual liberty is conspicuous by its absence.

SHRI M. MANJURAN: We are drawing inspiration from India and not from any other country.

SHRI M. L. PURI : I am very glad to learn that none of the Members of this House derives inspiration from any country outside ours. I feel very much satisfied by that assurance and I hope my hon. friends would act up to that statement.

KHWAJA INAIT ULLAH (Bihar) : But they wish to copy other countries.

SHRI M. L. PURI : What I was suggesting was, even in a country like England the civil authorities have always been able to requisition military aid.

SHRI M. MANJURAN : That is foreign inspiration, Sir.

MR. DEPUTY CHAIRMAN : Order, order. Mr. Manjuran, you are disturbing the House every now and then.

SHRI M. MANJURAN : Excuse me, Sir, but.....

MR. DEPUTY CHAIRMAN : Order, order.

SHRI M. L. PURI : In England they have the power to requisition military aid to quell civil disturbances, including the aid of the Air Force and the Naval Force. If that is the case in England, why should this country be deprived of that assistance in case of an emergency ? After all, these forces

[Shri M. L. Puri.] would be used to quell only dangerous disturbances. And as for safeguards against the abuse of this power, they are there in the Criminal Procedure Code itself and the Criminal Procedure Code contains greater safeguards in this respect than are to be found in the English Common Law. What greater safeguard can you wish for than that is contained in the section which distinctly lays down that before the aid of the military is requisitioned, the police officer shall try to quell the disturbance by himself and by his force? If he cannot do it by himself, he shall call upon any male person there to assist him. At this stage he will not call upon the soldier or Air Force man or a man belonging to the Navy. It is only after it has been established that after his force and the civil force are not enough to quell the disturbance that he can call in the aid of the military. Further, he should be satisfied that the unlawful assembly cannot be otherwise dispersed and further that the unlawful assembly if it continues, would be dangerous to public security. In such a case he can ask the military to come to his assistance and when the military comes to his assistance, what are the directions that the Criminal Procedure Code gives to them? They shall use as little force as possible and they shall do as little injury to person or property as is consistent with the dispersal of the unlawful assembly and as is consistent with the arrest and detention of the persons concerned.

Therefore, it is clear that all that we are doing is to bring our law into line with the law of other civilised countries. That is all that we seek to do in this amending Bill. I should have thought that a Bill like that should be passed in one or two minutes and I do not know why the Government did not include this also in the measure that they brought forward the other day, by saying that for the word "soldiers" the words "armed forces" may be used. That would have sufficed, because our armed forces consist of persons other than soldiers,

they consist of naval ratings and men of the Air Force too.

Sir, with these words I support the motion and I will say respectfully that the mere fact that on some occasions there have been abuses of power in dispersing an unlawful assembly, this power, if it is necessary, should not be withheld. The possibility of abuse of power has never been recognised as a valid reason for withdrawing the powers which are necessary. Simply because a policeman on an occasion may abuse his power, or even on occasions does abuse his power, or, for that matter a magistrate who is authorised to impose prison sentences abuses his power, it does not mean that the power to arrest or the power to award punishments should be withdrawn from the policeman and the Magistrate. Similarly in the case of the military, the mere fact that on occasions some personnel might have misbehaved—I do not hold any brief for the military—must not be a guiding factor. If anybody does misbehave, our law contains ample provisions for bringing those offenders to book. Our laws are wide enough to bring to book those persons. Our law reports are full of cases of policemen who in the quelling of unlawful assemblies, have had to pay heavily for not having acted in good faith. With these words, Sir, I support the motion.

SHRI S. N. MAZUMDAR: May I ask a question, Sir, if you will allow me? Will the Government be prepared to consider a suggestion to constitute a Parliamentary Committee to go into all the cases of firing to see whether and how far these powers have been misused?

THE LEADER OF THE COUNCIL (SHRI N. GOPALASWAMI): Sir, the answer is "No".

SHRI P. C. BHANJ DEO (Orissa): Mr. Deputy Chairman, it is with very great interest that I heard the speeches made in this House on this very controversial and very important matter, in my opinion, which the executive is trying to impose in order to gain its own ends. We, Sir, are a young Republic. We have come into existence as

a free democracy which has shattered the shackles of imperialism only a few years ago. It is right, therefore and it is a healthy sign on our part and on part of the legislators of this democracy—to look upon any vestige of encroachment upon the rights of the citizen and upon the rights of the individual with very great and very legitimate suspicion.

SHRI K. S. HEGDE (Madras) : On a point of information, Sir, does the hon. Member consider "rioting" as a fundamental right of the citizen ?

SHRI M. MANJURAN : Well, in certain cases it is.

SHRI K. S. HEGDE : That is the only point I wanted to know.

SHRI P. C. BHANJ DEO : I only started with a sort of introduction. The fundamental rights of the individual are safeguarded by our great Constitution of which I, Sir, and many other Members of this House.....

SHRI J. L. HATHI (Saurashtra) : AU.

SHRI P. C. BHANJ DEO :
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justly proud. Therefore, in my opinion those rights of the individual, those rights of the citizens, those rights of justice, liberty and fraternity are the rights which we should all try to safeguard and which we should try and guard zealously and jealously ourselves and look upon with healthy suspicion any sign of encroachment that is made upon it by the executive, the executive which is not free today. I am sorry to say, Sir, from my own experience that the executive is not free today from the bureaucracy, from the steel frame for which we heard so much praise from certain members of the Centre—very rightly called the Centre—but the steel frame, to me, smacks of the steel girders of prisons which the Members opposite even have endured under imperialism and that very steel frame which also smacks of the iron curtain. Therefore, I am opposed to the very principle of this Bill the principle which

underlies the Bill which tries to make encroachment in our civil lives and civil affairs with bayonets and bullets. This should be looked upon with suspicion and should be very carefully sifted out by us all as free citizens of India and not as party members.

KHWAJA INAIT ULLAH (Bihar) : Can the hon. Member discuss the principles of the Bill in the amendment ?

SHRI P. C. BHANJ DEO : I am discussing the principle underlying this Bill, namely, the bringing in of military affairs into our civil life.

MR. DEPUTY CHAIRMAN: It is already there. This is only an amending Bill. So, please confine yourself to the Bill.

SHRI P. C. BHANJ DEO : As it is, we have already agreed to interference by the military in our civil life. We do not want aeroplanes and other things tagged on to make our life a burden in this free Republic which we should all guard very zealously. Assertions have been made by certain Members of the other side about the precedents set up in England and English law regarding such measures. I have spent ten years myself there and I have been in Cambridge University most of the time—I am a student of the Bar also—and the reply to that point is that England is a democracy with a tradition of free living, free thinking and the republican way of life since 1066. Democratic way of life and its functions have been in existence for all these years there. The people are used to those functions. Not only that ; laws are in existence in England today which belonged to the Norman period and which are still unrepealed in the Statute Book. As an example of that I will give you 'lex prima noctis', a law which required, in the time of Norman feudalism, that each subject of a feudal lord, when he got married, should let his wife go to the landlord on the first night of marriage. That is still unrepealed.

KHWAJA INAIT ULLAH : Shame, shame.

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. KAILAS NATH KATJU) : Mr. Deputy Chairman, are these relevant now ? Whatever has the first marriage night got to do with this Bill ?

MR. DEPUTY CHAIRMAN : Please speak on the Bill.

SHRI P. C. BHANJ DEO : I am trying to show that reference to old Bills and Acts still existing in England about the Armed Forces and other things e.g., *(Interruption)*—Bills and Acts which are coming from the Norman times and the times of Edward III, such as witchcraft laws etc.—are all in existence today merely as so many words. They are still there. They can be still applied in practice, but the traditions of the country are such that no one ever can dream of applying those laws except in very exceptional circumstances like war, or invasion of private property or of security by spies from abroad.

MR. DEPUTY CHAIRMAN : We are concerned here only with unlawful assemblies.

SHRI P. C. BHANJ DEO : I submit, Sir, that the other speakers, when they started to quote English law, were not interfered with.

MR. DEPUTY CHAIRMAN : They were relevant to the purpose.

SHRI P. C. BHANJ DEO : My point is that quotations of old English law cannot apply to this present case, because we are a new Parliament. We are a new Democracy. We are going to set the traditions to the future generation, whereas they are all already set and people follow those conventions automatically in England. Therefore it is right on our part that we should question the justification of the suspicion of the invasion of our liberties, of our freedom, especially when we have cause to doubt the intentions of the Executive by the acts they have perpetrated and which they continue to perpetrate as far as the welfare of the common people is concerned.

Sir, I shall end my speech by referring to only one or two instances of such misuse of official power which the Executive has taken to itself and which the magistrates and the police have flagrantly abused to the detriment of the population. I would like to refer to the case of firing which has taken place in Cooch Bihar. When the people came out and asked their rulers for bread, there, they got lead bullets instead. And apart from that I have seen with my own eyes what magisterial discretion can do to the *Adivasi* population in my own area in Mayurbhanj where such atrocities were perpetrated by the military forces taken from the Centre that I cannot repeat them here lest it should nauseate the House and cause unnecessary emotion. Thank you, Sir.

PAPER LAID ON THE TABLE

REPORT OF THE JOINT COMMITTEE ON THE PREVENTIVE DETENTION (SECOND AMENDMENT) BILL, 1952

MR. DEPUTY CHAIRMAN : The debate will be

tomorrow.

THE MINISTER FOR PARLIAMENTARY AFFAIRS (SHRI SATYANARAYAN SINHA) : Sir, I beg to lay on the Table a copy of the Report of the Joint Committee on the Bill further to amend the Preventive Detention Act, 1950.

MESSAGES FROM THE HOUSE OF PEOPLE

- (1) EXTENSION OF TIME FOR PRESENTATION OF REPORT OF JOINT COMMITTEE ON THE RESERVE AND AUXILIARY AIR FORGES BILL, 1952
- (2) THE PREVENTION OF CORRUPTION (SECOND AMENDMENT) BILL, 1952
- (3) THE COMMISSIONS OF INQUIRY BILL, 1952

MR. DEPUTY CHAIRMAN : We have received some messages from the House of the People. Secretary will read them.

SECRETARY : Sir, I have to report *to* the Council the following messages