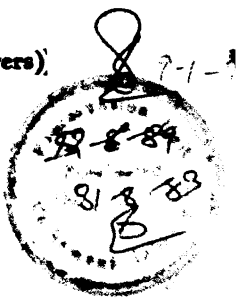
PARLIAMENTARY DEBATES

(Part I—Questions and Answers)

OFFICIAL REPORT



VOLUME VI, 1951

(5th February to 31st March, 1951)

Third Session (Second Part)

of the

PARLIAMENT OF INDIA

1951

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Volume VI—from 5th February, to 31st March, 1951

THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

PARLIAMENT OF INDIA

Monday, 19th February, 1951

The House met at a Quarter to Eleven of the Clock.

(*See* Part II)

[MR. SPEAKER *in the Chair*]

WRITTEN ANSWERS TO QUESTIONS

UNATTACHED WOMEN AND CHILDREN

*1516. **Shri Raj Kanwar:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the total number of inmates of the various Homes for unattached women and orphaned children and aged and infirm displaced men showing separately the number of men, women and children at the end of December 1950;

(b) whether it is a fact that a special committee has been appointed to consider the responsibility of Government for the maintenance and care of the above mentioned persons; and

(c) if the reply to part (b) above be in the affirmative, whether this committee has submitted its report and if so, what are its main recommendations?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) About 45,400. A statement is laid on the Table of the House. [*See* Appendix XII, annexure No. 10.]

(b) and (c). Attention of the hon. Member is invited to the answer given by me to Starred Question No. 1431 on the 14th February, 1951.

LOANS TO DISPLACED PERSONS

*1517. **Shri Raj Kanwar:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the total amount, state-wise, of loans applied for till 31st December, 1950 for relief and rehabilitation of displaced persons; and

(b) the total amount, state-wise, of loans sanctioned till 31st December, 1950 for the above purpose?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) Applications for loans are ordinarily received by District Officers all over India wherever displaced persons have gone and by the Rehabilitation Finance Administration. The amount of labour involved in the collection of information sought will not be commensurate with the results achieved.

(b) Two statements showing loans sanctioned by the Rehabilitation Finance Administration and other loans sanctioned by the State Governments are placed on the Table of the House. [*See* Appendix XII, annexure No. 11.]

Information in regard to loans other than those sanctioned by the Rehabilitation Finance Administration is still awaited from the States of West Bengal, Assam, Tripura, Bihar and Orissa. It will be laid on the Table of the House in due course.

INTERNATIONAL EXHIBITIONS

*1518. **Shri A. C. Guha:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the price of the articles sold in and orders secured through international exhibitions in which Indian goods were exhibited since 1947;

(b) whether any exhibits have been lost;

(c) if so, the price of such articles; and

(d) the expense incurred by Government for these exhibitions?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) The value of samples (articles) sold since 1947 is Rs. 1,66,227/4/10. In regard to the second part of the question, Government have no information on the total value of the orders obtained by exhibitors as orders by buyers are placed directly with suppliers and not through the Government.

(b) Yes.

(c) The value of samples lost covered by insurance is Rs. 19,131/11/. As regards uninsured samples lost Government are not in a position to ascertain the value.

(d) The total expenses incurred by Government since the beginning of 1947 is Rs. 6,53,305/7/8.

GRINDING WHEELS

*1519. **Shri A. C. Guha:** (a) Will the Minister of **Commerce and Industry** be pleased to state what is the annual requirement of grinding wheels in this country?

(b) What is our annual production?

(c) How many factories are there in India producing grinding wheels?

The Minister of Commerce and Industry (Shri Mahtab): (a) 300 to 350 tons.

(b) About 250 tons.

(c) One.

FRUIT PRESERVATION INDUSTRY (PROTECTION)

*1520. **Prof. S. N. Mishra:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether it is a fact that the All India Food Preservers' Association has urged the Tariff Board to grant an increased rate of protection to the Fruit Preservation Industry; and

(b) if so, has the Tariff Board examined the proposal?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes, Sir.

(b) Yes.

FRESH PROJECT BY TATA IRON AND STEEL COMPANY

*1521. **Prof. S. N. Mishra:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether it is a fact that the Tata Iron and Steel Company has submitted to Government a fresh project costing Rs. 4 crores; and

(b) if so, the object of the project?

The Minister of Commerce and Industry (Shri Mahtab): (a) Yes, Sir.

(b) For installation of new mills for making strips and tubes under the Company's Expansion Scheme.

TREATY WITH SIKKIM

*1522. **Prof. S. N. Mishra:** Will the **Prime Minister** be pleased to state:

(a) whether a new treaty has been signed between Sikkim and India; and

(b) if so, who has signed the treaty on behalf of Sikkim?

The Deputy Minister of External Affairs (Dr. Keskar): (a) Yes.

(b) His Highness the Maharaja of Sikkim.

EVACUEE PROPERTY BELONGING TO TRUSTS

*1523. **Shri Sidhva:** (a) Will the Minister of **Rehabilitation** be pleased to state the result of the latest discussion that took place regarding the disposal of evacuee properties belonging to religious and charitable trusts in India and Pakistan?

(b) What is the total value of such properties in Pakistan and India?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) The question ragarding the management and disposal of properties of religious and charitable Trusts both in India and Pakistan was discussed at a joint meeting of the Indo-Pakistan Trust property Committee held at Lahore on the 18th November, 1950. The discussions were of an exploratory nature and no decisions were taken. Both sides agreed to exchange further data to study the dimensions and the nature of the problems involved. A copy of the proceedings of the Committee is laid on the Table of the House. [See Appendix XII, annexure No. 12.]

(b) The Government of India have no authentic record of the value of such properties in Pakistan and India.

INDIANS IN FRENCH INDO-CHINA (EVACUATION)

*1524. **Dr. Ram Subhag Singh:** Will the **Prime Minister** be pleased to state the number of Indians in French Indo-China who have been evacuated from the areas which are now being controlled or threatened by the Viet Minh forces?

The Deputy Minister of External Affairs (Dr. Keskar): Forty-three.

EXPORT OF CLOTH

*1525. **Dr. Ram Subhag Singh:** (a) Will the Minister of **Commerce and Industry** be pleased to state whether any quota has been fixed for exporting cloth to hard currency countries during the period January-June, 1951?

(b) If so, what is the total quantity of that quota?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) Yes.

(b) Twenty million yards for coarse and medium cloth. Handloom and powerloom cloth is licensed freely to all destinations. Licences for fine and superfine cloth were being issued freely up to 4th January, 1951 for hard currency as well as soft currency countries Issue of licences for these varieties was suspended on 12th January 1951.

BALANCE OF TRADE WITH DOLLAR COUNTRIES

*1526. **Dr. Ram Subhag Singh:** Will the Minister of **Commerce and Industry** be pleased to state the import and export position of India with dollar countries since 1st September, 1950?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): I place on the Table of the House a statement showing import and export position of the country for the period September to November, 1950. Figures for later months are not yet available.

STATEMENT

Balance of trade with dollar countries in the period September to November 1950.

Value in lakhs of rupees

Period	Imports	Exports including re-exports	Balance of trade
September to November, 1950	22,93	37,33	*14,40

*Figures are provisional and subject to revision.

TEXTILE MILLS

*1527. **Pandit M. B. Bhargava:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the number of textile mills which remained idle, totally or partially, for want of material or labour in 1950 up to 31st December 1950;

(b) to what extent efforts to make cotton of the requisite quality and quantity available to the textile mills have borne fruit; and

(c) to what extent the production has been affected during the year by (i) insufficient supply of non-availibility of cotton, and (ii) by clash between labour and capital, and strikes etc.

The Minister of Commerce and Industry (Shri Mahtab): (a) 90 Mills remained totally or partially idle for varying periods during the year 1950.

(b) The Indian Mills need about 36 lakh bales of East Indian Varieties of cotton annually. Consequent on the stoppage of imports from Pakistan particularly after devaluation, it is possible to satisfy only 2/3rd of the requirements of the mills from the domestic crop. Following steps have, therefore, been taken to distribute equitably the available supplies of Indian cotton to the Mills:

(i) The purchase of cotton by mills has been regulated by fixing quotas of cotton for each mill from various cotton producing zones.

(ii) Quotas of cotton have been fixed for the mills in accordance with the cotton usually used by them and from those cotton producing zones from which they were drawing supplies during the previous years. The requirements of consumers other than textile mills such as Hand Spinning Associations, Razai manufacturers and Surgical dressings have also been met by allocation of cotton quotas to them.

The Scheme adopted for equitable distribution of available supplies of cotton referred to above has been quite successful. It has enabled the mills to purchase 2,634,417 bales of cotton during 1949-50 season out of a quota of 2,762,994 bales. It has also checked the cornering of cotton by mills which are financially strong and has enabled the weaker units to obtain their requirements with more ease than in the previous year.

(c) Loss of production due to (i) meagre or insufficient supply of cotton is 35,215 bales (one bale is equal to 1500 yards) of cloth and 9,634 bales (1 bale of 400 lbs) of yarn and (ii) clash, strikes etc., 137,645 bales of cloth and 27,920 bales of yarn.

RESEARCHES ON COTTAGE INDUSTRY MACHINERY

*1528. **Shri Barman:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the Agencies or Departments, if any, of Central Government which subsidise researches on cottage industry machinery suitable for India; and

(b) the number of firms or individuals in India who have invented water-lifting, rice husking and oil pressing machines on cottage industry scale?

The Minister of Commerce and Industry (Shri Mahtab): (a) The only Agency that subsidises researches on cottage industry machinery is the Indian Central Oilseeds Committee.

(b) Six individuals and firms have submitted entries of the inventions made by them of oil-pressing machines. No information is available in regard to water-lifting and rice-husking machines.

PLASTICS

*1529. **Shri Balmiki:** Will the Minister of **Commerce and Industry** be pleased to state what steps Government are taking to develop plastics industry in India?

The Minister of Commerce and Industry (Shri Mahtab): A statement is placed on the Table of the House [*See* Appendix XII, annexure No. 13.]

TRADE MARKS OFFICES

*1530. **Shri R. Velayudhan:** (a) Will the Minister of **Commerce and Industry** be pleased to state the States which are under the jurisdiction of the Bangalore Trade Marks Office?

(b) Are the Calcutta and Bombay offices of Trade Marks placed on the same or on different status?

(c) What is the total income from Trade Marks Registration per year for the three offices and what is the expenditure on each office?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) The Trade Marks Act, 1940 does not contemplate the limitation of the territorial jurisdiction of Branches of the Trade Marks Registry established thereunder. Facilities are given to the pubilc at the Branch Registries for filing applications and inspecting certain documents. After applications have been filed at the Branch Registries, they are transferred to the Trade Marks Registry at Bombay for disposal.

I might mention that the Act has not yet been extended to Part B States, but that provision has been made in the Part B States (Laws) Bill for such extention.

(b) The Office at Bombay is the Trade Marks Registry and the Office at Calcutta is a branch of the Trade Marks Registry at Bombay.

(c) The actual income and expenditure, during the year 1949/50, were as follows:

	Income	*Expenditure*
	Rs.	Rs.
Trade Marks Registry, Bombay.	6,20,763	5,81,557
Branch Registry, Calcutta	3,31,586	1,04,534
Trade Marks Registry, Bangalore.	11,412	17,089

EMPLOYEES STATE INSURANCE

*1531. **Shri R. Velayudhan:** (a) Will the Minister of **Labour** be pleased to state whether the Pilot Scheme of the Employees State Insurance at Delhi and Kanpur would be getting any minimum contribution from the employers on an all-India basis?

(b) What would be the share of the employers in that case?

(c) What would be the share of the employee at Delhi and Kanpur?

The Minister of Labour (Shri Jagjivan Ram): (a) to (c). The whole matter is still under consideration.

DEVELOPMENT COMMITTEE ON INDUSTRY

*1532. **Shri R. Velayudhan:** (a) Will the Minister of **Commerce and Industry** be pleased to state when the Development Committee on Industry was constituted?

(b) How many times did the Committee meet since its formation?

(c) Has the Committee made any decision or suggested any measure for the Development of the National resources of India?

The Minister of Commerce and Industry (Shri Mahtab): (a) The Development Committee on Industries was constituted on the 1st December, 1950. I lay on the Table of the House a copy of Government's Resolution showing the constitution and terms of reference of the Committee. [*See* Appendix XII, annexure No. 14.]

(b) Twice on 22nd and 23rd December, 1950 and 17th and 18th February, 1951.

(c) The Committee recommended the formation of Industrial Panels for Heavy Engineering, Light Engineering, Pharmaceuticals, Chemicals and the Ferrous and Non-ferrous Metals Industries. I place on the Table of the House a statement showing the composition and terms of reference of the Panels which have been formed. [*See* Appendix XII, annexure No. 15.]

DEMURRAGE FOR FIREWOOD

*1533. **Shri Ghule:** (a) Will the Minister of **Commerce and Industry** be pleased to state the circumstances in which Government had to pay rupees twenty-six thousand as demurrage for firewood to the E. P. Railway as referred to in the Demand for Supplementary Grant for 1950-51, No. 84 under the Head "Delhi"?

(b) Who was responsible for this negligence?

(c) What action was taken against this officer?

The Minister of Commerce and Industry (Shri Mahtab): (a) As a result of the communal disturbances in September, 1947, the supply position of fire-wood in Delhi deteriorated to such an extent that in October, 1947, fire-wood was not even available at the burning ghats. To meet this emergency the Delhi State Administration arranged for the import of fire-wood from Karnal District and the E. P. Railway authorities were moved to make available empty wagons at certain Railway Stations in Karnal District to the authorised whole-sale dealers so that they could transport fire-wood to Delhi, from the stocks owned by certain Muslims who had migrated to Pakistan. In view of the fact that the East Punjab Government were themselves short of fire-wood and these stocks of fire-wood were without any owner, the Deputy Commissioner, Karnal, was at first reluctant to release the stocks and the haulage of the fire-wood could not be done within the time limit allowed by the Railway authorities. The Delhi State authorities in spite of their best efforts were able to secure from the Government of Punjab loading of only 75 wagons of fire-wood, with the result that a large number of wagons remained standing on the Railway stations in Karnal District during the months of September and October 1947. The Railway authorities in the first instance preferred a claim for Rs. 1,42,284/7 on account of demurrage in regard to empty wagons but this amount by negotiations was subsequently reduced to Rs. 26,715, and is payable to the Railway authorities. The payment of demurrage charges was not, therefore, due to negligence on the part of any Officer of the Delhi State.

(b) Does not arise.

(c) Does not arise.

HOUSES FOR DISPLACED PERSONS IN DELHI

*1534. **Dr. M. M. Das:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the total number of brick-built houses of different varieties that have been constructed in Delhi up till now for displaced persons;

(b) the total expenditure incurred by Government for the construction of those houses;

(c) the number of houses that have been sold and prices fully realised; and

(d) the number of houses let out on monthly rent to the displaced persons?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) 13,815 houses and tenements and 264 shops-cum-residences have been constructed in Delhi up till 31st December, 1950.

(b) The total estimated expenditure is Rs. 302 lakhs. Actual expenditure figures are not available.

(c) 532 houses and 88 shops-cum-houses have been sold on full price. The total receipts are Rs. 46,73,750.

(d) 11,529 houses and tenements and 173 shop-cum-residences.

RETURN OF MIGRANTS

*1535. **Shri R. L. Malviya:** (a) Will the **Prime Minister** be pleased to state the number of migrants who have so far returned to East and West Bengal?

(b) What amounts have been spent by the respective Governments in the resettlement of these migrants?

(c) How many of them have been settled on their own lands and in their own houses?

The Deputy Minister of External Affairs (Dr. Keskar): (a) During the ten months following the Prime Ministers' Agreement of the 8th April, 1950, 21,48,000 Hindus came to West Bengal from East Bengal, and 17,78,500 Hindus went from West Bengal to East Bengal. Similarly, during the same period as against 8,82,600 Muslims who went to East Bengal from West Bengal, 7,58,758 Muslims returned to West Bengal. These figures include all kinds of travellers and not merely migrants but exclude movement across the West Bengal-East Bengal border on foot.

(b) Up to the end of November, 1950, the Government of West Bengal spent a sum of Rs. 9,81,019 on relief and rehabilitation of Muslims displaced during the communal disturbances of 1950. The Government of Pakistan have informed us that up to the end of October, 1950, the Government of East Bengal have spent Rs. 3,64,565/- on relief and rehabilitation of returning Hindu migrants.

(c) We have no up-to-date information about rehabilitation in East Bengal. The Government of East Bengal informed us that up to the end of October, 1950, out of 1,46,909 houses left by Hindus 86,146 houses had been restored and out of 2,19,018 acres of land left behind by Hindus,

1,68,002 acres of land had been restored.

Regarding West Bengal full information has been called for from the State Government. From the information available to us the following appears to be the position:

Up to the 31st July, 1950, 7,907 Muslim families of returning migrants were rehabilitated. Subsequently, 61,000 Muslim migrants have also been rehabilitated in the districts of Nadia, Malda and Hoogly. Until fuller information is available, it is not possible to say how many have got back their houses and lands, but it appears that out of 5,440 houses left vacant by Muslims in the district of Howrah, 3,040 houses were restored to them by the 1st week of October, 1950. I may add that the Government of West Bengal were handicapped to a certain extent in restoring houses and lands to returning migrants by judgments given by courts in certain cases. Now that necessary powers have been taken (under a recently promulgated Ordinance) to evict unauthorised occupants, the position is expected to improve.

COALMINE LABOUR WELFARE LEGISLATIONS IN HYDERABAD

*1536. **Shri R. L. Malviya**: Will the Minister of **Labour** be pleased to state which of the Coalmine Labour Welfare Legislations have so far been applied to Hyderabad and if none, whether Government propose to apply any such legislation to Hyderabad and if so, when?

The Minister of Labour (Shri Jagjivan Ram): The Coal Mines Provident Fund and Bonus Schemes Act, 1948 was extended to Hyderabad with effect from the 31st December, 1950, with the enactment of the Coal Mines Provident Fund and Bonus Schemes (Amendment) Act, 1950. The Indian Mines Act, 1923, the Coal Mines Labour welfare Fund Act, 1947, and the Mines Maternity Benefit Act, 1941, will become applicable to Hyderabad as soon as the Part B States (Laws) Bill, 1951, which was passed by this House on the 9th February, 1951 is brought into force.

INDUSTRIAL PANELS

*1537. **Shri Damodara Menon**: (a) Will the Minister of **Commerce and Industry** be pleased to state what are the industries for which Industrial panels are proposed to be set up?

(b) What are the terms of reference and the scope and nature of the work of these panels?

The Minister of Commerce and Industry (Shri Mahtab): (a) Panels have been formed for the Heavy Engineering, Light Engineering, Chemicals, Pharmaceuticals, Ferrous Metals and Non-ferrous Metals Industries.

(b) The terms of reference of these Panels are outlined in the note a copy of which is placed on the Table of the House. [*See* Appendix XII, annexure No. 15 (Part II).]

YARN (ALLOTMENT TO STATES)

*1538. **Shri Ramraj Jajware**: Will the Minister of **Commerce and Industry** be pleased to state the basis of allotment of quotas of yarn to various States in India?

The Minister of Commerce and Industry (Shri Mahtab): Allotment of yarn to the various States is made on the basis of their requirements for handloom and other industries fixed during the year 1948.

DEVELOPMENT OF VINDHYA PRADESH

*1539. **Shri Dwivedi**: (a) Will the **Prime Minister** be pleased to state whether the Planning Commission have for consideration any plan for the development of Vindhya Pradesh.

(b) Has any Committee for planning been constituted in Vindhya Pradesh as in the case of other states?

(c) If so, who are the persons constituting it?

The Prime Minister (Shri Jawaharlal Nehru): (a) The Planning Commission is considering a development plan for Vindhya Pradesh.

(b) and (c). There is an interdepartmental committee for planning with the Chief Commissioner as Chairman. The other members are the Secretaries of the Agriculture, Public Works and Finance Departments and the Director of Industries.

COMPENSATION TO DISPLACED PERSONS

*1540. **Shri Kamath**: Will the Minister of **Rehabilitation** be pleased to state:

(a) whether it is a fact that at the conference of States Rehabilitation Ministers, held in December 1950, the Prime Minister rejected the idea of payment of compensation to displaced persons for the losses suffered by them in Pakistan; and

(b) if so, what will be the effect of this new policy on the problem of settlement of evacuee property?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) The Prime Minister stated at the conference that the primary duty of Government was to rehabilitate displaced persons to the best of its ability. As regards compensation, he stated that this must come out of the evacuee property in India of Muslim migrants as well as any sum recovered from Pakistan by way of difference in value of the property left by the non-Muslim displaced persons in Pakistan and by the Muslim migrants in India. Government would give every additional help in rehabilitation of those who have suffered losses; they have already assured all concerned that displaced persons will be recompensed to the extent possible for their losses—the extent of the recompense depending necessarily upon the total assets that become available for distribution.

(b) This is not a new policy but a re-affirmation of the policy pursued thus far.

FIVE YEAR PLAN

*1541. **Shri Kamath**: Will the **Prime Minister** be pleased to state:

(a) whether the Planning Commission has finalised, in detail, each of the two stages of the Five Year Plan to be launched shortly;

(b) if so, whether the blue print of the Plan is available, and will be laid on the Table of the House;

(c) the date on which the Plan is likely to be put into operation;

(d) whether the States have been directed to set up Regional Planning Boards in order to give effect to, and to co-ordinate the overall Plan; and

(e) if so, which States have taken such action so far?

The Prime Minister (Shri Jawaharlal Nehru): (a) to (c). Sir, in view of the interest that this House and the country take in the work of the Planning Commission, it might be advantageous for me to take this opportunity to make a short statement about the programme of work on which the Planning Commission is at present engaged. This will give a better idea to the House of our work than a brief answer to the question that the hon. Member has put. With your permission, Sir, therefore, I propose to make this statement.

The House will recall that a few months ago the Commission requested States Governments to prepare plans of development for the two years, 1951-52, and 1952-53, and, in broader outline, for the period of five years ending 1955-56. Development plans have recently been received from most of the States Governments and the Central Ministries. These Plans are being studied, and the Commission hopes to suggest detailed priorities to the Central Government and the States, and also to indicate the levels to which financial resources may be raised during the next few years by the Centre and by the various Part A and Part B States towards the implementation of the national plan. Before the Commission makes its recommendations to individual States Governments, it intends to hold discussions with each of them on the basis of its assessment of their financial position and resources and their programmes of development. Before the plan is finalised, it is also hoped to make arrangements for consultation between the Planning Commission and Members of Parliament who are specially interested in planning. Discussions with States Governments will begin shortly and will extend over a few weeks. It is expected that the Commission's report will be presented to Government towards the end of May.

The Plan under preparation covers a period of five years, but it is proposed later to extend it to the sixth year, so as to correspond with the period of the Colombo Plan. The Commission's report is likely to cover a wide field. It will make an assessment of the country's resources, including financial resources, and the extent to which they may be developed. It will contain the Commission's recommendations on questions of national policy bearing on improvements in public administration, machinery for the execution of plans at the Centre and in the States, public cooperation, reorganisation of the system of agriculture, development of cottage and small-scale industries, the future organisation of industry, conservation of mineral resources, development of irrigation and power, the system of education and the extension of social services. It will also present an integrated programme of development in the public sector extending both to the Centre and the States. As regards the private sector, development programmes for individual industries are being worked out in consultation with the representatives of the industries concerned. A number of industries have been studied and the Commission's proposals for their development are expected to be submitted about the same time as its main report. The development programme for coal has already been submitted to Government. Its proposals for other industries will be made later after the discussions have been completed.

Government hope that Parliament will be able to consider the report of the Planning Commission during the next Session.

INDIANS IN PERSIAN GULF AREA

*1542. **Shri Krishnanand Rai:** (a) Will the **Prime Minister** be pleased to state how many Indians reside at present in the Sector known as "Persian Gulf"?

(b) What is their chief occupation?

(c) Have Government appointed any representative in the sector to look after their interests?

The Deputy Minister of External Affairs (Dr. Keskar): (a) About 7,300.

(b) Trade and business, skilled labour in the oil fields and employment under Government, semi-Government and commercial concerns.

(c) There is an Indian Embassy at Tehran and a Legation at Baghdad. Indian representatives have not yet been appointed in other parts of the Persian Gulf area. The Secretary and the Commercial Secretary to the Indian Legation at Baghdad have, however, been instructed to pay periodical visits to Bahrain and Kuwait to maintain contact with Indians there.

SEALING OF 'B' ZONE IN BERAR

*1543. **Dr. Deshmukh:** (a) Will the Minister of **Commerce and Industry** be pleased to state the date on which the Textile Commissioner, Bombay, sealed the 'B' zone in Berar?

(b) What data of misbehaviour or piercing of ceiling were before the Textile Commissioner as a result of which the zone was sealed?

(c) What was the quantity of cotton purchased by merchants in contravention of the Cotton Control Order?

(d) How many (if any) of these merchants were members of the Cotton Advisory Board appointed by the Government of India?

(e) Is it a fact that the misconduct of the members of the Cotton Advisory Board was brought to the notice of the Textile Commissioner on the 3rd November, 1950 by the Cotton Extension Officer of the Government of Madhya Pradesh?

(f) What action was taken against the defaulting members and if no action was taken, why not?

(g) Were any licenses of any merchants in 'B' zone cancelled for piercing the ceiling or violating the Cotton Control Order?

(h) Is it a fact that seventeen Licenses of merchants were cancelled in Madhya Bharat?

The Minister of Commerce and Industry (Shri Mahtab): (a) 29th December, 1950.

(b) The Cotton Advisory Board appointed by the Central Government consisting of representatives of principal Millowners' Associations, the principal cotton Trade Associations, and the Indian Central Cotton Committee had expressed the opinion at a meeting that Government should seal off the zone as prices had pierced the ceilings in that zone. The Chairman of Cotton Marketing Committees of Madhya Pradesh also confirmed that prices had pierced the ceilings.

(c) and (d). From the reports received from the mills to whom allocations of cotton had been made from that zone it was found that the prices had actually pierced the ceilings. Government have no information regarding the merchants who purchased cotton above ceilings or the quantity purchased.

(e) No.

(f) Does not arise.

(g) No. The cancellation of licences is within the purview of the Licencing authorities appointed by the State Government.

(h) Yes, the licences of 17 merchants in Madhya Bharat have been cancelled.

EXPORT AND IMPORT OF CLOTH FROM ENGLAND

*1544. **Dr. Deshmukh:** Will the Minister of **Commerce and Industry** be pleased to state.

(a) the quantity of Indian cotton cloth exported to England in 1949-50 and 1950-51;

(b) the quantity of cotton cloth imported from England in the same period;

(c) how much of the quantity referred to in part (b) above was Indian cloth exported from India; and

(d) what is the cost India pays for the re-imported cloth as compared with the price that India obtained when it first exported?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) The quantity of cotton cloth exported to United Kingdom in 1949-50 and the nine months April to December, 1950 was 31,225,427 yards and 48,845,024 yards respectively.

(b) The quantity of cotton cloth imported from England in the same

periods was 40,142,511 yards and 2,262,595 yards respectively.

(c) This information is not available.

(d) This information is not available.

PRICE-CONTROL ON CLOTH

*1545. **Dr. Deshmukh:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether there is any price-control on either export or import of cloth;

(b) whether the Government of India keep any record of these prices;

(c) whether it is a fact that the Mills which are permitted to export make large profits;

(d) whether the profits which Mills exporting cloth make are taken into account when supplying cotton at cheap rates to them; and

(e) whether any bonus is arranged to be paid to the growers of cotton which is supplied to the Mills at low rates?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) There is no price control on either export or import of cloth.

(b) No record is kept of these prices.

(c) The Mills which export cloth do not necessarily make large profits as the price that is obtained depends upon what prices the foreign markets can bear.

(d) Cotton is not supplied by Government at cheap rates. Under the present cotton control measures mills are able to procure cotton at the controlled price.

(e) The question of giving bonus to cotton growers does not arise as the prices fixed for indigenous cotton are considered to be quite fair to the growers.

TRADE AGREEMENT WITH HUNGARY

*1546. **Shri B. R. Bhagat:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether it is a fact that a trade agreement has been signed with Hungary;

(b) if so, the volume of the trade under agreement; and

(c) what are the specifications of goods to be exchanged?

The Deputy Minister of Commerce and Industry (Shri Karmarkar): (a) to (c). The attention of the hon. Member is invited to Starred Question No. 1340 asked by Shri Sivaparakasam on the 9th February, 1951 and my reply thereto.

INTERNATIONAL ALLOCATION OF RAW MATERIALS

*1547. **Shri Biyani:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether there is a scheme for international allocation of scarce raw materials and whether commodity groups are proposed to be set up in Washington;

(b) whether the attention of the Government of India has been drawn to serious shortages of such raw materials for indigenous industries; and

(c) if so, what action Government have taken or propose to take to meet the situation?

The Minister of Commerce and Industry (Shri Mahtab): (a) Yes, Sir. The Governments of the U.S.A., U.K. and France have proposed setting up of commodity groups to examine availabilities and to make recommendations to Governments for expanding production, conserving supplies and ensuring best distribution and utilisation. India has already been invited to participate in two groups and it is probable that India will join one or two other committees.

(b) Yes, Sir.

(c) Government have taken up at diplomatic level the question of securing to India sufficient quotas of essential raw materials which are in short supply and for which we have to depend principally on imports. Government have also liberalised the import policy for industrial raw materials by their inclusion in the O.G.L. and increasing import quotas. Government have set up six Industrial Panels for the Heavy Engineering, Light Engineering, Chemicals, Pharmaceuticals, Ferrous Metals and Non-Ferrous Metals Industries, whose main function is to advise Government on how materials in short supply should be used to the best advantage and whether any suitable substitutes are available.

AUTOMOBILE COMPONENTS

*1548. **Shri M. V. Rama Rao:** Will the Minister of **Commerce and Industry** be pleased to refer to the answers given to parts (d) and (e) of Starred Question No. 1618 put on 11th April, 1950 regarding manufacture of automobile components and state:

(a) whether the information relating to output of automobile components expected to be manufactured

by the protected industries has been collected by the Expert Committee which has been set up by the Government;

(b) whether the information will be laid on the Table of the House;

(c) whether the Expert Committee have suggested any revision of Import Tariff applicable to automobile components; and

(d) whether the suggestions will be disclosed to the House?

The Minister of Commerce and Industry (Shri Mahtab): (a) to (d). The Automobile Expert Committee has recently submitted its Report to the Government. The recommendations made by the Committee are at present under consideration and it will not be in public interest to disclose them at this stage.

DERIVATIVES OF COAL

*1549. **Shri Kishorimohan Tripathi:** (a) Will the Minister of **Works, Production and Supply** be pleased to state as to what derivatives are produced in India from coal?

(b) What is the annual production and demand in India in respect of each derivative?

The Minister of Works, Production and Supply (Shri Gadgil): (a) and (b). A statement giving the required information is laid on the Table of the House. [*See* Appendix XII, annexure No. 16.]

EXTRADITION BETWEEN INDIA AND PAKISTAN

*1550. **Dr. M. M. Das:** Will the **Prime Minister** be pleased to make a statement upon the present position regarding extradition of fugitive offenders between India and Pakistan?

The Deputy Minister of External Affairs (Dr. Keskar): After the 15th August, 1947 the extradition of fugitive offenders between India and Pakistan was regulated by Part I of the Fugitive Offenders Act, 1881 read with section 19 of the Indian Extradition Act, 1903. From the 26th January, 1950, when India attained the status of a Republic, and ceased to be a Dominion, the application of the Fugitive Offenders Act became doubtful and the procedure laid down in that Act could not appropriately be followed.

The Government of India, therefore, are trying to evolve a suitable extradition procedure in consultation with the Government of Pakistan, and pending a final decision in the matter, no action is being taken on outstanding requests for extradition.

SHELTER TO DISPLACED PERSONS

*1551. **Giani G. S. Musafir:** (a) Will the Minister of **Rehabilitation** be pleased to state the approximate number of displaced persons not provided with shelter so far, in different States including the Centrally Administered Areas?

(b) What steps are being taken to provide shelter to these people?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) According to information supplied by the States approximately 56,800 families from West Pakistan are living either in tents, Dharamshalas, temples or in improvised shelters. State-wise distribution is given in the statement laid on the Table of the House. Information in regard to the displaced persons of similar class from East Pakistan is not available.

(b) The State Governments have been asked to formulate schemes for providing accommodation to such persons.

STATEMENT

Number of displaced families from West Pakistan without any shelter or living in Dharamshalas, improvised structures etc., as in December, 1950.

State		No. of families
Uttar Pradesh	...	5,000
Ajmer	...	—
Punjab	...	5,300
Vindhya Pradesh	...	1,600
Delhi	...	30,000
Madhya Pradesh	...	—
Bombay	...	11,000
Rajasthan	...	2,600
Madhya Bharat	...	400
Bihar	...	400
Pepsu		500
Total	...	56,800

"FORCIBLE IMMIGRATION" OF DISPLACED PERSONS

*1552. **Shri Rathnaswamy:** (a) Will the **Prime Minister** be pleased to state whether it is a fact that an attempt at "Forcible immigration" into India across the Waga border by over 2,000 displaced persons of Lahore Bowali camp was made on the 21st December, 1950?

(b) Was there any encounter with the armed police squads; and, if so, what was the number of casualties, if any?

(c) Is it a fact that these displaced persons staged a demonstration outside

the office of the Indian Deputy High Commissioner?

The Deputy Minister of External Affairs (Dr. Keskar): (a) and (b). It is reported that certain inmates of the Bowali camp, Lahore, left the camp with the idea of crossing over into India but before they reached the Waga border, they were intercepted by officials of the West Punjab Government with the assistance of armed police and persuaded to return to the camp. No casualities are understood to have occurred.

(c) No. One morning about 300 inmates of the Bowali camp collected on the road adjoining the office and residence of the Deputy High Commissioner for India. They did not stage any demonstration but a deputation from among them met the Deputy High Commissioner who explained to them the arrangements agreed to between the Governments of India and Pakistan for the return to India of Muslims who migrated from the Uttar Pradesh after the disturbances of last year. All of them returned to the camp peacefully thereafter.

TOKEN STRIKE BY INDIAN WORKERS IN CEYLON

*1553. **Shri Rathnaswamy:** Will the **Prime Minister** be pleased to state whether it is a fact that a token strike by 6 lakhs of Indian workers in Ceylon employed in tea and rubber estates was staged on the 26th December, 1950?

The Deputy Minister of External Affairs (Dr. Keskar): No. There has been no such strike.

INDUSTRIAL RAW MATERIALS

*1554. **Shri Biyani:** Will the Minister of **Commerce and Industry** be pleased to state what steps have been taken by Government to meet the needs of essential industrial raw materials imported from other countries, in view of the emergency caused by the 'Stock-Piling' policy adopted by the U.S.A., U.K. and other countries?

The Minister of Commerce and Industry (Shri Mahtab): Government have liberalised the import policy for industrial raw materials by

(i) expanding the Open General Licence; and

(ii) increasing import quotas. The question of granting advance licences for the next half-year is also being considered. In cases where foreign countries have instituted controls on exports, the question of securing larger quotas for India has been taken up with the producing countries through appropriate channels. The subject was also discussed at the Commonwealth Conference recently held in the U.K.

Further Government have constituted six Industrial Panels, *viz.* for the Heavy Engineering, Light Engineering, Chemicals, Pharmaceuticals, Ferrous Metals and Non-Ferrous Metals industries, whose main function is to advise Government how materials in short supply should be used to the best advantage and whether any suitable substitutes are available.

RUBBER TYRES (PRICE)

*1555. **Shri Sivan Pillay:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) whether an increase of 15 per cent. in the price of rubber tyres has been allowed;

(b) when that decision was taken; and

(c) whether this increased price for tyres has come into effect and if so, from which date?

The Minister of Commerce and Industry (Shri Mahtab): (a) Yes. Sir.

(b) On the 19th January, 1951.

(c) Yes, Sir, with effect from the 22nd January 1951.

LANDBORNE-TRADE WITH OTHER COUNTRIES

*1556. **Shri Sivaprakasam:** Will the Minister of **Commerce and Industry** be pleased to state:

(a) the names of countries with whom India is having *landborne-trade* at present; and

(b) whether India is having favourable balance of trade with them?

The Deputy-Minister of Commerce and Industry (Shri Karmarkar): (a) India has land-borne trade with Pakistan, Afghanistan, Iran, Nepal, Tibet and the French and the Portuguese Settlements in India.

(b) A statement showing balance of land-borne trade with Pakistan, Afghanistan, Iran and Nepal in 1949-50 and the eight months April to November 1951 is placed on the Table of the House from which it will be seen that India had an unfavourable balance in land-borne trade with Pakistan, Afghanistan and Iran and favourable balance of trade with Nepal. [*See* Appendix XII, annexure No. 17.] Statistics of trade with Tibet and the French and the Portuguese Settlements in India are not available.

RELAXATION OF IMMIGRATION RESTRICTIONS AGAINST INDIANS IN CANADA

*1557. **Shri Sidhva:** Will the **Prime Minister** be pleased to state whether the Government of Canada have agreed to relax immigration restrictions against Indians by throwing open her doors to 150 citizens of India each year for permanent residence in that country?

The Deputy-Minister of External Affairs (Dr. Keskar): Yes, an Agreement to this effect has been concluded between India and Canada.

DISPLACED PERSONS CAMPS IN OCCUPIED KASHMIR

*1558. **Giani G. S. Musafir:** (a) Will the **Prime Minister** be pleased to state whether the attention of Government has been drawn to the press report, that thousands of Hindus and Sikh displaced persons are still passing their days in great misery in displaced persons camps in Muzzafarabad, Poonch, Alibagh, Bangla and other places of occupied Kashmir?

(b) If so, what steps are being taken to repatriate these people to India?

The Deputy Minister of External Affairs (Dr. Keskar): (a) We have seen such reports from time to time.

(b) The matter was taken up with the Pakistan Government who have informed us that they were taking steps to transfer, at as early a date as possible, all non-Muslim displaced persons (including those in Camps) who wished to come over to India.

SCRUTINY OF CLAIMS OF PROPERTIES LEFT IN PAKISTAN

*1559. **Giani G. S. Musafir:** (a) Will the Minister of **Rehabilitation** be pleased to state whether notices are being issued by some Sub-Committees, set up for the scrutiny of claims of properties left in Pakistan to the displaced persons to appear before them within two days, and also deposit expenses for two witnesses being called?

(b) If so, what action has been taken by Government to put an end to this procedure?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) No sub-committee has been set up for the scrutiny or verification of claims to property left in Western Pakistan by the displaced persons.

(b) Does not arise.

REFINERIES FOR CRUDE PETROLEUM

*1560. **Shri S. V. Naik:** Will the Minister of **Works, Production and Supply** be pleased to state:

(a) how many refineries there are in India which process imported crude petroleum;

(b) what is the capacity of these refineries; and

(c) whether Government are considering installation of any more refineries?

The Minister of Works, Production and Supply (Shri Gadgil): (a) There are no refineries in India which process imported crude oil.

(b) Does not arise.

(c) Government are anxious to encourage the putting up of one or more such refineries.

Kapas IN P.E.P.S.U.

*1561. **Kaka Bhagwant Roy:** (a) Will the Minister of **Commerce and Industry** be pleased to state what is the total production of unginned and ginned *Kapas* in PEPSU of 1950 and 1951 crop?

(b) Is there any control on unginned and ginned *Kapas* in PEPSU?

(c) What is the total number of bales of ginned *Kapas i.e.* cotton exported outside PEPSU to foreign countries of 1950 and 1951 crop?

The Minister of Commerce and Industry (Shri Mahtab): (a) Information regarding production of cotton in *kapas* form is not available. The production of cotton lint in full pressed bales of 400 lbs. each in PEPSU during the current season 1950-51 (from 1st September 1950 to 31st August, 1951) is estimated at 182,000 bales.

(b) There is no control on the prices of unginned cotton, *i.e.*, *Kapas* but there is control on its movement by road, rail or air to stations outside PEPSU. As regards ginned *kapas i.e.*, cotton there is control both in regard to price as well as for the movement to stations outside PEPSU.

(c) 27,815 bales up to 12-2-51.

TIN

*1562. **Shri Jagannath Das:** (a) Will the Minister of **Commerce and Industry** be pleased to state what is the present policy of supplying tin to actual consumers in India?

(b) How much tin was imported in the years 1948, 1949 and 1950?

(c) Is it a fact that some factories have to work double shift to consume tin supplied to them, while certain other factories are idle for about eight or nine months in a year?

The Minister of Commerce and Industry (Shri Mahtab): (a) Government no longer purchase, stock and distribute tin to consumers. The consumers have to make their own arrangements to purchase the metal from the local market or to import it from abroad.

(b) 1948 8135 tons, 1949 5544 tons, 1950 3129 tons.

(c) Government have no such information.

ART AND RAW SILK

*1563. **Shri Jagannath Das:** (a) Will the Minister of **Commerce and Industry** be pleased to state what is the import policy of the Government of India regarding supply of art silk and raw silk?

(b) Is this imported silk to be distributed through private agency or through government?

(c) What is the present ceiling amount of imports of art and raw silk?

The Minister of Commerce and Industry (Shri Mahtab): (a) The import of both art silk and raw silk is allowed under monetary ceilings.

(b) Only in the case of handloom weavers distribution is being made by the Government. Raw silk is imported by the State Governments who distribute the same to the handloom weavers in their respective States. For Art silk yarn, licences are issued to the Established importers on the condition that they will sell it to the handloom weavers only under the directions of the State Directors of Industries.

(c) The import ceilings fixed by the Government are kept confidential and cannot be disclosed.

IMPORTS OF CAUSTIC SODA AND SODA ASH.

*1564. **Shri Jagannath Das:** (a) Will the Minister of **Commerce and Industry** be pleased to state the quantity of Caustic Soda, Soda Ash etc., imported in the years 1948, 1949 and 1950?

(b) What steps do Government propose to take for adequate supply of these materials in 1951 for their equitable distribution to bonafide users?

(c) What commitments have India made at the Commonwealth Prime Ministers Conference held recently in London, regarding supply of raw materials?

The Minister of Commerce and Industry (Shri Mahtab): (a) A statement is laid on the Table of the House.

(b) I would draw the attention of the hon. Member to the reply given by me to part (c) of Starred Question No. 1547.

(c) No commitments have been made.

STATEMENT

I. Imports of Caustic Soda during the years 1948, 1949 and 1950.

Year	Quantity (in Cwts.)	Value (in thousands of rupees)
1948	1786040	76124
1949	460953	12093
1950	427071	8277

II. As regards Soda ash the information required is not available. However, the figures of Licences issued for Soda ash during the period January-June 1950 and July-December are given below.

Period	Value (in thousands of rupees)
January-June 1950	5,17
July-December 1950	38,44

TECHNICAL TRAINING CENTRES IN U.P.

*1565. **Prof. Yashwant Rai:** Will the Minister of **Labour** be pleased to state:

(a) the number of Technical Training Centres of the Ministry in the state of Uttar Pradesh;

(b) the number of teachers and trainees in the centre at Benares;

(c) whether it is a fact that there has been no teacher for the last three months;

(d) whether it is a fact that many trainees have migrated to Aligarh Centre; and

(e) if so, what steps do Government propose to take to improve the management of the Benares Centre?

The Minister of Labour (Shri Jagjivan Ram): (a) 8.

(b) Instructors 26: Trainees 311.

(c) No. only two posts are unfilled. Against one of these recruitment has

been made and the person selected is expected to join immediately. Efforts are being made to fill up the other vacancy which occurred in December, 1950. Pending recruitment the class is being looked after by Supervisory Instructors. Part-time services of the regular staff of the College are also being utilized.

(d) No. Voluntary migrations are permissible. Six trainees of the Draughtsmen-Mechanical Class have however been transferred to the Aligarh Centre to relieve congestion at Benares.

(e) Does not arise.

DISPLACED PERSONS IN PUNJAB

*1566. **Prof. Yashwant Rai:** Will the Minister of **Rehabilitation** be pleased to state:

(a) the names of places where new houses, new towns and markets have been constructed for displaced persons in the State of Punjab;

(b) the amount spent by the Centre and the amount spent by the State on these constructions;

(c) the income gained by Government by the sale of such houses and rent received from the displaced persons;

(d) the number of houses spoiled and destroyed by recent heavy rains and floods; and

(e) the cost incurred on the repairs and reconstruction of these houses?

The Minister of State for Rehabilitation (Shri A. P. Jain): (a) to (e). Information is being collected and will be placed on the Table of the House in due course.

INDIAN NATIONALS IN CEYLON

*1567. **Shri V. Ramaiah:** (a) Will the **Prime Minister** be pleased to state the amount which an Indian national living in Ceylon is allowed to remit to his dependents living in India?

(b) Is there a similar restriction on remittances by other nationals living in Ceylon to their dependents living elsewhere?

(c) What steps have Government taken to remove the hardships experienced by Indians living in Ceylon in the matter of remittances to their dependents?

The Deputy Minister of External Affairs (Dr. Keskar): (a) An individual is allowed to remit to his dependants in India, an amount generally not exceeding 1/3 of his current earnings in Ceylon. Estate Labourers in Ceylon are permitted to remit an amount of Rs. 60/- per quarter through the Superintendent of the Estate. In addition, an Indian resident is permitted to take with him reasonable amounts on his periodical visits to India. Remittance of amounts in excess of the authorised limit is also permitted for special reasons.

(b) In the earlier stages of Ceylon Exchange Control, there was some distinction between Indians and other sterling area nationals in regard to the maximum limit of remittances allowed. The Government of India are not aware whether any distinction has been maintained after the introduction of the system of general permits from January, 1950. Information on this point is being collected and will be supplied to the House when available.

(c) The Government of India have made representations to the Government of Ceylon from time to time. Discussions are still in progress. In the meantime the High Commissioner for India in Ceylon has been taking up cases of hardship *ad hoc* with the authorities in Ceylon.

FALL OF CREST OF THE *Ghantaghar*, DELHI

*1568. **Shri S. V. Naik:**
Shri M. L. Gupta: Will the Minister of **Works, Production and Supply** be pleased to state:

(a) whether it is a fact that the crest of the *Ghantaghar* in Delhi has fallen down and if so, when;

(b) the causes that led to this fall;

(c) the total number of casualties including those killed and injured;

(d) the extent of the damage caused to the property—public, private and Government;

(e) whether the *Ghantaghar* square has been opened to traffic;

(f) what steps have been taken by Government to prevent the further falling of the structure; and

(g) whether an enquiry has been ordered by Government in the matter?

The Minister of Works, Production and Supply (Shri Gadgil): (a) Yes; the crest of the Clock Tower collapsed on 7th February, 1951 at about, 10.15 A.M.

(b) This portion of the Clock Tower was rather delicate in construction of stone and brick work. Examination showed that the mortar of this structure had deteriorated with age (now

about 80 years) with the result that the pillars were unable to take the load, causing the collapse without warning.

(c) Total casualties were 14, out of which 9 persons were killed and 5 injured.

(d) Delhi Central Electric Power Authority sustained a loss to the extent of Rs. 5,000/- on account of damage to the street lighting. One rickshaw and two cycles costing about Rs 600 belonging to the persons injured or killed were also damaged.

(e) The square round the Clock Tower has been barricaded, leaving space for pedestrian traffic. Diversion has been provided for vehicular traffic on Chandni Chowk except from Nai Sarak end.

(f) The loose material has been removed from the top, and scaffolding work is almost complete for removal of the heavier material which is in a dangerous condition. The question whether the remaining portion of the structure can be retained or not is still under examination.

(g) The Local Administration has appointed a Magistrate to hold an enquiry in the matter.

FAILURES OF ELECTRICITY IN CONSTITUTION HOUSE

99 Dr. Deshmukh: Will the Minister of Works, Production and Supply be pleased to state:

(a) whether the Constitution House is a Government-managed hostel;

(b) whether Government are aware of the failures of electric current from time to time; and

(c) whether Government are aware that these failures continue for hours before they are repaired?

The Minister of Works, Production and Supply (Shri Gadgil): (a) Yes.

(b) and (c). Government are aware that such failures do occur occasionlly, not only in the Constitution House but also in the neighbouring areas. They are due to the burning of fuses, in the nearest distribution pillars of the New Delhi Municipal Committee, caused mainly by overloading of the supply line through unauthorised use of extra current by the residents. Every effort is made to set right the failures as soon after their occurrence as possible; but comparatively longer delays in certain instances *e.g.* replacement of damaged cables, are unavoidable. It should be appreciated that the failures are not due to faulty installation, but on the other hand prevent serious damage which might result otherwise as a consequence of overload.

YARN

100. Shri Jagannath Das: (a) Will the Minister of Commerce and Industry be pleased to state what steps Government are taking to supply adequate yarn to cotton mills for increasing cloth production?

(b) Is it a fact that some mills in West Bengal are lying idle since more than eight months for lack of sufficient yarn?

(c) If the reply to part (b) above be in the affirmative, what steps do Government propose to take to supply yarn either indegenous or foreign to such mills?

The Minister of Commerce and Industry (Shri Mahtab): (a) In order to make adequate supplies of yarn available to cotton weaving mills the Government of India have taken the following steps:

(1) Issue of further licences for the export of yarn have been stopped with effect from the 4th January, 1951.

(2) Increased ex-mill prices of yarn have been announced with effect from the 1st February 1951, which will be remunerative enough to the mills to step up their production of free yarn.

(3) (i) Import of yarn of counts 80s and above to the tune of Rs. 65 lakhs during the first half of 1951, has been allowed; and

(ii) 66,000 bales of American cotton have been supplied to the spinning mills at subsidised rates for the production of yarn, for the handloom Industry. This will, indirectly, make available more yarn for the consumpton of powerloom factories.

(b) No. However, Bangodaya Cotton Mills, Calcutta, a powerloom factory had approached the Textile Commissioner, Bombay, for assistance in the procurement of yarn, who modified the allotment of yarn to West Bengal so as to enable the Director of Textiles, West Bengal Government, to meet the requirements of this factory. Similarly two other Powerloom factories in the West Bengal, namely, Shri Guru Weaving Factory and Cader Plighton & Co., also assistance for procurement of yarn and they were asked to approach the Director of Textiles, West Bengal.

(c) Does not arise.

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No. 1– 20

Monday

5th February, 1951
to
2nd, March. 1951

PARLIAMENTARY DEBATES

PARLIAMENT OF INDIA

OFFICIAL REPORT

Part II—Proceedings other than Questions and Answers

"CHAMBER PUBLICATION on....."

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Price Six Annas

THE

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers.)

OFFICIAL REPORT

PARLIAMENT OF INDIA

Monday, 19th February, 1951

The House met at a Quarter to Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(See Part I)

10-45 A.M.

DEATH OF SHRI KHURSHED LAL

Mr. Speaker: The hon. the Prime Minister is to make a statement.

The Prime Minister (Shri Jawaharlal Nehru): I have to bring to your notice, Sir, and to the notice of the House with deep sorrow the death of Shri Khurshed Lal, a Member of this House and a Member of our Government. The death took place in somewhat extraordinary circumstances and with extraordinary suddenness and therefore the shock of it has been all the greater for us. Every Member of this House knew him well and it is not for me therefore to say much about him. We were all acquainted with his cheerful and smiling countenance and I think all of us recognised the quality of his work, even as Government recognised it. It was because of that quality that we had very recently selected him for one of the most difficult and one of the highest posts in our Foreign Service and it is therefore a grievous loss to Government and to the public service and to this House that he is no more.

We shall all miss him, but probably some of us will miss him even more than others, because he had been a comrade of ours even before he came to this House and during those long periods of trial and tribulation we got to know each other very well. He started his career at the Bar with great promise and very soon he rose to some eminence in it and then the call came to him as it came to many of us and he left his practice at the Bar and joined the national movement and threw his lot in the struggle for freedom. I was trying to remember when I met him for the first time. As far as I recall, I met him twenty-one years ago behind the prison walls of Dehra Dun, a place where many years of my life have been spent. Since then, we met often inside prison and outside and we had many occasions of taking measure of each other and I do not remember a single occasion during these twenty-one years when I found Shri Khurshed Lal lose his equanimity of temper or his cheerfulness, whatever trial or tribulation came on his or our way. During the intervals when he was in prison, he took to municipal affairs in Dehra Dun and became Chairman of the Municipality, and there also he distinguished himself and his record is still remembered. Then he came to this House and from that time onwards the House is fully aware of what he has done. Government attached the greatest value to his work and for some time past we were thinking of how to utilise his high abilities and sense of responsibility and as I just now said, we had chosen him for one of our most difficult posts.

To all of us his loss is a considerable one and perhaps it is the greatest to my colleague the Minister of Communications for whom he was not only a colleague and a helper but almost a younger brother. Indeed, most of us belong to that larger family who, during this quarter of a century and more, functioned as colleagues and brothers in a larger sense and got to know each other's virtues and failings and thus got to respect each other and have great affection for each other. Many of us in these past years have passed away one by one

[Shri Jawaharlal Nehru]

and for those who remain it becomes a harder task. I am sure that every Member of this House will join me in offering tribute to this bright young man whose life has been cut short, and in sending our message of sympathy—deep sympathy—to his wife and children.

The Minister of Communications (Shri Kidwai): It is difficult to speak without emotion about a friend who was with us till yesterday morning and when I met him at about 8 o'clock no one could have thought that he had only two hours more to live. Shri Khurshed Lal joined Government as a Deputy Minister in October 1948 and from the date he joined he was responsible for the administration of the Department. He worked as the Minister and I only worked as his Adviser. If there has been any improvement in the working of the Departments in his charge, he and he alone was responsible for that improvement. As the Prime Minister has said, he was more than a friend to me and as a matter of fact a few of us who were working in U.P. found that we had a common outlook in life and we were together and our intimacy grew into friendship and as we grew older and older we relied more and more on each other. In the course of the last few months, we have lost three of our comrades and Shri Khurshed Lal was the dearest of them all. I am sorry I cannot say more.

Mr. Speaker: I fully associate myself with what has fallen from the hon. the Prime Minister and the hon. the Communications Minister. I do not think I can add more in this hour of our grief. As a mark of respect to the deceased, the House may stand in silence for two minutes.

As a further mark of respect, I think the House will do better to adjourn its business just for the time being and re-assemble at 2 o'clock. From 2 o'clock we shall sit till we put through the Preventive Detention Bill.

As regards questions and answers of today, they will, according to our usual practice, go in the proceedings as questions put and answers given, as happens in the case of questions not reached for oral answers.

We will now adjourn and meet at two o'clock.

The House then adjourned till Two of the Clock.

The House re-assembled at Two of the Clock.

[MR. SPEAKER *in the Chair.*]

REQUISITIONED LAND (CONTINUANCE OF POWERS) AMENDMENT BILL

The Minister of Works, Production and Supply (Shri Gadgil): I beg to move for leave to introduce a Bill further to amend the Requisitioned Land (Continuance of Powers) Act, 1947.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Requisitioned Land (Continuance of Powers) Act, 1947."

The motion was adopted.

Shri Gadgil: I introduce the Bill.

INDIAN BOILERS (AMENDMENT) BILL

The Minister of Works, Production and Supply (Shri Gadgil): I beg to move for leave to introduce a Bill further to amend the Indian Boilers Act, 1923.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Boilers Act, 1923."

The motion was adopted.

Shri Gadgil: I introduce the Bill.

REPORT *RE* DELHI (CHANDNI CHAUK CLOCK TOWER

The Minister of Works, Production and Supply (Shri Gadgil): Sir, there was a question about the Clock Tower. I wish to add to my reply that I have kept copies of the Report of the Chief Engineer in this matter on the Table of the House. [*See* Appendix XII, annexure No. 17-A.]

PREVENTIVE DETENTION (AMENDMENT) BILL.—*concld.*

Mr. Speaker: The House will now proceed with the further consideration of the Bill further to amend the Preventive Detention Act, 1950.

Clause 9.—(*Substitution of new section for section* 9.)

Mr. Speaker: I shall take up together all amendments which relate to the period—two weeks, four weeks and so on.

Pandit Kunzru (Uttar Pradesh): Sir, may I move my two amendments

to this clause—Nos. 5 and 6 of Supplementary List No. 3?

Mr. Speaker: He may move No. 5 first. That relates to the period.

Pandit Kunzru: I beg to move:

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, for the words 'six weeks' substitute the words 'four weeks'.

This question was discussed the other day. All that we want is that the detained person should be given the earliest opportunity of making a representation to the Advisory Board. It is laid down in the Bill, and indeed in the Act too, that a period of six weeks may elapse before his case is referred to the Advisory Board. I do not know why this period was fixed. But I think that with advantage both to the detained person and to the authorities it may be shortened to four weeks. My hon. friend the Home Minister said the other day that under the amended Act a large number of cases would have to be considered by the Advisory Boards. But I suppose that Government will be in a position to inform the detenus, that is persons detained under those provisions of the Preventive Detention Act where their cases need not have been referred to an Advisory Board. Therefore a period of 4 weeks should be sufficient to enable the Government to make the necessary communications to these detenus and enable them to represent their case to the Advisory Boards. I see no reason, therefore, why this amendment should not be accepted, though the Home Minister said the other day that he thought that the period should be allowed to remain as it was in the Bill.

Sardar Hukam Singh (Punjab): I beg to move:

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, for the words "six weeks" substitute the words "two weeks".

My object is also the same as has been explained by my hon. friend, Pandit Kunzru. It could be understood under the old Act when all cases had not to be referred to the Advisory Board and they had to be scrutinized by the Government whether they fell under one clause or the other. In that case Government might have taken some time, in deciding and referring the case to the Board. But now it is made obligatory that every case has to be referred, and as such I do not think as much as 6 weeks should be allowed to elapse before a case is referred. Under section 3, it is laid down in the old Act that "when any order is made under this section by a district magistrate, sub-divisional magistrate or commissioner of police, he shall forthwith report the fact to the State Government." Of course when the State Government decides or the Central Governments decides, it has already got all the facts in their possession but when the District Magistrate or any other officer decides, he is satisfied that some action has to be taken and he decides to take that action. Then he has to send his report forthwith to the Government and then there is the communication to the detenu to be made under section 7 and there the words are "as soon as may be." "When a person is detained in pursuance of a detention order, the authority making the order shall as soon as may be, communicate to him the grounds on which the order has been made.....". When the District Magistrate has to refer the case, he has to send on the report along with the grounds on which he has passed that order and all the material that he has got; he has to send that report to the Government forthwith and it might mean 1, 2, 3 or 4 days and then again, when it is decided, those grounds that he has already sent forthwith to the Government are to be communicated to the detenus "as soon as may be". This would not take any fresh time and the detenu as well as the Government shall be in possession of all the materials, the grounds as well as the evidence that are in the possession of the District Magistrate or any other officer within 3 or 4 days. Then there is no reason why such a long time should elapse before this reference is made and particularly now when all cases are to be referred to the Advisory Boards? Of course, they would be constituted before hand. They would be in existence when a person is detained, and even if in some parts of the country there is no Advisory Board already constituted, of course, a list shall have to be prepared and maintained which of the officers or advocates are entitled to be appointed on the Advisory Boards. So, there would be no difficulty at all in making a selection and appointing an Advisory Board in such cases. This Bill is an exceptional one as the liberty of the individual is involved and there should be no unnecessary lapse of time. The circumstances of the case do not require any delay and my amendment has one advantage as well. Some hon. Members have proposed one week, some 2 weeks and

[Sardar Hukam Singh]

my hon. friend who has just spoken proposed four weeks and some have proposed three weeks and mine is for two weeks. Therefore I commend my amendment for the acceptance of the House.

Pandit Thakur Das Bhargava (Punjab): I beg to move:

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, for the words "within six weeks" substitute the words "as early as possible but in no case exceeding the period of four weeks".

This amendment is one which will satisfy all.

Mr. Speaker: Amendments moved:

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, for the words "six weeks" substitute the words "four weeks".

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, for the words "six weeks" substitute the words "two weeks".

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, for the words "within six weeks" substitute the words "as early as possible but in no case exceeding the period of four weeks."

Shri A. H. S. Ali (Hyderabad): I wish to submit that six weeks as proposed by the hon. the Home Minister is too long a period for detention of a man who has lost his personal liberty on some grounds which is not known to him. As I said before, I know of cases in Hyderabad where people were detained and not given any grounds of detention for weeks and weeks together. After waiting for six weeks, they moved the High Court and only when a rule was issued by the High Court, Government's attention was drawn to it and then they furnished the grounds for their detention.

Again, Sir, as just now stated by hon. Members of this House, the grounds for detention will be quite ready with the Government or with the officer who passes that order for detention and there seems to be no need for such a long period as six weeks to furnish those grounds of detention and call for a representation of the man who is detained. So I move that the period suggested or proposed by the hon. Home Minister should be reduced to two weeks instead of 6 weeks.

Shri Hussain Imam (Bihar): Sir, I wish to move not an amendment but for deletion of a part of the clause. Should I move it now? Deletion is not an amendment according to your ruling.

Mr. Speaker: Deletion of an entire clause proposed to the House is not an amendment.

Shri Hussain Imam: May I move, because I was away from Delhi on Government work and I have just returned.

Mr. Speaker: He may speak against the clause. If he was absent, it should be no ground for repetition of the arguments which have been advanced over and over again.

Shri Hussain Imam: I am asking for the deletion of a part of the clause.

Mr. Speaker: My point is absence might not be a ground for repetition of the same grounds because I have found hon. Members bringing the same grounds over the question of 'period.'

The Minister of Home Affairs (Shri Rajagopalachari): There are amendments here ranging from one week up to six weeks, for the period which is provided in the Bill itself. The arguments that Pandit Bhargava advanced that possibly his amendment may meet all points of view is not also correct, because it is 'as early as possible but in no case exceeding 4 weeks' as moved by Pandit Kunzru. The point to be remembered is that this six weeks' time applies to the time within which the Government will have to do the following things: To place before the Advisory Board the grounds on which the order has been given, the representation, if any made by the person affected by the order and in cases where the order is reported by an officer, the report made by such an officer. Especially I want it to be remembered that the grounds furnished should be answered by the person concerned in his representation and he is entitled for immediate communication under Section 7. Taking all these things together, I am sorry, I am not in a position to accept any of the amendments and I hope the House will accept the clause as it stands.

Mr. Speaker: Does the hon. Member want to speak on clause 9 as a whole?

Shri Hussain Imam: About clause (2) (a).

Mr. Speaker: I think the better course would be, first I shall dispose

of these amendments. Then, when I put the clause to the House, the hon. Member may have his say. The question is:

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, for the words "within six weeks" substitute the words "as early as possible but in no case exceeding the period of four weeks".

The motion was negatived.

Mr. Speaker: Then, I will place Pandit Kunzru's amendment. Mr. Abul Hasan Syed Ali's amendment is the same. I do not think it is necessary to put it separately. The question is:

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, for the words "six weeks" substitute the words "four weeks".

The motion was negatived.

Mr. Speaker: The question is:

In clause 9 in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, for the words "six weeks" substitute the words "two weeks".

The motion was negatived.

Pandit Kunzru: I beg to move:

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, after the words "grounds on which the order has been made" insert the words "together with all information at the disposal of that Government having a bearing on the necessity for the order".

Sir, this matter too was referred in a general way during the debate that has already taken place when the Bill was in the consideration stage. It was then pointed out that although the Board would have the power to call for such further information as it may deem necessary either from the Government or from the detained person, it was desirable that from the beginning, it should be placed in possession of all such facts as Government could disclose without detriment to the public interest. My hon. friend, the Home Minister, dealing with this matter said that it would be in the interest of Government themselves to place as full information as they could before the Advisory Board, lest the Advisory Board on the basis of imperfect information should be inclined to advise the release of the detenu. If it is so, there is no reason why Government should refuse to accept this amendment. It does not require them to disclose anything which in their opinion should not be disclosed consistently with their view of public interest. The Constitution gives them the power to withhold all such information. Therefore, if this amendment is passed, they will have only to place such facts before the Advisory Board as have a bearing on the case before it. My hon. friend will probably say that Government will, of their own accord, do so, because that would enable them to strengthen their case. Government, unfortunately, do not always act in such a way as even to strengthen their own position. If we can assume that Government would always act wisely, and in accordance with its own interests, even, then, there is no reason why this amendment should not be accepted. At best, it could be called superfluous; but certainly no harm will be done, if Government have a statutory duty cast upon them that they should communicate all such information relating to the case of a detenu as they can, subject to the provisions of the Constitution.

Mr. Speaker: Amendment moved:

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, after the words "grounds on which the order has been made" insert the words "together with all information at the disposal of that Government having a bearing on the necessity for the order."

I think Pandit Thakur Das Bhargava's amendment is covered by this.

Pandit Thakur Das Bhargava: It is covered to some extent.

Mr. Speaker: This is more comprehensive. If he wants, he may move it. Or, he can have his say on that.

Pandit Thakur Das Bhargava: I should like to say a word or two, Sir. My submission is that it is absolutely necessary in the interests of justice that all information that the Government possess and which they can reasonably place before the Advisory Board, the Government should be bound to place. As a matter of fact, we have already passed section 7 sub-section (2) to the effect that such of the information as relates to matters which, in their opinion, affect public interest, and which they do not want to place before the Advisory Board, they are not bound to place So far as the rest of the information is concerned, my submission is that the Government should be bound to

[Pandit Thakur Das Bhargava]

place all that information. Now, under the present law, as we understand it, it is not the Government's duty to strengthen the case against the detenu; on the contrary, their duty is that they should place all the materials dispassionately before the Advisory Board and seek their judgment. To start with, when a person is ordered to be detained, the whole case passes through the executive sieve, and the executive comes to the decision that such and such person should be detained. I can understand this. Along with this, my own fear is that when it has passed through the executive sieve and they have arrived at this conclusion, there may be an inclination on the part of those who have ordered the detention, not to place such facts, before the Advisory Board, as may favour the detenu. The law requires, and the High Court rulings are to the effect, that in all such cases, it is the duty of the Public Prosecutor to place the entire materials before the court even in ordinary cases. Similarly, even the law has gone so far as to suggest that it is the duty of the Public Prosecutor to tell if there are any weak points in the prosecution case to the counsel for the accused; my humble submission is that the Government should not withhold anything which is favourable to the detenu, and therefore, it is the duty of the Government to place everything before that body which they have appointed, in whom they have confidence, and in whom the person detained may or may not have confidence. Unless this is done, if you send to the person detained grounds which will be of a sketchy nature, the representation may also be of a sketchy nature, and if you withhold other things, the Advisory Board will feel unable to do justice, which we are all anxious to get done. Nothing is lost by having a provision like this which enjoins upon the Government to submit all the material to the Advisory Board so that they may have a full say in the matter and come to the right decision.

Shri Kamath: I have got an amendment, Sir; it is No. 70 in the Consolidated List. I have it as an amendment to clause 10.

Mr. Speaker: We are considering now clause 9.

Shri Kamath: In case this is disposed of one way or the other, I hope it would not be barred.

Mr. Speaker: I shall not decide it now; I shall decide it then.

Shri Kamath: I would like to speak on my amendment.

Mr. Speaker: The hon. Member can speak on this amendment, if he likes. But then I take it that he will not have his amendment afresh later on. He cannot have it both ways.

Shri Kamath: But my amendment is slightly different from this amendment, Sir.

Mr. Speaker: Then he may take his chance after we have done with clause 9

Shri Rajagopalachari: The question is whether a statutory duty should be laid on the Government in this regard in section 9. Any statutory duty, if it is to be imposed, it should be possible to enforce. If it is merely a maxim that is a different matter. But if it is to be a duty that all such information at the disposal of Government should be produced, then who is to judge that "all"? Who is to judge whether all has been produced or not? Therefore, it is an ineffective proposal and it comes out of the fact that maxims are sought to be introduced in a statutory provision. And a difficulty may also result from this proposal. It can be understood to mean that nothing else should be afterwards given. Then it would be a sanction. Unfortunately, in the interest of everyone concerned, we have provided that the Advisory Board should be allowed to call for further information in all cases, if it wants to do so. Therefore, I submit, Sir that these amendments are entirely out of tune with the whole structure of the Bill, and they are also unnecessary, especially because as Pandit Kunzru has pointed out, there is now judicial finality about the advice of the Board. On the production of the materials depends the judgment which will be binding. I have to repeat what I have already said. Both the amendments, Sir, are unnecessary and would not be workable even.

Mr. Speaker: The question is:

In clause 9, in sub-section (1) of the proposed section 9 of the Preventive Detention Act, 1950, after the words "grounds on which the order has been made" insert the words "together with all information at the disposal of that Government having a bearing on the necessity for the order".

The motion was negatived.

Shri Hussain Imam: Sir, I wish to move the amendment given notice of by Mr. R. U. Singh. It is as follows:

In clause 9, omit sub-section (2) of the proposed section 9 of the Preventive Detention Act, 1950.

I wish to bring to the notice of the hon. the Home Minister the fact that as at present worded, a person who has been detained for 40 days before this Act comes into operation will not be bound to have his case referred to the Advisory Board until six weeks after the passing of the Act which will mean that in fact the detention will be for 82 days before the case is referred to the Board. But Government has power to detain a person for three months without the reference to the Advisory Board. So the period that the Advisory Board will take to examine the case will be tantamount to a further detention without legal sanction or justification. According to the present Bill, we have provided for six weeks for the reasons to be conveyed. There is no need to further increase this period in the case of persons who have been in detention before this Act comes into operation. This is a very ordinary matter and I am very hopeful that the hon. the Home Minister will find his way to accept my suggestion.

Sir, I would also like to bring this further fact to your notice that sub-section (3) of section 3 is referred to in this section. But in the annexure added to the Bill there is no such sub-section. There was, a very useful ruling from the Chair, to the effect that the portions of the original Act should be included in the annexure given in the Bill. I hope, Sir, Government will be more careful in this respect and give us all the necessary information in the annexure.

Mr. Speaker: Here the entire section that is sought to be amended is not put in; but only those portions of the section which are sought to be amended are printed in the Annexure.

Shri Hussain Imam: But if there are references to other sections or sub-sections of the original Act, they also are necessary and should be found in the Annexure, Sir.

Mr. Speaker: I gave such directions, more or less, to the Secretariat.

Shri M. A. Ayyangar (Madras): Sir, I am afraid the scope of sub-section (2) has been misunderstood by Shri Hussain Imam. Before the amendment of clause 9 it was not incumbent or obligatory on the Government to refer all these cases to the Advisory Board, I mean those which come under sub-section (1) and sub-section (2). Only those cases which.....

Mr. Speaker: We need not go into the details now. The point was sufficiently answered here, but unfortunately the hon. Member was not present then.

Shri M. A. Ayyangar: Just a few words more. Now power is given to refer all cases of detention, whether they are made under sub-sections (1), (2) or (3). It is obligatory under this Bill to refer the matter to the Advisory Board. Hitherto, with regard to detention orders passed in connection with sub-sections (1) and (2), it was not obligatory on Government to refer them to the Advisory Board. The new power is given and that starts from the date on which this Act comes into force. It is not sought to give retrospective effect to it. Therefore, far from criticising this Bill whoever is interested in giving every opportunity to the persons detained, they must welcome this measure in that it gives additional opportunity to them. Every order of detention whether under clauses (1) or (2) also must now go before the Board. The time factor is not essential, because it is not in contemplation.

Shri Rajagopalachari: Sir, the point has been more or less, cleared by the hon. Member who spoke last. It is now necessary to refer all the cases to the Advisory Board and unless there is a date referred to, the order will hang in the air and it is absolutely necessary to have sub-section (2).

Mr. Speaker: The question is:

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

New clause 9A and **clause 10.**— (*Amendment of section* 10).

Mr. Speaker: I feel a technical difficulty in dealing with the amendment of Shri Sarwate as it deals partly with clause 10. So I think I shall place clause 10 before the House and then he may move his amendment. Pandit Kunzru's amendment also may be taken up so that we may have a common discussion on the two amendments.

Shri Sarwate (Madhya Bharat): I beg to move:

After clause 9, insert the following new clause:

"9A. *Insertion of new section* 9A *in Act IV of* 1950.—After sec-

[Shri Sarwate]

tion 9 of the said Act the following section shall be inserted, namely:—

'9A. *Powers of the Advisory Board.*—The Advisory Board constituted under section 8 shall have power—

(1) to lay down the procedure for the enquiry the Board is called upon to make;

(2) to require from the appropriate Government all relevant information bearing on the charges made against the detenu;

(3) to require the detenu to appear before the Board either in person or by a legal representative; and

(4) to permit in suitable cases, a detenu to call evidence and cross-examine witnesses'."

The amendment is moved with a view to provide for a lacuna which in my opinion exists in the Bill. In Clause 10 the procedure is given but nowhere in the Bill are detailed the powers which the Board is to exercise. In the previous discussion the Home Minister stated something like this, that there would be rules framed hereafter which may provide for certain matters. So it may be said that those rules may also provide for the powers of the Board. I am afraid, however, that the original Act does not give any power to the Government to frame rules. So it would be a matter of some doubt, at least of some argument as to whether the Government can frame rules under this Act.

The reason why I have suggested this new clause is that both in the interests of the detenu as well as in the interests of the fundamental rights of the people it is necessary that whatever material the Government possesses for the detention of the person concerned should be placed before the Board.

The Advisory Board would not be exactly a judicial tribunal, though it may in a large measure have such a character. It would not necessarily be governed by all the procedure which governs a judicial tribunal. So certain procedure would have to be laid down for the proceedings of the Board. The best way would be to empower the Board itself to lay down the procedure for itself. That would both facilitate their work and obviate the necessity of the Government to frame the rules. Further in the interests of the detenu and in the interest of fundamental right to freedom it is necessary that all the material should be placed before the Board.

Under clause 10, as amended, the Advisory Board would be empowered to call for certain information but that does not necessarily mean that the Government would provide that information. The wording is:

> "The Advisory Board shall, after considering the materials placed before it and, if necessary, after calling for such further information....."

"Calling for such further information" would mean that the Government may, if they think that it is not in the interest of the public, refuse to provide such information even to the Board. I submit that this is not fair. The Board, as has been often said, would be constituted of persons who would be in the confidence of the Government. Secondly, the report of the Board, as far as the materials placed before them are concerned, would be confidential. The original sub-section 3 of section 10 is not amended and in the latter part it says:

> "and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential."

It means that the report which gives the opinion of the Board would be public property and that part which contains the materials placed before it would be confidential. There should thus be no apprehension that this material would be made public. Government need have no apprehension that such material may be misused, abused or used to the detriment of the country. So the Government should be bound to place before the Board all the material they possess, whether they consider it necessary or otherwise. The party who is to decide should be not the Government but the Board itself. Therefore I have used the wording in my amendment to the effect that the Board should have the power "to require from the appropriate Government all relevant information." "Relevant information" would mean all the information which is in the hands of the Government. The argument that the Government themselves would stand to lose if they do not produce all the evidence before the Board would not be correct. The question is not whether the detenu would be released or not. The question is whether the Board would be entitled to have all the material before them. If the Board

possesses the confidence of the Government and has the necessary qualifications, it should have the power and be entitled to have before it all the material which Government possesses. No discretion need be vested in the Government, because the Board would be entirely appointed by the Government and would consist of persons who would have the confidence of the Government.

Further, nowhere in the Bill is there any provision which empowers the Board to call for the detenu to appear before them in person. On the other hand, sub-section (3) of the clause says:

> "Nothing in this section shall entitle any person against whom a detention order has been made to attend in person or to appear by any legal representative....."

The detenu is not entitled to appear either in person or be represented before the Board. There is no power of the Board to call him personally. The Board is empowered to call for information from the person concerned. In the interest of justice it is necessary that if the Board so chooses they may call the detenu to appear before them. In ordinary civil matters the court thinks that it is not their business to have all the material evidence before them. It is the party's business to place before the court such material by way of evidence as the parties think necessary. The function of the court is restricted to judge from whatever evidence is put before them. In criminal matters, however, the court has been given the power to call for material evidence from the prosecution, if they think that there is a lacuna or any material evidence is kept back. This detention proceeding is more or less criminal in character. So this power also should be given to the Board to call for material evidence, because the proceedings would be more or less of a criminal nature. So the Boards are to be given powers: 1. to lay down the procedure, 2. to require the Government to produce all the evidence in their possession and 3. to require the detenu to be produced before them. The fourth power given to the Board is to permit in suitable cases to call evidence and cross-examine witnesses. This last power is not given to the Board. The phrase "calling for.....information" may be interpreted one way or the other. I have sought to make it clear. This amendment would in short give at one point all the powers which the Board ought to possess. Such a provision would make the Act complete and fill the lacuna. Sir, I commend this amendment to the House.

Mr. Speaker: Pandit Kunzru's amendment also may be moved at this stage.

Pandit Kunzru: Shall I take amendment No. 55 in the Consolidated List and amendment No. 7 in Supplementary List No. 3 together?

Mr. Speaker: He may move No. 55 as amended by No. 7—instead of "ten weeks" it will be "eight weeks".

Pandit Kunzru: Sir, I beg to move:

For clause 10, substitute the following:

> "10. *Substitution of new section for section* 10, *Act IV of* 1950.—For section 10 of the said Act, the following section shall be substituted, namely:—
>
> '10. *Procedure of Advisory Boards.*—(1) The Advisory Board shall determine the procedure to be followed by it in disposing of any reference made to it under section 9 and it shall be competent for the Advisory Board to call for any such information from the appropriate Government or from the person concerned as it may deem necessary.
>
> (2) The Advisory Board shall submit its report to the appropriate government within eight weeks from the date specified in sub-section (2) of section 9 specifying the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.
>
> (3) Where there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.'"

The House will remember, Sir, that the Preventive Detention Act, 1950, lays down in sub-section (3) of section 10 that no detenu will be entitled to appear before the Advisory Board when his case is under consideration. It also lays down that no detenu shall have the right of having any legal representative to act for him before an Advisory Board. The amendment leaves this sub-section untouched. The main purpose of my amendment is to give the Advisory Board the power to permit detenus and their legal representatives to appear before them should they consider this necessary or desirable. The Boards will

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consist of responsible men who will be well acquainted with the law. They will realise that the procedure to be followed under the Preventive Detention Act will be not judicial but quasi-judicial and they will doubtless act accordingly. But there is no reason why they should be statutorily prevented from allowing a detenu to appear before them should they think that this will be desirable in the interests of justice. It is well-known, Sir, that the British Parliament conferred the power to detain persons on suspicion, in certain well-defined cases, on the executive. But Regulation XVIII-B which was framed under the Defence Emergency Act, 1939, did not contain anything which could prevent the Advisory Committees from laying down their own procedure. Apart from this, the Secretary of State made statements on various occasions in the British Parliament from which it appears that the Advisory Committee that considered the cases of detenus in England could decide in every case the procedure that should be followed. The first thing that I should like to bring to the notice of the House in this connection is that the detenu was allowed to appear in person before the Committee. The Home Secretary said in the House of Commons on the 23rd July, 1941:

> "It is invariably the practice of the Advisory Committee to put before these persons as explicitly as they can all the facts which are known against them."

I think this shows that the detenu appeared before the Advisory Committee as a matter of course. If, however, the language of the Home Secretary has left anybody in doubt, I shall read out another quotation from his speech which will make this absolutely clear.

> "When he, that is the detenu, gets to the Advisory Committee, every fact which can possibly be put to him is put to him by the Chairman of the Committee at the hearing."

This should leave no doubt whatsoever in anybody's mind that the Committees did not merely consider the charges against the detenus and their written representations, but also anything that they might have to say orally to the Committee.

The next thing to be considered is whether the detenus were allowed to produce witnesses. The Home Secretary has made this, too, clear.

In the course of the speech to which I have referred he said.

> "Witnesses can be called and are called in many of these cases."

3 P. M.

Now, Sir, let us take the question of detenus being represented before the Advisory Committee by an advocate. "A legal advocate", he said, "can come before the Committee if the Committee so permits". I do not say that the Committee should normally allow advocates to appear before it, but what is important is that the Committee had the power to allow a legal representative to come before it and to say whatever he could say consistently with the law in favour of his client. If in England in war time a detenu could appear before the Board, could call witnesses and could be represented by an advocate, there is no reason why in peace time in India the same facilities should not be given to a detenu. It may be said that this will lead to a great deal of delay or that the information regarding the grounds of detention of a person would become public. There is no danger, Sir, of the information becoming public. If Government direct that the information should be treated as confidential, there is no reason why the advocate who appears on behalf of a detenu before a court should give out the information communicated to him by his client. If he does so, he will be liable to prosecution under the Official Secrets Act. As regards legal assistance, it will be for the Board to decide whether in any particular case it is desirable that a detenu should be allowed to have or should be provided with the assistance of a competent lawyer. My hon. friend the Home Minister read out to us the list of Advisory Boards the other day and asked whether it could reasonably be said that the Board consisted of hand-picked men. If he has complete faith in these Boards, there is no reason why he should not allow them the discretion to allow detenus to call witnesses and to have legal assistance. This is a matter of great importance. It is not enough that the Board should consist of present or past judicial officers and competent lawyers. What is necessary is that the procedure should be such as to inspire public confidence and make the detenu feel that justice will be done to him. That was the reason why the Advisory Committee was allowed so much latitude in England when a war was going on. The Home Secretary defending the Advisory Committees said on December 10, 1940:

> "I can assure the House from my examination of the reports which

have come to me that the Chairman and the Committee regard it as a large part of their duty to be helpful to the detained person, to help him to bring out his case if they think he has not understood it as well as he might have done. After having read a considerable number of these cases I would say that on the average if these Committees have any bias at all—and I am not accusing them of bias—it is rather in favour of the detained person than against him. That is the atmosphere of these Committees and many Fascists have said that they could not have wished anything fairer or more considerate than the treatment they have had and I do not think it is wrong for me to say that that was testified to by the leader of the British Union himself." Referring again to the Advisory Committees, he said: "Repeatedly I have seen on the records that the Committee acted not as a prosecuting body but as a body which wants to get at the facts. Repeatedly I have seen on the records the question, "Is there anything else you want to say?" Moreover if in cases of doubt a man has had something put to him which he does not understand or which he has thought he ought to have notice of, the Committee have repeatedly said, "If you like an adjournment, ask for one and we will arrange for it." Now, Sir, these quotations show the atmosphere of the Committee and the manner in which it acted in England. I venture to think that it was able to win the confidence of the detenus themselves because of the procedure followed by it and because of the power possessed by it to take such action in any particular case with regard to appearance of witnesses and legal representatives as it thought fit.

The detenus who appeared before it realised that the Board was not bound by the orders of Government to follow any procedure and that it was free to act in such a manner as to see that substantial justice was done. Can anybody say, Sir, that if the freedom of the Boards is restricted in the manner as it has been done in the past, either the detenus, or the public will feel that they will work in the same fair and independent manner that the Advisory Committee did in England. It is in the power of the Government to appoint the members of the Advisory Boards. They should, therefore, have sufficient confidence in these men and allow them full discretion to lay down their own procedure. When I use these words, Sir, I do not mean that they should prescribe rigid rules which should be followed in every case. What I mean is that they should have the power to order in any particular case that a detenu should be given such facilities as they consider reasonable to enable him to have his case properly represented to them. Indeed, Sir, I go further and say that the Government should bring to the notice of the Advisory Boards the statements of the British Home Secretary in regard to the manner in which the Advisory Committee acted in England.

After hearing what I have said the House will realise that the amendment that I have put forward is perhaps the most important amendment that has been considered so far. We are prepared, Sir, to invest Government with special powers in consideration of the situation that exists in certain States, for instance Hyderabad and Madras or at any rate certain parts of the country. But it is incumbent on Government also to be prepared to see that even when the ordinary procedure laid down by the Criminal law is not applicable, the detenus should be treated in such a manner that the Advisory Boards may be able to get at the facts and give decisions that will be respected both by the detenus themselves and by the public.

Mr. Speaker: Amendments moved:

After clause 9, insert the following new clause:

"9A. *Insertion of new section 9A in Act IV of* 1950.—After section 9 of the said Act, the following section shall be inserted, namely:—

"9A. *Powers of the Advisory Board.*—The Advisory Board constituted under section 8 shall have power—

(1) to lay down the procedure for the enquiry the Board is called upon to make;

(2) to require from the appropriate Government all relevant information bearing on the charges made against the detenu;

(3) to require the detenu to appear before the Board either in person or by a legal representative; and

(4) to permit in suitable cases, a detenu to call evidence and cross-examine witnesses.'"

For clause 10, substitute the following:

"10. *Substitution of new section for section* 10, *Act IV of* 1950.—

[Mr. Speaker]

For section 10, of the said Act, the following section shall be substituted, namely:—

'10. *Procedure of Advisory Boards.*—(1) The Advisory Board shall determine the procedure to be followed by it in disposing of any reference made to it under section 9 and it shall be competent for the Advisory Board to call for any such information from the appropriate government or from the person concerned as it may deem necessary.

(2) The Advisory Board shall submit its report to the appropriate government within eight weeks from the date specified in sub-section (2) of section 9 specifying the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) Where there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.' "

Shri Kamath (Madhya Pradesh): The amendments, Sir, just now moved by Mr. Sarwate and Pandit Kunzru are, in my humble judgment, of considerable importance. The real test of the liberalisation of this measure—liberalisation as compared to what it was last year—consists, to my mind, in the scope, also the status, may I say, and the functions and powers of the Advisory Boards that are going to be constituted under this Act. The Home Minister, if I recollect aright, stated the other day that the Advisory Boards are tribunals or judicial bodies in all but name. If that be so, I for one fail to see why detenus who have got certain rights and privileges when they appear before a court of judicature, should be denied those very rights, or deprived of those or similar rights, when they have to appear before an Advisory Board.

The Home Minister and the House will remember that the extraordinary powers sought to be arrogated by the executive under this Act, as modified by this Bill, are in England exercised only by the Home Secretary and that too in a state of emergency. The liberalising amendment which has been extolled so much by him to the effect that all cases of detention would be referred to the Advisory Boards and the recommendation or the report of the Advisory Board would be mandatory upon the Government in every case, though, of course it has liberalised the existing Act, is in no sense any liberalisation compared to what the Defence of the Realm Act was in England even during the time of war. In Britain under Regulation 18B during the last war this provision applied and was strictly observed in the case of all detenus. A similar statute, called the Offences Against the State Act of 1939, obtained in Eire, that is the Irish Free State. But both these measures obtained during war-time and as we all know, in peace time such a measure does not exist in either of these countries, or in America.

The Home Minister the other day waxed eloquent—as he is certainly entitled to—over the liberal features he has brought into this Bill, particularly over the fact that the detenu's case, of whatever category it may be, will be submitted to an Advisory Board by the appropriate Government. The point has been made out, and very strongly, by my hon. friend Pandit Kunzru that the Advisory Boards to be constituted under the Act will be the nominees of the Government—either those who have been judges or who are judges or who are qualified to be judges under the Constitution. Now, Sir, I for one would add my voice to that of my hon. colleagues here who have stated that those who are qualified to be judges may rightly be excluded from membership of the Advisory Board.

I was rather perturbed the other day to hear the Home Minister read out the names of some Advocates-General in certain States who had been appointed to the Advisory Boards. Though Advocates-General are expected to be, and many of them are, perhaps judicially minded, yet the habit that they cultivate of advocating a particular cause before the High Court or Supreme Court of Judicature—either as *advocat dei* or *advocat diabolo*—is a consideration which must weigh with the Government before appointing an Advocate-General, who in many cases aspires to become a Judge of a High Court or the Supreme Court in the fullness of time, to the Advisory Board.

Now, the Advisory Boards are going to be constituted under this Act. Anywhere is it laid down in the Act as to what procedure will be adopted by the Advisory Boards with regard to the inquiry that they will conduct into the detention of a particular person by the appropriate Government? Therefore it is incumbent upon

us as the sovereign Legislature of this country to whom the entire nation is looking for a lead and a guidance in this very vital matter, it is incumbent upon us, I say, to specify and to even meticulously determine the status, functions and powers of the Advisory Board. If that is said, the rest is said also. If that is said, we need not say again that the right of determining the procedure should be given to the Advisory Board itself. That goes without saying. If certain other matters are conceded to the Advisory Board I think the matter as regards the procedure to be laid down about the inquiry may also be determined by the body itself. If the Home Minister is really in earnest about the liberalisation of this measure and in seeing that the detenus are fairly and justly dealt with, and not more or less arbitrarily, then I submit that the features of the proposals made by my hon. friend Mr. Sarwate and two of the proposals made by my hon. friend Pandit Kunzru should find ready acceptance on his part.

After all, what do these amendments suggest, what do they seek to provide? Mr. Sarwate merely wishes to confer upon the Advisory Board the power to lay down its own procedure. I see no reason why Government should come in the way of the Advisory Board laying down its own procedure of enquiry. The second proposal of his is that the Boards shall have the power to require from the appropriate Government all relevant information bearing on the charges made against the detenu. This more or less in substance, the Home Minister has conceded, though I do not know why he fights shy of incorporating this categorically and unambiguously in the Act itself. The other day he said the Board is certainly at liberty to call for whatever information it wants. I have got an amendment on this very subject and I will say more on it when I come to that. The third proposal of Mr. Sarwate is that the Board shall have power to require the detenu to appear before it either in person or by a legal representative. If the Board as the Home Minister seeks to make out is a Tribunal all but in name—we are not merely fighting for names and shadows, we are fighting for the substance—if it is a Tribunal in substance though not in name, then why on earth does he object to an amendment of this nature? It does not mean that the detenu shall have the right to appear before the Board. It only means that the Board shall have the power to call him. If it thinks necessary it may call him. Now, the Board is a creature of the Government: every Advisory Board is a creature of the appropriate Government. If the Home Minister cannot accept this very moderate and liberal amendment, I for one feel that all his praise of the liberalisation of this measure is mere pretence—I do not wish to use any harsher word than that. The Board must have this power,—as Government nominates the Board—the Board must have the power to call a detenu if it so wants. In many cases I am sure the Board will not call the detenu. But to deprive and divest *ab initio* the powers of this Board to summon witnesses before it is to my mind a most irrational proposition. And the last proposal of Mr. Sarwate is that the Board should have the power to permit a detenu in suitable cases to call evidence and cross-examine witnesses. There also he has toned it down very much. The Board can determine what cases are suitable and what are not. If the Board is not given this discretion of determining certain matters, then I feel that Government itself can determine everything and not leave it to the farce of an Advisory Board.

The Home Minister in his wisdom, I am sure, will say that he does not accept these amendments. He may be right in his wisdom today. But so was the Attorney-General in his wisdom last year. May I point out to him, to the House and to you, Sir, that when section 14 of this Act which sought to divest the courts of judicature of certain powers in the same way as are being sought to be removed from the jurisdiction of the Advisory Board—when that clause was moved last year which completely divested the High Courts and the Supreme Court of the right to get all the material and that sort of thing—the Attorney-General was so confident in his view. It was my amendment and he was replying to it. Sardar Vallabhbhai Patel said "As Mr. Kamath has raised certain legal issues on clause 14 (now section 14) I would request the Attorney-General to put forward the legal point of view." And the Attorney-General, Mr. Setalvad, said:

> "May I, Sir, make an explanation to satisfy my hon. friend as to the real position? He seems to be under the impression that by reason of the proviso to clause 14 the person detained will not be entitled to state before the High Court, if ever he is to be before it, the grounds on which he is detained. Now, the order against him will state that

[Shri Kamath]

he is detained with a view to prevent him from acting prejudicially either to the defence of India or to public order or whatever the ground may be. That order will be served upon him and that order will be produced before the High Court.

"Then will be reached the further stages in reference, to which provisions are contained in Clause 14. Clause 14 relates to the giving of evidence. My hon. friend's apprehension that the detenu will not be able to tell the High Court on what ground he is detained is not well founded. The High Court will therefore be in a position to deal with the *habeas corpus* application. My hon. friend will remember that when the High Court has to be satisfied about; it has got to see that the detention is in accordance with procedure established by law. That is the provision in Article 21 of the Constitution. That is how the matter stands.

* * * *

"The Court will have to examine the *habeas corpus* application and see whether he is detained according to procedure provided by law. That is all that is necessary under the Constitution."

But three or four months later, the Supreme Court held otherwise and set at nought the whole proposition so well enunciated by the Attorney-General in this very House.

What I would like to impress upon the hon. Home Minister is that if he really agrees to make these Advisory Boards tribunals in all but name, he should have no objection to confer on these Boards the powers which they may exercise in their discretion. They are not bound to get information in every case but only if they feel that something is necessary to be done. In that case this amendment of Mr. Sarwate must be accepted by the Home Minister. Otherwise, the Advisory Boards will be merely advisory, and the only improvement that we have got today is that all cases are to be referred to the Boards. The other provision to which the Home Minister referred to is that the recommendations are mandatory in each case. That was so already and I do not think there is any improvement. The recommendation has been mandatory. The only lacuna in the Act then was that very few detenus' cases were referred by Government to the Advisory Boards but in all cases where the Board made a recommendation one way or the other Government had to accept the recommendations of the Board, and Sardar Patel made it clear in the last session that where there were two judges and there was difference of opinion among them, the order had to be rescinded. So the Home Minister need not take pride in this fact that the recommendation of the Board is mandatory. The only thing that has been done is that all cases will go to the Boards henceforth, but if the Boards were to function in a spirit of justice, in the spirit of a tribunal and in the spirit of the Constitution, in the spirit of the Preamble, which guarantees to the citizen liberty, equality and fraternity, I would again repeat to the Home Minister to see that this modicum of power, the minimum of powers sought to be conferred by the amendments are accepted by him. Otherwise all his protestations here will be futile and fatuous.

Pandit Thakur Das Bhargava: May I move my amendment No. 14 appearing in Supplementary List No. 1 on clause 10?

Mr. Speaker: I thought he wanted to speak on the amendments before the House. I would take his other amendments after these two are disposed of.

Pandit Thakur Das Bhargava: With your permission I wish to speak on the two amendments which have been moved.

Mr. Speaker: Yes.

Pandit Thakur Das Bhargava: With regard to these two amendments, legally speaking, I do not find myself inclined to accept the substantive part of these amendments. The substantive part of these amendments is that the Advisory Board should be given power to have its own procedure established by itself. Section 22 (7) of the Constitution reads as follows:

"Parliament may by law prescribe:

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause 4;"

We cannot possibly agree to the Advisory Board being given the powers to determine its own procedure. This will be against the Constitution and

no advisory body can be given power of that sort. The power as well as the duty has been laid on Parliament by section 22(7) (c), *i.e.*,

"Parliament may by law prescribe:

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)."

Therefore according to the express provision in section 22, no Advisory Board can be given the power to have its own procedure. After having said this, I must say that I am in complete sympathy with the rest of the amendments moved by my friends.

In regard to this, section 22 runs as follows:

"No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice."

And Clause (3) (b) says:

"Nothing in clause (1)... shall apply to any person who is arrested or detained under any law providing for preventive detention."

It follows that section 22 (1) read with sub-section (3) has taken away the right for a detenu to consult or to be defended by a legal practitioner of his choice as a matter of right according to the Constitution. According to the Constitution no detenu can insist that he will be defended by a legal practitioner of his choice. Such is our limitation and to those of us who want to say that the detenu should be provided with a legal practitioner, I must submit that if the Parliament makes such a law, I do not think that we will be going against the spirit of the Constitution. According to the words of the Constitution an accused cannot insist that he will be defended by a legal practitioner of his choice. At the same time, I do not know of any provision of law which says that before an Advisory Board or a judicial body, a person whose fate they are going to decide should not be allowed to appear. I do not know of any law in which you invest an Advisory Board or a Judicial Body with all sorts of powers and yet deny this power of hearing the detenu.

After all, section 22 (4) (a) reads thus:

"An Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention."

Sir, this Advisory Board comes into existence for only one purpose and that is to find if there is sufficient cause for such detention.

[MR. DEPUTY-SPEAKER *in the Chair*]

If we compare this with the ordinary law of the land we find that when an accused appears before the Court, the Court has to find out whether the accused has committed an offence and then to adjudge the punishment according to the enormity of the act done. The accused stands before the Court and the Court finds whether the accused is guilty and if he is found guilty, the court gives the sentence. But here so far as the powers of the Advisory Boards are concerned, they are only concerned with one part; they have to determine whether there is sufficient cause for detention. They are not to say for what period the detenu is going to be detained. That is the special prerogative of the executive so that out of one whole, one part goes to the executive and the other goes to the Advisory Board. If you allow these powers to an Advisory Board, that they are to find the sufficiency of the cause, you must enable them and place such powers in their hands so that they may be able to discharge their duty efficiently.

May I just, with your permission, Sir, submit, for your consideration, one illustration? Suppose, in the grounds that the executive supplies to the detenu, it is said that the detenu conspired with so and so in Calcutta on a certain date, and the detainee, who happens to be a student, in his reply says that he was not in Calcutta on such and such date, but that he was attending his college in Patna, how is the Advisory Board to know whether the allegation is correct or whether the reply of the detainee is correct? It cannot be possible to know unless and until the Advisory Board calls for some evidence. The evidence may be that in the College registers, his name is entered as having been present on a certain date. Unless you allow the Advisory Board ample powers to call for such evidence as it likes, it is impossible for the Advisory Board to work. If the allegation is that a detainee entered into a conspiracy with so and so, and that gentleman is in London on that date, how can that be proved before the Advisory Board? Either they may accept the grounds or

[Pandit Thakur Das Bhargava]

the explanation of the accused without any evidence whatsoever. My humble submission is that it is not sufficient to say that only the representation and the grounds will be seen; it is absolutely necessary that the court should be armed with the power to get any information from the State, from the person concerned, or from any other source. After all, it is a body appointed by yourself. The names were read out by hon. Rajaji and I understand that men of such qualifications will not stoop to do anything which is not justified by law. Therefore, nothing will be lost if this power is given to them. This power will not be exercised in every case; witnesses will not be called in every case. In proper cases, if it is thought necessary, I think that it is not justifiable in having only these powers which are given under section 10. What are the powers given under section 10? The grounds can be seen; the representation can be seen; further information can be called for from the Government and the person concerned; that is all. My submission is that this is absolutely insufficient. The Government and the person concerned will not be able to give the information which the Advisory Body, if it wants to discharge its duty honestly and well, will require. Therefore, you must arm that body with ample powers and give it the power to call for information from whatever source it likes. It has to finish its business within a stated time. Therefore, it will be in a hurry to get the information as soon as possible. I do not want that the powers should be so enlarged so that it may become a regular court of law. At the same time, it will not be fair to really make it impotent to do the justice for which it exists.

Secondly, Sir, the other point urged in my hon. friend's amendment is that in proper cases, the detenu should be allowed to appear before the Advisory Board. I need not say very much on this point before the House. It is absolutely true that if there is a doubt in the mind of the Board, if the prisoner appears before the Advisory Board, the detenu may be able to tell the Advisory Board in a minute what it may take years to unravel if he does not appear before them. I have yet to know of a case in which the body of persons which has to decide the fate of any person, is not allowed to come face to face with the person whose case it has to decide. I need not go into any illustration. But, I may just submit one fact for your consideration. On the date when this Bill was being discussed, a very esteemed friend of mine gave me a story of what happened in the Government of India. A person who was employed in one of the offices, was reported against. One of the reports was that he was of a very bad conduct. A lady was mentioned and it was said that he has been allowing this lady to visit his house and that he visits that lady, etc. When the man interested in that person asked him about the report, and mentioned the name of the lady, he was told by the person complained against that that lady was the wedded wife of that person.

Until the matter came up before that gentleman and it was found that that lady was his wife, everybody believed that this man was a bad man, a man of a very bad character. I do not say that the accused will have the right to appear before the Advisory Board or that he must be allowed to appear through a lawyer. What I submit is that if the Board itself thinks that in a proper case, the detenu should be allowed to come before them and explain the circumstances, and if that opportunity is denied, I think it is the height of absurdity and such a law could be said to be a lawless law. My submission is that nothing will be lost. After all, our Government is strong and the man will not run away if he is allowed to appear before that Body. I think that the ends of justice will be met in many cases and he shall have the satisfaction of having appeared before the Board who had to decide his case. I do not want to go into the law in England, and the law in other places, what the Home Secretary is doing and all that. I submit that principles of justice require that the person should be allowed to appear before the Advisory Board if the Board themselves think that in the interests of justice, that person should be called. I would strongly appeal to hon. Rajaji to consider this question from the human point of view.

Then, Sir, it is said in one amendment that the period should be eight weeks. I do not want to repeat the arguments; we have not much time at our disposal. According to the scheme of this Act, when an order of detention is passed, all the grounds would have been gone into before and the order of detention can only be passed if that person is satisfied with the grounds. The only thing which, according to article 22 of the Constitution and section 7 of this Act, the Government has to do is to furnish him with the grounds which are already in existence, as soon as possible, so that his representation may come in good time. If these persons are not allowed to appear

before the Board, and if witnesses are not to be called, what is to happen during this period of 15 days? I submit that the Government has no doubt liberalised this measure, by providing that every case shall go to the Advisory Board. Though some innocent persons may suffer, every case will go to the Advisory Board. Formerly, detention up to three months could be ordered by the executive; now every case goes to the Advisory Board, which means that ten weeks would be taken in every case. On the last occasion, hon. Rajaji himself said that if you give a certain period, say one week, human nature being what it is, it would always take one week. If you give the Government 10 weeks, in every case it will be ten weeks. My submission is that there is no reason why we should allow ten weeks for this. If according to section 22 of the Constitution, Government could authorise to keep a man in detention for three months, without going to the Advisory Board, by virtue of this provision, the period has been reduced practically to ten weeks. I would request the hon. Rajaji to be pleased to accept that, in practice, this period may not be more than two months. After all, in the case of persons in whose favour the report may be made, these two months would constitute a very big period of unjustifiable detention. Therefore, taking all things into consideration, we should see that the period does not exceed eight weeks. I can understand if you have got six weeks in one place and eight in another, there will be two weeks remaining. I would request the hon. Home Minister to see whether he cannot reduce the six weeks to four. If this is done, there will be one month. It is not necessary that every case should be referred after six weeks; a case may be referred after two or three weeks as is suited to the exigencies of the case. Therefore, my humble submission is that nothing will be lost if we make the period two months, and unless and until these amendments are made to section 10, it will not inspire confidence either in the detenu or in the public.

Shrimati Durgabai (Madras): I was one of those who whole-heartedly supported this amending Bill, because it has many liberalising provisions. But, Sir, I have heard the speech of the hon. the Mover of the Bill, and he has not made any reference to the particular point made out by Pandit Kunzru and Pandit Thakur Das Bhargava and others with regard to the desirability of providing the Advisory Board with the power of hearing the person detained in certain cases, or if the occasion demands. I would like to give my whole-hearted support to the amendment of Pandit Kunzru that the Board should have the power to call and hear the person concerned, if it liked, though I do not agree with the amendment seeking to give the right to the Board to determine its procedure for the disposal of the cases referred to it.

Sir, I have also given notice of an amendment—No. 62 in the Consolidated List of amendments—which gives the Board the power to hear the person, if it thinks that necessary. So I would be very happy if this power is given to the Board. The Board should at least be given the power to call the persons and hear them in person or through their legal advisers, if the Board is of that opinion. I do not think there is any danger in investing the Board with this power. The Constitution itself gives the right to Government, in article 22, sub-clause (6) not to disclose the grounds for the detention, if it considers the disclosure against the public interest. At the same time sub-clause (5) of the same article gives the person detained the right to present his case to Government. Therefore, if the Advisory Board is given the power to hear the person concerned, if in its opinion that is necessary, then that would be quite consistent with the spirit of the Constitution and that would meet the end of justice. Though many hon. Members have referred to this point of the right of the detenu to be heard either in person or through his legal representative, the hon. the Home Minister has not referred to this particular point. Whenever this subject came before the House many hon. Members used to say that the Bill is going to create a lawyers' paradise and I am glad such a compaint has not been made on this occasion. I hope the House will agree with me that it will be inconsistent with the spirit of the Constitution if we do not give this power to the Board. We need not also be afraid of this power being given. The judges who constitute the Advisory Board will be sitting High Court judges or retired High Court judges and they will be persons of mature experience and they are not likely to be of any revolutionary type. They are really somewhat conservative. Therefore they will not exercise their discretion invariably in favour of the detenu. This discretion will of course be exercised very carefully. Therefore there is no danger at all if this power is given to the Boards.

Sir, it has also been my experience that a number of girls are detained and therefore, I would appeal to the hon. Minister to see that they are given an opportunity to place their case

[Shrimati Durgabai]

before the Boards. I felt that in many cases these girls were detained unjustly. They were not given any opportunity even to urge their own cases. If only the Advisory Board is given this power, these persons will have the opportunity of presenting their case and that would meet the ends of justice. I do hope, Sir, that the hon. Minister will be able to accept this particular amendment which is very limited in its scope. It is not as if the Board should call every man in every case that comes before it; but they should have the power to call those who in their opinion, should be called.

I would also like to bring another point for the consideration of the hon. the Home Minister. Nowadays, I find many ladies are coming up as the victims of this particular Act and so one of the three Board Members should be a lady. There is no harm in accepting this suggestion. It will give the ladies the opportunity to ventilate their grievances before the Board and that will be in the interest of meeting the ends of justice.

Shri Rajagopalachari: I may once again express my gratitude for the very full arguments that have been advanced on this point. I do not think we can now go back to the composition of the Board, or the question of giving proportional representation for women on these Boards.

Regarding the question of procedure, Mr. Sarwate's amendment suggests a very definite course of procedure, that these Advisory Boards should be autonomous in respect of their procedure Pandit Kunzru's amendment or suggestion also amounts to the same thing. Although the greater part of the amendment repeats the language of the original proposition, the main or operative part of the amendment is that the Advisory Board shall determine its own procedure and there shall be no limitation. Sir, the whole question is a matter of commonsense. Hon. Members must have experience of the amount of time that legal procedure takes. If the Advisory Board adopts legal procedure, persons will come with their own lawyers. Government too must then send their lawyers. Witnesses will have to be called in. Summonses will have to be issued. Cases will have to be adjourned and the whole thing will take a long time. We all know how much time normal legal procedure takes. All these amendments in effect —I do not want the words "in effect" to be lost sight of—substitute the legal procedure for the procedure contemplated in the scheme of this Bill, and if that is done, not eight weeks, not ten weeks, but ten months will be required for the disposal of an ordinary case. That is the experience and even very efficient High Court judges have cases pending for months and months under legal procedure. We must keep before our minds the commonsense point of view with regard to the structure of the Bill. We want thousands of cases to be disposed of quickly, we want all the fresh cases to be disposed of quickly, and the Advisory Board should look into the matter and advise Government. Just as the advice of the Ministers is binding on the Head of the Government, so the advice of the Advisory Board is binding on Government. But if we introduce legal procedure the time-limit will be broken down. It is necessary that the Advisory Board should give the decision before the time-limit is over. To introduce the legal procedure will be an altogether wrong conception of the structure of the measure. It is incumbent on the Government to release the detenu if there is no report from the Board and if the Advisory Board gives a few adjournments, the Government will have to put into operation its own limitations as to the time-limit. I therefore, submit that all these amendments,—and in spite of the very lengthy beginning with which Pandit Bhargava supported the original clause, he ended by supporting the amendment—I have to oppose them and I hope that they will be rejected.

Shri Kamath: Sir, may I know if it is the view that justice.....

Shri Rajagopalachari: No, no.

Shri Kamath: I want the Chair to say, Sir, whether justice should be sacrificed at the altar of so-called commonsense?

Mr. Deputy-Speaker: The hon. Member knows the answer only too well.

Shri Kamath: I do not know, Sir, that is why I ask.

Mr. Deputy-Speaker: The question is:

After clause 9, insert the following new clause:

"9A. *Insertion of new section 9A in Act IV of* 1950.—After section 9 of the said Act, the following section shall be inserted, namely:—

'9A. *Powers of the Advisory Board.*—The Advisory Board constituted under section 8 shall have power—

(1) to lay down the procedure for the enquiry the Board is called upon to make;

(2) to require from the appropriate Government all relevant information bearing on the charges made against the detenu,

(3) to require the detenu to appear before the Board either in person or by a legal representative; and

(4) to permit in suitable cases, a detenu to call evidence and cross-examine witness.'"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

For clause 10, substitute the following:

"10. *Substitution of new section for section 10, Act IV of 1950.*— For section 10 of the said Act, the following section shall be substituted, namely:—

'10. *Procedure of Advisory Boards.*—(1) The Advisory Board shall determine the procedure to be followed by it in disposing of any reference made to it under section 9 and it shall be competent for the Advisory Board to call for any such information from the appropriate government or from the person concerned as it may deem necessary.

(2) The Advisory Board shall submit its report to the appropriate government within eight weeks from the date specified in sub-section (2) of section 9 specifying the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) Where there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board'."

The motion was negatived.

4 P.M.

Shri J. R. Kapoor (Uttar Pradesh): May I suggest that all the amendments relating to this clause may be moved together and there might be a general discussion. It would save time since one hon. Member will have an opportunity of speaking only once. Otherwise, if amendments are moved separately an hon. Member may have several opportunities to speak.

Shri Rajagopalachari: It is not a question of an hon. Member speaking once or several times. We should keep the subject matters together. The hon. Member is right if all amendments relating to one subject matter are considered. The question of speaking is not the point: an hon. Member may speak once or twenty times. Points cannot be answered in the House in that way, unless we remember what has been urged.

Mr. Deputy-Speaker: May I ask the hon. Minister regarding amendment No. 14...

Shri Rajagopalachari: It is practically a slightly modified form of the other amendment and, therefore, Pandit Bhargava spoke in favour of the other amendment.

Mr. Deputy-Speaker: Therefore that is not to be moved.

Pandit Thakur Das Bhargava: I want to move it, Sir.

Shri Rajagopalachari: Amendment No. 14 has been spoken to and may be put to the House.

Mr. Deputy-Speaker: Is it not covered by clause (2) of Pandit Kunzru's amendment, namely that the Advisory Board shall submit its report to the appropriate government within ten weeks?

Pandit Thakur Das Bhargava: But the other portion of the amendment is different. This is more wide: it arms the Advisory Board with the power of calling for any information from any source.

Shri Rajagopalachari: This is different slightly from the other amendment and perhaps the hon. Member is entitled to feel that his amendment may be accepted by the House.

Shri J. R. Kapoor: That is why I submitted that all the amendments may be taken together and there may be one general discussion, so that an hon. Member may have only chance of speaking.

Shri Rajagopalachari: My friend Mr. Kapoor thinks that is enough: but that is not fair to the other hon. Members. Take the amendments one by one.

Mr. Deputy-Speaker: I am trying to find out the most expeditious method if possible. As regards amendment 14 in Supplementary List I, that part which relates to eight weeks has been disposed of. What remains is calling for information from any person or whatever source possible.

Shri Rajagopalachari: There is a slight difference between Pandit Bhargava's amendment No. 14 and Pandit Kunzru's amendment. So he is

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entitled to have the question answered separately.

Mr. Deputy-Speaker: What I am trying to suggest is that these matters have already been discussed. Therefore I am trying to put the amendment straightaway to the vote of the House. I shall find out those amendments which even before they have been moved have been discussed in substance.

Pandit Thakur Das Bhargava: I should like to speak on the amendment.....

Shri Rajagopalachari: If amendment No. 14 is not barred, if the Chair is not prepared to bar the amendment, then Pandit Bhargava is entitled to move it but it has already been discussed.

Mr. Deputy-Speaker: If Pandit Bhargava wants to move the amendment,—it has been fully discussed.....

Pandit Thakur Das Bhargava: There is another difference also. I want that the opportunity should be given to the detenu to explain, not that he should be called or that a legal practitioner should be there. It is entirely different.

Mr. Deputy-Speaker: Obtaining information from any source and giving another opportunity to the accused to explain, that is the object of the amendment. I shall put the amendment to the vote of the House.

Several Hon. Members *rose—*

Pandit Thakur Das Bhargava: Sir, this is the most important amendment and out of all the amendments this is the one which has some chance of being accepted, because it has the merit of not confusing the principles, which Rajaji has mentioned. If you are so minded, Sir, you may allow the other amendments to be moved and allow me last of all to move mine.

Shrimati Durgabai: Sir, there are some more amendments in the consolidated list relating to clause 10.

Shri Rajagopalachari: I am sorry we are in a confused state of mind. Mr. Speaker allowed these two amendments to be discussed. Then Pandit Bhargava rose and spoke also on his amendment, although Mr. Speaker pointed out that it was the same. These three amendments referred to one subject matter, namely the procedure, which has been completely examined. It will not bar the other amendments which may be moved hereafter. Pandit Bhargava has spoken already, unless he wants to repeat his arguments.

Pandit Thakur Das Bhargava: Sir, I do not want to waste the time of the House even by a single moment and I will not repeat any arguments. The Chair may allow the other amendments to be moved and call me last of all.

Mr. Deputy-Speaker: If the hon. Member does not want to speak any more I shall put the amendment straightaway to the House.

Pandit Thakur Das Bhargava: Put them one by one, Sir. Then the House will have the opportunity to know what other amendments are before the House and then the entire thing would be voted upon.

Shri J. R. Kapoor: Sir, it is the normal procedure which we have been following, namely taking all the amendments together on the same subject.

Mr. Deputy-Speaker: There are only three or four important points in all these amendments. Calling for information, giving an opportunity to the accused, allowing a legal practitioner and the period of ten weeks to be reduced to eight weeks—these are the main points. I shall treat all these amendments in the Order Paper, relating to clause 10, as thrown open to discussion. Such of the hon. Members as want to speak will concisely state their points without repeating what has already been said. When I put the question to the vote hon. Members may say whether they want their amendments put to vote or not. Otherwise all those amendments in the Order sheet will be taken as moved. Let us now take amendment No. 14 in Supplementary List No. 1.

Shri Lakshmanan (Travancore-Cochin): Sir, my amendment is No. 57 on the Consolidated List.

Mr. Deputy-Speaker: There are a number of amendments relating to the same matter. Hon. Members need not be meticulous that their amendment should come before some other amendment. I take it then that all those amendments which hon. Members wish to move have been moved. Now, I would request Members to confine themselves to the main points relating to these amendments, after which I will put the amendments one by one to the vote of the House.

Shri Jnani Ram (Bihar): My amendment, No. 1 in Supplementary List No. 6, relates to a different point altogether.

Mr. Deputy-Speaker: I shall give the hon. Member an opportunity later on. Mr. Kapoor.

Shri J. R. Kapoor: There is one aspect of the case which has been troubling me and to which I would like to make a reference. The view of most of the hon. Members seems to be that such information as has not been disclosed to the detenu under section 7, sub-section (2) of the Act, must necessarily be placed before the Advisory Board. Though the intention of the hon. Members who are advocating this is to help the detenu, I am afraid such a procedure rather than helping the detenu would be very much against his interests. For what is going to happen? The detenu is not in possession of that information at all. He is absolutely in the dark. The detaining authority has drawn certain adverse inference against the detenu on the basis of that information which is not going to be disclosed to him. This very information, though withheld from the detenu, if passed on to the Advisory Board, will have the effect of prejudicing the Advisory Board against the person detained. The Advisory Board in all probability is not going to disclose that information to the person detained because the Government have considered it to be confidential and of such a nature that it would not be in public interest to disclose it to the detenu.

Mr. Deputy-Speaker: That is why they want a further opportunity for the accused to explain.

Shri J. R. Kapoor: Now, Sir, the person detained will have absolutely no opportunity to explain away those circumstances which will be conveyed by the Government to the Advisory Board because, in the first instance, the person detained has had no information about it initially and even when those circumstances are before the Advisory Board the detenu will have absolutely no knowledge about them. And obviously inferences will be drawn by the Advisory Board against the person detained, on the basis of that confidential information, but to clear his ground the detenu will have no opportunity. While I would have very much wished —it is too late now to argue and I am not arguing it but only making a passing reference—that those facts at least with regard to black-marketing, with regard to law and order, and all other facts except those relating to the defence of the country may have been disclosed but since, however, that point has been disposed of and we have agreed that it should be open to the executive not to disclose such information which is of a very confidential nature, my question is whether that information not having been conveyed to the person detained should be conveyed to the Advisory Board. I submit it is hitting the detenu doubly. Firstly, he was kept in the dark by the executive, and now he will be kept in the dark even by the Advisory Board. I am absolutely certain about it—unless of course the hon. Minister makes it very clear that the intention of the Government is to permit the Advisory Board to convey that information to the person detained. The simple question on which I would like the hon. Minister to throw light is this: whether all the information which Government conveys to the Advisory Board, information which had not been conveyed to the detenu by the Government, whether that information will be conveyed by the Advisory Board to the detenu or not? If it is not conveyed in its entirety will Government expect the Advisory Board to call upon the person detained to furnish explanation with respect to that confidential information? If that is not going to be the case, then the person detained, as I have submitted, is going to be doubly hit. He was in the dark originally, he will be in the dark here also. So, to be fair to the detenu it should be a rule observed by the Government that whatever information against a detenu has not been conveyed to him, such information shall not be conveyed to the Advisory Board also so that the Board may not be in a position to be prejudiced against him. The other day the hon. Minister referred to section 124 of the Evidence Act which lays down that no official can be compelled to disclose information which had been conveyed to him in his official capacity. True, but the hon. Minister ignored the very important implication of that section, that though a witness may not be compelled to disclose anything of the nature as prescribed in section 124, none of that information will be used against the accused person. That is the most important point involved in it. I do not say that the person detained must necessarily be given all the information, but if he is not given that information it should not be used against him; if the executive uses that information against him, let not the Advisory Board also do it. Therefore, if there is confidential information and if even the Government has used it against the detenu in coming to a decision, let not the Advisory Board also use it in drawing an inference against the detenu. That is my whole submission. That is a very important thing and I would request the hon. Minister to give us a categorical assurance on this point that they shall keep such confidential information to themselves strictly and confidentially and shall not disclose it even to the Advisory Board, because the detenu is not going to be benefited thereby but will be prejudicially affected by it.

There is one thing that I am very particular about, and about which I

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think other hon. Members are also particular, and that is that the person detained should have an opportunity of making a personal representation if and when the Advisory Board considers it advisable. I would not repeat the arguments which have already been very ably advanced but it seems to be very necessary that such a thing must be provided in the Act itself. The hon. Minister may tell us that they may frame such rules on the subject and lay down a procedure whereby the Advisory Board may be authorised to call a person. But I am afraid it may not be permissible under the Constitution. Only a couple of minutes ago my hon. friend Pandit Bhargava referred to article 22, clause 7, sub-clause (c) of the Constitution.

Mr. Deputy-Speaker: Has this not been covered by Mr. Sarwate's amendment?

Shri J. R. Kapoor: Mr. Sarwate's is a wide one. Mrs. Durgabai's amendment is a very small one.

Mr. Deputy-Speaker: Is it not the same as Mr. Sarwate's? How is it different?

Shrimati Durgabai: The difference is this. My amendment says that whenever it is necessary in the opinion of the Advisory Board, it shall hear the person concerned and not invariably in every case.

Mr. Deputy-Speaker: Who is to decide whether it is necessary or not?

Shrimati Durgabai: The Advisory Board.

Mr. Deputy-Speaker: Change of language ought not to make a change of substance. Mr. Sarwate's amendment also means the same thing. The Advisory Board shall have the power to hear the person concerned and as to where it considers this necessary, it is left to the Board.

Shri Rajagopalachari: The difficulty is one of procedure. If only the amendments of Mr. Sarwate and Pandit Kunzru had been disposed of...

Mr. Deputy-Speaker: They have been lost.

Shri Rajagopalachari: The point is that Mr. Sarwate's amendment was a comprehensive one and clause (4) dealt with this matter. Now, that there are other amendments which are limited in scope, we may consider them. We cannot say that everyone of them had been lost.

Pandit Thakur Das Bhargava: The Chair should have put that amendment clause by clause.

Mr. Deputy-Speaker: When it was put to vote, the hon. Member should have said that that amendment should be put clause by clause.

Pandit Thakur Das Bhargava: But the hon. Speaker told us that he will subsequently put clause 10 but we were never given an opportunity.

Shri Rajagopalachari: The position was not so clear as you make out. Mr. Deputy-Speaker. Mr. Sarwate's amendment consisted of four clauses and simply because it was put and lost we cannot take it that every one of the clauses has been lost.

Mr. Deputy-Speaker: Once an amendment is lost, every portion of it is lost.

Pandit Thakur Das Bhargava: Is that the position, Sir, when the Speaker gives an assurance that clause 10 will be fully discussed and every amendment shall be allowed? Pandit Kunzru's and Mr. Sarwate's amendments were for substitution of new clauses. But there are other amendments that are to clause 10 itself.

Shri J. R. Kapoor: Mrs. Durgabai's amendment is entirely different. Mr. Sarwate's amendment said that the Advisory Board shall have the power to frame rules with regard to calling a person and Pandit Kunzru's also did the same thing. Mrs. Durgabai's nowhere says that the Advisory Board should have that power, because as was rightly pointed out by Pandit Bhargava, it is not open to us under the Constitution to invest the Advisory Board with any such power and therefore we voted both Pandit Kunzru's and Mr. Sarwate's amendments down, because if we had adopted them it would have been *ultra vires* of the Constitution. Mrs. Durgabai's amendment merely says that it should be open to the Advisory Board to call a person detained and have explanation from him if they so choose. It is necessary for us to lay this down specifically in this Act, as otherwise it will not be open to Government even if they so choose to invest the Advisory Board with this power because Clause 22 lays down that only Parliament has this power. I cannot probe into the mind of the hon. Minister, but reasonable as he always is, perhaps he would like to authorise the Advisory Board to call a person detained for giving any explanation if the Advisory Board is so minded. From this point of view, I consider that it would be advisable for him to

accept Mrs. Durgabai's amendment, so that he may not be handicapped later under Article 22.

Mr. Deputy-Speaker: I think it will expedite matters if I take all the amendments on clause 10 as having been moved and after three or four speakers who desire to speak have spoken I shall put the amendments one by one.

Shrimati Durgabai: My amendment is No. 62 in Consolidated List. The submissions that I have made some time ago may be taken as my submissions on the merits of this amendment.

Shri Lakshmanan: My amendment is 57 in the Consolidated List. The question that was discussed was whether the power to call the detenu before the Board should be invested in the Board or not. My point is that the detenu must be given a right to appear before the Board and explain his conduct, irrespective of the fact that the Board considers it necessary to call him or not. This is only in keeping with the spirit of the proposed section 10, sub-section 2(A) and Section 11, proposed by clause 11. In sub-section 2A of Section 10 it is said that "When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board," which means that the majority opinion shall prevail. Section 11 makes the verdict of the Board final and binding on the Government; that means Government is given no latitude whatsoever to travel outside the four corners of the Board's verdict. These and similar other provisions of the Bill completely change the character of the Board. Hereafter it will be a misnomer to call the Board an 'Advisory Board', because it is virtually a Tribunal which passes final and binding orders. The composition and the character of the Board also makes it clear that our intention is that it should function more or less like a judicial tribunal.

It would appear that we are in two minds regarding this matter. Our sense of justice, our respect for the rule of law dictates that there should be an independent and judicial investigation before the personal liberty of an individual is taken away. But the exigencies of the situation demand that there should be a restriction placed on the absolute and unfettered right of the Advisory Board to call for evidence as they liked which is inherent in a judicial tribunal. What is now aimed at is a compromise. I should think that there is still scope left for the Board to call for a detenu and ask him relevant questions. I would, therefore, request the Home Minister to kindly consider this aspect of the matter and accept this amendment.

Pandit Thakur Das Bhargava: I beg to move:

"In part (1) of clause 10, for the proposed sub-section (1) of section 10 of the Preventive Detention Act, 1950, substitute the following:

> "(1) The Advisory Board shall after considering the materials before it and calling such further information as it considers necessary or proper and affording the person concerned opportunity of explanation in case the Board considers it just or necessary to do so, the Advisory Board shall submit its report to the appropriate Government within eight weeks from the date specified in sub-section (2) of section 9."

I do not want to take up much of the time of the House. When the Home Minister was pleased to say that the verdict of the Board would be mandatory on Government, I would ask him whether he would deny the Board an opportunity of calling for the detenu, if they consider it necessary, and putting him questions? Otherwise, how will the Board function?

May I submit, Sir, that as a matter of fact the entire purport of all the speeches made in the House by Messrs. Kamath, Kapoor and Kunzru, and Shrimati Durgabai, was that the Advisory Board should have the power of calling a person and hearing his explanation. I would, therefore, request the hon. Home Minister to take into consideration the sense of the House. We do not want to go further than this because we realise that this Advisory Board cannot be converted into a court of law.

Shri Kamath: I have, Sir, half a dozen amendments to this very vital clause of the Bill: amendments No. 58, I am not moving 60, 69, 70, 71, read with amendment No. 6 of the Supplementary List No. 2 and Amendment No. 2 of Supplementary List No. 6. The only amendment I am not moving is amendment No. 60.

The first one that is No. 58 in Consolidated List No. 1 is a purely verbal or formal amendment and I may dispose of it summarily. I find, Sir, from the Act as well as the amending Bill that the Advisory Board, limited in scope, functions and powers as it already is under the preventive detention law,—has been further hedged round by restrictions which, in my

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view, are not warranted. This one is a minor restriction of that nature. Clause 10 makes it clear that the Advisory Board is empowered to call for such further information as it may deem necessary. Why do you want the provision "if necessary", they may call for information? When you have got a provision to the effect that only such information as it may deem necessary may be called for by the Advisory Board, there is no sense, no reason, why there should be a further provision that if necessary they may call for it. "If necessary" is a purely verbal provision which can be safely done away with. Anyhow I am not very keen on this minor verbal amendment—I leave it to the good sense of the hon. Minister to deal with it as he likes.

The other amendments, Sir, are substantial and I would crave the indulgence of the House to dwell upon them at some more length than I have done with respect to amendment No. 58. Amendment No. 69 in Consolidated List No. 1 reads thus:

After Part (i) of clause 10, insert the following new part, and re-number subsequent parts accordingly:

"(ii) after sub-section (1) the following sub-section shall be inserted, namely:—

'(1A) The person concerned shall have the right to make a further representation to the Advisory Board against the order of dentention.'"

The other day the point was made out by several of my hon. colleagues here that in cases where the date for submission of representation by the detenu against the order of detention is not specified in the order of detention which is served upon him, some instances may arise where the detenu without knowledge of the date on which he should send in his representation, may fail to do so before the required date, that is, before the expiry of six weeks from the date of the order. We have not reached that stage in our democratic growth that every citizen of India is cognizant or aware of the laws passed by this very wise and prudent House. It is very likely that hundreds of illiterate persons may be rounded up who have never even heard of Parliament, let alone the laws we make here. The other day I heard a story that ten miles from here, from Delhi itself, the villagers are not aware that the British have gone, that we are free, that Parliament is sitting, that a Constitution has been framed and that we are making laws for the good of our people. The only thing that those vilagers knew was that within the last three years Mahatma Gandhi was assassinated. That they knew. But about our Parliament. Constitution, laws and what not, they seem to be blissfully ignorant. The other day I read from a tabular statement supplied to me by the Parliament Secretariat that in Hyderabad alone, during the months from February to October last year more than 5,000 persons were arrested and detained. I do not question the necessity for it. There must have been, in the wisdom of Government, and of the Home Minister, very good reasons for arresting thousands of persons in Hyderabad. But may I ask how many of those persons who were arrested and detained were even aware of a certain Preventive Detention law that we have passed here, let alone the provisions of that law? Rumours were rife in those days that certain persons were arrested and taken away in a police van or some such conveyance and not heard of afterwards. What happened to them remained a mystery for most people.

Shri Bharati (Madras): Only rumours?

Shri Kamath: Yes, rumours. In other parts of India too persons were arrested and detained on grounds which the High Courts and the Supreme Court later on considered flimsy and most unwarranted. It is but right therefore that all possible facilities within the ambit of this preventive law should be provided. Though none of us in the House is happy that we enacted a preventive law a month after the inauguration of the Sovereign Democratic Republic, having done that it seems to me that we would not be losing anything, on the contrary we stand to gain, by providing all reasonable facilities for persons arrested and detained under such an extraordinary preventive law.

Cases may arise, as I have already said, where a detenu is informed of the grounds of his detention a month after his arrest. There have been cases like that. I referred to them the other day. In one case I knew the detenu was not supplied with the grounds of his detention six or seven weeks after he was arrested, though he repeatedly pressed the Government to apprise him of the grounds of his detention. The Home Minister has promised us so many things here. He has kept his promises in the past, in the present, and I hope in the future also he will. But, Sir, what guarantee is there that the whole army of officers, among whom of course there are hundreds of very good men, but what guarantee is

there that every one of his officers whom we have invested with power under this Act will be as wise as the Minister himself?

Mr. Deputy-Speaker: Are we discussing the period within which the information ought to be given?

Shri Kamath: Yes, Sir.

Mr. Deputy-Speaker: Has it not been disposed of already?

Shri Kamath: My amendment is of a different nature.

Mr. Deputy-Speaker: What is it?

Shri Kamath: No. 69 of the Consolidated List.

Mr. Deputy-Speaker: It is not related to time at all.

Shri Kamath: I shall relate it presently, anyway.

If he is supplied with the grounds of detention a month after his arrest he may hardly have any time at his disposal to make a representation, satisfactory in his estimation, to the authority concerned. He may have only a week or five or six days before he can make a representation to the jail or camp authorities. In that case, does it not stand to reason I ask where a case like that has happened, circumstances like that have arisen and the detenu has not had the time to make his representation stating all his grounds for his innocence that he should be given another opportunity to make a further representation to the Advisory Board if he wants to? The Home Minister may answer by saying that the law has vested power in the Board to call for the information, if necessary. There is a saving clause for the Board also. Suppose the Board does not deem it necessary to call for this further information from the detenu, yet the detenu wants to make a representation. Both are unaware of each other's intention or desire. The Board does not know whether the detenu wants to make a representation and the detenu does not know what the Board will deem necessary. In that event it is but just that we must make provision in this law that the detenu shall have the right to make a representation. and the Government should during the pendency of the inquiry by the Advisory Board either themselves *suo motu*, or by the Advisory Board asking the person to say anything more, allow the detenu to make a futher reoresentation. I would leave it to the Minister or the draftsmen to recast it in whatever way they like.

In my amendment No. 70 I suggest that nothing in this section or in sections 7 and 9 shall empower the Central Government or the State Government to withhold from the Advisory Board, on the ground of public interest or otherwise, any facts relating to the detention of the person concerned or on the basis of which the grounds of the detention order have been communicated to the person under sub-section (1) of section 7 of the Act. The Home Minister may plead that this is barred by the rejection of the amendment of Mr. Sarwate. I will answer that it is not so, because that relates to the power of the Advisory Board, whereas here we restrict or circumscribe the powers of the appropriate Governments who in their judgment may try to withhold certain facts from the Advisory Board. This amendment seeks to divest, in case that power is there already, Governments of the power to withhold any facts on the ground of public interest or otherwise, relating to the detained person concerned. This is to my mind an important provision which if the Government are in earnest about justice and fairplay they should see their way to accept.

Pandit Thakur Das Bhargava: With your permission, may I point out that we had already debated this question when we were considering clause 7. I had an amendment to this effect which was rejected by this House.

Mr. Deputy-Speaker: There is a difference.

Pandit Thakur Das Bhargava: It was that the Advisory Board shall have the power to call for any information whatsoever.

Shri Kamath: Assurance merely.

Pandit Thakur Das Bhargava: It does not take the powers of the Advisory Board to call for any information.

Shri Kamath: In Clause 7, I remember the Home Minister said...

Mr. Deputy-Speaker: This amendment of Mr. Kamath refers to three items, clauses 7, 9 and 10. Clause 9 relates to matters which Government ought to place before the Board of its own accord. The Clause relates to calling for information by the Boards. So far as clauses 7 and 9 are concerned, they have been disposed of. So far as clause 10 is concerned, we are considering whether the Board shall have the right to call for such information as the Government may consider to be confidential. I thought the hon. Minister said it was open to the Board to call for all the grounds, whether witheld or given to the detenu, and all the information the Board may call for. It seems to me that so far as clauses 7 and 9 are concerned. it is barred and so far

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as clause 10 is concerned, it has already been explained by the Home Minister.

Shri Kamath: I may say that any assurance, any promise given on the floor of the House has not the force of law. It may be implicit but not explicit.

Pandit Thakur Das Bhargava: As it may deem necessary.

Mr. Deputy-Speaker: The Board may deem necessary.

Shri Kamath: The Government may say it is not in the public interest to disclose.

The assurances and promises made on the floor of the House have not the force of law, because I remember one instance last year.....

Mr. Deputy-Speaker: Is it necessary to go into that?

Shri Kamath: All right. If that is not necessary, I shall not cite the instance. I am sure the House is cognizant of these instances. But certainly we should try to avoid any loophole in such extraordinary legislation which any Government can take advantage of in order to withhold relevant facts from the Advisory Board. This clause, as you have already said, makes no reference to the full disclosure of all facts by Government to the Advisory Boards and it is conceivable that when an Advisory Board asks for certain facts from a Government, notwithstanding the assurance given by the Home Minister to the effect that it will be in the Government's own interest to disclose all facts, I say, notwithstanding that assurance, Government may think it in their own interests to withhold certain facts and then cloak their action as in public interest. Such instances are not wanting. Public interest is such an elastic term that it can be abused by most Governments, not excluding our own. Facts are withheld in the public interest by our own Government just like other Governments. Very often, only the Government's interest or the Minister's interest is meant and not public interest.

In this very House a few days ago the Mulgaonkar Committee's report on the pre-fab Housing factory was suppressed in the public interest. It was public interest to squander money but it was not in the public interest to disclose the report of the enquiry into the squandering of this money. Is it fair to do such a thing in the public interest? I would have understood if the Minister had said that it was in the Minister's own interest or the Government's own interest, but to do something wrong and then cloak it with 'public interest' is most reprehensible and a pernicious principle to be adopted by any Government.

Now, I would stress this point that if the Advisory Board calls for certain facts, asks for further information from the Government concerned, no Government should have the power or authority to withhold any fact, any information in its possession merely on the ground of public interest. That provision has not been embodied in this preventive law, and in so far as that provision is missing, to that extent, this extraordinary law is defective, as it has withheld certain rights, certain just rights from the detenu and certain very necessary powers from the Advisory Board. The Government is still left with the residuary power, to withhold some information on the ground of public interest. We should divest Government completely of that power explicitly, and not implicitly, not by mere assurances but in this very law. Government should not have the power to withhold any information, any grounds, any facts from the Advisory Board in public interest.

Then the next amendment is No. 71 read with Item 6 in Supplementary List No. 2. This is a verbal or punctuational amendment and the two go together. This relates to sub-section (3) which debars any detenu from appearing before the Advisory Board either in person or through a legal representative. That has been discussed, I think, already and the Home Minister in his wisdom did not think it necessary to accept this amendment. It formed part of the amendment moved by my hon. friend, Mr. Sarwate. But as it forms part of clause 10, I would like to move this amendment afresh and make a further plea to the Minister.....

Mr. Deputy-Speaker: I will put it separately.

Shri Kamath: That in the interest of justice to the detenu, this facility or right must be conceded to him so far as the appearance before the Advisory Board is concerned, either in person or through his legal representative.

Then, I come to amendment No. 5 of Supplementary List No. 2. That relates to the power of the Advisory Board in sub-section (1) to call for such further information from the

Central Government or the State Government or from the person concerned by summoning him before the Board or otherwise. That is just a previous amendment in other words. This section, if it is left as it is, may be misconstrued or perhaps in the Home Minister's view may be rightly construed as debarring the Advisory Board from summoning the detenu before them. But if this section is to be liberally and wisely construed, then I would suggest where calling for such further information from the person concerned is meant, it should be intended to mean that the way or the form or the manner of calling for that information should be left to the Advisory Board. In some cases, the Board may think it sufficient to call for any written representation from the detenu; in other cases, the Board may think it necessary to summon him and hear him, and thus get information from him. That is why I want to make it explicit through this amendment and therefore I have moved this amendment to the effect that such information may be called for from the person by summoning him before the Board or otherwise, whichever way is deemed fit.

5 P. M.

Then, Sir, the next amendment is No. 2 of list No. 6 which relates to the opinion of the Board. The Government has proposed a new sub-section 2A.

Mr. Deputy-Speaker: Is it about the comma?

Shri Kamath: No, Sir. That is a substantial amendment; not relating to punctuation. That is amendment No. 2 of list No. 6. The hon. Minister has proposed an amendment adding a new sub-section that when there is a difference of opinion among the Members forming the Advisory Board, the opinion of the majority of the Members shall be deemed to be the opinion of the Board. My amendment is to the following effect that for this sub-section, the following be substituted, namely:

> "The unanimous or concurrent opinion of the members of the Advisory Board shall be deemed to be the opinion of the Board."

This is in conformity with the proposition so clearly and so ably enunciated in this House by Sardar Patel on the last occasion.

Mr. Deputy-Speaker: Would that not be against the interests of the detenu?

Shri Kamath: No; I have got another amendment with respect to cases where there is difference of opinion in the Board. This is only so far as the recommendation confirming the detention is concerned. It should be unanimous. The hon. Home Minister, the other day, failed to adduce satisfactory reasons why the strength of the Board should be increased from two to three. His predecessor had made it clear in this House that where there is unanimity, where both agree, then, there is a continuation of the order of detention, and where there is difference of opinion, then it will be construed in short as 'No'. If the two Members disagree, there will be no confirmation and the order will fall through automatically. As Sardar Patel so justly and so aptly remarked on that occasion, increasing the number to three will mean additional expense on the score of one more Member, and the need for the detenu to convince more than one, in the event of the detention order not being proper or not necessary. If the old provision had been retained, what would have happened? Either the Board recommends that the order is all right and the detention should continue, or they disagree. Of course, both may agree that it is not necessary.

Mr. Deputy-Speaker: The hon. Member seems to have suggested on that occasion that there should be three persons.

Shri Kamath: I withdrew my amendment after Sardar Patel's speech which convinced me of the necessity for having only two Members on that Board.

Mr. Deputy-Speaker: When the previous Bill was before the House the hon. Member suggested that there ought to be three Members. In this Bill, three Members have been provided.

Shri Kamath: I am sorry, I do not know whether you remember the proceedings on that occasion. I suggested three Members because I was myself in doubt as to what will happen in the case of difference of opinion. Sardar Patel assured the House that where there is difference of opinion, the order is 'No', and that the order falls through. That means, that there will be no order, and that the detenu will be released. Then, I realised that there was no need for my amendment. What happens now is this. You create a Board of three and this subsection lays down that the majority opinion shall be the opinion of the Board. That means, that where the detenu has failed to convince two

[Shri Kamath]

Members of his innocence and convinces only one Member of his innocence, the majority opinion will prevail, though the third Member is convinced of his innocence. Under the old dispensation, if one Member was convinced that it was not necessary to detain the person, he would be released. Now, the burden has fallen upon him to convince two Members whereas in the old order, he had to convince only one Member. Therefore, if my amendment is accepted, where there is difference of opinion, even if one Member disagrees with the other two, that would be automatically 'No' to the detention order, and the detenu must be released.

Looking at this clause as a whole, which is a very vital clause of this Bill, I for one feel that what has been given with the one hand is being sought to be taken away by the other. The hon. Minister said that all cases will go before the Board. But, what has been done so far as the functions and powers of the Board are concerned? Nothing; practically nothing.

Mr. Deputy-Speaker: Is there not a guarantee that at least two independent persons must agree in the detention?

Shri Kamath: What will happen if only one Member is convinced of the innocence, and the other two were not convinced? Under the old dispensation, if one Member was convinced, the detenu would be released. Here, you have to convince two persons of your innocence. That is more difficult for the detenu to establish his innocence before two persons. Therefore, I have got another amendment that where one Judge holds that the order is unnecessary he should be released.

I would plead in the end, with reason as my guide that Government should not be anxious to stand on false prestige and that on this occasion the Bill, good, bad or indifferent, must be pushed through with no regard for time. Every occasion the time plea is put forward.....

Mr. Deputy-Speaker: It cannot be said now; we have already spent eight days over this Bill.

Shri Kamath: I do not know if we will get tomorrow also to discuss this Bill—of course it is left to the House unless it is steam-rollered.....

Mr. Deputy-Speaker: Such accusations need not be made of the House; we are proceeding quite slowly.

Shri Kamath: It is not being rollered, I admit. But, there is an anxiety in some quarters to push it through, and if I may be permitted to disclose something, which I ought not to disclose, it will prove what I have stated. Party matters are not allowed in this House, and therefore I restrain myself from disclosing that; a little slip of paper which came into my hand a little while ago justifies the statement which I have just now made. It was an ill-augury for the Republic of India that it embarked upon its uncharted course, with the enactment of a Preventive Detention Bill last year. Now, this year, they have got an Amending Bill, which.....

Mr. Deputy-Speaker: Are we on a general discussion of this Bill?

Shri Kamath: No, Sir; I am on clause 10.

Mr. Deputy-Speaker: There must be some relevancy in the debate, to the particular amendment of clause under discussion. We cannot once again go into the whole matter and say I am opposed to the Bill. The hon. Member must confine himself to the amendments that he has moved. He has practically exhausted all the aspects that might arise. To go once again into a general discussion is not right.

Shri Kamath: Not a general discussion, Sir; I am dealing with my amendments.

Mr. Deputy-Speaker: To say that the Republic started and so on, is a general discussion.

Shri Kamath: I will conclude in two sentences, Sir. I would only say that if these amendments are not acceptable, I have no hesitation in saying that detention will be more punitive than preventive.

[MR. SPEAKER *in the Chair*]

The detention will be more punitive than preventive and we will be depriving the Advisory Board of certain reasonable powers which must be vested in them and the detenu will be deprived of certain reasonable rights also.

The hon. the Home Minister may plead that in the interest of the security of the State this thing ought to be done and that thing ought to be done. And I also over-heard his colleague sitting to his right exclaiming a few minutes back that information will not be furnished to the

person, that it is not in the public interest to hear the person in person or through his legal representative. Sir, I submit this is a dangerous thing. The example of our State, our republican Government may be emulated by succeeding governments, and this may return to us like a boomerang and that is a thing I wish to avert. If this liberalising measure really seeks to give and does give reasonable powers and opportunities to the detenus, our democratic Government will not be accused of enacting a law which is, if I may say so, undemocratic in spirit and in character. I therefore commend my amendments and appeal to the Minister to accept such of them as in his wisdom he thinks fit and leave the rest to the pressure of public opinion, which I am sure will soon be felt. The High Courts and the Supreme Court have shown us during the last year where the Act was wrong. I am sure public opinion will be so felt that in another six months or one year Government will have to come forward with a further liberalising measure, if not a repealing one.

گیانی جی - ایس - مسافر: سبھاپتی جی - میرے امینڈمنٹ (amendment) کا نمبر ہے ۷۲-کنسالیڈیٹیڈ لسٹ (Consolidated List) - میں آپ کی مدد سے ہوم منسٹر صاحب کی سیوا میں عرض کرنا چاہتا ہوں کہ اگر وہ اس امینڈمینٹ کو مان لیں تو یہ بل بہت جلد پاس ہو جائے گا - اور ہمارے چیف وہپ (Chief Whip) کی بیچینی بھی دور ہو جائے گی کیونکہ وقت بہت خرچ ہو گیا ہے - یہ امینڈمنٹ جو کہ میں پیش کر رہا ہوں - اس کے بارے میں اور بھی امینڈمینٹ ہاؤس(House)میں آئے ہیں- اور اس پر ہمارے ودوان بھائیوں نے اپنے اپنے خیالات کا اظہار کیا ہے اور اس کا قانونی پہلو بتایا ہے - میں صرف دو چار لفظوں میں اس کا اخلاقی پہلو بتانا چاہتا ہوں - اگر ہوم منسٹر صاحب(Minister of Home Affairs) اس پر غور کریں گے تو میرا خیال ہے کہ اس بل ورودھ کرنے والے بھی بہت سے ممبر ان کے ساتھ متفق ہو جائینگے - ہو سکتا ہے کہ بابو رام نرائن سنگھ جی بھی رضامند ہو جائیں -

پچھلے روز جنرل ڈسکشن (general discussion) میں تقریر کرتے ہوئے میرے دوست سردار حکم سنگھ نے پنجاب کی ایک مثال دی تھی کہ وہاں سکھوں کے ایک سیکشن (section)کو اس طرح ڈیٹین(detain) کیا گیا - میں ان کی رائے سے متفق نہیں ہوں - میں یہ تو نہیں سمجھتا کہ جو وجہ انہوں نے بتائی ہے ان لوگوں کو گرفتار کرنے کی وہ وجہ ٹھیک ہے - مگر اتنا میں کہہ سکتا ہوں کہ اس کی وجہ سے سرکار کی کچھ نہ کچھ بدنامی ضرور ہوئی ہے - اگر ان لوگوں کو صفائی کا موقع دیا جاتا - ان کو اپنے وکیل پیش کرنے کا - اپنے دلیل پیش کرنے کا موقع دیا جاتا تو پھر کم سے کم جو ڈشپکس لوگ ہیں ان کو کچھ کہنے کا بالکل موقع نہ ملتا - اور سرکار کی اس طرح بدنامی نہ ہوتی - ویسے تو جیسے میرے بہت سے دوستوں نے اپنے خیالات کا اظہار کیا

پبلک (public) میں یہ کہہ سکیں گے کہ ہماری سرکار ہر ایک کو موقع دیتی ہے کہ وہ اپنی صفائی پیش کرے - اپنے لئے جو کچھ کہنا ہے وہ آپ کہے یا وکیل سے کہلائے - اس کے بعد بھی اگر وہ مجرم ثابت ہوتا ہے تو اس کو یا ڈیٹین کیا جائے گا یا اس کو جیل خانے کے اندر رکھا جائیگا تو ہماری سرکار بدنامی سے بچ جائے گی -

ان الفاظ کے ساتھ میں اس بات پر دوبارہ زور دیتا ہوں کہ یہ امینڈمینٹ ضرور منظور کر لیا جائے تاکہ یہ بل کسی حد تک ان لوگوں کے لئے بھی قابل قبول ہو جائے جو اس کے سرے سے ہی وروددھی ہیں -

(English translation of the above speech)

Giani G. S. Musafir (Punjab): Sir, my amendment is No. 72 in the Consolidated List. Through you I wish to submit it to the hon. Minister of Home Affairs that the acceptance of my amendment will ensure much speed in the passage of this Bill as well as remove the anxiety of the Chief Whip as already much time has been taken in its discussion. Several more amendments similar to the one I am moving have also been tabled. Our learned brethren have expressed themselves on them and have explained the legal aspect. As for myself, I wish to say a few words on its moral aspect. Should the hon. Minister give due thought to my words, I think many at present opposed to the Bill will get themselves reconciled to it and possibly Babu Ramnarayan Singh may also be won over.

The other day in the course of general discussion on the Bill, my hon. friend Sardar Hukam Singh had cited an instance regarding the manner in which detentions were ordered of a

ہے - یہ بل اس قسم کا بل ہے جو مجبوری کا بل ہے سرکار کے سامنے کچھ مجبوریاں ہیں جس کی وجہ سے وہ یہ بل لا رہی ہے - ویسے پاپولر (popular) سرکار کو یہ بل کبھی کسی صورت میں شوبھا نہیں دیتا یہ جلتا کی سرکار ہے اس لئے ہمیں اس بات کا خیال رہتا ہے کہ اس سرکار کی طرف سے ایسی ایسی باتیں ہوں جس سے جلتا میں اس کی شوبھا ہو - جلتا میں اس کی نیک نامی ہو اس لئے میں سمجھتا ہوں کہ ہمیں اس بات کا بھی کچھ خیال کرنا چاہیئے - آنریبل ہوم منسٹر صاحب نے جنرل ڈسکشن (general discussion) میں جو جواب دیا ہے اس سے بھی یہ ظاہر ہوتا ہے کہ یہ بل مجبوری کا بل ہے اگر حالات سادھارن ہوتے تو شائد سرکار کو یہ بل لانے کی ضرورت نہ ہوتی - تو جیسا میں نے پہلے عرض کیا ہے میں ہاؤس کا زیادہ وقت نہیں لینا چاہتا- مگر یہ ضرور کہتا ہوں کہ اگر اس امینڈمینٹ کو منظور کر لیا جائے یعنی جن کو ڈیٹین (detain) کیا جاتا ہے ان کو پرسنلی (personally) یا اپنے ایڈوکیٹ کے ذریعہ اپنی صفائی پیش کرنے کا موقع دیا جائے تو پھر اس بل کا جو وروده ہے وہ بہت حد تک ختم ہو جائے گا اور ہم

particular section of the Sikh Community in the Punjab. Personally I do not subscribe to his viewpoint. I do not think that the reason given by him for these arrests is correct. I, however, may say that these arrests have surely brought some discredit to the Government. Had these people been provided with an opportunity for defence through their own lawyers and had a hearing been given to their arguments, then, at least, those with non-partisan outlook would not have found any excuse to complain and the position of the Government would not have been as slanderous as it has become. Speaking otherwise this Bill, as described by many an hon. friend, is a measure of pure compulsions. The Government being faced with difficulties is moving this Bill. Otherwise a measure of this type can never go to the credit of any popular Government. Ours is a Government of the people. For that reason we have perpetually to see that its actions are such as to make it popular with the masses and enhance its prestige. Out of that consideration, I want them to pay some regard to this aspect as well. The hon. Minister's reply to the general discussion on the Bill also indicates that the Bill has been prompted by a sheer weight of compulsions. In normal conditions the Government perhaps may not have felt a necessity to bring it forward. As submitted before, I do not want to take much time of the House. But I do want to say that in case this amendment is accepted or, in other words, if the detenus are provided with an opportunity of defence either in person or through an advocate, then the opposition to the Bill will finish to a large extent and we shall be able to say in public that the Government gives an opportunity to everyone to arrange for his defence and submit whatever he may wish either personally or through his advocate. Even after trial if one is found guilty and consequently is detained or imprisoned, no discredit will come to the Government.

In these words, I re-emphasise upon the acceptance of my amendment so that the Bill may become acceptable even to those who are totally opposed to it.

Shri Sonavane (Bombay): I have two amendments in my name; they are Nos. 15 and 18 in Supplementary List I. Most of the arguments that I wanted to put forth have already been advanced by the hon. Members who have already spoken With regard to the argument put forth by Pandit Bhargava, I would like to say that simply making verbal statements will not help the detenu in making his representation effective before the Board. Such verbal assertions will not help him, if his representation and the facts submitted by him have not been proved by him. Pandit Bhargava has quoted one case and I would like to quote another instance. In Bombay several persons were rounded up and most of them were illiterate. They did not know the section under which they were arrested nor within what time a representation was to be made. They could not read the language in which the order or notice furnishing the grounds was given to them. A man was employed in a mill night shift and one of the grounds of detention was that that night he moved with certain criminals and thus endangered the safety of the city of Bombay. Any mere statement by such a man who was employed in a night shift would not probably weigh with the members of the Advisory Board unless he substantiated his statement by producing a certified copy from the mill's register, where he was employed. Such cases have happened.

In the Bombay City Police Act there is a provision that a person who is to be externed has a right to bring his witnesses before the officer concerned and have them examined to disprove the charges levelled against him. Therefore, when the grounds are given to a detenu he must certainly get an opportunity to substantiate what he says in his statement or representation. If he is not allowed any opportunity of producing evidence his representation will only fall on deaf ears of the members of the Advisory Board. There are instances in Bombay when a person externed was given the opportunity to bring witnesses. Similarly, to make his representation to the Advisory Board a detenu should be given the chance to produce witnesses and adduce evidence in support of his representation. That will give him an opportunity to prove what he says in his representation. That is the intention of my amendment No. 15.

As regards my amendment No. 18, it purports to give the right to a detenu to appear in person before the Advisory Board or through his legal representative. As is well known literacy in this country is very low and many detenus are ignorant and illiterate. They may not belong to any one political party. In that case he should have the help of somebody to read the grounds or get them read through somebody in the prison. If he has to make a represent-

[Shri Sonavane]

ation, a legal adviser might help him. This will enable him to disprove the allegations made against him and through his legal representative he will be able to impress upon the Board his innocence. Therefore, it will be in the fitness of things that in such cases where the detenus are illiterate or ignorant legal representatives should be allowed to appear for them. It is a common knowledge that in many cases powers conferred on officers under the Detention Act have been abused. If a man is detained a legal representative would be of great use to him, if he is not conversant with the Act. He may not even know that he has to make a representation at all. If there is a date fixed he may not even know that he has to make a representation before that date. Unfortunately that amendment has been negatived. Therefore, I submit that a detenu may be given a chance to appear personally or through his representative so that he may be allowed to disprove the grounds of detention before the Advisory Board. With these words I commend my two amendments to the hon. Minister.

seeing that the House has been so indulgent as to sit longer than usual. The points dealt with great force by Shri Kamath and others are these.

Shri Rajagopalachari: I do not wish to take up the time of the House,

One was about procedure. If we elaborate the procedure, I am sorry again to point out briefly, although it is a repetition, that the normal delays of legal procedure will be the consequence. We cannot have it both ways. Either the House wants this measure to be passed or it does not. If the measure is to be passed with such improvements as the House may like, it does not at all stand to reason that we can permit the procedure to be so elaborated as to become a regular legal trial. As I have pointed out already the time limit we have before us would be physically impossible. Even a small case cannot be decided within eight weeks. In an ordinary court, which has got all the facilities which the Advisory Board cannot have, summonses must go, witnesses must be examined and cross-examined there will be lawyers and counter-lawyers. We must put out of our mind the possibility of grafting the legal procedure either by clauses or amendments to clauses on the proposed measure. The desire to reduce the time limit further and further down is totally inconsistent with the other idea that we can elaborate the procedure. I therefore feel that it is impossible to accept the amendments which involve that kind of procedure.

As to the other points referred to, one is the right of appeal. Mr. Kamath's amendment on which he dwelt at some length is the right of appeal to the same Advisory Board after the matter has been disposed of. That is no great point and I cannot accept it.

With regard to non-disclosure of matters, the point was made that it would be necessary to tell the Board everything, although it may not be told to the detenus. The law as proposed does not prevent such disclosure. It does not prevent the Advisory Board from asking for information. The only question is, are the Government going to be forced to make a disclosure without the matter having been known to anybody as yet? It is an impossible procedure to force the Government to disclose something the subject of which is not known. The net result of it is that if the Government case depends upon certain facts, they are bound to disclose those facts, if they want a judgment from the Advisory Board. If they do not disclose they lose the case. But in choosing whether to disclose or not they have to exercise their judgment and to choose the larger interest: either choose to lose their case or disclose the matter to the Advisory Board. It will be noticed by those who carefully read this measure that although there is a protecting clause in the other section, there is no protecting clause in the section dealing with the Advisory Board as to non-disclosure. In a matter where the Advisory Board can ask for information, it is a challenge to the Government to produce those facts or to lose their case.

Another idea that was propounded by Mr. Kamath is that he wants a unanimous judgment from the Advisory Board even though it has been expanded from two to three. I submit that it is a little strange even in the realm of normal law that judgment cannot be reached until everybody is unanimous about it. Of course it is the jury procedure and probably Mr. Kamath would graft that old jury procedure of England in respect of a unanimous decision here. It is an impracticable suggestion.

Then the only point that remains over is the appearance of the detenu concerned. The proposal has been made by Shrimati Durgabai in her amendment. I shall accept the proposal made by her, but in more feasible language. I shall read out the

section as it will read after accepting the amendment suggested by Shrimati Durgabai. Section 10(1) will read thus:

"The Advisory Board shall, after considering the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government or from the person concerned, and if in any particular case it considers it essential after hearing him in person, submit its report to the appropriate Government within ten weeks from the date specified in sub-section (2) of section 9."

Shrimati Durgabai: I have great pleasure in accepting that amended amendment. That may be taken as moved by me.

Shri Rajagopalachari: Yes, Sir. I am only changing the grammar of it to suit the particular clause. It is her amendment.

I have nothing more to say. This section is the crux of the whole measure, it is the main section, and I hope that the House will accept it. I am sorry I am unable to accept all or any of the other amendments proposed except one or two which are trifling and which improve the grammar. For instance, the phrase, "if necessary" should be deleted, as Mr. Kamath has very rightly proposed because the words "as it deems necessary" are there. So far as clause 10 is concerned that is the only amendment that I will accept.

Shri Kamath: On a point of clarification, Sir, may I ask the Minister whether it will be open to a detenu to make a further representation to the Advisory Board before his case is disposed of—before, not after?

Shri Rajagopalachari: Most certainly.

Shri Kamath: But where is the provision about it?

Mr. Speaker: There is the law as is now being provided.

The procedure which I propose to follow now is that I shall call out Members, one by one, who have given notice of the amendments to clause 10. Those who wish the amendments to be put to the vote may say, "Yes". All the other amendments I do not think I need place before the House formally and then follow the procedure of withdrawal. Of course, Shrimati Durgabai's amendment will be taken to be in an amended form and not in the original form.

Pandit Thakur Das Bhargava: My amendment may be put to the House.

Mr. Speaker: The question is:

In part (i) of clause 10, for the proposed sub-section (1) of section 10 of the Preventive Detention Act, 1950, substitute the following:

"(1) The Advisory Board shall after considering the materials before it and calling such further information as it considers necessary or proper and affording the person concerned opportunity of explanation in case the Board considers it just or necessary to do so, the Advisory Board shall submit its report to the appropriate Government within eight weeks from the date specified in sub-section (2) of section 9".

The motion was negatived.

Mr. Speaker: Shri Sonavane. Amendment No. 15 in Supplementary List.

Shri Sonavane: It need not be put.

Mr. Speaker: Then Mr. Sarwate is not here. Mr. Lakshmanan is not here. Then No. 58 of Mr. Kamath—it is unnecessary because it is incorporated in the amended amendment.

Shri Kamath: I am not keen on it—it is very immaterial.

Mr. Speaker: Then No. 60.

Shri Kamath: I did not move that.

Shri Venkataraman (Madras): My amendment, No. 61, need not be put.

Mr. Speaker: Then I will put Shrimati Durgabai's amendment as amended. The question is:

In the new sub-section (1) of section 10

(i) delete the words "if necessary",

(ii) transpose the words "as it may deem necessary" to follow "further information", and

(iii) insert before the words "submit its report" the following—

"and if in any particular case it considers it essential after hearing him in person".

The motion was adopted.

Mr. Speaker: No. 5 in Supplementary List No. 2, Mr. Kamath. I will put it to the House.

Shri Kamath: Yes, Sir.

Mr. Speaker: The question is:

In part (i) of clause 10, in the proposed sub-section (1) of section 10 of

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the Preventive Detention Act, 1950, after the words "the person concerned" insert the words "by summoning him before the Board or otherwise".

The motion was negatived.

Mr. Speaker: Then Mr. Venkataraman's amendment.

Shri Venkataraman: No, Sir.

Mr. Speaker: Mr. Gopinath Singh is not here. Mr. Vaidya's amendment comes next.

Shri K. Vaidya: No, Sir.

Mr. Speaker: No. 9 in Supplementary List No. 3, Pandit Kunzru.

Pandit Kunzru: No, Sir.

Mr. Speaker: Then Dr. R. U. Singh—he is not in the House. Pandit Shiv Charan Lal also is not here.

Shri Jnani Ram: I have not moved my amendment, Sir. I want to move it.

Mr. Speaker I thought I was disposing of all the amendments.

Shri Jnani Ram: No, Sir. That was to be taken up after all the others were disposed of.

Mr. Speaker: Very well, I will take it up later on.

Then No. 69, Mr. Kamath. The question is:

After part (i) of clause 10, insert the following new part and re-number the subsequent part accordingly:

"(ii) after sub-section (1) the following sub-section shall be inserted, namely:—

'(1A) The person concerned shall have the right to make a further representation to the Advisory Board against the order of detention.'"

The motion was negatived.

Mr. Speaker: The question is:

After part (i) of clause 10, insert the following new part;

"(ii) after sub-section (1), the following new sub-section (1B) shall be inserted, namely:

'(1B) Nothing in this section or in sections 7 and 9 shall empower the Central Government or the State Government to withhold from the Advisory Board, on the ground of public interest or otherwise, any facts relating to the detention of the person concerned or on the basis of which the grounds of the detention order have been communicated to the person under sub-section (1) of section 7 of the Act.'"

The motion was negatived.

Mr. Speaker: The question is:

After part (ii) of clause 10, insert the following new part:

"(iii) in sub-section (3) the following shall be omitted, namely:—

'Nothing in this section shall entitle any person against whom a detention order has been made to attend in person or to appear by any legal representative in any matter connected with the reference to the Advisory Board, and.'"

The motion was negatived.

Mr. Speaker: The question is:

In the amendment by Shri Kamath in the proposed Amendment to sub-section (3) of section 10, of the Preventive Detention Act, 1950 after the word "Board" add a comma and the word "and".

The motion was negatived.

Mr. Speaker: The question is:

In part (ii) of clause 10, for the proposed sub-section (2A) of section 10 of the Preventive Detention Act, 1950, substitute the following:

"(2A) The unanimous or concurrent opinion of the members of the Advisory Board shall be deemed to be the opinion of the Board."

The motion was negatived.

Mr. Speaker: The question is:

After part (ii) of clause 10, insert the following new part:

"(iii) for sub-section (3) the following sub-section shall be substituted, namely:—

'(3) Every person detained under this Act shall have a right to appear in person or through a pleader or an advocate to make a representation before the Advisory Board against the order of detention.'"

The motion was negatived.

Mr. Speaker: There now remains one amendment, No. 1 in Supplementary List No. 6 in the name of Shri Jnani Ram. Is he going to move it?

Shri Jnani Ram: Yes, Sir. I beg to move:

In part (i) of clause 10, in the proposed sub-section (1) of section 10 of the Preventive Detention Act, 1950, add the following at the end:

"fixing the maximum period upto which the detention order may extend."

The Advisory Board constituted under this Act is empowered to judge the justification and desirability of detention. Once the propriety of detention is established before the Advisory Board, it will be open to the executive to detain a person for an unlimited period. The executive may satisfy its whims by detaining the person to an unlimited period. No limitation is placed upon the period of detention. During the first reading of the Bill, several hon. Members of the House expressed their apprehension that such extraordinary powers should not be conferred on the executive. Therefore, it is desirable that some sort of limitation should be put on the exercise of those powers. Once we admit the principle that there should be some limitation as suggested by the several amendments to clause 11, there is no other alternative but to accept this amendment of mine. The only authority which can exercise this power is the Advisory Board which is no doubt a quasi-judicial body and which by the present amendment of this section is given the right of hearing the party. I therefore commend my amendment to the House.

Shri Hussain Imam: Sir, I rise to support the amendment.

The Minister of State for Transport and Railways (Shri Santhanam): It does not fit into the clause at all, Sir.

Shri Hussain Imam: The question of fitting in is for the Government to see.

Mr. Speaker: If the principle is accepted, we shall see about the wording.

Shri Hussain Imam: The question before the House is whether this power of detaining a person for an indefinite period is to be given to the executive or is it to be circumscribed by certain provisions. It was open to the Government to have laid down that in the cases of persons detained for more than two years, their cases would go to a High Court or to the Supreme Court for advice. If they had imposed any restriction on their own power, that would have sufficed; but as it is, although the Act is for one year, a person who is detained under it will remain in detention even when the Act lapses.

The Minister of State for Transport and Railways (Shri Santhanam): No.

Shri Hussain Imam: Yes. A detention order that is validly passed during the current year under this Act will be valid even when the Act is repealed or when the Act is finished. Otherwise, all those persons who had been detained under the old Act would have, under the new Act, to be issued with fresh notice but you are providing that they will continue to be governed by the old Act and this is as it should be. But I ask the Government to put in any amendment they like anywhere in the Act so that there may be some limitation on the period of detention. It is quite possible, as we have seen in the case of Gopalan, that for four years he has been kept in detention under one Act or the other. This matter has gained some notoriety because of the fact that it was referred to fully in the Supreme Court.

The other provision—which is curious, I should not say obnoxious but very irreconcilable with the sense of justice—is that here you are satisfied with the advice of persons who are not judges of the High Court, but who are eligible to be appointed to justiceship of a High Court, which means that they have been five years in practice. They will examine the facts and say whether your satisfaction is sufficient or not. But the High Court and the Supreme Court—both of them—have been denied the right of pronouncing any opinion on the validity of the action of the Government. It is something which is not in keeping with the spirit of democracy, that the judiciary which is the supreme body to express an opinion on the guilt or non-guilt of a person, is denied its right. We concede the fact that this is a Preventive Detention Act, but when we are making a piece of legislation we have to see that it is used in the best interests of the country and is not open to the whims and prejudices of certain persons. Who are the people to exercise this extensive power? There are more than 2,000 persons who are entitled to exercise this power. All the District Magistrates and Sub-Divisional Officers as also all the superior Police Officers in the Presidency towns have been given this power. They can order the detention of a person and the order is to be passed in the name of the State Government or the Central Government which in turn will mean some officers empowered to exercise this power. What

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I say is this. Either the Advisory Board should be given powers to restrict the period, or fix the period; or else, the Government should itself provide some alternative methods whereby we can ensure that this power is not being misused in a manner prejudicial to the liberty and freedom of the persons concerned.

Shri Rajagopalachari: The only point to be kept in mind in disposing of this question of principle, is that it is not a sentence, but only a preventive detention. It would be totally opposed to the whole idea of preventive detention to say beforehand that a certain man should be detained for such and such a length of time. It is in fact the Government that has to consider it from time to time whether any further detention is necessary at all.

As regards the authority that has to fix it, it must be the Government, because the Advisory Board cannot really consider public interest, danger to the State and the like. They can give a verdict on the matters placed before them, but any moment the situation may change. If, for instance, Government are satisfied that violence has stopped in the country, and that it is not going to be resumed, as a springboard for further action, then Government can release them straightway. So, I submit that it would be inappropriate to ask the Advisory Board to fix a sentence, where it is only a question of preventive detention.

Shri K. Vaidya: May I draw your attention to Article 22, sub-clause 7(b) which says:

> "(7) Parliament may by law prescribe—
>
> (b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention;"

Mr. Speaker: The wording is "Parliament may provide"; it does not mean that it "ought to provide".

Shri K. Vaidya: "May" sometimes has the force of "shall".

Shri Jnani Ram: Sir, I am not pressing my amendment.

Mr. Speaker: Then, I am not putting it to the House.

The question is:

> "That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clause 11.—(*Substitution of new Sections.*)

Shri A. K. S. Ali: Sir, I wish to move my amendment No. 19 in Supplementary List No. 1.

Mr. Speaker: I think this is practically barred by a previous amendment of the same substance which the House has rejected.

Pandit Thakur Das Bhargava: I beg to move:

(i) In clause 11, in sub-section(1) of the proposed section 11 of the Preventive Detention Act, 1950, for the words "for such period as it thinks fit" substitute the words "for a period not exceeding six months after which period the case shall be reviewed by the appropriate Government to determine the further period if any for which the person concerned shall be detained".

With your permission, I will move the other amendments also, to save the time of the House. I beg to move:

(ii) In clause 11, in sub-section (2) of the proposed section 11 of the Preventive Detention Act, 1950, after the words "Government shall" insert the word "forthwith."

I beg to move:

(iii) In clause 11, after sub-section (2) of the proposed section 11 of the Preventive Detention Act, 1950, insert the following new sub-sections:

> "(3) The maximum period for which any person can be detained at one time will in no case exceed twelve months from the date of his arrest.
>
> (4) Except as provided under section 14 of the Act no person shall be detained more than once on the basis of self-same facts."

Mr. Speaker: I am afraid sub-clause (3) which the hon. Member has proposed will be barred by the decision which the House has taken on the amendment of Mr. Jnani Ram.

Pandit Thakur Das Bhargava: That related to clause 10 which has nothing to do with this clause.

Mr. Speaker: My point is that the principle of defining the maximum period of detention was considered by the House and rejected.

Pandit Thakur Das Bhargava: If that is your final decision I have nothing to

say. Clause 10 has nothing whatever to do with the period of detention at all.

Mr. Speaker: I am not relying on mere procedure. If the hon. Member had any objection he should have raised it at that stage. But the House having considered the principle of it and rejected it, I think it is barred.

Pandit Thakur Das Bhargava: In regard to these three amendments, Sir, I beg to submit that so far as the question of the period of detention is concerned, Government has not given these powers to the Advisory Board; they have kept it with themselves. The only question which an Advisory Board can consider is whether there is sufficient cause for the detention of a person. Now the cause of detention and the period of detention are absolutely connected affairs. It may so happen that before the matter comes before the Advisory Board circumstances may develop which may necessitate the release of a person. Suppose there is a riot or a disturbance necessitating the detention of a few persons for a few weeks, or a month. By the time the Advisory Committee meets, and the matter is placed before them, the necessity for the continued detention of those men may have disappeared. In cases like this the previous law that the detention should be for three months was a salutary one. Since we have now got this liberalising provision that every case is to be referred to the Advisory Board, such persons are prejudicially affected to a great extent. Even if we concede that the principle that Government is the sole judge of the period of detention, we have to take into consideration the fact that circumstances and situations may change. That is why I suggest the substitution of the words "for such period as he thinks fit" by the words "for a period not exceeding six months, etc.". Every six months Government must be asked to review the cases of these persons and if the situation has changed, Government should see that these persons are released.

As a matter of fact according to the previous Act the period of detention was only for one year, while in the case of some offences no period was fixed. Since this liberalising provision has been introduced, the question of period has been taken away altogether from the province of this Bill. My humble submission is that the period of one year is more than enough; even if it is not, I would beg the House to consider whether Government should not be asked to review the cases every six months.

In regard to amendment No. 21, my humble submission is that we know that the Advisory Board is the final authority now. If it makes a recommendation that a person should be released, he should be released forthwith. According to the Act Government have the right to detain a person for three months without sending the case to the Advisory Board. According to the amendment we have passed it will be ten weeks before the Advisory Board will be required to make its report. If the Advisory Board makes a report that a person should be released he should not be kept in detention for a single minute longer. It will be tantamount to wrongful confinement of a person.

In regard to my amendment No. 23, I have only one word to submit and that is this. According to Article 20(2) of the Constitution "no person shall be prosecuted or punished for the same offence more than once." This is a very salutary principle and I beg of the House to extend this principle to a detenu as well.

Mr. Speaker: I shall try to clear the ground. Then comes Mr. Kamath's amendment No. 80 of the Consolidated List. It is the same thing, that is adding the word "forthwith". Then comes his amendment No. 7 in Supplementary List No. 2. I was just thinking whether it is not barred by the previous discussion in the House.

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Shri Kamath: That was with regard to the Advisory Board. This is with regard to the Government.

Mr. Speaker: His amendment is to sub-section (1) and he says that after the words "for such period" the words "not exceeding six months" be added. It is the same thing as in the recent amendment which the House discussed and rejected. There was an attempt to have a time-limit placed and the House rejected that.

Shri Kamath: As far as I understood it, it was with reference to the Advisory Board.

Mr. Speaker: That was rejected. Consequently this is barred.

Then comes his amendment No. 4 in Supplementary List No. 6. He suggests the words "where there is a divergence of opinion among the members of the Board". That also is barred.

Shri Kamath: How?

Mr. Speaker: I believe it was there in one of the amendments—I cannot

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just lay my finger on the amendment—but the matter was discussed in the House. His contention was that unless there was a concurrent opinion of all the members of the Advisory Boards...

Shri M. A. Ayyangar: It was under clause 10.

Mr. Speaker: And then the Home Minister replied that, in view of the fact that there are now three members in the Board he was not prepared to accept that kind of thing. So that was considered and rejected by the House. Here he wants the words "or where there is a divergence of opinion among the members of the Board in this regard". It means the same thing, coming in another form. The form is different, I agree.

Shri Kamath: The spirit also.

Mr. Speaker: Is the same.

Shri Kamath: My point is that even if one member of the Board holds that he has been wrongly detained, then he should be released.

Mr. Speaker: The point is clear. That is exactly the point to which he has already replied. He was referring to what is said and what was stated in the House by the late Sardar Patel, that if there is a divergence of opinion then automatically he should be set free. But the hon. the Home Minister refused to accept it now on the ground that there are three members and you cannot always expect all the three to be unanimous and that if there is a majority opinion it will prevail.

Shri Kamath: The previous one was with regard to the confirmation of the order. This is with regard to the revocation of the order.

Mr. Speaker: It is the same thing.

Shri Kamath: They are different.

Mr. Speaker: The principle is the same, that is, whether the decision of the Advisory Board should be unanimous or whether it should be a majority decision. On that principle I am very clear that the House has accepted that it should be a majority decision—rightly or wrongly is another matter.

The Minister of Works, Production and Supply (Shri Gadgil): How could it be wrong?

Shri Kamath: Why not?

Mr. Speaker: It need not necessarily be always right. The majority may also err. But it is clear that this is barred.

Shri Kamath: I am submitting to your ruling.

Mr. Speaker: I am giving the ruling.

Then comes his amendment No. 9 in Supplementary List No. 2. Is it not covered by what Pandit Thakur Das Bhargava has said and moved?

Shri Santhanam: It is the same thing in other words.

Shri Kamath: Pandit Thakur Das Bhargava, so far as I could follow him, did not make any specific mention of this being placed before the Advisory Board after six months.

Pandit Thakur Das Bhargava: There is no point in placing the matter before the Advisory Board again in respect of sufficiency of cause and the Government has only to determine if circumstances have changed and this can be done everytime after the expiry of six months.

Mr. Speaker: He says it has again to be placed before the Advisory Board on the expiration of six months.

Shri Kamath: There is some room for doubt, and it has been rightly said:

संशयात्मा विनश्यति (*Samshayathma Vinashyati*)

and so let the doubt be cleared.

I beg to move:

In clause 11, after sub-section (2) of the proposed section 11 of the Preventive Detention Act, 1950, add the following new sub-section:

> "(3) Every case where the detention order has been confirmed and the detention continued under sub-section (1), shall again be placed before the Advisory Board on the expiration of the period of six months for consideration and report to the appropriate Government who shall take such further action thereon as may be necessary under sub-section (1) or sub-section (2)."

The point of this amendment is that circumstances may supervene after a particular period or certain fresh facts may come to light. Man being not infallible, it may be that within four or six weeks the appropriate authorities have not had sufficient time to garner and glean all the material or the detenu has not had enough time to place before the Advisory Board all that he wants to say by way of representation. Then the inevitable happens: he is detained for six months. Is it the intention of this Parliament to deny him another

chance, if need be, if he so wants it, if the Advisory Board also thinks it necessary? Is it our intention to let him continue in detention indefinitely, without a reconsideration of the case? It may not be reviewed, but why not invest the Board with the power to reconsider, so as to enable the Government to review the particular case? The House will recollect that when most of us, or many of us, were detained during the war under the Defence of India Rules, we were served with orders at intervals of six months. There may not have been Advisory Boards, but the Government of the day was supposed to consider each case every six months and they gave fresh notice at intervals of six months. When the British Government did that, certainly our own Government, the Government of the Sovereign Democratic Republic of India, that is Bharat, can go two steps further. I am sure that it is not the intention of this Government to emulate or to outstrip their predecessor Government in their zeal for extraordinary legislation. Already, so far as this preventive detention law is concerned, we have gone ahead of the Government of India Act. The Act of 1935 was piloted by Sir Samuel Hoare in the British Parliament. The Government of today out-hoared Hoare in bringing this Bill last year. The old Government of India Act of 1935 gave power to the Union Legislature to legislate on subjects relating to preventive detention in British India for reasons of State connected with Defence, External Affairs or the discharge of functions of the Crown in relation to Indian States, and to Provincial Legislatures to legislate on subjects relating to preventive detention for reasons connected with maintenance of public order, but now we have sought to confer much wider powers including powers of detention in connection with essential supplies and services to both the Union and State Legislatures. I therefore would appeal to the Minister that in so far as it is compatible with his wisdom, with his sagacity, with his foresight and far sight he should see his way to providing the detenu with reasonable chances of having his case reviewed at intervals. He may very well reply very adroitly that Government are always reviewing the cases, that every matter is under active consideration of Government,—as we have all known during the last 2 or 3 years,—and especially on this particular matter of preventive detention, being a matter which concerns the liberty of the people, the Government will certainly have under active consideration, every minute and every hour of the day. But why not have it explicitly, lay it down explicitly in this law, that Government will have no power to detain indefinitely any detenu without reconsideration, without reference? Why not say so in so many words, that the Government will have the matter reconsidered every three months, every six months? I would like the principle to be accepted and it is for the Minister to recast it in any form he likes. But the maximum limit of six months must be fixed in my humble judgment. If the detenu is denied this very elementary right, which does not endanger or jeopardize the security of the State of which my hon. friend, Mr. Gadgil is so very aware and for which he is so very anxious, if this right is conceded to the detenu it will not detract from the preventive qualities of this legislation. I fear that if that is not accepted, it may result in making this legislation punitive and not preventive. That, I am sure, the Home Minister wishes to avoid, and I for one can see no reason why if the Minister exercises sound commonsense and wisdom in this matter, he cannot lay it down definitely and unequivocally in this Act, that at intervals of three months or six months the case will be sent back, will be reviewed or reconsidered by the Board and the Board will report afresh to the Government which will be thus enabled to review the case with the help of the Advisory Board. I, therefore, move this amendment and commend it to the Minister and the House for acceptance.

Shri Rajagopalachari: Sir, the appeal made by Mr. Kamath is very sound in principle that these cases should be reviewed and that is why section 13, as it will now stands provides for revocation of these orders by Government. The point he urges is reconsideration by the Board. I only wish to say this in that connection. The Board has exercised its judgment presumably on the materials placed before it and the order has been confirmed. The next question is whether when the detenu continues in detention on the basis of that order, the Board will afterwards be in any new position in reconsidering the matter, whereas the Government can always take into account the condition of the country and other matters of policy or even representation made by the detenu himself as to his own conduct or as to his disposition or change of mind. All these things can only be considered by the Government and that is why section 13 provides for such reconsideration and a reconsideration by way of judicial examination of the same materials over and over again is therefore of no use whatsoever. I am sorry I am not able to accept that amendment.

Mr. Speaker: The question is:

In clause 11, in sub-section (1) of the proposed section 11 of the Preventive Detention Act, 1950 for the words "for such period as it thinks fit" substitute the words "for a period not exceeding six months after which period the case shall be reviewed by the Appropriate Government to determine the further period if any for which the person concerned shall be detained".

The motion was negatived.

Mr. Speaker: There is a further amendment by Pandit Bhargava, No. 21 in Supplementary List No. 1.

Pandit Thakur Das Bhargava: The hon. Minister is perhaps accepting this.

Shri Rajagopalachari: I was going to say that the word 'forthwith' may be inserted. It should be as Mr. Kamath has proposed in his amendment No. 80. If it comes at the end, I have no objection. I will accept that. *(Interruption).*

I might mention to the House that 'release' means 'release forthwith' but if the word 'forthwith' is wanted by Mr. Kamath, I want to give him the benefit.

Mr. Speaker: It means that. I do not think we need carry the matter further for discussion now.

The question is:

In clause 11, in sub-section (2) of the proposed section 11 of the Preventive Detention Act, 1950, after the words "Government shall" insert the word "forthwith".

The motion was negatived.

Mr. Speaker: What the hon. Minister is suggesting is something entirely different. The word 'forthwith' is the same but apart from that the substance is entirely different. The question is:

In clause 11, after sub-section (2) of the proposed section 11 of the Preventive Detention Act, 1950, insert the following new sub-section:

"(4) Except as provided under section 14 of the Act, no person shall be detained more than once on the basis of self-same facts."

The motion was negatived.

Mr. Speaker: That exhausts all the amendments. There is one amendment by Mr. Kamath.

Shri Kamath: What about the amendment to all 'forthwith', Sir? That was accepted by the hon. Minister.

Mr. Speaker: That has been negatived by the House.

Shri Kamath: In the proposed sub-section (2) of clause 11, the Minister said that he would agree to add 'forthwith' at the end. There is no question of revocation of order; the accused person is to be released forthwith. That is what he accepted.

Mr. Speaker: He did not refer to any revocation at all. He said, released forthwith.

Shri Kamath: That is my amendment No. 80.

Shri A. H. S. Ali: That is also my amendment, Sir.

Shri Rajagopalachari: Amendment No. 22 in Supplementary list No. 1 and amendment No. 80 in the Consolidated list. I accept it.

"In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith."

Shri M. A. Ayyangar: 'Forthwith' may apply to both.

Mr. Speaker: The question is:

In clause 11, in sub-section (2) of the proposed section 11 of the Preventive Detention Act, 1950, add the word "forthwith" at the end.

The motion was adopted.

Mr. Speaker: This disposes of all the amendments.

Shri Kamath: There is my amendment No. 9 of Supplementary List No. 2.

Mr. Speaker: It is the same thing again: reconsideration by the Advisory Board at the expiration of six months and report to the appropriate Government who shall take such further action thereon as may be necessary under sub-section (1) or sub-section (2).

Shri Rajagopalachari: It means that the whole thing has to be gone over again. It is covered by the amendment which has just been lost.

Mr. Speaker: That is what I have noted here. That is barred by the previous decision of the House.

Shri Kamath: That has been moved: unless it is withdrawn.....

Mr. Speaker: Not moved.

Shri Kamath: I moved No. 9, Sir.

Mr. Speaker: I have made the remark that it is the same as Pandit Thakur Das Bhargava's amendment. Even if it is moved; I have not yet placed it before the House formally; I am not going to place it before the House. That is covered by the previous decision.

Shri Venkataraman: Sir, I want to have a matter clarified by the hon. Minister. The Bill has provided that those matters which are now pending before an Advisory Board consisting of two persons who constitute the Advisory Board, shall continue to be heard by them. The second sub-section to section 11 provides:

> "In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order....."

Suppose there is difference of opinion among the two Members who constitute the Board who are considering the matter, on the question whether the person should be released or not, it will not come under clause (2) of section 11, because it puts it negatively that unless the Advisory Board has reported that there is in its opinion no sufficient cause for detention, the detention shall be cancelled. My submission is this. If the clause be put affirmatively saying that where the Advisory Board has reported that there is sufficient cause for detention, then, if there is difference of opinion among the Members who constitute the Advisory Board, the benefit of the difference will go to the detenu and he is bound to be released. If the clause stands negatively, unless the Board reports that.....

Mr. Speaker: May I know why it is said that the clause is put negatively? It does not say "Unless....."

Shri Venkataraman: I will make this point clear. The sub-section reads:

> "In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke....."

That is, if there are two persons and one of them says that there is sufficient cause and another says that there is no sufficient cause for detention, then the Board cannot report that in its opinion there is no sufficient cause for detention. If the Board does not report that there is no sufficient cause for detention of the person concerned, then, the Government cannot release the person concerned.

Shri Rajagopalachari: I shall explain the position. The matter that is sought to be clarified is this. We have provided in clause 11 two sub-clauses: one is, where the Board has reported that there is sufficient cause, the order shall be confirmed. Clause (2) says that where the Board reports that there is no sufficient cause, the order shall be revoked. The point raised is, in the few cases that are pending with two Member Advisory Boards, what will be the result if there is difference of opinion between them, where neither clause (1) nor clause (2) is satisfied. The answer is contained in the Constitution. As pointed out by Mr. Kamath from the words of my predecessor, the Constitution provides that where there is no report from the Advisory Board in favour of the detention, there is no legal authority for the Government to detain the person so that under clause (4) of article 22 of the Constitution, the man will, in the case propounded, be released. It would not be proper to provide here a mere reiteration what is there in the Constitution already. That is why we have these two clauses here. Though they do not cover the third case referred to, that is covered by the article in the Constitution. There is really no difficulty about it.

Mr. Speaker: The question is:

> "That clause 11, as amended, stand part of the Bill."

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Mr. Speaker: Then, there are amendments of Mr. Kamath to add a new clause 11-A.

Shri Kamath: I suppose you hold them as barred.

Mr. Speaker: Yes; I hold them as barred; there is amendment No. 23 in Supplementary List No. 1.

Shri Kamath: That is differently worded.

Mr. Speaker: In substance, it is the same. The hon. Member seems to agree with that.

Shri Kamath: I do not agree; but if it is your ruling, Sir, then I have to bow to it.

Clause 12.—*(Insertion of New Section 14.)*

Mr. Speaker: That amendment goes. I will take up clause 12. There are amendments. Mr. Tajamul Husain, Mr. Naziruddin Ahmad, Mr. Rathnaswami are not present.

Shri Alexander (Travancore-Cochin): I am not moving my amendments.

Mr. Speaker: Sardar B. S. Man, not present in the House.

Shri Kamath: I propose to move my amendment.

Pandit Thakur Das Bhargava: I propose to move my amendment No. 24 in Supplementary List No. 1.

Shri Jnani Ram: I propose to move my amendment.

Mr. Speaker: I shall call on Mr. Kamath, Pandit Thakur Das Bhargava and Mr. Jnani Ram to move their amendments.

Shri Kamath: Sir, I move my amendments Nos. 85 and 89 of the Consolidated List of Amendments. The others are conditional upon Pandit Kunzru moving his amendment.

Mr. Speaker: I am sorry I missed Pandit Kunzru's amendment. But I find now that it is for the insertion of a new clause. So that will come later on. Mr. Kamath may move his two amendments now. Pandit Thakur Das Bhargava and Shri Jnani Ram may take their amendments as having been placed before the House. I shall call upon them after Mr. Kamath has addressed the House.

Shri Kamath: I beg to move:

(i) In clause 12, in sub-section (1) of the proposed section 14 of the Preventive Detention Act, 1950, for the words "as that person accepts" substitute the words "as that Government deems necessary".

I also move:

(ii) In clause 12, in sub-section (5) of the proposed section 14 of the Preventive Detention Act, 1950, omit the words "or to show cause why such penalty should not be levied".

These refer to the conditions imposed on the detenus whom the Government or the appropriate authority deems fit to be released on parole, from time to time or whenever necessary. The new section proposed in place of the repealed section 14 lays down that the conditions shall be specified in the direction of parole. It says:

> "The appropriate Government may at any time direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may at any time cancel his release."

It seems to me that the ways of Government are sometimes amusing, and not quite comprehensible to ordinary mortals or those who are equipped only with average intelligence. Surely, one would think that when a government releases a person on parole, that government would impose such conditions as it may deem necessary. But here it is different. I do not know whether it is the draftsman's genius which has created this section in its present form or whether Government really intend to make it so nice for the detenu. Of course, if it is the latter, if it is really the intention of Government, then I suppose Government is wanting to do some *Prayaschitta*, for what they have done in other sections by way of restricting the rights and liberties of the detenu and they want to do some sort of atonement for the wrongs that they might have done or committed in legislating the rest of this measure. This sub-section as it stands says that whichever conditions are acceptable to the detenu, the Government will agree to them. That seems to be a very novel procedure that Government should specify such conditions as that person accepts. Would it not be more in tune with governmental ways that they should specify the conditions on which the detenu would be released and if he accepts them, well and good, if not, he remains where he is?

Mr. Speaker: That is the meaning of the sub-section.

Shri Kamath: Sir, that is not the meaning. As it is, it is ambiguous.

Mr. Speaker: Any argument can be spun.

Shri Kamath: But there is doubt, Sir.

Mr. Speaker: No, there is no doubt.

Shri Kamath: There is doubt in my mind, Sir, there may not be in yours, that is all I can say. The conditions

specified must be such as Government deem necessary in the circumstances and not such as that person accepts.

The other amendment of mine relates to sub-section (5) of the proposed section 14. The last bit of this sub-section refers to the surety being called upon to show cause. In ordinary criminal procedure when it is laid down that a surety forfeits a bond, it automatically follows that before the amount is realised from him, he is called upon to show cause why the amount of the surety should not be forfeited. So this provision at the end of this sub-section is unnecessary. There is no need to lay down that the surety should be called upon to show cause. I move this amendment and commend it to the House for its acceptance.

Pandit Thakur Das Bhargava: I beg to move:

In clause 12, in sub-section (5) of the proposed section 14 of the Preventive Detention Act, 1950,

(i) after the words "entered into by him" insert the words "and to prove that there was sufficient cause for not fulfilling the said conditions"; and

(ii) for the words "thereof or to show cause why such penalty should not be levied" substitute the words "or such part thereof as may be determined by court".

If you read sub-sections (3) and (4) you find them stating:

> "(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.
>
> (4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years or with fine or with both."

My submission is that there may be sufficient cause for not fulfilling the conditions, or for not fulfilling them fully. It is laid down in every such law that if the person succeeds in showing why he was not able to fulfil the conditions, he will not be charged the penalty. If he proves it partly, then only a portion of the penalty will be charged. Therefore, I say in sub-section (5) also there must be the condition that the person should have failed to show sufficient cause why he was not able to fulfil the conditions. The words "show cause etc." should come before speaking of forfeiting the bond. Otherwise the wording is so abrupt. Usually when a bond is entered into, it is not always that the entire bond is forfeited. There may be some causes and he might have partially fulfilled the conditions and in that case only a portion of the amount will be forfeited. In this respect also, this clause requires change.

Shri Jnani Ram: I beg to move:

In clause 12, in sub-section (5) of the proposed section 14 of the Preventive Detention Act, 1950, omit the words "or to show cause why such penalty should not be levied".

Sir, much has been said by Shri Kamath on this point. The present clause as it stands has got two punishments or two factors, one, forfeiture of the bond and the showing of the cause. But they are not independent but inter-related to one another. Usually what happens, according to section 106 or 108—etc., of the Cr. P.C. persons standing sureties are called upon to show cause, if the bonds are broken or when the amount is to be forfeited.

I also move:

In clause 12, to sub-section (5) of the proposed section 14 of the Preventive Detention Act, 1950, add the following Proviso:

> "Provided no bond shall be forfeited unless the surety or the sureties have been called upon to show cause for the same".

As I have said, the latter portion of the clause should be omitted and this proviso that I have just now suggested, should be added.

Shri Rajagopalachari: Sir, the amendments are simple. The point raised by Mr. Kamath I shall take up first. His point regarding the acceptance of the conditions deserves first attention. The scheme of the new section proposed as to release on parole and conditions therefor, depend certainly upon the acceptance of the conditions by the person concerned. A bond cannot be entered into unless the person accepts and there cannot be any release order unless there is the acceptance by the person concerned. The question is not as to the direction that the Government may deem necessary. That may be presumed in the framing of the direction itself. The issue depends upon whether the person accepts it or not. Otherwise there cannot be any release. Therefore it is perfectly justifiable for the draughts man to put in those words.

[Shri Rajagopalachari]

I entirely agree with Mr. Kamath as regards the other point regarding the words "or to show cause why such penalty should not be levied", because it may be presumed in normal procedure when a bond is forfeited, cause can be shown.

Pandit Bhargava's amendment is that it should be altered in the language proposed. But it will not be applicable because there will not be any court. The words suggested by him are "or such part thereof as may be determined by court."……

Pandit Thakur Das Bhargava: Who shall impose the penalties?

Shri Rajagopalachari: The penalty arises out of the bond itself which he has to agree to and therefore he will be liable to pay the penalty. We need not go into the procedure. I agree that an opportunity should be there to show cause for not having done what was promised to be done. Taking that for granted the words may be omitted.

As regards acceptance by person, that should remain. The particular detailed procedure referred to by Jnani Ram is unnecessary, because all that may be presumed, namely that cause should be shown and there should be an opportunity. As to the question how the bond is to be forfeited I do not think it is necessary in this measure to introduce all the details about it. The words after "penalty thereof" till the end of the sub-clause may be omitted.

Shri Jnani Ram: What is the harm in accepting the proviso?

Shri Rajagopalachari: We cannot give the complete procedure which should operate. It is left to the ordinary law.

Mr. Speaker: Does Pandit Bhargava accept the form in which it is suggested?

Pandit Thakur Das Bhargava: I accept it.

Mr. Speaker: The question is:

In clause 12, in sub-section (5) of the proposed new section 14 of the Preventive Detention Act, 1950, omit the words occurring at the end "or to show cause why such penalty should not be levied":

The motion was adopted.

Mr. Speaker: As regards Mr. Kamath's amendment No. 89……

Shri Kamath: That has already been accepted.

Mr. Speaker: I shall now put to the House amendment No. 85 on the Consolidated List in the name of Mr. Kamath. The question is.

In clause 12, in sub-section (1) of the proposed section 14 of the Preventive Detention Act, 1950, for the words "as that person accepts" substitute the words "as that Government deems necessary".

The motion was negatived.

Mr. Speaker: The question is:

"That clause 12, as amended, stand part of the Bill."

The motion was adopted.

Clause 12, as amended, was added to the Bill.

New Clause 12A

Mr. Speaker: Mr. Venkataraman's amendment has already been covered.

Shri Venkataraman: What the previous amendment covered was in respect of limiting the sentence as it were on the detenu but what I am suggesting under the new amendment is that the total period of detention should not exceed two years in any event.

Mr. Speaker: How is it different?

Shri Venkataraman: People who have been detained in 1943 and 1944 still continued in detention till today. As soon as this Act comes into force such of these persons who have been in detention for more than two years on the date this Act comes into force should be released. I would in this connection draw attention to Madras High Court's decision……

Mr. Speaker: Order, order. At present I am more concerned with the point of the admissibility of this amendment. I do not propose to go into the merits. He may have a very good case on merits. The House, having once accepted the principle that they do not want to put a limitation on the period of detention, continuous or otherwise, I do not see how this amendment can now be brought in. It would mean debating the same point again. I do not think I can permit that amendment to be moved.

Pandit Kunzru: I beg to move:

After clause 12, insert the following new clause.

"12A. *Insertion of new section 15A in Act IV of* 1950.—After

section 15 of the said Act the following section shall be inserted, namely:—

'15A. *Report to Parliament as to action taken under the Act.*—The Central Government shall at least once every month during each session of Parliament cause a report to be laid before Parliament as to the action taken by the that Government and by each State Government under this Act including the number of persons detained under orders made thereunder.' "

When the discussion on the Bill began and figures were given regarding the number of persons detained according to the categories under which they were detained, the House was taken completely by surprise. It is extraordinary that we should not know, when thousands have been arrested under an abnormal law, as to what is their exact number. If we have any feeling for the liberty of the individual, then although we may allow Government to detain people on suspicion in special circumstances, we must take care to see that the executive reports to us from time to time what action it has taken under those powers. That is the only way in which we can have some idea as to the manner in which those powers are exercised. I think this does not prevent the Government from dealing in any manner it likes with any person for whose detention there is sufficient cause in their opinion. The only duty thrown upon them is to report to the House what action the Central Government and each State Government takes under the Preventive Detention Act and what is the total number of persons under detention at the time when the report is made. I think this is the least that the Government can be asked to do. The House and the country are entitled to know from Government periodically what is the total number of persons detained under the Preventive Detention Act and how many new persons have been detained by the Central Government or the State Governments every month, or, when the House is not sitting, for a longer period. I do not know really whether my hon. friend the Home Minister will be disposed to accept this amendment—he may have some subtle reason for objecting to it—but I have no doubt that every Member of the House feels in his heart of hearts, however he may hope, that this information is necessary in the public interest.

Shri Kamath: Sir, I do not propose to move amendment No. 11 but only No. 12 in Supplementary List No. 2. I beg to move:

In the amendment proposed by Pandit Hirday Nath Kunzru, in the proposed new section 15A, for the words "including the number of persons detained under order made thereunder" substitute the following:

"including the number and names of persons detained under orders made thereunder as well as the grounds of detention in each case".

Shri Gadgil: And photograph!

Shri Kamath: I find that one of the Ministers is inclined to be facetious. Well, he is welcome to his mood seeing that the evening is far advanced and each one of us is thinking perhaps of various things outside Parliament. I would not grudge him this facetiousness, but I would like to impress upon him that what I seek in this amendment is not the photograph of the detenus—we have photographs enough in the newspapers these days and I do not want to regale the House or myself with more photographs of other persons. The point in this amendment is the vital fact that Government should not conceal from Parliament the number and names of detained persons. Why should Government be afraid of publishing the names? Is it just because they feel circumstances may arise when it may not be in the public interest to disclose the name of the person detained? I wonder what conception of public interest or national interest, or State interest, or even the interest of implementing this extraordinary law for what it is worth, can come in the way of disclosing the names of persons. If this Government really means to be responsive to public opinion and responsible to this Parliament, I see no difficulty in the way of opening another column in the list to be placed before Parliament—a statement to be laid before Parliament just as so many statements are laid from time to time on the Table of the House. Even the Constitution has cast responsibility upon Government in certain cases for laying orders and other statements before Parliament. Does it not stand to reason that this extraordinary detention law, abnormal to any democratic country in peace-time, requires at least that Parliament to which Government is supposed to be responsible should be kept apprised and informed of the action taken by them under the authority vested by this Parliament in them? Have they not that much responsiveness, that much responsibility to deem it necessary to lay such a statement before Parliament?

[Shri Kamath]

If they do not think so, I can only say that it is a sheer spirit of cussedness which might prevent them from doing so, and neither public interest nor State interest nor national interest.

The second part of this amendment is with regard to the grounds of detention in each case. The grounds of detention are not confidential under this law. What is regarded as confidential under section 8.....

Pandit Kunzru: That is covered by the words "action taken by the Government and by each State Government under the Act".

Shri Kamath: I was referring to the Preventive Detention Act, 1950. What is referred to as confidential is the proceedings of the Advisory Board and its report. Even the part of the report relating to the opinion of the Board is not confidential. Only the proceedings of the Board and its report are confidential. So Government cannot take shelter behind the screen of either public interest or of secrecy to withhold this information from Parliament. And what my friend Pandit Kunzru asks for is that during a session of Parliament the information should be laid on the Table of the House every month. Is that so difficult, after all, with the whole apparatus, the whole machinery of the Secretariat, the ever-expanding Secretariat, at its disposal? If that be pleaded,—the difficulty in collecting material every month,—I feel it would be merely a puerile plea really motivated by a spirit of not accepting the spirit of this amendment which makes Government in at least a small measure responsive to the people and responsible to Parliament. I, therefore, appeal to the Home Minister that in the interest of promoting democratic institutions, in the interest of promoting the authority of this Parliament, in the interest of creating a sense of confidence in the people, this little improvement sought to be made by this amendment with regard to the periodical statement to be laid before Parliament every month or from time to time, regarding the action taken by Government under this law, should be accepted by him. I wonder what plea he can advance against it, but I may straightaway say that so far as I can see there can be no rational plea against it.

7 P.M.

The mysterious ways of Government and the labrynthine working of Government's mind may come in the way of accepting this amendment, but normally and in consonance with ordinary commonsense and accepted notions of Governmental responsibility to Parliament, this amendment must be accepted. Sir, I commend it to the House.

Mr. Speaker: Amendment moved:

After clause 12, insert the following new clause:

"12A. *Insertion of new section 15A in Act IV of 1950.*—After section 15 of the said Act the following section shall be inserted, namely:—

'15A. *Report to Parliament as to action taken under the Act.*—The Central Government shall at least once every month during each session of Parliament cause a report to be laid before Parliament as to the action taken by that Government and by each State Government under this Act including the number of persons detained under orders made thereunder.' "

In the amendment proposed by Pandit Hirday Nath Kunzru, in the proposed new section 15A, for the words "including the number of persons detained under order made thereunder" substitute the following:

"including the number and names of persons detained under orders made thereunder as well as the grounds of detention in each case".

Shri Rajagopalachari: It has been suggested that we should publish the action taken by Government under this measure. I can say straightaway that there is no desire on the part of Government to withhold such information from Members of Parliament or from the general public. Questions have been asked repeatedly in respect of these numbers and answers have been given from time to time. The only point now to be considered is Pandit Kunzru's proposal that there should be this statutory obligation to publish these lists every month during each Session of Parliament. Let hon. Members remember that it will take a few months according to the scheme of this measure before the proceedings are completed in respect of those for whom for the first time reference is to be made to the Board. Thereafter, we will have a notion as to which and how many detenus come under the provisions of this Act. There I at once give my promise to the Members of the House that the numbers of persons ordered to be detained—old as well fresh detenus—will be published in the Gazette from time to time. It is difficult to relate this to the sessions of Parliament in view of what I have

said and in view of obvious facts. There is no difficulty in hon. Members putting questions at any time and getting such answers as relate to these detenus without any difficulty of disclosure as we have been hitherto doing. I suggest therefore that Pandit Kunzru be content with this assurance of mine that once in six months we shall publish the number of persons detained and if necessary classified according to Section 3 of this Act under sub-clauses (1), (2) and (3). That will give sufficient information, but the printing of names of all the people—3,000 or 2,000, whatever it may be—for the whole of India like an examination list would be difficult if we consolidate them at the Centre. I would ask hon. Members to leave that proposal out and be satisfied with what I have said just now. I want the House therefore not to accept this amendment but to accept what I have suggested.

Shri Kamath: Nothing is difficult if Government has the will.

Mr. Speaker: So, I shall now put the amendments. First, I shall put Mr. Kamath's amendment to Pandit Kunzru's amendment. The question is:

In the amendment proposed by Pandit Hirday Nath Kunzru, in the proposed new section 15A, for the words "including the number of persons detained under order made thereunder" substitute the following:

"including the number and names of persons detained under orders made thereunder as well as the grounds of detention in each case."

The motnon was negatived.

Mr. Speaker: The question is:

After clause 12, insert the following new clause:

"12A. *Insertion of new section 15A in Act IV of 1950.*—After section 15 of the said Act the following section shall be inserted, namely:—

'15A. *Report to Parliament as to action taken under the Act.*—The Central Government shall at least once every month during each session of Parliament cause a report to be laid before Parliament as to the action taken by that Government and by each State Government under this Act including the number of persons detained under orders made thereunder.' "

The motion was negatived.

Clause 13 was added to the Bill.

Mr. Speaker: To clause 1 there is an amendment by Prof. Shah, but Prof. Shah is not here. So I shall put the Enacting Formula and the Title also along with this clause.

Clause 1 was added to the Bill.

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

Shri Rajagopalachari: I beg to move:

"That the Bill, as amended, be passed."

I do not think that I shall detain the House with any speech. The debates over the various clauses have covered the entire ground and what I said before and what I said in the course of the debates I have said with a great deal of respect for the hon. Members of the House and whatever may have happened in the course of the debates to enliven the proceedings now and then, I hope the House will take the matter seriously and make the working of this measure a success not only from the point of view of the State as a whole but from the point of view of justice in the abstract also. Sir, I commend the Bill to the House.

Mr. Speaker: Motion moved:

"That the Bill, as amended, be passed."

Pandit Kunzru: I should not have spoken but for the concluding words of the hon. the Home Minister. My hon. friend has, with one exception, accepted only verbal amendments and he now asks us to take the matter "seriously" and to cooperate with the Government in making the Act a success. I feel, Sir, that he could have accepted many amendments without thereby reducing in any way the efficacy of the Act. His refusal to accept them seems to me to be just due to inexplicable obstinacy. I feel that his attitude has been unsatisfactory. He has not accepted even the amendment asking that the Chairman of every Advisory Board should be a judicial officer appointed by the High Court. In view of this, he cannot say that he has gone as far as he could have and that the Government have cooperated with the House in so amending the Act as to make the public feel that its working is hedged round with practicable safeguards. Where the Government do not cooperate with the House they cannot expect the House to cooperate with them.

Several Hon. Members: No, no.

Pandit Kunzru: The House will be inconsistent with itself if while criticising the Home Minister for acting in a particular way.....

Shri Sidhva (Madhya Pradesh): A few Members, but not the House.

Pandit Kunzru: ...if while criticising him it supports him in his refusal to accept reasonable amendments and going his own way.

Shri Sidhva: That is your opinion.

Pandit Kunzru: Sir, I for one feel that the attitude of the Government has been.....

Shri Rajagopalachari: Just one word, Sir. Is the hon. Member in order in taking it for granted that the "House" has recommended amendments which the hon. Minister has not accepted? He may say it about his own amendment, but not about the "House".

Pandit Kunzru: This is fully in keeping with the subtlety that my hon. friend has displayed during the discussions.

Shri Rajagopalachari: Now, Sir, that is not a remark that I should pass without protesting. The hon. Member should not take things for granted. It may have been done before, but I strongly object to any hon. Member saying that the opinion of the House has been discarded by the Minister.

Pandit Kunzru: I do not know whether I said that he had "discarded" the opinion of the House. All that I said was that of the amendments put forward he had accepted only very minor and verbal amendments, with the exception of one. I adhere to that opinion. My hon. friend may not like my view of his attitude, but that cannot prevent me from saying what I feel and what I think of my hon. friend's attitude.

Well, the upshot of it is that, in my opinion, we should be vigilant and see that full information is placed before the House regarding the working of the Act, so that we may be able to question the Executive with regard to the manner in which it exercises the extraordinary powers conferred on it by the Preventive Detention Act.

Shri M. A. Ayyangar: Sir, I would not have liked to take part in this debate, but for the fact that it has been said that this is peace-time and therefore an extraordinary measure like this ought not to have been passed. I agree that this is an extraordinary measure. But in all fields—economic as well as political—the ravages of the war have not left us. We are struggling against them, though apparently the war is over. There has been internal commotion, though thanks to the strong hand of the Government these disturbances have been quelled. I hope that it may not be necessary to extend the life of this measure any longer.

As regards the opinion of this House, of course individual Members are free to express their opinion. But considering the inconveniences that it might lead to the House has not accepted them. With very few exceptions, even those hon. Members who moved the amendments did not pursue them. Are we to say that these amendments were accepted by the House and the Government rejected the advice of this House? On the other hand, all of us, fully and conscientiously rejected those amendments.

Shri Kamath: Not all.

Shri M. A. Ayyangar: There is no point in blowing hot and cold.

Shri Kamath: Who is blowing hot and cold?

Shri M. A. Ayyangar: When I say all of us, I mean a majority—99·9 per cent of this House with the exception of one or two. The House will judge it; the public outside will judge it.

There is absolutely no intention on our part to impose any unnecessary inconvenience on anybody. Many of us here have suffered much more than some of our friends who have participated in this debate: we know the difficulties of detention; hence it is that the hon. Minister has assured the House that he will work this Act with as much leniency as possible, consistent with the safety of the public. Even parole is useful from the point of view of the detenu. There may be cases here and there where it might not be possible to have a High Court Judge as Chairman. These are all small matters. The Advisory Board is there. It is practically a judicial body and all matters will be placed before it.

The hon. the Home Minister appealed to the House and through it to the country that conditions may so develop that it may not be necessary to continue the life of this Act any longer. We on our part hope and pray that that conditions may calm down, that it may not be necessary to retain it on the Statute book even for a year.

Mr. Speaker: The question is:

"That the Bill, as amended be passed."

The motion was adopted.

The House then adjourned till a Quarter to Eleven of the Clock on Tuesday, the 20th February 1951.