

Thursday, 15th February, 1951



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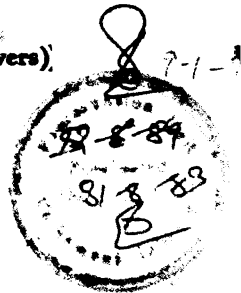
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PARLIAMENTARY DEBATES

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

1455

1456

PARLIAMENT OF INDIA

Thursday, 15th February, 1951

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

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

IMPORT OF FOOD

*1465. **Prof. S. N. Mishra:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether the Finance Minister's promise of "one food-ship a day" is being fulfilled; and

(b) if so, since what date?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) and (b). More than one ship a day, have been arriving at Indian Ports since December, 1950. 44 foodgrain ships arrived in December 1950 and 38 ships in January 1951. The number of ships expected in February and March is 41 and 47 respectively.

Prof. S. N. Mishra: May I know the total amount of foodgrains imported since the date mentioned and how they are distributed State-wise?

Shri Thirumala Rao: During the month of February, we got 317,000 tons and during March 319,000 tons. For the break-up, I want notice.

Prof. S. N. Mishra: May I know the names of the countries from which the foodgrains have been imported? Have any attempts been made to secure foodgrains from China and Russia?

Shri Thirumala Rao: More than once the names of countries have been given on the floor of the House. We have contracted to get 50,000 tons of foodgrains from China and nothing so far from Russia.

315 P.S.D.

Shri Shiva Rao: May I know whether it is a fact that frequent references to the shipping problem by responsible members of the Ministry have had the effect of putting up shipping freights?

Shri Thirumala Rao: The problem of shipping is so well advertised in the world Press that it does not acquire any additional importance by its being mentioned by members of the Ministry.

Mr. Speaker: I may inform the hon. Member that this question of freight was pressed in supplementaries during the last week and it was explained at that time that, the additional shipping space required by India for the foodgrains has no relation to the general rise of rates of shipping freight.

Shri Brajeshwar Prasad: Did the Government of India approach Russia in 1950 or 1951?

Mr. Speaker: Order, order. I think he is repeating the same question which has been asked several times before.

Shri Brajeshwar Prasad: Another question, Sir. Is it a fact that the Government of India are negotiating with China for another instalment of 50,000 tons of foodgrains and if so, what are the conditions attached to this offer by China?

An Hon. Member: Is there an offer?

Shri Thirumala Rao: We are trying to get some more foodgrains from China on the basis of barter. They want some gunny bags from us.

Shri Bharati: What is the average tonnage of foodgrains that one ship is capable of carrying?

Shri Thirumala Rao: On an average, it can bring 8 to 9 thousand tons.

Shri A. C. Guha: Of the foodgrains that have arrived within the last two or three months, may I know how much is wheat and how much is rice?

Shri Thirumala Rao: I want notice for this question.

Prof. S. N. Mishra: Have Government considered the terms of the U. S. legislation authorising the grant of foodgrains to India, and if so, what are their reactions thereto?

Shri Thirumala Rao: Government are not aware of any legislation passed by the U.S.A. so far.

Shri Brajeshwar Prasad: May I put one last supplementary, Sir? Has the attention of Government been drawn to a statement made by an officer of the Russian Embassy in India to the effect that "we are prepared, we have always been prepared and we shall always be prepared to give foodgrains to India"?

Shri Thirumala Rao: Government are always prepared to take advantage of any readiness that is being exhibited by foreign Governments to give us foodgrains.

MR. LINNENGER'S IRRIGATION SCHEME

*1466. **Shri Sidhva:** (a) Will the Minister of Food and Agriculture be pleased to state whether Mr. Linnenger, German Engineer, has presented directly or indirectly any scheme of irrigation which would increase agricultural production in India?

(b) In how many countries has this scheme been worked out?

(c) What steps have Government taken for introducing this scheme for increasing production?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) A proposal for a trial of Mr. Linnenger's system of irrigation, in which water is sprayed on cropped areas by means of sprinkler pipes carrying water under pressure, was received by the Government of India from an Engineer in Delhi. It was claimed that under that system production could be increased by 50 per cent.

(b) no definite information on this point is readily available but it is known that spray irrigation is used in the U.S.A., U.K., and Australia for truck or garden crops only or for small areas where costly crops are grown.

(c) The Ministry has not conducted experiments about the economics of the system of irrigation referred to but we shall be glad to assist private enterprise in trying out this system.

Shri Sidhva: May I know whether nearly 400 installations of this type are working with magnificent results in Western countries and also in some countries of Asia and they actually have produced more grains?

Shri Thirumala Rao: We are not aware of it.

Shri Sidhva: When this scheme was placed before Government, was any enquiry made about this matter?

Shri Thirumala Rao: Yes, Sir. The scheme was referred to our expert officials in the I.C.A.R. They wanted a lot of money before the claims made on behalf of this scheme could be established.

Shri Sidhva: May I know whether the Government of India originally approved of this scheme and if so, what happened subsequently which made this scheme fall through?

Shri Thirumala Rao: I am not aware of any approval given by the Government of India to this scheme.

Seth Govind Das: The Deputy Minister just now stated that help could be given to private enterprise in this respect. May I know what kind of help would be given?

Shri Thirumala Rao: Technical assistance and advice will be placed at the disposal of people who are prepared to invest money in this experiment.

Seth Govind Das: Will any financial help in the shape of loans be given?

Shri Thirumala Rao: Our advice is that the initial expenditure may go up to more than Rs. 30,000 and our officials feel that it is not worth spending so much.

Shrimati Renuka Ray: Have Government examined in detail as to what the cost of this scheme would be?

Shri Thirumala Rao: The initial expenditure is put down at about Rs. 20,000 and the recurring expenditure at Rs. 14,000 before any result could be achieved.

Shri Sidhva: May I know whether the hon. Minister stated that he is not aware of Government having given their approval to this scheme or whether he stated that he is not in a position to say whether it was given or not?

Shri Thirumala Rao: I stated that we have not given our approval.

SALE OF SWEEPINGS OF FOOD GRAINS

*1467. **Shri Sidhva:** (a) Will the Minister of Food and Agriculture be pleased to state whether nearly 2,500 maunds of good quality wheat belonging to the Government of India was sold as sweepings of grain and unfit for human consumption in November 1950 or thereabouts from the godowns in Bombay situated in Clive Road?

(b) Is it a fact that on enquiry by police, it was found that the wheat bags which were discarded as sweepings were not so?

(c) If so, what steps have Government taken in this direction?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) In January 1950 about 480 bags (approximately 1200 maunds) of wheat were sold by the Office of the Regional Food Commissioner, Bombay, as sweepings of grain unfit for human consumption and fit as cattle feed.

(b) These bags were seized by the Police from the purchasers and it was found that the wheat in majority of them was fit for human consumption.

(c) An enquiry was made and police investigation was ordered. As a result an Assistant Director and a Godownkeeper were prosecuted. The case against these officers is pending in the Magistrate's Court in Bombay.

Shri Sidhva: In view of the two per cent. of wastage that the Government allow in all cases, may I know whether these sweepings are artificially created and are Government going to reconsider this question? I ask this question because this two per cent. wastage is automatically allowed to all contractors.

Shri Thirumala Rao: We shall examine whether this two per cent. is more than what is warranted.

Shri Sidhva: May I know whether this two per cent. is automatically allowed in all cases or not?

Shri Thirumala Rao: I don't think that is the case. There are also cases where a lesser percentage is allowed, considering the quality of the grain.

Shri Sidhva: What is the percentage fixed by Government? That is what I want to know.

Mr. Speaker: Is there any fixed percentage?

Shri Thirumala Rao: I think it is not more than two per cent. in any case.

Shri Sidhva: I ask once again, Sir, whether two per cent. sweeping is allowed in all cases?

Shri Thirumala Rao: No, Sir. I told the hon. Member that in certain cases a lesser percentage is allowed.

Shri Sidhva: I am repeatedly asking this question, Sir, because I have personally seen in Bombay that even good grain is put away under the guise of sweeping and declared as "sweeping".

Shri Thirumala Rao: I can assure the hon. Member that we shall have this question examined.

Shri B. R. Bhagat: Is there any periodical examination and investigation of the condition of storage of the grains in stock?

Shri Thirumala Rao: Yes. There are godown-keepers who are trained in the art of keeping these godowns free from pests. These people who are in charge of the godowns carry out periodical examinations.

Shri Sonavane: What steps are taken to see that no good grain passes from the godowns under the guise of "sweepings"?

Shri Thirumala Rao: The Director who is in charge of these godowns is a responsible officer, and as a result of recent complaints one Assistant Director and Godown-Keeper were suspended and criminal prosecutions are in progress against some others.

Shri Sidhva: Was the Regional Commissioner's attention drawn to such a case and is it a fact that he refused to take action until the Police came on the scene?

Shri Thirumala Rao: I am not aware of this particular instance. But the Director is mainly responsible for maintaining these godowns.

AIR INTERNATIONAL CONSTELLATION AIRCRAFT ACCIDENT

*1468. **Shri Sidhva:** Will the Minister of Communications be pleased to state:

(a) what was the cost of Air International Constellation Aircraft which met with an accident in the month of November, 1950 near Geneva;

(b) whether the Aircraft was insured, and if so, for how much amount;

(c) whether the money has been recovered from the Insurance Company;

(d) whether Government have a share in the loss sustained by this aircraft;

(e) whether it is a fact that due to this wreckage, one service of Air International to London has been cancelled; and

(f) whether it is contemplated to purchase a new Constellation?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) The cost of this Constellation Aircraft was Rs. 35.63 lakhs.

(b) Yes, Sir. It was insured for Rs. 57 lakhs.

(c) Yes, Sir.

(d) This does not arise as the loss has been recovered from insurance. Government hold 49 per cent of the shares in Air India International.

(e) Yes, Sir.

(f) Yes Sir, very shortly.

Shri Sidhva: May I know, Sir, what amount has been realised from insurance; has the full amount been realised from them?

Shri Khurshed Lal: That is what exactly my answer implied.

Shri Sidhva: May I know whether towards the purchase of the two constellations, Government is going to pay any money?

Shri Khurshed Lal: My hon. friend forgets that there is no question of Government making any purchase. The aircraft belonged to the Air India International which is a limited Joint Stock Company, of which Government are also shareholders. Whatever orders have to be placed are placed by the Air India International.

Shri Sidhva: That is a fact—I know it. My point is that the Company has placed orders for the purchase of two constellations at a cost of Rs. 55 lakhs per constellation, that is Rs. 1 crore in all. Do Government propose to grant any loan to the Company?

Shri Khurshed Lal: I am not aware of the financial arrangements that the Air India International are making. The position is like this. The Air India International had four Constellations, of which they had contracted to sell two to Quantas. The Air India had placed orders for the purchase of two newer type of Constellations from America. The aircraft which met with the accident was the one which was to have been delivered to Quantas. They are therefore delivering only one to Quantas and getting the two new ones for which they had placed orders.

BILATERAL AVIATION AGREEMENT

*1469. Dr. Ram Subhag Singh: Will the Minister of Communications be pleased to state the number of countries with whom India has entered into bilateral aviation Agreement?

The Deputy Minister of Communications (Shri Khurshed Lal): The Government of India has concluded long term Agreements for air transport services with the Governments of nine countries, and temporary arrangements for the same purpose with the Governments of ten others.

Dr. Ram Subhag Singh: May I know whether Britain is included among those nine countries?

Shri Khurshed Lal: As the hon. Member may have seen from press reports, a Delegation from the United Kingdom was here recently and they had negotiations with our Delegation. The two Delegations have arrived at an agreement which has been submitted to the respective Governments and is awaiting their ratification.

Dr. Ram Subhag Singh: May I know the names of the nine countries with whom we have agreements?

Shri Khurshed Lal: They are the United States of America, Netherlands, France, Sweden, Pakistan, Ceylon, Switzerland, Australia and the Philippines.

Dr. Ram Subhag Singh: May I know the names of countries with whom such agreements are going to be negotiated?

Shri Khurshed Lal: I am afraid I cannot give the names of countries who will enter into a bilateral agreement with us. We have some temporary agreements with ten countries and if the hon. Member wishes I can give him the names of those countries.

Dr. Ram Subhag Singh: May I know the names of those countries?

Shri Khurshed Lal: They are Italy, Egypt, Thailand, Norway, Burma, Denmark, Iran, Ethiopia, Canada and U.K.

Shri Sidhva: May I know whether the Air India International which is a Company in which Government has invested some money, will be allowed under these agreements, to operate services to the countries mentioned by the hon. Minister?

Shri Khurshed Lal: The agreement contemplates granting of licence to a Company designated by our Government and the other Government. If

the flights are to the West then Air India International will come in. If they are to the East, some other Company, e.g., the Bharat, will come in.

Shri B. R. Bhagat: May I know whether the terms of agreement concluded with these nine countries are uniform, or different in each case.

Shri Khurshed Lal: The broad pattern is the same; particular circumstances have called for variation also.

FOOD PROCUREMENT

*1470. **Pandit M. B. Bhargava:** Will the Minister of Food and Agriculture be pleased to state:

(a) the target fixed by the Government of India for procurement during the years 1948, 1949 and 1950 and the actual procurement of various food grains made in the different States of the Indian Union;

(b) the procurement prices of various food grains fixed during these years and the extent of disparity existing between such prices and the prices prevailing in the market both in the deficit and surplus areas;

(c) what percentage the procured food grains did bear to the total produce during these years; and

(d) the prices at which the procured food grains were sold to the consumers?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):

(a) A statement showing the targets and the actual procurement by each State during the years 1948, 1949 and 1950 is placed on the Table of the House. [See Appendix XI, annexure No. 33.]

(b) and (d). Two statements (i) showing the procurement and issue prices of foodgrains and (ii) average whole-sale prices of major cereals in the years 1948, 1949, and 1950 are laid on the Table of the House. [See Appendix XI, annexure No. 34.]

(c) The percentage of total procurement to total production in each of the three years ending 1950 was as follows:

1948	5.8 per cent.
1949	10.8 per cent.
1950	10.2 per cent.
1948 was the year of decontrol.	

Pandit M. B. Bhargava: May I know whether the Government of India determines the procurement price, or it is done by the State Governments?

Shri Thirumala Rao: The State Governments are generally consulted before the Government of India fix these prices.

Pandit M. B. Bhargava: Do the prices fixed vary from State to State or is it uniform for all the States?

Shri Thirumala Rao: It slightly varies from State to State.

Pandit M. B. Bhargava: Is it a fact that the difference between the procurement and issue prices (except in the case of Assam and Bombay) varies from Rs. 10 to Rs. 5 per maund while the disparity in the case of the two provinces which I have mentioned is only Rs. 1 to 2.

Shri Thirumala Rao: I am not sure about the inference of the hon. Member that the difference between the procurement and issue price is as much as Rs. 5 to 10 per maund. But there are certain local conditions which are responsible for this disparity.

Pandit M. B. Bhargava: May I know what is the policy of the Government in respect of procurement—to procure the surplus produce of the agriculturist after leaving with him enough for his annual requirements, or to procure the requisite quantity irrespective of his requirements?

Shri Thirumala Rao: Generally the policy is to procure after leaving the requirements of the cultivator.

Shri R. Velayudhan: May I know, Sir, whether there is a levy system in operation in some States for procurement?

Shri Thirumala Rao: Sir, there are several systems obtaining in several States. But we are trying to bring them on a uniform basis.

Ch. Ranbir Singh: May I know the name of the State where the percentage of the procured food-grains to the total production has been the largest?

Shri Thirumala Rao: It is the State from which the hon. Member hails.

Shri Tyagi: May I know if the Government has been able to devise any uniform policy of procurement—either a type of enforced levy, or monopoly purchase system—for the whole of the country?

Shri Thirumala Rao: During the last conference of Food Ministers held in August it was agreed that an almost uniform system of procurement should be adopted, but since then there were so many difficulties in the way that this system could not be implemented.

Sardar Sochet Singh: Arising out of reply to part (c), may I know what is the percentage of rationed population to the total population of the country?

Shri Thirumala Rao: I think it is about 30 per cent.

Shri M. L. Gupta: Is it not a fact that the disparity between the procurement and issue prices is Rs. 8 in Uttar Pradesh, Rs. 5 in Hyderabad and Re. 1 in Bombay? Is it not a fact that this difference of prices is due to the Government policy of giving more subsidy to Bombay and less to other States?

Mr. Speaker: Order, 'order.

MECHANISATION OF FARMING

*1471. **Shri Balmiki:** Will the Minister of Food and Agriculture be pleased to state:

(a) how far mechanisation of farming has been introduced since the launching of campaign for food self-sufficiency; and

(b) what steps are being taken to rehabilitate the cultivators who will become surplus on account of mechanisation of farming?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) The Government of India do not pursue mechanisation of agriculture as an end in itself. The policy is not compulsorily to mechanise, because under the existing conditions of agricultural land tenure, it is not considered that complete mechanisation of agriculture is either feasible or desirable for maintaining or increasing the yields.

On the other hand, the Government of India recognise that in certain parts of India conditions exist where shortage of bullocks and labour, and in some cases desirability of deep tillage beyond the capacity of bullocks, make it necessary to use power for tillage operations. Also, in the case of almost all crops and in almost all areas in India, provision of mechanical power for pumping water would increase yields.

In order that cultivators, on whose land the above conditions exist, may mechanise and produce more food per unit area, the Government of India allow importation and supply of means for mechanised agriculture, such as tractors, tractor-drawn implements, engines and pumps, on a liberal basis.

No statistics are available as to the extent to which this policy has resulted in mechanisation of farming. It is

known that tractors in largely increased numbers are being imported and sold. It is not, however, known what percentage of agricultural production is now effected through mechanical means.

(b) As explained in the reply to part (a) of the question, there has been no general drive for mechanization and hence no problem of labour becoming surplus has arisen.

Ch. Ranbir Singh: In view of the policy just narrated, do Government propose to introduce or adopt the policy under which tractors are sold only to those individuals who use it for breaking virgin land or to co-operative societies only?

Shri Thirumala Rao: The Government are prepared to sell tractors to both the varieties of people mentioned by the hon. Member.

श्री कन्हैया लाल बाल्मीक : ऐसे किसानों की तादाद, जो इस तरह से बलम हो जायेंगे, जानने की कोई कोशिस गवर्नमेंट की तरफ से की जा रही है ?

[Shri Balmiki: Are the Government trying to ascertain the number of those cultivators who are likely to become surplus as a result of that?]

Mr. Speaker: He is enquiring about the units which are likely to be separated from cultivation—that is how I understood it.

Shri Thirumala Rao: Sir, Land Tenure system primarily concerns the State Governments. They have to make any reform so that agriculture is made more worth while.

श्री कन्हैया लाल बाल्मीक : इन रियासतों में ऐसी कौन कौन सी रियासतें हैं जहाँ मेकेनाइजेसन आफ फार्मिंग की ज्यादा प्रगति हो रही है ?

[Shri Balmiki: What are those States where mechanisation of farming is being developed?]

Shri Thirumala Rao: There are two varieties of this activity. Where the Government are trying to till up uncultivated lands they are using these tractors. Also, there are certain big areas like the Punjab where big land-owners are buying the tractors for their cultivation.

श्री कन्हैया लाल बाल्मीक : इस तरह के बहुत से जमींदार हैं जिन की बुदकास्त बहुत बड़ी है और वह ज्यादातर इस तरह की मशीनों को लगा लगा कर खेती कर रहे हैं। इस तरह से हवारों किसान बेदखल किये जा रहे हैं। इस बात को रोकने के लिये क्या कदम उठाया जा रहा है ?

[Shri Balmiki: There are many such land owners who are putting under cultivation huge plots of land themselves and are mostly using these agricultural machines for cultivation. In this way thousands of cultivators are being ejected. What steps are being taken to prevent this?]

Mr. Speaker: Order, order. The hon. Member is entering into an argument.

Dr. Ram Subhag Singh: May I know whether the Government of India are keeping in view the necessity of consolidating agricultural holdings as an effective means for food sufficiency?

Mr. Speaker: Order, order. I think he is making a suggestion and also entering into arguments.

Sardar Sochet Singh: What aid, financial or technical, has the Government given or proposes to give to those engaged in private mechanized farming in the various States?

Shri Thirumala Rao: State Governments as also the Central Government are maintaining certain central workshops where mechanical repairs are effected to the tractors used in those zones, and certain trained personnel like drivers are also being provided. In certain areas where people want to buy tractors, taccavi loans are also being given.

Seth Govind Das: Out of these mechanized farms, have Government received any reports whether some farms are co-operative farms and, if not, is any effort being made to make these farms co-operative farms?

Shri Thirumala Rao: Sir, I have not got any information with regard to co-operative farms, but the co-operative movement is under the control of the State Governments.

Mr. Speaker: I am going to the next question.

I might just invite the attention of hon. Members that the idea is to put through as many Questions as possible

and put in more supplementaries on matters of importance, without carrying on an argument. Otherwise I am sure even one hour will not be sufficient to take up the first two or three Questions.

An Hon. Member: On important questions.....

Mr. Speaker: I want to invite their attention to the fact that if they persist in putting more supplementaries, the result will be that a large number of Questions will have to go without supplementaries. I do not sit in judgment whether particular questions are important or not, but when I see from the trend of supplementaries that important information is being asked for, certainly I allow questions, from that point of view. Hon. Members will remember, for example, that at the time the Question about D.V.C. was answered I allowed supplementaries for a period of about fifteen minutes or so; similarly about the fertilizers also. But the trend appears to be to enter into an argument about the policy, which is not the chief objective of putting questions. Questions are intended for eliciting information and not for entering into arguments about the policy, which should or should not be improved. Therefore, I just try to see what is coming out and, when I feel that arguments, inferences and suggestions are coming, I have to proceed to the next question. That is the general way in which I am dealing with these questions. Therefore, now, next question, Mr. Velayudhan.

Shri Sidhva: You are perfectly right in what you have stated, Sir, and in this matter exactly like the D.V.C. and the fertilizer I wanted to put a question whether there have been government-owned tractors. A committee has been appointed ...

Mr. Speaker: Order, order. The hon. Member is again trying to go into something which is unattached to the Question at issue.

Shri Sidhva: Mechanization, Sir.

Sardar Sochet Singh: Sir, I suggest that those questions having a bearing on food problems should be given a little more time.

Mr. Speaker: Therefore, on these Questions about food, I have been giving more time consistently, and even today I have allowed a large number of supplementaries. But that does not mean that I should, or that I can, even if I should, satisfy the urge of every Member to put in supplementaries to bring in every possible

aspect. That means everyday, when the food question comes, it becomes a food debate. No doubt the food question is very critical and it is very important. But it is difficult to accept that kind of position. We must understand the chief objective of the Question Hour which is to gather as much information as possible within the time at our disposal. That is how I am proceeding.

Next question, Mr. Velayudhan.

FOOD BONUS SCHEME

*1472. **Shri R. Velayudhan:** (a) Will the Minister of Food and Agriculture be pleased to state when the Bonus Scheme for Grow More Food was introduced in the States?

(b) In what manner is the Bonus distributed to the cultivators?

(c) Is coupon system introduced in some States for the Bonus?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) It was decided on 1st October, 1948, that food production schemes in States would be financed from Food Procurement Bonus available with them.

(b) The Food Bonus is actually paid by the Government of India to the State Governments and not to the cultivators direct. Subsidies are, however, given to the cultivators by the State Governments out of this Bonus under Grow More Food Schemes in the form of cash and in kind (i.e., supply of seeds, fertilisers etc. at reduced rates).

(c) The Government of India have no information about the coupon system.

Shri R. Velayudhan: May I know whether the Government is aware that there is coupon system in the Madras State?

Shri Thirumala Rao: Yes, Sir, in certain parts of Madras State coupons are issued by the Government to be converted into cash or to be used for the purchase of fertilizers at controlled rate to the ryots direct.

Shri R. Velayudhan: Is the hon. Minister aware that coupons have been distributed to people who are not actual cultivators?

Shri Thirumala Rao: I am not aware of it.

Shri R. Velayudhan: May I know if the hon. Minister for Food and Agriculture himself stated in the Madras

Legislature that they had been distributed to non-cultivators?

Shri Thirumala Rao: That is entirely administered by the State Government. My hon. friend can put the question to the Madras Government.

श्री ऐम० ऐल० वर्मा : माननीय मंत्री जी को यह पता है या नहीं कि बाठ रुपये के भाव में तो प्रोक्योरमेंट किया गया है, सोलह रुपये में सरकार बेचती है जब कि बाजार का भाव बत्तीस रुपये का है? इस बारे में कोई नीति स्पष्ट नहीं की गई है कि किसानों से कम भाव पर ले कर ज्यादा भाव में सरकार बेचे।

[**Shri M. L. Varma:** May I know whether the hon. Minister is aware of the fact that procurement has been made at the rate of eight rupees and the Government are selling at the rate of sixteen rupees while the market rate is thirty-two rupees? This policy has not been made clear that the Government may sell at a price higher than that they have paid to the cultivators.]

کھانی چی - ایس - مسافر : کل
کتنا بونس دیا جا چکا ہے ؟

[**Giani G. S. Munsafir:** How much Bonus has so far been distributed?]

Shri Thirumala Rao: The statement is laid on the Table. [See Appendix XI, annexure No. 40.] It is about Rs. 7,78,41,184.

Mr. Speaker: It is more than Rs. 7 crores.

Shri Poonacha: Is it a fact that in respect of Part C States, so far as the spending of the food bonus amount is concerned, the sanction of the Government of India was received very late, and the time fixed for the entire spending of the bonus is end of March 1951 so much so it is absolutely impossible for some of the States to utilize the food bonus amount?

Shri Thirumala Rao: It all depends on the time when the actual proposals from these State Governments are received.

Shri Poonacha: May I ask in particular whether the scheme for the spending of the bonus amount from Coorg reached the Central Government as far back as September, 1950?

Shri Thirumala Rao: I want notice for that.

Pandit Munishwar Datt Upadhyay: May I know what is the principle by which these subsidies are given to the cultivators?

Shri Thirumala Rao: With regard to a certain supply of fertilizers which are not popular to the cultivators these schemes were subsidised and the subsidy was made by these bonuses.

Ch. Ranbir Singh: How much money has been advanced to the Punjab State as bonus?

Shri Thirumala Rao: In 1948-49 it was Rs. 12,92,000 and in 1949-50 Rs. 75 lakhs. The total received was Rs. 87,95,000.

Shri Poonacha: May I ask whether the Government would be prepared to extend the time at least up to end of 1951 for the spending of this food bonus amount in the different Part C. States?

Shri Thirumala Rao: We will examine the question.

CASTOR SEED CAKE

*1474. **Shri E. Velayudhan:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether Government have got any plan to utilise castor seed cake other than for fertilisers; and

(b) if so, what are these new schemes?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):

(a) No.

(b) Does not arise.

CHIEF JUDICIAL COMMISSIONER OF VINDHYA PRADESH

*1475. **Shri Dwivedi:** (a) Will the Minister of States be pleased to state whether it is a fact that the Chief Judicial Commissioner of Vindhya Pradesh recently transferred to that area is a person who does not know Hindi?

(b) What facilities of interpretation have Government provided for non-English knowing litigants and under-trials who have no means of employing the services of vakils for pleading their cases?

(c) Are the copies of judgment given to the applicants in Hindi or in English?

(d) In case the copies of judgments are available in Hindi, are the applicants required to pay translation fees also?

The Minister of States, Transport and Railways (Shri Gopalaswami): (a) No, Sir. The Judicial Commissioner, Vindhya Pradesh, knows Hindi very well.

(b) Does not arise.

(c) As judgments are written in English copies also are given in English.

(d) Does not arise.

Shri Dwivedi: May I remind the hon. Minister about the assurance given in this House to my Starred Question in the last session that litigants will be given copies of judgments in Hindi and what has happened to that assurance?

Shri Gopalaswami: Under the Constitution judgments are supposed to be written in English and that practice has been followed here. If the copies of judgments in English are asked for, they are given in English.

Shri Dwivedi: May I know if Government are following the traditions of the judiciary in Vindhya Pradesh where judgments were being given in Hindi until it became a Centrally Administered area?

Shri Gopalaswami: We conform to the Constitution.

GROW MORE FOOD CAMPAIGN

*1477. **Shri Ramraj Jajwari:** (a) Will the Minister of Food and Agriculture be pleased to state what is the total expenditure incurred by Government during last three years in Grow More Food Campaign and what portion of the same has been spent through various State Governments as aids to them for the said purposes?

(b) What is the total acreage of land brought under cultivation by this scheme?

(c) What is the quantity of wheat, paddy and other cereals produced on this acreage?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) A statement giving the actual expenditure incurred on Grow More Food Scheme during 1948-49 and amounts sanctioned for 1949-50 and 1950-51 is placed on the Table of the House. [See Appendix XI, annexure No. 35.] Information regarding the actual expenditure incurred during 1949-50 and 1950-51 is not available yet.

(b) and (c). A statement showing the lands reclaimed during 1948-49 and

1949-50 and targets of land reclamation during 1950-51 and the estimated additional production is placed on the Table of the House. [See Appendix XI, annexure No. 36.] Information regarding grain-wise break-up of additional production is not available. These figures are of course exclusive of lands benefited from other items of the Grow More Food Campaign regarding distribution of fertilisers and seeds financing of irrigation facilities etc.

Shri B. R. Bhagat: May I ask whether it is a fact that the State of Bihar has recently asked for a loan or subsidy from the Government of India to meet the serious food situation prevailing in that State?

Shri Thirumala Rao: I do not think that arises out of this question.

Shri Jhunjhunwala: What is the method of arriving at increased estimated production?

Shri Thirumala Rao: That has been explained more than once on the floor of this House that all the States are organizing a sort of sample survey extensively and through that they are arriving at as near a correct solution as possible.

Shri Jhunjhunwala: Has the Government compared the production of the particular seed before and after this increased production under the Grow More Food scheme?

Shri Thirumala Rao: Yes, Sir. We have been asking the States to assess what extra production was achieved on account of these activities and we are getting the information from the States.

Shri Jhunjhunwala: I asked the question whether the Central Government compared it with the previous amount.

Shri Thirumala Rao: We have replied more than once based on these comparisons that we are expecting 17 lakh tons of extra production this year.

Shri Deshbandhu Gupta: Are any figures maintained of the land which goes out of cultivation?

Shri Thirumala Rao: No, Sir. It has to be done by the State Governments, if they want.

Shri Sidhva: Arising out of answer to part (b) of the question may I ask whether with the average increased cultivation the yield has also increased.

Shri Thirumala Rao: With regard to lands that are freshly brought there is

no question of increasing the yield but with regard to lands getting good seed, good water supply and fertilisers, there they will have an improved yield and that is being assessed.

Shri Sidhva: May I know if there has been a yield all round or less yield?

Shri Thirumala Rao: I cannot understand the question. There is an increased yield when the advantageous conditions are given to the land which is already under cultivation.

Mr. Speaker: The question itself leads to confusion, to my mind.

Shri Sidhva: If the cultivation is increased, may I know at the same time, in view of the production, whether the yield has been increased all round the whole year.

Mr. Speaker: The hon. Member wants separate figures as to what the increase is in the case of the increased area under cultivation and the increased yield in the land on account of fertilisers and other facilities.

Shri Thirumala Rao: I have not got separate figures for all the States.

Dr. Deshmukh: May I know if the Grow More Food policy has been modified recently and whether more attention is being paid to intensive cultivation now?

Shri Thirumala Rao: Yes, Sir. From the beginning attention is paid to intensive cultivation, by giving seeds, water-supply and fertilisers.

Shri Deshbandhu Gupta: With reference to my Supplementary question, may I know whether the Government of India have issued any instructions to the States to inform the Government of India with regard to the acreage which goes out of cultivation every year?

Shri Thirumala Rao: Government of India have drawn attention of the States to this problem, namely, that lands that were already under cultivation are going out of cultivation. There are certain States which have passed legislation. For instance, Mysore has just passed a law that if land-owners do not cultivate the lands, Government will take possession of the lands and put them under cultivation and Madras have also published a similar Bill.

Shri Deshbandhu Gupta: May I know if the Government of India is maintaining figures about the State of Delhi?

Shri Thirumala Rao: I want notice of that.

Dr. Deshmukh: Is it a fact that the land brought under cultivation is only a fraction of the land which goes out of cultivation?

Shri Thirumala Rao: That we have not compared.

Thakur Krishna Singh: Is it a fact that in parts of the country the tenants who are getting this new land in order to retain it, cultivate that land and leave the old land uncultivated?

Shri Thirumala Rao: We would enquire if the hon. Member wants.

Pandit M. B. Bhargava: May I know whether the Government of India has any information as to which of the States in India has achieved the best results in intensive cultivation, and what has been the increase in the production per acre or biga in such States?

Shri Thirumala Rao: Recently, when the annual meeting of the Governing body of the I.C.A.R. was opened by the President, he gave the prize for the best producer in the country, to East Bengal, who produced 48 maunds an acre. I am personally aware, Sir, that there are certain areas in Godavari and Krishna Districts which produce 80 or 90 maunds an acre.

Shrimati Renuka Ray: From East Bengal?

Shri Thirumala Rao: From West Bengal; I am sorry.

FOOD REQUIREMENTS OF STATES

*1478. **Shri Munavalli:** (a) Will the Minister of Food and Agriculture be pleased to state whether the States have submitted their requirements of food during 1951-52?

(b) If so, what are the requirements of the various States and how far do the Centre propose to meet those requirements?

(c) What will be the tonnage of foodgrains that will have to be imported during 1951-52 and of what value?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) States have furnished their estimates of requirements of foodgrains from the Centre for Calendar year 1951.

(b) A statement showing the demand of each State and the quota fixed for 1951 is placed on the Table of the House.

(c) As at present planned we propose to import 3.7 million tons of foodgrains valued at Rs. 160 crores during

the calendar year 1951. It is difficult to foresee with any degree of accuracy what imports will be required in 1952.

STATEMENT

The Demand and Allocations of food in various States for 1951.

(In '000 Tons)

State	Total demand	Net import quota
Assam	145	24
Bihar	1,105	600
Bombay	1,025	700
Madhya Pradesh	377	200
Madras	736*	400
Uttar Pradesh	390	200
West Bengal	607	400
Hyderabad	160	75
Jammu and Kashmir	40	20
Mysore	174	75
Rajasthan	80	..
Saurashtra	106	50
Travancore-Cochin	526	325
Ajmer	47	35
Delhi	226	196
Kutch	60	20
Vindhya Pradesh	9	..
Others	250	250
TOTAL	6,083	3,570

* Since raised to 10 lakh tons.

Shri Kamath: With regard to the question of food requirements, has the Minister got any figures to show the damage that is caused to the procured grain owing to bad storage, and damage by rats and other vermin?

Shri Thirumala Rao: I do not know if it arises out of this question. This question has been answered more than once. All precautions are being taken. Sufficient provisions within the

means of the State Governments are made to meet the menace of rats and pests. Storage accommodation is being insisted upon by the Central Government. Certain States are building up their godowns.

Shri Kamath: During the last year, was the damage more or less than in the previous years?

Shri Thirumala Rao: Last year's damage may not be more than the previous year's.

Shri Satish Chandra: Is it a fact that famine conditions have been declared in certain eastern districts of Uttar Pradesh and are Government rushing any supplies to that area? Have the Central Government made certain additional allotments to meet the famine conditions there?

Shri Thirumala Rao: I am not aware of the fact that famine conditions have been declared. I want notice.

Shri P. Y. Deshpande: May I know whether it is a fact that the Viet Nam Government offered one lakh tons of rice to be distributed in the deficit areas in India and that that offer was refused?

Shri Thirumala Rao: No; I do not think there is any basis for that information.

Pandit M. B. Bhargava: May I know what is the percentage of the quota allotted to the various States in proportion to the total demand?

Shri Thirumala Rao: That has to be computed. I have got figures for demand and allotment.

Shri Rudrappa: In determining the quantity of food imports for 1951-52, on what basis has calculation been made: is it on the basis of 9 oz. or 12 oz?

Shri Thirumala Rao: The States calculate uniformly on the basis of 12 oz. and put up their demands to the Central Government. The Central Government has to allot on the basis of the availability and the capacity of the Centre to buy the grains.

Shri M. C. Shah: May I know whether the hon. Minister has also taken into consideration the 2 million tons of foodgrains to be given by America to India, when he calculated this figure of 3.7 million tons for imports?

Shri Thirumala Rao: That never entered into our calculation of imports for 1951.

Pandit Munishwar Datt Upadhyay: May I know what is the estimated yield

of the rabi crop this year in U.P. and Bihar?

Shri Thirumala Rao: We are awaiting reports from the State Governments with regard to the estimates.

Mr. Speaker: Next question.

AIR MAIL

*1479. **Seth Govind Das:** Will the Minister of Communications be pleased to state the percentage of letters and cards carried by air mail to places covered by air services?

The Deputy Minister of Communications (Shri Khurshed Lal): The weight of letters and postcards carried partly or wholly by air during 1949-50 formed nearly 27.5 per cent. of the total weight of letters and postcards.

सेठ गोविन्द दास : यह जो चिट्ठियाँ और पोस्ट कार्ड वायुयान से गये हैं यह किन किन शहरों को गये हैं ?

[**Seth Govind Das:** May I know the names of those cities to which these letters and postcards have been carried by air mail?]

बी कृष्णब लाल : जिन जिन शहरों में हवाई जहाज जाते हैं उन उन शहरों में यह वायुयान से गये हैं और वहाँ से जिन जगहों को रेल से जाते हैं वहाँ यह रेल से भेजे जाते हैं ।

[**Shri Khurshed Lal:** They have been carried by airmail to all those cities that are covered by air services. From there they are sent by railway to places which are connected by rail to that city.]

सेठ गोविन्द दास : इनके वायुयान से जाने के कारण रेलवे को कितना नुकसान हुआ और जो प्राइवेट कम्पनियाँ इन को वायुयान से ले गईं उनको कितना रुपया गवर्नमेंट द्वारा दिया गया ?

[**Seth Govind Das:** What amount of loss has been incurred by the Railway as a result of sending these letters by airmail and what is the amount of money paid by the Government to those private companies who carried them by air?]

बी कृष्णब लाल : रेलवे को तो कोई नुकसान नहीं हुआ और कम्पनियों को खर्च

रपया दिया गया उस की तादाद में पहले दे चुका हूँ, इस वक्त मुझे याद नहीं है।

[Shri Khurshed Lal: There has been no loss to the Railway. I have already stated the amount of money paid to the companies. I do not remember it now.]

सठ गोविंद दास : क्या मैं जान सकता हूँ कि जब रेलवे से चिट्ठियाँ और पोस्टकार्ड जाते थे उस वक्त क्या रेलवे को इनके ले जाने से कोई फायदा नहीं होता था ?

[Seth Govind Das: May I know whether the Railway had not been gaining any revenue when letters and postcards were used to be sent by rail?]

Mr. Speaker: Order, order; that is an argument.

Shri Sidhva: The hon. Minister said, Sir, that there is no loss to Government. May I know whether, had these letters been sent by rail, it would not have been a gain to Government?

Mr. Speaker: That is an argument; that is not asking for information.

Dr. Deshmukh: May I know whether the Railway continue to receive the same revenue from the carriage of postal letters and postcards as they used to, before the introduction of the air mail?

Shri Khurshed Lal: That is exactly what I answered.

SUGAR MILLS

*1480. Shri Ghule: (a) Will the Minister of Food and Agriculture be pleased to state how many sugar mills have been allowed to sell their produce in free market according to the new policy?

(b) What is the quantity so allowed to be sold by these mills?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) No factory has so far completed production of its basic quota and therefore been permitted to sell its sugar in the open market.

(b) The question does not arise.

JET-COMMERCIAL AIR SERVICE

*1482. Shri D. S. Seth: Will the Minister of Communications be pleased to state:

(a) whether it is a fact that India is shortly to have purely jet-commer-

cial Air Service linking it with other parts of the Commonwealth;

(b) the date from which the service is likely to start; and

(c) the estimate of expenditure to be incurred on this enterprise?

The Deputy Minister of Communications (Shri Khurshed Lal): (a) No Indian air line has yet made any proposals to introduce jet-propelled aircraft on its services.

(b) and (c). Do not arise.

DELHI BUS SERVICES

*1484. Shri Kamath: Will the Minister of Transport be pleased to state:

(a) the total number of bus stops, compulsory or by request, on all the bus routes between Delhi and New Delhi;

(b) the number of roofed shelters that have been provided for waiting passengers at these stops;

(c) why there are still many stops without such shelters; and

(d) how long it will take for such shelters to be built at all these stops?

The Minister of State for Transport and Railways (Shri Santhanam): (a) 211.

(b) to (d). I regret that the Delhi Road Transport Authority has not made much progress with the construction of passenger shelters. They have been negotiating with a Calcutta firm, experienced in this type of work, for putting up shelters free of cost to the Authority in return for free advertisement rights at the shelters. A model shelter has already been erected by this firm, but this has been found to be inadequate and a revised design is under discussion.

Shri Kamath: What exactly is the cost of a model shelter?

Shri Santhanam: At present, the intention is to construct free of cost in exchange for advertisement rights. So, the question of estimated cost does not arise.

Shri Kamath: What are the reasons that made Government take up the question of roofed shelters so many months after the DTS began to function?

Shri Santhanam: The hon. Member knows the condition in which the D.T.S. had to be taken up. First, the more essential question of operation

had to be considered before we came to shelters.

Shri Sidhva: In view of the statement of the hon. Minister several times, may I know whether any steps have been taken to reduce the fares on these buses?

Shri Santhanam: The hon. Member knows that spare parts have increased in price and the cost of operation has gone up. The Delhi Transport Authority are considering this question.

Shri Sidhva: Am I to understand that Government has dropped the idea of reducing the fares?

Shri Santhanam: It is not a question for the Government. The House has entrusted the whole thing to the Delhi Transport Authority.

Shri Kamath: Is the Government aware that during the last summer some passengers at these stops fainted owing to heat stroke, and if so, may I know whether Government propose to build these shelters before next summer?

Shri Santhanam: I have no information about this fainting business. I shall draw the attention of the Delhi Transport Authority to it.

Shri Deshbandhu Gupta: May I know whether the Transport Authority intend to build some shelters itself or leave it to different firms alone to build them?

Shri Santhanam: The present idea is that one firm will build these 17 shelters in exchange for advertisement rights.

Mr. Speaker: I think we have dealt enough with this local problem. Next question.

SUPPLEMENTARY FOODS

*1485. **Shri Kamath:** Will the Minister of Food and Agriculture be pleased to state:

(a) the measures that have been adopted by Government so far towards increasing the production and consumption of supplementary foods; and

(b) what measure of success has attended these efforts?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) and (b). A statement is laid on the Table of the House. [See Appendix XI, annexure No. 37.]

Shri Kamath: What steps have been taken by Government to publicise throughout the country the results of

the Supplementary Foods Exhibition held in Delhi, a few months ago?

Shri Thirumala Rao: The publication of the recipes that were made popular in that Exhibition was the main item. Pamphlets are printed and distributed through the Women's Food Councils all over India.

Shri Jhunjhunwala: Is castor cake used as supplementary food?

Mr. Speaker: Order, order. The hon. Minister need not reply.

Shri Hanumanthaiya: Arising out of part (b) may I ask what percentage of our food deficit has been met by success in this subsidiary food campaign?

Shri Thirumala Rao: The target is to meet the whole deficit by subsidiary foods.

Shri Hanumanthaiya: May I know what percentage of the deficit in our food supply is expected to be reduced by this method?

Shri Thirumala Rao: We have not computed it, Sir

Shri Sidhva: Regarding sweet potato which was introduced as a supplementary food, may I know to what extent it has gone to meet our food shortage and how much money has been spent by Government on this proposal?

Shri Thirumala Rao: Sometime back Government made a lump-sum grant for investigations connected with subsidiary food. But the committee dealing with it was abolished and the remaining portion of the grant was withdrawn. But my information which some friends from Bihar have given me is that there the sweet potato tubers are grown on a very large scale and this has been found useful in meeting the food scarcity today.

Shrimati Velayudhan: May I know what progress has been made in the experiment to produce rice out of tapioca powder?

Shri Thirumala Rao: The Government of Travancore-Cochin have got a pilot plant for Rs. 50,000 to make rice out of tapioca and they are getting on with it.

Shri Kamath: Have Government got any concrete plan for popularising non-vegetarian as well as vegetarian supplementary foods?

Shri Thirumala Rao: Yes, if fish is considered non-vegetarian, Government have schemes for the development of fisheries.

CANADIAN WHEAT FOR INDIA

*1486. **Shri Sivaprakasam:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that Canada is prepared to send more shipments of wheat over and above the agreed quota under the International Wheat Agreement to meet the food shortage in India; and

(b) if so, whether any direct approach to Canada was made for this purpose by the Government of India and if not, why not?

The Deputy Minister of Food and Agriculture (**Shri Thirumala Rao**): (a) and (b). There is no restriction in Canada on the purchase of wheat outside the International Wheat Agreement. It is a matter of buying at the officially fixed day to day prices. In October 1950 India purchased 3,00,000 tons from Canada under the International Wheat Agreement which are being still shipped. Further quantities of Canadian wheat will be purchased as and when required.

Shri Sivaprakasam: What is the total quantity of wheat import agreed upon under this Agreement?

Shri Thirumala Rao: For the present we have purchased 3 lakh tons. It is open to us to buy more under this Agreement, if we need it. And when we require more, we will buy it.

Shri Sidhva: May I know Sir, whether the attention of the Government has been drawn to a recent news item from Canada, dated the 10th February in which it is said that Canada is still considering the problem of how to meet India's appeal for food. It says that Canada, however, has a great deal of low-grade wheat on hand and if India could make use of it as food for human beings, a gift would probably be made of it. May I know if Government's attention has been drawn to this and whether they are considering the question of importing this food from Canada unfit for human beings, even if it is given as a gift?

Shri Thirumala Rao: There seems to be some misconception. We can buy high-grade wheat under this Agreement and we need not go in for any low-grade wheat at all.

Shri Sidhva: But will the Government, if the offer is made...

Mr. Speaker: Order, order, it is a problematic question and also a suggestion for action.

Shri Satish Chandra: May I know the stage at which the proposal to import more wheat from America now stands?

Shri Thirumala Rao: We are purchasing wheat from the U. S. A. and the process of importing the wheat is going on.

Shri Satish Chandra: What about the additional two million tons of wheat which it is said, we are going to have from the U. S. A.?

Shri Thirumala Rao: I have no information about that.

AERODROMES IN INDIA

*1487. **Shri A. C. Guha:** Will the Minister of Communications be pleased to state the number of civil aerodromes in India?

The Deputy Minister of Communications (**Shri Khurshed Lal**): There are 72 aerodromes under the control of the Civil Aviation Department, and 12 civil aerodromes of State Governments, which have been licensed or approved by Director General of Civil Aviation for regular use by aircraft.

Shri A. C. Guha: May I know what is the revenue derived from these aerodromes?

Shri Khurshed Lal: I am afraid I would require notice.

Dr. Deshmukh: How many of these aerodromes are actually in use now?

Shri Khurshed Lal: There are some aerodromes which have regular services. There are some which serve as a stand-by, particularly for night services. So practically all the aerodromes we have are being used, though not in the sense that regular air services run on them every day.

Shri Kamath: How many civil aerodromes that were in use during the World War II have since been abandoned?

Shri Khurshed Lal: There was no civil aerodromes in use during the war which has now been abandoned.

Shri A. C. Guha: Have all these aerodromes got concrete runways?

Shri Khurshed Lal: They have runways, some have long ones and some have short ones.

CURRENT FALLOW LANDS

*1488. **Shri M. V. Rama Rao:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether the information sought in Starred Question No. 1400 put on the 4th April 1950 regarding current fallow lands in India has since been collected from the States;

(b) if so, whether the information will be placed on the Table of the House; and

(c) if not, how much more time would be necessary for Government to collect the information?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao):

(a) A statement showing the information in respect of parts (a) and (c) of Starred Question No. 1400 asked by the hon. Member is placed on the Table of the House. [See Appendix XI, annexure No. 38.]

The State Governments have regretted their inability to collect the information in respect of parts (b), (d) and (e) of the above referred question.

(b) and (c). Do not arise.

Shri M. V. Rama Rao: May I know whether Government have no information on these points since 1941-42?

Shri Thirumala Rao: It was stated that information would be collected from the State Governments; but the State Governments have said that they are not able to give answers to our questions, namely:

"(b) the extent of irrigated land under current fallows;

"(d) the area of land out of those 88.6 million acres which can be irrigated by projects which are now in progress; and

(e) the area of land out of the said 88.6 million acres which is being used as grazing or pasture land for cattle and sheep."

The State Governments have said that they cannot give the information.

Mr. Speaker: But the question is whether Government have no information for the period since 1941-1942.

Shri Thirumala Rao: No, Sir.

Ch. Ranbir Singh: What steps do Government propose to take to bring this area under cultivation?

Shri Thirumala Rao: The usual steps that are necessary.

PUBLIC ACCOUNTS OF MADHYA BHARAT AND RAJASTHAN

*1481. **Shri Kishorimohan Tripathi:** (a) Will the Minister of States be pleased to state whether any audit of Public accounts of the Madhya Bharat and Rajasthan Governments has been made for the period 1949-50?

(b) If so, under whose supervision were the accounts audited?

The Minister of States, Transport and Railways (Shri Gopalaswami): (a) Yes.

(b) The accounts of the Madhya Bharat Government were audited by the Accountant General, Madhya Bharat, under the general directions of the Auditor General of Madhya Bharat and the accounts of the Rajasthan Government were audited by the Accountant General, Rajasthan. These officers were under the control of the respective State Governments.

Shri Kishorimohan Tripathi: During these audits, has it come to the notice of the auditing authorities that large sums of money had been spent which had not been provided for in the budget?

Shri Gopalaswami: I do not think I have any information on that.

Shri Raj Bahadur: May I know, Sir, whether it is a fact that large sums of money which were said to be provided in the budget were not actually provided?

Shri Gopalaswami: I have actually no information about the contents of the audit report.

Shri Ghule: Sir, is there any connection between the audit in Madhya Bharat and that in Rajasthan?

Shri Gopalaswami: I am afraid I am unable to answer the question.

Dr. Deshmukh: Sir, what were the dates on which these audits were completed?

Shri Gopalaswami: I do not know if they were completed before the 1st of April, 1950. All audit after the 1st April 1950 is conducted by officers under the control of the Comptroller and Auditor-General of India.

Shri Deshbandhu Gupta: Sir, is there any truth in the press report that the State Ministry proposes to hold an enquiry against the last Ministry in Rajasthan as a result of the auditors' report?

Shri Gopalaswami: So far as I know that statement which I found in the newspapers the other day or to-day, is without foundation. In any case, it is outside my knowledge.

WRITTEN ANSWERS TO QUESTIONS

FOOD PROCUREMENT

*1473. **Shri Kshudiram Mahata:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether monopoly procurement is done by Government directly or through commission agents; and

(b) if through commission agents, what precautions or steps are taken by Government to ensure that Government get all the grains procured by such agents?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): (a) Monopoly procurement is done by Government either directly or through commission agents or through both the agencies. The actual method adopted varies from State to State according to the local conditions in each State. A statement is placed on the Table of the House indicating the system obtaining in the States. [See Appendix XI, annexure No. 39.]

(b) In the monopoly areas, commission agents appointed by the Government are prohibited from doing any transactions in controlled grains on private account. The Government also exercise supervision on the stocks held by such agents and stocks are moved only under the definite orders of the State Government.

TOURIST TRAFFIC

*1476. **Shri R. L. Malviya:** (a) Will the Minister of Transport be pleased to state what are the main recommendations of the travel consultant, Mr. Ennis Groom?

(b) Have any of his recommendations been accepted and if so, how far have they been implemented?

The Minister of State for Transport and Railways (Shri Santhanam): (a) and (b). While approving of the general lines on which development of tourist traffic is taking place in India, Mr. Groom made useful suggestions for the promotion of tourist traffic, under the following heads, among others:

- (1) Publicity.
- (2) Hotel accommodation.
- (3) Guides.

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(4) Organisation of Regional Tourist Offices.

(5) Entry regulations for foreign tourists.

(6) Train Travel.
Steps are being taken to implement the recommendations fully, except those relating to the removal of restrictions on certain foods and on the prices for rooms and meals at the hotels, operation of hotels directly by Government, deputation of specially trained officers abroad to attract tourists as it is not possible to implement them having regard to the present financial condition and the food position of the country.

RESTRICTIONS ON PASSENGER TRAFFIC ON RAILWAYS

*1483. **Shri Bhatt:** Will the Minister of Railways be pleased to state:

(a) whether there are restrictions on passenger traffic by certain trains on all Railways;

(b) whether these restrictions vary from Railway to Railway;

(c) since when and with what object these restrictions are imposed;

(d) whether each Railway Administration consulted its Local Advisory Committees before imposing these restrictions and whether the Railway Board approved these, if so, whether the Central Advisory Council for Railways was consulted in the matter and when; and

(e) whether Government propose to examine or re-examine this question and lay down a uniform policy?

The Minister of State for Transport and Railways (Shri Santhanam): (a) Presumably the hon. Member is referring to "distance restrictions" which individual railways find it necessary to impose in the interests of long distance passengers travelling by Mail and Express trains.

(b) Yes.

(c) The practice has been in force for more than 30 years, the object being to ensure the necessary convenience of long distance passengers on certain trains which would otherwise be overcrowded by short journey passengers.

(d) Railway Administrations are competent to impose such restrictions when the exigencies of traffic demand. Prior consultation with Local Advisory Committees, the Railway Board or the Central Advisory Council for Railways is not in these circumstances deemed necessary.

(e) The general policy in this matter is already uniform in as much as these restrictions are required to be reviewed by railways from time to time with the object of retaining only such as are essential. In view of the differing conditions on different railways, specific restrictions must, however, vary

IMPORT OF TRACTORS

*1489. **Shri Rathnaswamy:** Will the Minister of Food and Agriculture be pleased to state the number of tractors imported from Britain and other foreign countries during the last twelve months?

The Deputy Minister of Food and Agriculture (Shri Thirumala Rao): During the twelve months ending 31st December 1950, a total of 4042 tractors

were imported into India from various countries as follows:

U. K.	2664 Nos.
U. S. A.	863 „
Czechoslovakia	212 „
W. Germany	184 „
Canada	69 „
France	25 „
Austria	13 „
Italy	6 „
Australia	4 „
Hungary	2 „
TOTAL	4042 Nos.

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Par. S.2. VIII. 1.51

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Monday

5th February, 1951

to

2nd, March, 1951



सत्यमेव जयते

PARLIAMENTARY DEBATES

PARLIAMENT OF INDIA

OFFICIAL REPORT

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**THE
PARLIAMENTARY DEBATES**

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

OFFICIAL REPORT

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PARLIAMENT OF INDIA

Thursday, 15th February, 1951

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

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

BUSINESS OF THE HOUSE

Mr. Speaker: Before the House proceeds with the further business I have to make an announcement. Tomorrow was provisionally fixed for private Members' Resolutions but it appears that it will not be possible for the House to conclude its deliberations on the Preventive detention Bill, including the clause-by-clause reading today. Of course, I do not mean the Consideration motion. There are a large number of amendments. I am told they are as many as 150. Some of them may be moved and some not and some discussion is likely to take place on them. Therefore instead of having private Members' Resolutions tomorrow we shall fix up some other day for that business and consider the Preventive Detention Bill tomorrow.

Pandit M. B. Bhargava (Ajmer): I suppose the Resolutions standing in the names of hon. Members will be taken into consideration whenever they are taken up.

Mr. Speaker: Certainly they will be taken into consideration though it will not be possible to satisfy everybody.

Shri Kamath (Madhya Pradesh): Sir, two days have been allotted to non-official Resolutions, one for tomorrow and the other in April; I hope we will still have two days.

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Mr. Speaker: I am speaking with reference to this Bill. Instead of tomorrow it can conveniently be fixed for any other date.

An Hon. Member: Join the two.

Mr. Speaker: I do not think that will necessarily be possible.

Shri Deshbandhu Gupta (Delhi): May I know whether it is intended to postpone it for a long time?

Mr. Speaker: The convenience of the House will have to be taken into consideration. I should not expect a long delay over the matter. I cannot say how short it will be but it will not be a long delay.

Dr. Deshmukh (Madhya Pradesh): Will it be before or after the Hindu Code Bill?

Mr. Speaker: It will depend upon the wish of the House, whether it desires to take up the Hindu Code first or later.

PREVENTIVE DETENTION (AMENDMENT) BILL.—Contd.

The Minister of Home Affairs (Shri Rajagopalachari): I thank the Members of this hon. House for having assisted Government with a very thorough discussion of this measure in all its aspects. It was most gratifying to know that almost every one of the speakers recognised not only the need for securing safeguards for individual liberty but quite emphatically laid stress on the requirements of the State in being protected against those who plan subversive activities.

Some of the speeches rose to a very high order of eloquence. It is possible to fetch rhetoric where we are supporting general principles. When, however, one has to support distasteful expediency—and Parliament is essentially a place for balancing principle

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against principle and expediency against general principle, which is the art of Government—such rhetoric is not available. At most one can try to be just and reasonable but there is no room for eloquence.

The measure that I am asking the House to continue with certain amendments is certainly an infringement of what may be called normal criminal procedure. So Dr. Mookerjee rightly pointed out to my hon. friend Mr. Anthony that when I moved for consideration of the Bill I began with a plain admission of regret. Who can be happy when introducing a measure for placing people in surveillance or detention without going through the formalities of criminal trial? It is a confession of abnormalcy. But Government cannot be conducted on an unreal basis. Government's responsibility to the nation demands admission of unpleasant truths as well as maintenance of ideals to the best of our ability.

I would like first to ask the hon. House this straight question. Have you any doubt in your minds as to the need for this measure? Are you prepared to advise Government to rest content with the ordinary law, give up this weapon and leave men to commit crime before taking up the investigation? Are you prepared to let Communists and other conspirators to do what they like, wait till the offence is committed and prosecute them when and if you get the evidence? If you cannot go so far as that, then I say that this measure has been proposed after full consideration of the principles that must be partly put aside, if at all any preventive action is to be taken. I hope the House will concede that although there is the trite maxim that power is a thing that goes to the head, you have in the present Government men whom you can trust, at least to be careful about their own reputation as men pledged to high ideals.

I followed every speech with great care, the speeches specially of those who criticised the measure. Some of them were of absorbing interest in matter as in form but I found that no one questioned the existence of the state of things to meet which Government have introduced this measure. If the subversive elements are to be let loose or allowed to operate as they choose and the ordinary procedure for trial of offences were alone available, we would undoubtedly be unable to cope with the situation.

I wish to point out that the principle of preventive detention has been

definitely incorporated in our Constitution in Article 22. Dr. Mookerjee explained this in clear terms which I cannot improve. At the time the Constitution was drawn up and discussed—and it was not very long ago—it was clearly admitted that it was necessary to arm the executive authority with powers of preventive detention. As most of the members have taken part in those discussions in the Constituent Assembly it is not necessary for me to labour the point further. We can take the risks involved in allowing criminally inclined persons to go on with their previous preparations in the case of crimes against individuals on the principle that it is better to let 99 persons plot and prepare than take away the right to repent from even one person. That is the juristic principle of what is called *locus poenitentiae*. But where the security of the Union or of any of the States in the Union, and the safety of the public, or any other vital matter such as essential supplies, is involved, we cannot afford danger to grow in secret preparation and organised plotting. We must nip the thing in the bud. The liberty of the individual is always conditioned by the security and the interests of the State as was forcibly pointed out by the Deputy-Speaker in his speech quoting very high authority. So it is that when the security of the State is affected or when public order is in danger it is now an established principle of Government everywhere that we should tackle the crime even in the stage of plots and plans.

Now, in this preventive field where we have to deal with organisation and preparation for crime, we cannot have—I crave the attention of the House to this point particularly—we cannot have the same amount or the same sort of concreteness in evidence as we can demand when a prosecutor alleges overt acts in proving an attempt or an abatement of a specific crime. Those who are not lawyers here have to take it from me that this is the difficulty. We are dealing with the question of not whether a crime has been committed, but whether there is a serious danger or not. That is the reason why wherever such powers are given by Parliaments, of any country, as are asked for in this measure, it is not made the subject-matter of legal trial but something much less. The entire object of the proposed measure would be nullified if it could be exercised only after the ordinary forms of legal procedure and evidence are gone through. There is something inherent in the character of preventive procedure which rules out the method that we are familiar with in dealing with actual charges of

crime, be it abetment or attempt. This is often overlooked by people who are so habituated—especially the lawyers—to general principles of jurisprudence that they skip over the obvious fact that danger of criminal operations cannot, in the nature of things, be proved in the same manner as specific acts of abetment or attempt.

Admitting, therefore, the need for preventive action before any offence has been committed, much less proved, the only question to be examined is whether we have sufficient safeguards in the measure proposed which would help avoid injustice or abuse of power.

When I was listening to the debate I felt that I had committed a strategic error. I should have proposed the Bill in such a form as would have enabled me to accept liberalising amendments when and as amendments came from the Members of the House. Instead, I put all the possible liberalisation into the Bill itself. If I had held back one or two of the new provisions and I had waited till either or both were moved by some Members in the House and pressed in the debate, and I had admitted them reluctantly after a tussle, the Bill would have gone through most easily,—as I would say, like greased lightning—and I would have received encomiums from every quarter of the House for sweet reasonableness. But now as I placed all the cards on the table at the outset, Member after Member asks for more. Unless I make some fresh concession I have no scope to show my reasonableness.

Each Member has a small amendment of some kind or other. But if after all the concessions already made in the Bill we make further concessions, the position will be that of the old man who had two wives, and, Sir, you will forgive my telling the story. The senior wife was an old lady, grey in her head and nearly the same age as the husband, and the junior wife was young and was twitted by her neighbours for having married an old man. The jealous senior wife then plucked off one by one all the black hair on her husband's head so as to make him look old and decayed. The junior wife plucked off all the grey hair in order to make her husband look young. The net result was that the old gentleman was left with a completely bald head. Now, I do not want Members to deal with my Bill in this way.

12 Noon.

Sir, both the dilatory motions are entirely unacceptable to Government. I have in my hand a telegram from one

of the State Governments—and many other State Governments are exactly in the same position. The telegram says:

“Of 480 persons on whom detention order has been issued by this Government on 27th February, 1950, under Preventive Detention Act, about 350 persons are still in detention. Unless new amendment Bill is brought into force at the latest on 26th February, 1951, most of these detenues will have to be released on the 27th February, 1951, under section 12 of the Act. Such a wholesale release of detenues will very seriously affect the law and order position especially in regard to communist activities. We are therefore most anxious that the Bill be promulgated before 26th February”.

It should be remembered, Sir, that although the Act itself has life till the end of March, the rule as to twelve months will operate and those persons, most of them having been detained somewhere about the 25th February last, will all be released en bloc,—mind you not one by one—on a date very near to the time we are discussing this Bill. There are more than 3000 persons under detention, not to speak of those who have yet to be sought from their jungle and underground concealment from where they are operating with terrible effect every day, as Dr. Reddy described in very eloquent words that came from the bottom of his heart and without any attempt at being eloquent. Not a day passes but I see telegrams reporting murder, arson, loot and terrorism, ever since I took up this office. Most of those now under detention fall in the class from where there was no reference to the Advisory Board on account of the reservations made in the previous law. They would all have to be released in the last week of February and let loose on society if there should be any delay in the passing of this Bill. Although the law expires only in the month of March, as I explained, the period of detention, that is twelve months, would expire in the case of almost all the persons in the last week of February and Government would have no remedy to meet the situation if this Bill were held up even for a couple of weeks from now. Government, is, therefore, compelled to oppose any proposal for referring this measure to a Select Committee.

There is no question of resettling the structure of the law. The principles have been thoroughly discussed at the time when very recently the Constitution was passed. Then, we have had a very thorough debate on every as-

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pect of the Bill. Practically, Sir, the whole House has sat in committee. There is nothing to be gained, therefore, by referring the Bill to a Select Committee.

As for circulation for public opinion, this method was a useful mechanism when an authoritarian Government was to act without any Parliament worth the name, and Chambers of Commerce, social service organisations and other public bodies were consulted, so to say, to express their opinions so as to help the executive Government in those days to gauge public opinion and promulgate laws. This has no great point in the present set-up of things in considering a Bill of this nature. This Bill for amending the law of preventive detention was published and I think I can rightly claim that there was general favourable reception to it in the Press of the country. The dissatisfaction in the country is on account of the fact that we have not been able to deal sufficiently energetically with the subversive elements. People do not like Communists, let me tell you straight. People hate black-marketeers, let me tell you straight. People hate those who interfere with transport or with supplies. People do not like those who seek to instigate and inflame feelings of hatred between one community and another. Nothing will be gained by circulating this Bill seeking to deal with all these elements, and there is nothing to elicit that has not already been elicited. I hope, therefore, that the House will vote the dilatory motions out.

✓ Dealing with the points that have been raised in the course of the discussion, I quite agree that mere preventive measures of the sort covered by the present Bill will not solve all our difficulties. We have to act at both ends. We have to take constructive measures for the amelioration of the condition of the masses. We have to make people contented and happy. We know that that is the best preventive measure against subversive activities. But while the Government and Parliament engage themselves in devising such measures and carrying them out, we cannot remain indifferent to the criminal activities of the groups who are now taking advantage of the situation. We have to work at both ends, I say again. There are some who think like the venerable Babu Ramnarayan Singh that if salaries of Ministers are reduced and they discard the pomp and luxuries which have fallen to their lot in recent times, everything will correct itself. Without prejudice to what he has recommended on its own

merits, I wish to tell him that this will not solve, by itself, either Communism or dangerous communalism. We have to act sternly and weed out mischievous and violent elements ruthlessly. When we have undertaken the responsibility of Government—and when I say “we,” I mean us including the Members sitting on these Benches as well as Members sitting in other parts of this House—we are all jointly responsible and sharers in this responsibility—I repeat again we have to act sternly and weed out mischievous and violent elements ruthlessly. The general annoyance at the irksome regulations arising out of control is also, according to Ramnarayan Singhji and some others who think with him, the cause of all trouble. We need not mix and confuse issues. The problem of improving the Congress Party and its relationship with the people is quite a different issue. The question of how to deal with the miscreants is the present issue. I thank the Members of this hon. House once again for all that they have said in regard to various aspects of the Bill.

Sir, it is believed by some that violent Communism has arisen out of poverty and discontent. I know, however, that the main supporters of Communism in this country and the terrorist activities that are associated with Communism in this country have a large percentage of young gentlemen whose parents have substantial properties. There is in human spirit—in human nature—an inherent element that is drawn by the spirit of adventure, the lure of sacrifice and danger and the attraction of secrecy. The search for a solution of life's problems has led some young men to the ideology going by the name of Communism. They look out for recruits. They have replaced the fervour of old-fashioned religion by the fervour of their new creed. They are pledged to it with a zeal amounting to religious fanaticism. They exploit all grievances and all situations and change their activities and their principles according to the requirements of their recruiting policy. They are not, like black-marketeers, ashamed of what they do; they are proud of what they do, even when they disregard the moral law. We have to deal with this situation in all ways, but we cannot afford to let these men carry on their criminal activities.

A point arises from what fell from Dr. Syama Prasad Mookerjee. I am sorry he is not here today. He said that while it may be desirable—and it is even the duty of the Government—to take action against violence, trickery

and secrecy there is no need to apply the law against those who base their political activities on what may be called "communal ill-feeling" and do not themselves resort to violence and even pay lip homage to constitutionalism. Dr. Syama Prasad Mookerjee suggested that the Hindu Mahasabha and similar organisations should be left uncovered by the preventive detention law, because they are not pledged to a creed of violence. These are not his words, but that is how I understood him to mean and how he expected me to understand him. As regards violence, it is unfortunate that we cannot always accept statements made by people. The reports that I have of some meetings held on January 30 last and the slogans uttered there—remember what day January 30 is—do not show that those for whom Dr. Syama Prasad Mookerjee pleaded have given up ideas of violence. One may ostensibly profess the most inoffensive creed, but one may act continuously and in secret in the opposite direction. This is the difficulty. Government has to judge and decide on its policy more on practice than on profession. I have no hesitation in saying that those who continually indulge in inflaming communal passions in this country of ours are as dangerous to society as those who remove the rails from the permanent way and capsize trains. Jurists may differ as to whether black-marketeers and others should be left to be punished severely under the normal law of the land or they should be brought under the terms of a preventive detention law, but there is more unanimity in the country in respect of black-marketeers—namely, that severe action of all kinds should be taken against them—than on any other matter in issue. Now, I shall give the figures of people in actual detention; they are up to the end of December last:

Hyderabad	12
Travancore-Cochin	13
Vindhya Pradesh	1
Assam	1
Bihar	36
Bombay	5
Madhya Pradesh	12
Orissa	1
Punjab	9
Uttar Pradesh	17
Total in Part A States	81

Now, these figures are not quite satisfactory, that is to say the thirst for vengeance is not satisfied. Black-marketeers have been proceeded against, I may tell the House, pretty

vigorously in recent times. The steps taken in some places have appeared in the Press already and they have evoked a certain amount of protest from people who do not like cruelty in that form. The gentry practising evasions of laws of this kind are specially sensitive to such preventive measures.

Their offence being one of which they themselves are ashamed, unlike the offence of the communists or communalists, there is great deterrent value in preventive and other police measures. Therefore, there is much justification for coming down on them occasionally in this manner, whatever the jurists may say.

Much has been said about the composition of the Boards. Everyone can go wrong, Sir, and much depends on proper selection rather than on the qualifications laid down. I appeal to the House to rest assured that this Government, as long as the Prime Minister and myself are responsible, will try to select the best men out of those available, men who can do their job justly and expeditiously and who would be fair both to the men charged and to Government. I shall read a list of the persons who now compose Advisory Boards all over the country dealing with preventive detention:

BIHAR:

The Hon. Justices Ramaswami and Sarju Prasad, Judges, Patna High Court.

BOMBAY:

Mr. K. B. Wassoodew, Retired Bombay High Court Judge and Sri R. S. Dikshit, Bar-at-Law, Bombay High Court.

MADHYA PRADESH:

Justice V. P. Sen, Judge, Nagpur High Court and Sitacharan Dube, Senior Advocate, Nagpur High Court.

UTTAR PRADESH:

The Hon. Mr. Justice Lakshmi Shanker Misra, Puisne Judge, Allahabad High Court (Lucknow Bench) and Dr. Lachmi Narain Misra, District and Sessions Judge, Lucknow.

MADRAS:

Mr. Justice Satyanarayana Rao, Judge, Madras High Court and

Sri Kuttikrishna Menon, Advocate-General.

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ORISSA:

Mr. Ramesh Chandra Mitra,
Retired District and Sessions
Judge and

Mr. Nagendranath Das, Retired
Judge.

MYSORE:

Sri Singaravelu Mudaliar and
Sri Nageshwaraisar, both Retired
High Court Judges;

SAURASHTRA:

Shri Shantilal C. Shroff, Bar-at-
Law, Retired High Court Judge
and Shri Jaisukhlal L. Hathi,
Advocate, M.L.A.

VINDHYA PRADESH:

Babu Durga Prasad, Additional
Judicial Commissioner and Babu
Maheshwari Prasad, Advocate-
General.

BHOPAL:

Shri Salamuddin Khan, B.A.,
LL.B., Chief Justice and Shri
Pheroze Birdie, M.A., LL.B.,
Judge of the former Bhopal
State High Court.

COORG:

Shri N. Muddappa, B.A., B.L.,
District and Sessions Judge,
Coorg, and Shri P. M. Nanayya,
B.A., B.L., Munsiff.

BILASPUR:

Shri Jagat Pal, District and
Sessions Judge and Shri Harish-
shander, Advocate, Bilaspur.

DELHI:

Shri S. C. Dulat, I.C.S., District
and Sessions Judge and Kanwal
Kishore Raizada, Public Prosecu-
tor (Delhi has no Advocate-
General).

HYDERABAD:

Shri J. A. Pinto, who is special
officer there and Shri Jagmohan
Reddy, Advocate of Hyderabad.

I am not asking you to depend upon my promise. There is practice which you can compare with the promise that I made. I again say on this solemn occasion that we shall take no advantage of the situation and try to bamboozle the public by passing a measure, or an amendment to that measure, or getting round it. More advisory boards will have to be constituted now, because under the old law many of the cases did not go before them at all, whereas under the

law now proposed, everyone of the three thousand and odd cases already under detention will have to be reviewed at once by them and we have to find quite a large number of suitable persons and within the time that we have prescribed. It is, therefore, a matter not of laying down this or that qualification, but a matter of confidence in the Government. After all, let us remember that even for the appointments to the High Courts of the Country and the Supreme Court the Constitution has not gone beyond laying down certain qualifications. We cannot do better in regard to appointments to the Advisory Boards that have now to be constituted for the working of the Preventive Detention law.

It is always possible, Sir, to quote hard cases. As the House knows, hard cases make bad law. That is to say, if we provide for some exceptional happening, the rule so proposed is likely to work hardship and lead to error or inefficiency in the vast majority of the cases. That is the meaning of the short maxim which is well known to lawyers that hard cases make bad law. More misguiding even than hard cases are hypothetical cases, such as the disgusting possibility dwelt upon by Mr. Anthony. Let us grant it once for all that any authority or power can be misused by wicked persons. We have invested every constable in the land with power of arrest, and detention, though only for 24 hours, until the detained person is taken to a magistrate. The crime that was adumbrated by Mr. Anthony and worse could be committed within those twenty-four hours. But we do not seek to abolish the power and give a free field to law-breakers, because some constable may act wrongly here and there. We ought to be more trusting. We must trust our Government and Government should trust their officers. We should make rules and regulations on the basis of probabilities, not mere possibilities.

Sir, much stress was laid on the possibility of this measure being used for political purposes against political parties. I am very glad to note that the Socialist Party, that met recently in Bombay to consider civil liberties made this pronouncement and carried a resolution successfully in that meeting. I am reading from a cutting from the newspapers:

"Mr. Mehta's amendment, while opposing the imposition of a ban on political organisations and placing restrictions on persons associated with them demanded that organisations acting contrary to the broad

principles of law and order in a democratic society or against national interest and the security of the country should be outlawed. The original resolution demanded the immediate withdrawal of the ban on the Communist Party in West Bengal, Travancore, Hyderabad and Bhopal. Mr. Mehta in moving the amendment observed that so long as the Communist party indulged in violence and terrorism and did not adopt the democratic programme, it was not entitled to any facilities or benefits of civil liberty."

The amendment was passed by a big majority. I am glad that this principle is recognised.

Another point that should be remembered by hon. Members, but which appears to have been overlooked is this. Under the law as it will be hereafter, if the Executive Governments want the detention to be maintained by the Board—I want to draw the pointed attention of the House to this—it is in its own interest to furnish all the necessary grounds, because if they do not furnish the grounds and the Advisory Board rejects the case, the Executive Government is bound by the award. If the Executive Government, in its discretion, keeps back any grounds, because it would be against the public interest to disclose such grounds, then the Advisory Board will proceed to decide the case without such grounds and the Executive Government will have to release the detenues if the conclusions go against them. So the point as to non-disclosure, therefore, loses much of its importance. Once the rule is made that the award of the Advisory Board shall bind the executive Government, the non-disclosure of grounds will only lead to the disadvantage of the executive Government so to say. Government will therefore have to choose between the two alternatives very carefully.

It may be interesting to read from Supreme Court judgments. But there is no great point that emerges from a quotation of the cases decided in the High Courts or the Supreme Court in the present context. The highest judiciary in the land have the right to interpret the law that Parliament has made, and Parliament has to take into account all their observations and look to the draftsmanship required to execute their desires to make any enactment or law. The making of the laws, and the principles and expediencies which govern such making of laws are entirely the province of

Parliament, and Judges have never claimed anything in that field. Judges are not concerned with the art of government and therefore they are not concerned either with the law-making that is entrusted to Parliament or with what is entrusted to Government, by way of execution, by Parliament, except to point out when the law is exceeded.

There is no good taking up, again, for comparison England or America in regard to the procedure for preventive detention. If any one will examine the history of the Communist Party in England, one would see that the Communist Party there has presented no great difficulty to the Government such as the Communist Party in India has presented, by resort to violence and sabotage. The procedure in America in dealing with Communists is much worse, I can say, then what it can be under the law that we have or we will have. I think the Communists themselves would gladly prefer to be under the Indian law rather than undergo the trials to which they are there subjected.

There were 5,400 detenues in April 1949 in what are called Part A States alone. There are now only a little over 1,500 in these States, and another 1,500 and a little more in the Part B States, mostly in Hyderabad.

In the classification of figures of detenues some parties are mentioned and some are classified under the column "Others". Now, this mystified an hon. Member. There are many groups and terrorists who do not fall under the columns provided in those tabulations. I need not give the House the names of these groups. I was familiar with them when I was in Bengal. Now I have nearly forgotten them. Further, men do not always disclose to what party they belong. It should also be remembered that there are a number of persons brought under preventive detention who are just bad characters and roughs. There are a large number of such people in Bombay and Calcutta and such cities, who have to be kept and are kept under preventive detention whenever there is trouble in those cities and then they are released. Those would all come under "Others" and not be marked down as "Communists" or "Socialists".

The principles of individual liberty and freedom of movement are good, but they are intended for the well-being of society and not to be exploited for the destruction of society. If I dig a well, as Mahatmaji said once when somebody wanted to exploit the non-cooperation programme in favour

[Shri Rajagopalachari]

of a criminal, it is to get water therefrom to drink and not to fall into it and be drowned. Let us not allow good principles to be exploited by wicked people. The 'freedom' that men who are engaged in subversive activities and their fellow travellers preach is a 'freedom' which they want for destroying freedom. They want to secure the licence which is necessary for them to operate and the scope to exploit the situation. The whole technique is camouflaged and conceived on the assumption that we shall stick to our principles blindfold and be deceived even though expediency requires practical measures of the kind proposed. Socialist leaders, as I said, have already examined this position and have asked us to guard against them. If we do not wish to live in a monolithic structure of society but desire the principles of individual freedom and initiative to be in operation along with joint co-operative national life, we should present a united front and not betray ourselves to furnish greater scope for the activities of those whose single aim is to destroy freedom.

The Telengana situation should be an eye-opener. Some of the hon. Members may know it, but most of them may not. The Telengana situation is glorified in Communist circles in the Communist international world as the high water-mark of their achievement. There is reported to be a growing difference of opinion among the leaders of these anti-democratic forces. Some of these fanatics seem to have realized that the tactics of violence do not pay and that they must call a halt. To them it is only a question of present expediency in view of the opposition that those tactics have developed and in view of their losing in the battle against Government. It is now when there is uncertainty in the ranks of these misguided men that we should press forward more unitedly to complete the discomfiture of these people. Let us not hesitate but speedily and wholeheartedly give a chance to peace and progress and democracy. There can be no progress, no democracy as long as we delay the establishment of normalcy.

Sir, I wish to say this when I conclude. I do not think I will make any kind of speech worth the name when the Bill is finally put to the House—this would rather be in place then but there is no harm in my mentioning to the House now what I would otherwise mention then.—there is no intention on the part of Government, I assure the House, to use this measure for suppressing their opponents in any elections or against

any political parties. It is never to be used, I assure you, in cases where there is no question of sabotage or violence, or encouragement and incitement to violence or sabotage.

And then I can give another, more important, assurance, and I must give it at once. That is this. If the officers who are entrusted with the task—district magistrates and commissioners of police and the other high officers who are entrusted with the authority sometimes to issue orders under this Act—if any of them is found to have temporarily taken advantage of the measure for abuse of power and misuse of position, you may rest assured that Government will take the most serious view of such conduct and will treat every such abuse of power as disloyalty to the State, nothing less.

A great and difficult measure like this should be executed with all honesty of purpose and care and caution. If any one misuses his powers, he will be treated as an enemy of the State.

As regards the time that will be taken—there are some amendments. I can forestall them to some extent—whether it will be six weeks, two weeks or three weeks, there is some amount of misunderstanding which I might explain. The whole period is limited. Ten weeks is the utmost period that the Government can take before finally deciding and releasing a man or keeping him in detention with the authority of the verdict of an Advisory Board. That is a rigid limit. If there are three thousand persons already in detention, supposing any one of you had to deal with them, you could not possibly give the grounds and reasons in a proper way in a hurry—and remember that every ground is analysed by the best kind of lawyers who are at the disposal of these people in the High Courts and the Supreme Court. Everything will have to be done with care. All this should not be hustled. And we have also given all these assurances that I have already mentioned. Therefore, if Government wants a little more time and room for preparing the grounds for sending every one of these cases which would have to be operated upon as soon as the Bill is passed, do not misunderstand it to be a demand for power to annoy innocent persons, but take it as necessary to discharge the functions properly. If they take more time, it reduces the time that they will have for further consideration and disposal. I have been a legal practitioner for some time and I now also look into murder cases that come up for clemency. Many an innocent man waits before the verdict of 'not proven' is finally accepted, for a whole year. Do you believe,

that this 10 weeks' time is unreasonable? A man charged with murder has very often to wait till his fate is disposed for a whole year. So the 10 weeks that the executive Government is demanding to dispose of grounds on account of the work that is involved, for preparation, reference and disposal is not too much I do not imagine that there is anything excessive in this demand and as I told you already, that once we have admitted the finality of the consideration by the Advisory Board, once we have admitted that every case should go to the Advisory Board and there is no reservation and once it is admitted that the total period is rigid, namely 10 weeks, I think that you should give full support to this measure without any attempt at amending the Bill. I crave therefore the approval of the House to proceed to take the clauses passed one by one. When we deal with the amendments I do hope in view of what I have said hon. Members will withdraw most of the amendments.)

Mr. Speaker: Before I put the motion to the House, I would first put the two amendments.

Shri Kamath (Madhya Pradesh): The hon. Minister has disclosed certain facts today regarding some detenus, namely that their dates of detention will expire on the 26th or 27th February. This information was not available to us on the day he made his speech. With your leave and with the leave of the House I would like to change the date in my amendment from the 1st of March to the 21st of February.

Mr. Speaker: I will change that when I put it to the House. First there is the amendment of Prof. Shah. The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 16th March 1951."

The motion was negatived.

Then there is the motion of Mr. Kamath: There is a change in the original motion. He had put in the date of the report to be "on or before the 1st March, 1951" and he now wishes to change it to 21st of February. So 21st February may be taken as the date proposed in the amendment. The question is:

"That the Bill be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, the hon. Shri C. Rajagopalachari, the hon. Dr. B. R. Ambedkar, Dr. Bakshi Tek Chand, Shri Biswanath Das, Prof. K. T. Shah, Pandit Hriday Nath Kunzru, Shri Syamandan Sahaya, Dr. Panjabrao

Shamrao Deshmukh, Prof. N. G. Ranga, Shri R. K. Sidhva, Sardar Hukam Singh, Shri Mahavir Tyagi, Shri Arun Chandra Guha, Dr. M. Channa Reddy, Shri G. R. Ethirajulu Naidu, Shri Raj Bahadur Pandit Mukut Bihari Lal Bhargava, Shri Naziruddin Ahmad, Shri Sarangadhar Das, Shri V. S. Sarwate Dr. R. U. Singh, Shri Frank Anthony, and the Mover, with instructions to report on or before the 21st February 1951."

The motion was negatived.

Mr. Speaker: Then there is the original motion: The question is:

"That the Bill further to amend the Preventive Detention Act, 1950, be taken into consideration."

The motion was adopted.

[Mr. DEPUTY-SPEAKER in the Chair]

Clause 2.—(Amendment of Section 1)

Prof. K. T. Shah (Bihar): There are three amendments standing in my name with regard to clause 2, two of which are Nos. 10 and 11 on the consolidated list, and No. 1 in the Supplementary List No. 1. This latter amendment in point of priority ought to be taken up earlier than Nos. 10 and 11 on the Consolidated list, and so, if you permit, I would slightly change the order, but take all the three amendments together with a view to save the time of the House.

Mr. Deputy-Speaker: Very well.

Prof. K. T. Shah: I will read them in the order in which they are given, but deal with them in my remarks in a slightly modified order, as I have suggested just now.

Mr. Deputy-Speaker: The hon Member can start with No. 1 in the Supplementary list.

Prof. K. T. Shah: I beg to move:

(i) Re-number clause 2 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

"(1) To sub-section (2) of section 1 of the Preventive Detention Act, 1950, the following further Proviso shall be added, namely:

'Provided further that this Act shall not be put into operation during the period that the general elections take place, against candidates of any party, their agents or canvassers during that period for anything said by or in support of any candidate by himself, his agent or canvasser'".

[Prof. K. T. Shah]

I am slightly altering the order and putting the first amendment in regard to an assurance which has already been given, making it part of the Act. Nos. 10 and 11 deal with a somewhat different matter. I beg to move:

(ii) In clause 2, add the following at the end;

"and the following Proviso shall be added, namely:

'Provided that no action shall be taken under this Act against any person from the first day of April, 1951, unless, on the first occasion that the Act is put into operation, a specific Resolution of this House is passed authorising the enforcement of any of its provisions, such authority being deemed to continue until revoked by Parliament by another specific Resolution, or until the Act expires.'

I beg to move:

(iii) In clause 2, add the following at the end;

"and the following Proviso shall be added, namely:

'Provided that this Act shall not be put into operation at any time after the first day of April, 1951 except by an order of the President, passed under the authority of a specific Resolution of this House, and shall in any case not remain in operation from and after the fifteenth day of October, 1951, unless specially authorised by a Resolution of Parliament in the next sessions.'

I am taking all these three amendments together and commending them in my remarks delivered collectively.

Before I come to the subject matter of these amendments, however, will you permit me to say, in the words of an old adage that a man convinced against his will is of the same opinion still. I admit, Sir, that the vote of the House has decided that there is no need to circulate this measure for eliciting public opinion; and as one believing in constitutional methods and in Parliamentary forms, I have to accept the decision of this House and content myself with it making no further observations on that subject. But, I would like to say one thing in general that the claims of expediency, such as have been put forward by the hon. Minister in support of his measure, however important they may appear for the moment to those in authority, are, in my judgment, apt to overlook some of the basic principles culled together and laid down to us by past

experience embodying a world of wisdom. They ought not to be obscured merely by considerations of expediency. I know I am speaking in this matter on a point where the fear complex of organised society as it exists today may perhaps not feel sympathy with me, and may not allow society and those in authority to feel sympathy with me. But at the risk of losing their sympathy, I cannot help pointing out that the great principle of civil liberty, that of personal freedom that is sought to be destroyed by this measure, even though against those who are giving evidence of their un-social activities, cannot but evoke protest from those of us who believe in those principles almost as an article of faith. If fanaticism is to be regarded as something undesirable, and if fanatics act disregarding all human considerations, naturally, you will be justified in lacking sympathy towards them. But when fanaticism such as I feel in this regard is in support of principles, supported by the experience of ages, and the wisdom of all the thinkers of all times in such matters, I feel I owe no apology in repeating my faith in those principles.

Now that the House has decided that the measure must be considered and passed, consistently with my belief in Parliamentary democracy and Parliamentary procedure, I shall try to see that what I consider to be the mischievous provisions are restricted in the best manner that I can manage. It is, for that reason, Sir, that the first amendment that I read out is trying to see that the scope of this legislation is narrowed down as much as possible.

The hon. Minister himself has repeatedly given the assurance in no mistakable terms that this measure is not intended to be applied to political opponents. I presume he meant political opponents who act openly, in a Parliamentary manner, in a manner accepted as the basis of our Constitution and our governance. Therefore, if he meant his assurances to be taken literally, in the spirit in which he gave them, I trust he would have no objection to concretize them in the form I am suggesting.

If you scrutinise the wording of my amendment in that behalf, you will find that I have not been too liberal in the guise of seeking to protect political opponents or those with whom we may have political differences. I have not been too liberal in bringing under that category all and sundry. I am restricting it in point of time; I am restricting it in the form of occasion; I am restricting it to a category of persons that could be easily defined. That is

to say, I am confining this proviso only to the period of the general elections. It is easy for the Executive Government, or perhaps for the Election Commission, to say what will be regarded as the election period. In any case, it will not exceed any considerable length of time.

Then, again, I am restricting it to definite categories of persons who will be not acting in secrecy, who cannot be charged with violence, and who will, therefore, not come under any of the categories to which this Bill is intended to apply. That is to say, this will apply to candidates, their agents and their canvassers, for anything said by them in the course of the election campaign on behalf of the candidate.

I trust that this will be taken as a real earnest of my desire to co-operate, and try to make the words of the hon. Minister good in the actual form of legislation. This in my opinion, is the touch-stone, the crucial test, whether the words are meant only as paper assurances, or whether there be any genuine objections to incorporating them in the form that I seek to give, or in any other form that embodies the substance of my amendment.

Candidates will, of course, be well-known persons, with their identity known. There would be no secrecy about them or their words. Their agents would be similarly officially appointed. I mean by 'agents' those who in election law will be called agents. The term 'agent' is clearly restricted in technical terms to the electoral laws. Hence, the class of agents cannot include too large a number of persons.

As to canvassers, if you like, you can introduce some form of a certificate, some form of an authority, some form of an identity certificate by which the class can be limited. You can provide all safeguards against this class too, against the abuse of latitude shown in accordance with your own principles towards political opponents in the matter of the election campaign.

You want elections, I take it, to be as fair and free as possible. You want public opinion to be ascertained on all your doings during the period that you have been in office at the time of elections. A general election is not a referendum on a specific issue. A general election is a complex affair where the entire record of Government actions will have to be taken into account. I take it that if there are opposition parties or opposition candidates, the critics of Government, in the spirit of the assurances given by the hon. Minister, there ought to be no objection to pointing to this or other measure as

instances of black spots on the high ideals that they have preached, and as a shortcoming in actual practice as compared to the principles embraced and accepted by them.

Now, in doing these things quite openly, and in trying to persuade the electorate that the Government has a record which does not give evidence of further progressiveness from the point of view of a liberal government in a democratic State, and if by saying this, the electorate is willing to change this Government or is willing to reject the policies and the measures that they have followed so far, I take it, that that will be regarded as perfectly parliamentary, and according to the accepted democratic way, as the people are admittedly and acceptedly sovereign in this country. The agents of the candidates will have also a very specific position, and they would be acting within the scope only of their agency and under the terms of the electoral law. Therefore, they, too, cannot do or say anything out of the normal. They will do only that which is permitted at the time of the elections and in the interests of fair elections. They cannot do anything out of the normal.

Shri Venkataraman (Madras): Sir, on a point of order. This amendment in Supplementary List I is very vague and says, "during the period of general elections". There is no definition of that period, as to what constitutes the period of general elections. It may mean right from now till the end of the year. There must be some definiteness about the amendment to say that the period shall be, say, from the time of nomination to the date of election and so on. But I feel that this amendment as it stands is too vague and cannot be moved as an amendment.

Mr. Deputy-Speaker: I do not propose to give any ruling on this point of order. The words "during the period of general election" must certainly mean from the date of nomination till the elections are over. But it is for the House to accept or reject the amendment.

Shri Rajagopalachari: Sir, I am somewhat confused. I would like to know whether the particular point which the hon. Member is pressing is with reference to any amendment that he has given notice of and whether I have missed that amendment, or is it merely as an illustrative argument that he is raising the point?

Mr. Deputy-Speaker: No, there is an amendment, it is in Supplementary List I.

Shri Rajagopalachari: What is the number of the amendment please? I

[Shri Rajagopalachari]

see we have been having so many lists ever since this question began. The hon. Member will please proceed, I will find it out.

Prof. K. T. Shah: It is No. 1 in Supplementary List I.

The point I am making will be a specific test as I said before, regarding the possibility of implementing the assurance that the hon. Home Minister himself gave. And Sir may I make this disclosure without any fear of being misunderstood that it was in fact his own words which led me to give notice of this amendment? In the amendments I had notified on the 9th February I had not included this one amendment. It was at a later date, and from an earnest desire to see that the Bill is improved precisely on the lines in which the hon. Minister has been pleased to tell us it will work, that I have given notice of this amendment.

I hope, Sir, the wording is sufficiently clear. But as I have already indicated, if Government are prepared to accept the spirit of this amendment, and the substance of it, I will not quarrel with any other wording that they may suggest, provided it brings out the sense that I wish the amendment to have.

The matter, Sir, may be left over, for further consideration if you like. But at present I would like the House to consider this amendment, and I would particularly wish the hon. the Home Minister, on his own authority, to consider carefully and sympathetically this amendment.

As regards the other two amendments, they are, I admit, on a different footing. May I continue please? Or shall I continue after lunch?

Mr. Deputy-Speaker: The House stands adjourned till 2-30 P.M.

The House then adjourned for Lunch till Half Past Two of the Clock.

The House re-assembled after Lunch at Half Past Two of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]

Prof. K. T. Shah: When the House adjourned for Lunch I was coming to the second of my amendments, No. 10 on the consolidated list. It requires that this Act should not be put into operation from the day it is supposed to begin, unless there is an authority specially given by a Resolution of this House on the first occasion, when for the first time the Act is put into operation. If that authority is once given

it will be deemed to be continuing, unless revoked by Parliament, or after a certain date, that is to say the Act otherwise expires under its own terms.

This amendment has been prompted by my feeling that it is an unusual and extraordinary measure, that it is not a normal piece of legislation or for the normal activities of ordered life, that, on the face of it, it is an extraordinary measure curtailing constitutional liberties, which therefore must be particularly safeguarded. I think it is common ground—and I hope I will be corrected if I am wrong—that it is an extraordinary measure which does require safeguards. At least it is the feeling of all those who value civic liberties. Here is, therefore, my suggestion that the Act should not be put into operation by itself automatically, but that another opportunity be provided for this House to see the necessity of it. The Act is there: it will be passed. It will be a weapon in your armoury. But its use is conditional, according to the amendment, I am suggesting. That is to say before it can be put into operation for the first time after the 1st April 1951 there must be a Resolution of this House specifically authorising that the Act be put into operation. The authority will continue unless revoked or until the date arrives when the Act shall be deemed to expire of its own accord.

Sir, I need hardly tell you or the hon. Minister, who is so familiar with our famous epics, the story of the special weapon, the last one that Karna is said to have had as the one and only one against his great rival. He was, therefore, guarding it for use against Arjun throughout the fight as it was going on. As ill-luck or fate would have it, he was ordered by his sovereign to use that weapon against someone else.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): Ghatothacha.

Prof. K. T. Shah: Yes, Ghatothacha. The weapon was thus used against a different enemy, and so subsequently failed to carry out the original intention of its owner.

The analogy is somewhat reverse in this case. I want this measure to be regarded as something of an extraordinary character. If the House is convinced that we are living in dangerous times, that there are subversive elements out to destroy society, and they cannot be dealt with by the ordinary law of the land; if the House so wishes it, let them have it. Keep this weapon in your armoury; but do not

use it indiscriminately. You must recognise that it is an extraordinary, double-edged, and dangerous weapon; and therefore use it with all precaution and all the safeguards that you can have. Here I am suggesting one. There may be others.

The one I am suggesting is the authority of this very House. Presumably the House which passed the measure will not refuse the authority to use it if you convince it that the necessity or the danger is there, the elements from whom you wish to guard society are there operating in all their nefariousness and therefore it is necessary to use it.

By this amendment I do not require that this authority should be renewed every time or be specifically given on each occasion. I only say that it should be given in the first instance, for the first time after the present Act expires and the new Act comes into operation. In other words one more opportunity is provided for the House for assessing the need to use it,—the forces of the subversive elements which you think are there, and against which you need to guard the people.

We have decided,—and I bow to that decision,—that there is no need to ask for public opinion on this measure. I am not able to agree with the rationale of the opposition to eliciting public opinion with which the hon. Minister has been pleased to oppose it. I think even for a body like this, and for the national government of the people, it is not bad, on measures of this character, to elicit or ascertain public opinion: the more so as you are almost certain that the opinion will be in your favour.

Take another consideration. After all it must not be forgotten that this House came into existence four years ago or more; and that it is conceivable that it may not be in the same close contact with public opinion as it was at the time it was elected. You know that the election also was in some indirect form. In my opinion it would be better to ask for public opinion on this measure, not now since it has been decided otherwise, before passing the Act, much as I would have wished to the contrary. At the time of putting the Act into operation also it would not be possible to ask for further opinion, and so, when the proposition is placed before the House those who criticise or oppose it may be able to give contrary reasons or facts to show that it is not necessary to put the Act into operation.

I submit this is as reasonable, as moderate, as it possibly could be from

the point of view of those who do consider this a double-edged, dangerous, undesirable weapon, which cruel necessity may force us to have in our possession, but which ought not to be lightly used. And, therefore, at the first instance at any rate I would desire—and I therefore add this proviso—that you should have the authority of a special resolution of this House before putting it into execution.

My reasonableness in this matter will, I trust, be appreciated when I go on to say that the authority will be deemed to continue, that, though given on the first occasion, it will be regarded as abiding during the normal life of this legislation, unless, for any reason that the House thinks proper, it is revoked; and that too by another specific resolution passed in that behalf. Otherwise the authority will continue and the Act can be put into operation normally at any time you like.

Sir, in this manner I am only trying to guard against the abuse of this Act. I cannot conceal it from you, Sir, or from the House the fact that I do think, not only that in itself this Act is dangerous, but that—and the hon. Minister will forgive me for repeating that apprehension—after all it is liable to be abused by the human factor without which it cannot be used. Perhaps no one was as glad as I was when I heard the assurance of the hon. Minister that any officer who misused or abused this Act would be dealt with severely, will be regarded as disloyal—I think that was his word.

Mr. Deputy-Speaker: I would like to point out to the hon. Member that almost all these points have been urged at the consideration stage and the hon. Minister has also replied to them. Today there is a world of difference between the previous administration and the previous composition of the legislature under foreign rule, and the present administration, today both here and in the various Assemblies there are representatives of the people. The hon. Member is not going to canvass opinion outside the House. All these reasons have been urged and replied to by the Government. The hon. Member himself has referred to all these points in his opening speech. Now when the House has given a definite ruling that the Bill is not going to be circulated for eliciting opinion, it is unnecessary to repeat the same arguments. It may be put in another form, but technically it is the same matter. The present proposition is different from the previous one but substantially it

[Mr. Deputy-Speaker]

is the same. Under these circumstances it is not worthwhile taking the time of the House urging the very same points in another form.

Prof. K. T. Shah: With all respect, Sir, I fear that this is not identical in form at all. This is different. Instead of asking for public opinion I am only providing, by way of a safeguard, the resolution of this House for putting into operation this measure.....

Mr. Deputy-Speaker: The House has done it by way of the vote on the consideration motion and will do so later while voting on the clauses. How is the hon. Member's proposition going to change the situation at all? And what is the further material the House is going to have immediately thereafter? What is the good of suggesting an impracticable proposition?

Prof. K. T. Shah: There are six weeks before the Act expires; and perhaps within six weeks we may get information to the effect that it is much more necessary than was thought at the time it was enacted. That might strengthen even doubters like me to be converted.

However if you, Sir, feel that way I shall not pursue it further. But I must in fairness to myself point out the difference between this amendment and the next one to which I will now go.

The next amendment gives the power not to the resolution of this House, but to an order of the President. The Act would be put into operation in any part of the country by an order of the President. The President as the head of the State.....

Mr. Deputy-Speaker: Even then the President means the President aided by the Council of Ministers.

Prof. K. T. Shah: That was what I was coming to, that the President means really the Home Minister in this case, and I would require that the Home Minister, at the time the Act is first put into operation, should again consider—at least I desire so—this matter, knowing as he does his responsibility on which he is going to advise the President to issue an order. That is why, if not the House, at least the Minister of the House advising the President should specifically take that care to consider his responsibility and then advise the President. The Minister is responsible to the House; and therefore I take it that he will act in accordance with the wishes of the House and the situation which demands such action.

Mr. Deputy-Speaker: Does the hon. Member expect there will be such a radical change in the circumstances?

Prof. K. T. Shah: Even impossible things may happen. The age of miracles may have gone, but the age of changing convictions has not gone. It may, therefore, be that grace may descend even upon the hon. Minister, and he may see it in a different light. However, I am not saying that it is certainly going to change, and therefore I am giving him an opportunity to act if he wishes to do so.

With these words, Sir, I would like to commend these three amendments for acceptance. On the first amendment the hon. Minister has already given assurances, and I am trying to give effect to those assurances. The two others are alternative amendments, not concurrent, and, therefore, if No. 10 is accepted No. 11 certainly need not be. In order to save the time of the House I asked your permission to move both of them together, and you were pleased to allow me. I commend my amendments to the House.

Mr. Deputy-Speaker: Amendments moved:

(i) Re-number clause 2 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1), namely:

“(1) To sub-section (2) of section 1 of the Preventive Detention Act, 1950, the following further Proviso shall be added, namely:

‘Provided further that this Act shall not be put into operation during the period that the general elections take place, against candidates of any party, their agents or canvassers during that period for any thing said by or in support of any candidate by himself, his agent or canvasser.’”

(ii) In clause 2, add the following at the end:

“and the following Proviso shall be added, namely:

‘Provided that no action shall be taken under this Act against any person from the first day of April, 1951, unless, on the first occasion that the Act is put into operation, a specific Resolution of this House is passed authorising the enforcement of any of its provisions, such authority being deemed to continue until revoked by Parliament by another specific Resolution, or until the Act expires.’”

(iii) In clause 2, add the following at the end:

"and the following Proviso shall be added, namely:

'Provided that this Act shall not be put into operation at any time after the first day of April, 1951, except by an order of the President, passed under the authority of a specific Resolution of this House, and shall in any case not remain in operation from and after the fifteenth day of October, 1951, unless specially authorised by a Resolution of Parliament in the next sessions.'

Mr. Deputy-Speaker: Amendment No. 12 in the Consolidated List is substantially the same as No. 11.

Sardar Hukam Singh (Punjab): I am not moving it.

Mr. Deputy-Speaker: Amendment No. 13 also forms a part of the previous amendment in substance.

Shri Rajagopalachari: Sir, the principles involved in these amendments as well as in those which they covered and which therefore were not separately moved, are these: after this law is passed, once again there should be a debate on practically all the matters that were debated now including the general principles, and a resolution should be passed, the President, that is to say the Government, shall review the matter in respect of a particular case, and lastly, in the period of the elections for which specific dates are given in one of the amendments no action shall be taken by using this law against candidates, agents and so on. Now, if this Act has to be applied against people who create a dangerous communal situation, such as was referred to in the course of the previous debate with reference to a particular person, the best opportunity for people with such activities as they have in their minds would be during the elections. We would be putting a premium on such activities if we introduce a provision like this giving a special privilege to those who are put down as candidates, agents and so on. I would like the hon. Member not to be alarmed by the line I have taken. I want him to understand again that I have not forgotten the assurance that I have given with regard to political opponents, but even if we take the ordinary law as it stands, are exceptions provided in the security Sections of the Criminal Procedure Code saying that that Act shall not be enforced at the time of elections and against particular persons to be put down as agents and candidates and the like? It would be wrong to

make such a special provision, because there are many other activities in life besides elections. There are many other persons who are entitled to such special privileges. If this matter is to be left to the Government, to the courts and to the Advisory Boards, it would be easy in any case where this order is wantonly used to convince the Government that the assurance given by me has been broken and suggest that so and so should be brought under stern punishment. I submit that the safeguard should not be in the Act. It would be wrong to exclude one particular person or class and leave out so many others. It would lead to difficulties also in the courts with reference to the steps taken in respect of them. Everyone can say that he is an agent and can do what he likes. Therefore, we should rather depend upon good sense and fair play which has been assured already rather than do anything more. I want the hon. Member really not to lower the value of my assurance by moving such amendments and pressing them.

Mr. Deputy-Speaker: The question is:

(i) Re-number clause 2 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

"(1) To sub-section (2) of section 1 of the Preventive Detention Act, 1950, the following further Proviso shall be added, namely:

'Provided further that this Act shall not be put into operation during the period that the general elections take place, against candidates of any party, their agents or canvassers during that period for any thing said by or in support of any candidate by himself, his agent or canvasser.'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

(ii) In clause 2, add the following at the end:

"and the following Proviso shall be added, namely:

'Provided that no action shall be taken under this Act against any person from the first day of April, 1951, unless, on the first occasion that the Act is put into operation, a specific Resolution of this House is passed authorising the enforcement of any of its provisions, such authority being deemed to continue until revoked by Parliament by another specific Resolution, or until the Act expires.'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

(iii) In clause 2, add the following at the end:

"and the following Proviso shall be added, namely:

'Provided that this Act shall not be put into operation at any time after the first day of April, 1951, except by an order of the President, passed under the authority of a specific Resolution of this House, and shall in any case not remain in operation from and after the 15th day of October, 1951, unless specially authorised by a Resolution of Parliament in the next sessions.'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.—(Amendment of Section 2)

Shri Kamath: I beg to move:

After part (a) of clause 3, insert the following new part and reletter the subsequent part accordingly:

"(b) at the end of clause (b) a semicolon, and the word 'and' be added".

It is a purely verbal amendment necessitated by the amendments proposed to be moved by the hon. Minister himself to this particular Section of the old Act. Now that this Section is going to have three sub-clauses, we should have a semi-colon and 'and' at the end of the second. There is no need to explain it in any manner to the hon. Minister, who will himself see the necessity for it. I move and commend it to the House for its acceptance.

Mr. Deputy-Speaker: Amendment moved:

After part (a) of clause 3, insert the following new part and reletter the subsequent part accordingly:

"(b) at the end of clause (b) a semicolon, and the word 'and' be added."

Shri Rajagopalachari: If I have not misunderstood any part of the hon. Member's amendment, his amendment is only punctuational. Since there are three sub-clauses (a), (b) and (c), according to the ordinary

rule there should be word 'and' at the end of the penultimate sub-clause. If that is so, I would accept the amendment in order to make a record for Mr. Tyagi for accepted amendments. But I am not quite sure about the matter, because a Member like Mr. Kamath is not likely to move a mere punctuational amendment.

Shri Kamath: Others will come later. This is the beginning.

Shri Rajagopalachari: I may add that I pointed this out to our own Draftsman and he argued in favour of his own draft. He said that in modern drafting, we do not stick to these punctuational marks which sometimes create interpretational difficulties.

Shri Kamath: May I refer to the original Act? There were two sub-clauses (a) and (b) and after the first one there was a semi-colon and an "and". I do not know who drafted this. If it was done by two different persons, it is a different matter; otherwise, the same principle should have been followed here.

Shri Rajagopalachari: Probably, both are right, but I have no objection to the amendment. Let the "and" go in.

Mr. Deputy-Speaker: In matters of interpretation, these are not counted,—I mean commas and semi-colons. It is more a matter for the draftsman than for the House.

Shri Kamath: Then leave it to his good sense.

Shri Rajagopalachari: I accept the amendment, Sir. Let it be counted in my favour.

Mr. Deputy-Speaker: The question is:

After part (a) of clause 3, insert the following new part and re-letter the subsequent part accordingly:

"(b) at the end of clause (b) a semicolon, and the word 'and' shall be added".

The motion was adopted.

Prof. K. T. Shah: I beg to move:

In part (b) of clause 3, for the proposed clause (c) of section 2 of the Preventive Detention Act, 1950, substitute the following:

"(c) 'Appropriate Government' means and includes appropriate

authority, viz., the President, the Governor, or the Rajpramukh, respectively,—

(i) as respects a detention order made by the Central Government or a person detained under such order, or

(ii) as respects a detention order made by the Government of a State in Part A of the First Schedule of the Constitution of India, or by an officer subordinate to such State Government, or as respects a person detained under such order, or

(iii) as respects a detention order made by the Government of a State in Part B of the First Schedule of the Constitution of India, or an officer subordinate to such State Government, or as respects a person detained under such order."

[Mr. SPEAKER in the Chair]

This amendment follows the general line I have taken, namely, that the measure being admittedly of an extraordinary character, it is but proper that the highest available responsible authority should be, in the first instance, responsible for issuing such an order. I know that when I speak of the President or the Governor or the Rajpramukh, it would mean the responsible Minister in any case. But as, under the Constitution, our Government is to be carried on in the name of the President so far as the Union is concerned, it is quite in accordance with the Constitution for me to suggest that, in cases of orders of this character, they should be made, not by any subordinate officer, not by a District Magistrate as is the case now, but by the highest available authority in each case.

The charges which were made or suggested in the course of the general debate against the possibility of the District Magistrate or officers of that level abusing the powers entrusted to them, could be avoided, if, even for form's sake, the order is that of the highest authority available, whether for the Union or for A or B class States. It is, in my opinion, not a mere form, Sir, inasmuch as a responsible Minister, advising the Head of the State or of the Union to take action of this character, would take his responsibility—so at least I presume—much more seriously than a subordinate officer upset by some local rioting or disturbances, and therefore, though acting perfectly *bona fide* in all good faith, is liable to be panic-stricken much more easily than the Minister at the headquarters

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of Government, and particularly the Home Minister of the Government of India, who, I believe, weighs and considers such matters much more dispassionately than a local officer is apt to do.

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I am therefore, not suggesting that the order should not be made. If the necessity for issuing such an order does arise, by all means use it; by all means make that order. But let the order be made—and the Constitution itself is the authority for my saying so—by the President, or by the Governor or Rajpramukh, as the case may be. Sir, this is not going over in any way the ground covered. All that I am saying just now is for fixing the responsibility properly; and that there is no danger either that the responsibility would be ignored or that it would be abused. I think it would only give greater confidence that the Act, extraordinary as it is, unusual as it is, in normal times—let alone abnormal times when the defence of the State is in danger—will not be put into operation except by the highest authority available. I, therefore, commend it to the House.

Mr. Speaker: Amendment moved:

In part (b) of clause 3, for the proposed clause (c) of section 2 of the Preventive Detention Act, 1950, substitute the following:

"(c) 'Appropriate Government' means and includes appropriate authority, viz., the President, the Governor, or the Rajpramukh, respectively,—

(i) as respects a detention order made by the Central Government or a person detained under such order, or

(ii) as respects a detention order made by the Government of a State in Part A of the First Schedule of the Constitution of India, or by an officer subordinate to such State Government, or as respects a person detained under such order, or

(iii) as respects a detention order made by the Government of a State in Part B of the First Schedule of the Constitution of India, or an officer subordinate to such State Government, or as respects a person detained under such order."

The hon. Home Minister.

Pandit Kunzru (Uttar Pradesh):
Are you closing the discussion on this?

Mr. Speaker: No, let us hear the hon. Minister first. If the hon. Member wants to speak, I shall give him a chance later on.

Shri Rajagopalachari: The point that is sought to be made in the amendment—as far as I could gather—is either that the constitutional authority of the President, Governor or other Heads of Governments should be brought into the discussion, or some improvement should be made in the mechanism of the working of the Act for the purpose of securing justice and fairness. I presume the mover's objective is the latter and that it is not his intention to create a constitutional alteration of the authority of the Government.

If it is the latter, I would like to point out that the definition "appropriate Government" has become necessary only for the purpose of brevity in the drafting of subsequent sections. "Appropriate Government" according to clause (c) as it would be in the proposed measure is either the State Government or the Central Government—in some cases the Central Government and in other cases the State Government concerned. Now this comes into operation in the various sections—for the purpose of removal, transfer, parole, etc. The provisions, therefore, as the Bill stands, are perfectly clear and if there is any doubt as to what "Government" means, we must leave it to the Constitution and the General Clauses Act. I do not think any improvement will be achieved by adopting the amendment proposed by Prof. Shah. On the contrary, there will be considerable difficulties raised as to what exactly the law means, with reference to President, Rajpramukh, Governor, etc. There is no defect which has to be remedied by either this amendment that has been proposed or by any other amendment. The provision as it stands is perfectly clear. I am sorry if I have not grasped the point raised.

Mr. Speaker: Pandit Kunzru.

Pandit Kunzru: I do not think it is necessary for me to say anything.

Mr. Speaker: The question is:

In part (b) of clause 3, for the proposed clause (c) of section 2 of the Preventive Detention Act, 1950, substitute the following:

"(c) 'Appropriate Government' means and includes appropriate authority, viz., the President, the

Governor, or the Rajpramukh, respectively,—

(i) as respects a detention order made by the Central Government or a person detained under such order, or

(ii) as respects a detention order made by the Government of a State in Part A of the First Schedule of the Constitution of India, or by an officer subordinate to such State Government, or as respects a person detained under such order, or

(iii) as respects a detention order made by the Government of a State in Part B of the First Schedule of the Constitution of India, or an officer subordinate to such State Government, or as respects a person detained under such order."

The motion was negatived.

Mr. Speaker: The question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clause 4.—(Amendment of Section 3)

Mr. Sarwate (Madhya Bharat): I beg to move:

Renumber clause 4 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

"(1) In sub-section (1) of section 3 of the said Act, after the words 'the State Government' the words 'where so empowered by the Constitution' shall be inserted."

Section 3 of the original Act gives power to make orders detaining certain persons. It reads thus:

"3 (1) The Central Government or the State Government may—

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to—

(i) the defence of India, the relations of India with foreign powers or the security of India, or

(ii) the security of the State or the maintenance of public order, or

(iii) the maintenance of supplies and services essential to the community, or

etc., etc., it is necessary so to do, make an order directing that such person be detained."

Now in order to make my amendment clear I shall request you to suppose for a moment that this section was not there. According to the Constitution the State Government has power to make certain laws and that power is given in the Concurrent List. At page 248 of the Constitution there is item 3 in the Concurrent List "Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention". According to the scheme adopted in the Constitution the State Governments have executive powers identical or co-extensive with the powers which they have to legislate. They have powers of execution in matters to which they have the powers to legislate. That is to say, they have the power to execute or put into action the law which they may frame or which covers matters under item 3 of the Concurrent List. They would not have the power under the Constitution either to make a law or to execute it in the matter of detaining a person under item (1), that is with respect to "the defence of India, the relations of India with foreign powers, or the security of India". This power has been given in addition by section 3 of the original Act. My submission is that section 3 of the original Act adds to the power of the State Government to detain certain persons whose actions are prejudicial to the defence of India, or the relations of India with foreign powers, or the security of India. My submission is that such a power is unnecessary—it is not in the general interest because "the defence of India, the relations of India with foreign powers, or the security of India" are Central subjects and therefore it is but proper that only the Centre should have the power to legislate and also to execute laws in this regard. The States need not have power regarding the defence of India. It is but proper that they should have power to legislate for the security of the State. But this power is now enhanced and increased, and they are given the power to detain a person whose actions are not only prejudicial to the security of the State but to the security of India as a whole. If the Central Government is authorised and empowered to take necessary action against such persons, where is the necessity for the State

also to have the same power? If one authority is there, there need not be other authorities. Such other authorities may in some cases misuse this power to the detriment of the general interest of the public and to the fundamental rights of freedom. It is unnecessary to give these powers to the State; on the other hand they are likely to be abused. I therefore submit that consistently with the scheme adopted by us in the Constitution it is desirable that the power to detain a person by the State Governments should be restricted to such matters respecting which they have the power to legislate.

I would only submit one more point to make my intention clear. If my amendment is accepted, clause (1) of section 3 of the original Act will read thus:

"The Central Government— (there should be a comma after the words 'Central Government')— or the State Government where so empowered by the Constitution.....etc."

Sir, I move.

Mr. Speaker: Amendment moved:

Re-number clause 4 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

"(1) In sub-section (1) of section 3 of the said Act, after the words 'the State Government' the words 'where so empowered by the Constitution' shall be inserted."

Shri Rajagopalachari: The proposal is that the division of powers between the Centre and the States as regards the power of making laws should be followed in regard to action taken against persons under this Act. I think that is, shortly put, the intention of the mover of this amendment. I think it is going a little too far to say that because defence of India or foreign relations is a matter for the Central Government to make laws upon, any one who pursues criminal activities which prejudice the relations of such foreign powers should also claim the highest authority for having his case examined. It would make matters very difficult indeed if the proposal is accepted, because the Central Government would be left high and dry with no agents available in all parts of India for carrying out the intention of the law that has been passed on their behalf in the Parliament of India. I therefore think that the amendment would render the work of the Government extremely difficult, if not impossible. It is necessary that the Seventh Schedule classification

[Shri Rajagopalachari]

should be observed in regard to law-making power. But in regard to execution, in accordance with the terms of the law that is passed by this Parliament, if we say that for every infringement thereof, the authority that shall be responsible must be the Central Government alone, then it would mean that the Central Government would have to expand its services to an enormous extent. It would be impossible. I submit, Sir, the amendment cannot be accepted by the House or by the Government.

Mr. Speaker: The question is:

Renumber clause 4 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

“(1) In sub-section (1) of section 3 of the said Act, after the words ‘the State Government’ the words ‘where so empowered by the Constitution’ shall be inserted.”

The motion was negatived.

Sardar B. S. Man (Punjab): I beg to move:

Renumber clause 4 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

“(1) In clause (a) (i) of sub-section (1) of section 3 of the said Act, the words ‘the relations of India with foreign powers’ shall be omitted.”

As is evident from the intention as explained by the hon. Home Minister, the real intention is to prevent mischief against the country through violent activities organised in secrecy and intended to produce chaos. And secondly, that in these difficult days of the food situation and the deterioration thereof, we should see that essential supplies and services are maintained. These are the two real motives and intentions as explained by the hon. Mover in his speech and also in the Statement of Objects and Reasons. I feel therefore that the retention of the original clause will mean extending it beyond the scope. As I explained yesterday, this clause is liable to be construed in a very malicious way. Perhaps an unwitting executive may make it very vague and I feel that I cannot forego the right of criticising a bad foreign policy. Friends of today may be enemies of tomorrow and it is my bounden duty to warn my countrymen against the designs of a foreign country against my State. If I do not warn them of certain malicious designs, it means that I am not being true either to my constituency or to my country.

Thus to lay statutorily that for all time to come we are not to criticise any foreign relations and thus laying ourselves open to the prosecution, is, I consider something absolutely not intended and at least not explained to us and if the hon. the Mover insists upon its retention, I do feel that there is something up his sleeve. Otherwise, why should he allow me to be open to prosecution upon so mild a thing? In my own humble way just as Pakistan leaders day in and day out are threatening us with *Jehad*, I am entitled to say in my own country that I would give a better answer for that *Jehad*. Strictly speaking, I may be prejudicing the relations of our Government by my small talk against Pakistan, but the Detention Act will be there to catch me. I consider that this very clause should be deleted and we should not be allowed to become a prey to a very vague and extensive clause of this type. I therefore move that this be deleted.

Mr. Speaker: Amendment moved:

Renumber clause 4 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

“(1) In clause (a) (i) of sub-section (1) of section 3 of the said Act, the words ‘the relations of India with foreign powers’ shall be omitted.”

Shri Rajagopalachari: This is a very important point that has been raised. The matter was referred to by the same hon. Member in the course of the general debate with some heat also. The question is this, whether power under this measure should include power in respect of persons who become a danger in the matter of relations with foreign powers or the Defence of India. His remedy is to remove that power altogether and to give a free hand in respect of that matter so that it may not be open to any one to take the case of such persons as committing acts dangerous to the relationship with foreign powers to be taken into account in dealing with them under this measure. There is no doubt that every citizen in the country, certainly Members of Parliament should have the right to express opinions on political matters and matters relating to the policy of the Government and to act in such a manner as conscience may direct in regard to these matters without prejudice to and without offending the normal law at the same time. It is general knowledge that in all countries, in all civilized countries it is recognized that the policy pursued by each national Government in regard to their relationship with foreign powers is considered generally to be a very delicate matter

and sacrosanct, practically even from discussion in Parliament itself. The matters involved in the position created sometimes are so delicate that all nations have by 'convention' so to say agreed that these matters should be very carefully considered by the Governments concerned, sometimes on the background of various treaties, which may not even be public property and which in the interests of the State as a whole would have to be kept confidential and the like. That is why even in the British Parliament and in Cabinet meetings the Foreign Secretary as he is called there, the Minister in charge of Foreign Affairs is given a very special position. Now to say that this Act will prevent the right, will curtail the right of freedom of expression in regard to political matters would be placing the argument too high. As a matter of fact, hon. Members know that this Act has never been applied on such a ground ordinarily, but it is quite true that in the cases that arise with reference to Pakistan, we may have often to consider whether a man is acting in a prejudicial way as described here or not even when he is expressing his own opinion about inter-communal relationship. I would ask the House to remember that it is not exactly an easy affair to deal with. It is not easy to say that every man can talk whatever he likes in regard to our relations with Pakistan. Let me put it very bluntly. What is the danger that we are having in mind with reference to Pakistan? It is no doubt on the one hand the right of every person, every citizen to express his opinion about the conduct of people in Pakistan, about the conduct of the Government of Pakistan and on the face of it it would be very wrong to curtail that right, but supposing a man prejudicially acts—it is not a case of expression of opinions, but where a person is behaving in such a way, it is not merely a matter of talking but his general conduct altogether is such that our relations with foreign power, namely Pakistan is endangered, prejudiced, then what is the consequence? Sir, it is not merely a matter of liberty of speech, but probably a matter of war. The danger that we are preventing here is something enormously important. Does any citizen look upon the likelihood of a war with Pakistan; could any person look on that possibility with equanimity? It would be one of the most terrible things that could happen. Take the agreement which was recently entered between the Prime Minister of India and the Prime Minister of Pakistan. Were we not unanimous that that Agreement should be safeguarded and should be given effect to in every possible way? In fact, even if the other side fails we ought to do our best; were

we not unanimous on that point? Is it a correct attitude to take that we should omit this clause from this section? It is no doubt right to ask for normal expression of political opinion but it is not right to say that this provision should be removed from this measure. I submit therefore it is a very dangerous thing to omit this provision. In fact this is more dangerous than the peace and order in a particular village. The whole of India would be endangered if people were not asked to be careful about foreign affairs. It is true that it is from Parliament that the Foreign Minister gets his rights, authority and responsibility. The nature of the thing demands that we should trust our Foreign Minister and leave the relationship entirely in his hands and not allow irresponsible people to prejudice that position. I hope, Sir, the hon. Member will withdraw his amendment because it is a matter too difficult for debate.

Pandit Thakur Das Bhargava (Punjab): But for the fact that a new interpretation is being given in this House, I would not have interfered in this debate so far as this clause is concerned. So far as the question of speech is concerned, there is freedom of speech which has been guaranteed to the citizens of the country by virtue of section 19 of the Constitution. Really we are dealing today with Article 22. If it is a question of speech and on the basis of that speech a person is sought to be detained, my opinion is that person can only be detained if the Courts think that the restriction placed upon the right of speech is a reasonable one. Clause 2 of Section 19 reads as follows:

"Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, libel, slander, defamation, contempt of court or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State."

Here the words are very clear:

"which undermines the security of, or tends to overthrow the State."

The "State" means our own State. The words which are found in section 3 are quite different. The wording is:

"The Central Government or the State Government may—

(a) if satisfied with respect to any person that with a view to

[Pandit Thakur Das Bhargava]
preventing him from acting in any
manner prejudicial to—

(i) the defence of India, the relations of India . . . ”

My humble submission is this. These words “from acting in any manner” do not cover the case of speech only. They refer to speech as well as other conduct. Therefore, so far as this section is concerned, this will be governed by article 19-2 and if the restrictions are onerous, if the restrictions are not reasonable, I do not think that this law would be *intra vires*. If it refers to conduct alone, certainly conduct of this nature is not protected. Therefore, I submit that the wording of section 3 is extremely wide: “to prevent him from acting in any manner prejudicial to the defence of India”. Probably, these words were taken from the Defence of India Act, section 39 or so. What is the act which is prejudicial? A person may be actuated by the best of motives. There may be no *mens rea*; he may be perfectly innocent while he is acting. Yet he will come within the mischief of the section if the result of the action is prejudicial to the relations of India, etc. The hon. Minister said a little while ago that concreteness is absent from the objectives with which clause 3 (a) deals. He is perfectly correct. Therefore, the wideness of this section is very dangerous. All the same, we are really dealing with dangerous things. It has been emphasised in this House that this Bill is for only one year. Therefore, I do not want to say much about it; it may remain as it is. But, ultimately, it may be argued some day later that at this juncture the point was not raised; therefore, I want to submit that according to me, section 3 is very wide, extremely wide and that it should not be so wide if we want to defend some of the freedoms that have been secured to us. For one year it may go on because the conditions are quite abnormal.

With your permission, Sir, I want to make one or two submissions with regard to amendment No. 18 which is going to be moved, so that I may not have to speak again. Sub-clause (iii) of section 3 (a) says: “maintenance of supplies and services essential to the community”. These words are again very wide and should not have been there. As conditions are today, we are suffering from shortage of food and cloth. Everybody is complaining against black-marketers. I doubt very much whether black-marketers will be roped in by these words here. For the sake of maintaining essential supplies, this

section may remain there for one year. But, it is a very dangerous thing to have a law of this kind. I do not want to allow it to be argued subsequently that nobody objected to this section. Therefore, I submit that this section has to be modified as the wording is very wide.

The hon. Home Minister has been pleased to give us some assurances. My own fear is that if this law is rigorously implemented, there is every likelihood of very innocent people being harassed, because black-marketers certainly do their work in secrecy. I submit, at the same time, that the ordinary law of the land has not been sufficiently applied. I submit, therefore, that so far as this section is concerned, great care has to be taken in implementing this provision. Otherwise, great injustice might accrue. In the districts when the list of black-marketers was prepared, there was great black-marketing and black-mailing in bribery. Everybody rushed to the authorities and said that their names should be taken away from the list prepared by the District Magistrates and many people as a matter of fact extorted money. These matters are so delicate as the hon. Minister himself remarked, that we should take good care to see that they do not become worse than the disease itself. That is all I have to submit with regard to this clause.

Shri Himatsingka (West Bengal): I also want to add a few words to what my hon. friend Pandit Thakur Das Bhargava has said. I was glad that the hon. Home Minister has made a categorical statement that those who want to misuse this Act will be regarded as enemies of the State. As a matter of fact, that is what it should be. There is no doubt that a good deal of black-marketing is going on both in cloth and foodstuffs and various other articles which are controlled and action should be taken against those who indulge in black-marketing. No condemnation can be strong enough against black-marketing. But, before any action is taken of the nature of detaining a person, it should be established that the person is guilty of the offence. If you read the language of the Act, you will find that—I do not know how it will be interpreted—the words certainly do not cover such cases. The wording is “maintenance of supplies and services essential to the community”. So far as the offence of black-marketing is concerned, you know that we have passed the Essential Supplies Act, where very stringent punishments have been provided, ranging up to seven years, confiscation of

the property involved and also fine. I am making these remarks in the light of what came to notice a few months back. In one of the important States, on one fine morning, about 500 to 700 persons were arrested on the suspicion that things were not all right, and a large number of them were put in jail. Subsequently, when the facts were brought to the notice of the hon. Minister in charge, I am glad to say that he found that out of the 500 or 700 cases, about 90 per cent. were such that no action should have been taken. He issued instructions to that effect and most of the cases that were started against them were.....

Shri Rajagopalachari: They were trivial; not that they were wrong, they were trivial and so they were withdrawn.

Shri Himatsingka: I will put it like that; being trivial cases, you did not allow action to be taken: trivial in the sense that they were formal offences, not maintaining the register for one particular day, not writing it up.....

Shri Rajagopalachari: They were quantitatively trivial.

Shri Himatsingka: Not only quantitatively trivial; a large number of them were offences like the registers not up-to-date.—the entries of the day not having been made at night, but which were intended to be made next day. The registers were written up to the 2nd October; the entries of the 3rd had not been written up. I am speaking from personal knowledge derived from enquiries made by me personally.

Dr. Deshmukh (Madhya Pradesh): Not as counsel?

Shri Himatsingka: No; not as a counsel; but as a Member of Parliament, as a person.....

Pandit Thakur Das Bhargava: It is fortunate for black-marketeers that they do not get three years imprisonment under the Essential Supplies Act, but only a shorter detention under this Act.

Shri Himatsingka: This Preventive Detention Act should not be misapplied. As a matter of fact, the main reason why this Act is so obnoxious is that it is abused. If it were not abused, if it were confined to cases for which it is intended to be used, I think the volume of condemnation that was noticed in the House would not be there. If it is properly applied to persons who are indulging in sabotage, or violence, or who incite people to

sabotage or violence, I think there will be no objection to the Act.

Mr. Speaker: I am afraid, the hon. Member is going into the general argument with which we have already finished. We are now concerned with particular objections to the clause. The hon. Member is urging general arguments.

Shri Himatsingka: I was only pointing out that the language of section 3 which is covered by clause 4 is so wide that unless it is confined and restricted properly to the use for which it is intended, it will act as a very bad Act which could be used for harassing innocent persons and it will create a feeling against the State. That is what I wanted to say. If the hon. Minister in charge of Home Affairs will see to it that it is not mis-applied and that the provisions are not abused, I think a major portion of the objections will disappear.

Shri Rajagopalachari: I shall deal with the amendment and not with the arguments referred to by my friend Mr. Himatsingka. The main point is about foreign powers and after hearing Sardar Man, I do not feel convinced at all that it would be right to remove this clause. All activities to rouse communal passions could really be brought under this proposal of tolerance. It may be said that it is only discussion of the foreign policy of India. It is one thing, however, to suggest policies and it is another thing to actually prejudice our relations with a foreign power. It is one thing to suggest policies or amendments to our policies, and that should be permitted. But it is another thing if the activity leads to the endangering of our friendship with a foreign power. I submit we will have to make a clear distinction between that and the discussion of policy. We will have to prevent such activities as are likely to prejudice our relationship with foreign powers, so long as we have not declared war. Of course, after declaration of war my hon. friend and everyone else can rouse popular feeling so that the war activities may be properly conducted. But as long as we desire peace, we ought to be very careful and should not do anything which may give a handle to others to say that we have incited passions. We should not rouse passions; we may find ourselves in a mess, for after the passions are roused we will not be able to control them. I think, therefore, that this provision should not be removed; it should remain.

As regards the suggestion that "security" would cover the whole thing.....

Sardar B. S. Man: Sir, the point is whether "speech" will be part of the prejudicial act or not.

Shri Rajagopalachari: The thing to be proved for any action to be taken under this Act is that the activity would be prejudicial to our foreign relations. A fine distinction between act and expression may be good with regard to liberty of expression. But with regard to criminal law, an act would include everything, even a gesture is an act, a speech is an act. Action is a much wider expression than speech. The point to be proved is the likelihood of a speech prejudicing our relations with foreign powers. Therefore that distinction has got to be kept in mind and it has been kept in mind, and this section that is proposed does not appear to be wrong. If they are satisfied with respect to any person, the Central Government or the State Government may take action with a view to preventing him from acting in any manner prejudicial to the relations of India with foreign powers. It is not merely a question of language, but it is a question of prejudicing our relations with foreign powers. In any case, I submit, Sir, that whatever may be the doubts with regard to the matter of limitations to be placed with regard to the executive acting on the basis of this law, the law is perfectly sound and should remain there. We shall certainly bear in mind that no innocent person comes within the clutches of the law and that no officer makes use of it in cases where there is no danger at all. But that is a different matter.

With regard to black-marketeers and others I will just say a word. Although I do not find any amendment on.....

Mr. Speaker: The amendment comes up later.

Shri Rajagopalachari: In that case I might perhaps as well say a few words. The clause as it will stand would read thus:

"With a view to preventing him from acting in any manner prejudicial to the maintenance of supplies".

Any person who hoards or evades the provisions of the law that we have passed does act in a manner prejudicial to the maintenance of supplies and services essential to the community. In cases where particular acts are alleged and can be proved, the substantive law will be put into force and the man punished. But where a man

is habitually doing it or there is the danger of his doing it, this Act will have to be put into operation against him. As to triviality and a sense of proportion, I believe we will have to trust the Government with whom we are working.

Shri Himatsingka: Will not the cancelling of the licence be the easiest thing to do?

Mr. Speaker: I am not here defending the Bill or saying anything on its merits. But what happens if a strike is agitated on the railways or in the docks? Will not that be affecting the maintenance of supplies?

Shri Rajagopalachari: That is the primary point. My hon. friend mentioned about cases in Bihar. The maintenance of services essential to the community will include all these cases. We cannot make separate laws for separate offenders. We have to think of all the things and then classify them and put them down, keeping in mind the main question of services and supplies essential to the community. The question of triviality will, of course, have to be considered. I may mention that it is not always possible to catch the thief or the bribe-taker. Sometimes we get evidence when a man took four annas but when he took hundreds every day we did not get any. Sometimes a case may look trivial, but it may not be trivial. But the local Government knows whom to proceed against.

Mr. Speaker: The question is:

Renumber clause 4 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

"(1) In clause (a) (i) of sub-section (1) of section 3 of the said Act, the words 'the relations of India with foreign powers' shall be omitted."

The motion was negatived.

Pandit Kunzru: I beg to move:

Renumber clause 4 as sub-clause (2) of that clause and insert the following as sub-clause (1):

"(1) In sub-section (1) of section 3 of the said Act, sub-clause (iii) of clause (a) be omitted."

Clause (a) of sub-section (1) of section 3 of the Preventive Detention Act states the category of persons who can be detained without trial. The last

category relates to those who interfere with the maintenance of supplies and services essential to the community. It is in respect of this category that I have moved my amendment. Sir, owing to the procedure that has been followed, discussion has already taken place over this amendment without its having been moved. But as I have to say something that has not yet been considered either by the Home Minister or by the House, I shall make a few remarks, notwithstanding the discussion that has taken place.

Before the Constitution came into force, every Province had its own security law. These security laws were not identical in all respects. They differed in details, but their main features were the same, and they all permitted the Provincial Governments to detain persons whose activities were believed to be prejudicial to the maintenance of the security of the State or public order in the State and to prosecute those who interfered with the maintenance of essential supplies and services.

These Acts contain special provisions for dealing with the latter class of people but the main thing to remember is that the local Governments did not consider it necessary, notwithstanding the shortage of food and the other difficulties we are faced with, notwithstanding the strikes that were threatened in Calcutta, to take power to detain without trial people who interfered in their opinion with the maintenance of essential supplies and services, in order to prevent them from carrying on their activities. It was only one class of people that could be detained under these Security Acts, and this power could be exercised only with regard to those persons who acted in a manner prejudicial to the security of the State or to the maintenance of public order.

When Article 22 of the Constitution was discussed by the Constituent Assembly complaints were made with regard to the wide powers enjoyed by the provincial Governments and the manner in which these powers were exercised. We thought therefore that when the Constitution came into force the powers of the State Governments would be curbed and that they would be compelled to act with greater restraint. Yet the Preventive Detention Act included the persons who interfered with the maintenance of essential supplies and services among the categories that could be dealt with without recourse to courts of law. We thought that the powers of the Provincial Governments would be restricted but the

Preventive Detention, on the contrary, increases their powers and allows only the cases of the last category to which I have referred to come before the Advisory Boards.

My hon. friend, the Home Minister, said this morning something about the need for restraining the activities of those who indulged in black-marketing and he has again in the course of the discussion on the amendment moved by Sardar Man given his reasons for retaining the clause, whose omission I have moved. I should like him to point out why suddenly it was considered necessary by the Central Government to detain persons supposed to be interfering with the maintenance of essential supplies and services without trial, when the Provincial Governments had dealt with them under the ordinary law and were prepared to deal with them in future too under the ordinary law. On whose behalf did the Central Government act? The situation in West Bengal was pretty serious before the Preventive Detention Act was passed. It was threatened with a complete stoppage of essential services and yet the Bengal Government brought the situation under control without having the special power that the Preventive Detention Act now invests it with. Nobody wants to be tender to those who are guilty of black-marketing. We do not want to be tender towards anti-social elements of any kind. But if we attach any importance to principles and even to forms—which after all embody some aspect of those principles, then we cannot try and use an exceptional measure of this kind in order to deal with all anti-social activities. There are other forms of activity that are injurious to society. Will my hon. friend the Home Minister some day come forward and say, "Whatever you may say I know that it is necessary to restrain these people from acting in an anti-social manner. And I also know that if restraints are put on these people the public will approve of them. I therefore want extraordinary powers to deal with these people. I am not going to prosecute them, for I have not got sufficient evidence to prove the charges." If this process were allowed to be extended it would only enable Governments that are lazy and inefficient to find an easy means of dealing with people of different kinds without improving their administration and bringing their lazy officials to book. After all the law before us is an extraordinary law. There is no parallel for it today in any of the democratic countries that we are acquainted with. The only excuse given by the Minister for this law is that the situa-

[Pandit Kunzru]

tion in this country is exceptional and that the Communists are out to subvert the State by all means in their power. He practically said that this measure was needed in order to safeguard the security of the State. If the Act is used for this purpose only I shall support him and support him wholeheartedly. But he cannot use an Act which the Parliament allowed to be passed only because of the consideration mentioned by him, for other purposes too. But for the activities of the Communists I doubt whether even Sardar Vallabhbhai Patel would have succeeded in persuading Parliament to allow him or the State Governments to detain persons without trial. This thing should be borne in mind in deciding what the scope of the Act should be. We should not be tempted into using the power of detention without trial simply because unless it is exercised certain people whose activities are harmful to society will not otherwise be punished.

4 P.M.

The hon. Home Minister in winding up the general discussion on the Bill told us that about 3,000 persons were under detention under the Preventive Detention Act and that about half of these were detained in Part A States and Delhi, Ajmer and Coorg. Of these 80 persons have been detained under the sub-clause that I want to omit. I should like to point out in this connection that about nine of these have been released on the advice of the Advisory Boards.

[MR. DEPUTY-SPEAKER in the Chair]

Of the remaining persons fifteen have been detained for more than one reason. It appears, therefore, that the number of persons detained during the last three months or so for hoarding food or being guilty of similar conduct is only 56. Now it is obvious that the use of this Act on this limited scale cannot bring about the improvement that the Government desires.

Shri Chattopadhyay (West Bengal): In some States there are none.

Pandit Kunzru: Yes, in some States there are none. The States where people have been detained for hoarding food are very few in number, but in any case it is obvious that action on this restricted scale will be of no avail. If there is any force in the plea of my hon. friend the Home Minister for the retention of sub-clause (3) of clause (a) of sub-section (1) of section

3, then it is to be assumed that Government mean to use this power extensively. I remember, Sir, that the Essential Supplies Act was amended last August so that people who indulge in hoarding food or cloth might be punished more severely than before. Government promised to make full use of it. We therefore thought that this power that had been taken by Government would be enough to enable them to deal with those who were interfering with the maintenance of essential supplies and services. What are the reasons for which Government, notwithstanding the more stringent Essential Supplies Act, now wants to detain persons who are hoarding food or cloth without trial? The Home Minister has said that the sub-clause to which I am objecting does not refer only to the hoarding of food or cloth, but that essential services and supplies may be interfered with in various other ways, and that even, therefore, if it be granted that people who are guilty of offences against the food and textile laws should not be detained without trial, there may yet be other persons against whom the power of detention without trial may have to be used. And the Speaker, Sir, asked, I think my hon. friend Shri Prabhudayal Himatsingka, how he proposed to deal with people who organised or engendered strikes in essential services. If the Provincial Security Acts that were in force before the Constitution were promulgated, you will find that it was precisely against these classes of persons that the Provincial Government could proceed under these Acts. It could not detain them without trial but it could prosecute them, and prosecute them successfully too if it had any evidence worth the name. Hon. Members must not think that if the clause, the deletion of which I have moved, did not form part of section 3 of the Preventive Detention Act, Government would be totally unable to deal with the people who fomented strikes in essential services. If Government want that their officers should be alert and act with vigour, such people can be brought under control. But if they only want that they should not have to take the trouble of proving their case in a court of law and that they should have some easy way of locking up people whom they suspect of being guilty of anti-social conduct, they can proceed in the manner that the Provincial Governments used to do before the Constitution came into force. Let me say again, Sir, that nobody here wants that the black-marketeers should be dealt with tenderly. They are undoubtedly criminals and criminals of a high order. But so are dacoits and murderers and certain other classes of

people. But you deal with these people in accordance with the ordinary penal law. There is no reason, therefore, Sir, why you should use the situation in the country, that was referred to in his opening speech by the Home Minister, in order to force Parliament to give you certain other powers that are not necessary to deal with the situation. Of course, if you do not have these extraordinary powers in respect of other matters you will feel some inconvenience. Some offenders will be able to carry on their nefarious activities without being punished, but I say with a proper sense of responsibility that we should not allow the appetite of Government for special laws to be whetted by allowing them to detain without trial any class of persons who in their opinion may be acting contrary to the best interests of society. Let them deal with the offenders referred to in the clause that my amendment deals with under the ordinary law. Let them tighten up their administration. Let them make their officials more vigilant.

Mr. Deputy-Speaker: Does not that apply to terrorists also?

Pandit Kunzru: Well, Sir, then you tear up the Penal Code: abolish all your criminal courts and deal with all cases of offenders under the Preventive Detention Act. The executive then will be supreme, and I do not know whether it will be very happy, because a wise administrator will tremble if he is invested with such extraordinary powers. If your logic is correct that if once we allow the Government to proceed in an extraordinary manner in a special category of cases we are bound by our arguments to allow them to proceed in the same manner in other classes of cases also, then I for one will refuse to give them this power in any case.

Sir, I do not wish to prolong the discussion on this amendment. I shall only say in the end that my hon. friend the Home Minister has not so far succeeded in making out a case for the retention of the sub-clause, for the deletion of which I have moved.

Mr. Deputy-Speaker: Amendment moved:

Renumber clause 4 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

“(1) In sub-section (1) of section 3 of the said Act, sub-clause (iii) of clause (a) be omitted.”

चौधरी रनबीर सिंह: मैं संशोधन का विरोध करने के लिए खड़ा हुआ हूँ। मैं यह समझता हूँ कि आज अगर हमें यह जरूरत है कि इस क़ानून की मियाद को एक साल के लिए और बढ़ा दिया जाये, तो उस का एक कारण तो यह भी है कि जो भाई अभी जेलों के अन्दर हैं, जिन्होंने सबवरसिव एक्टिविटीज़ (subversive activities) में हिस्सा लेने का इरादा किया, या लिया, उन की इस तरह की एक्टिविटीज़ को रोकना आज भी जरूरी है, बल्कि उस से भी ज्यादा आज हमारे देश में जो ब्लैक मार्केटिंग (black-marketing) करते हैं, या मुनाफ़ाखोरी करते हैं, इस वर्ग से देश को आज अधिक ख़तरा है, ऐसा मेरा अपना विचार है, हो सकता है बहुत से भाई मुझ से इस बात में सहमत हों, उन को नज़र-बन्द करना ज्यादा जरूरी है—यह वाक़्या है कि जितना हमारे देश को ब्लैक मार्केटिंग करने वालों से ख़तरा है, उतना शायद देश में किसी दूसरे आदमी से ख़तरा नहीं है। इस देश में जो लोग सबवरसिव एक्टिविटीज़ करते हैं, या लोगों को उस के लिए उकसाते हैं, वह ब्लैक मार्केटिंग से फिर भी मेरे नज़दीक (हालांकि वह भी एक भयंकर अपराध है) एक छोटा कारण है क्योंकि उन को उकसाने में ब्लैक मार्केटिंग का होना एक बहुत बड़ा कारण है, इस से कोई आदमी इंकार नहीं कर सकता है।

जहां तक ब्लैक मार्केटिंग करने वालों के खिलाफ़ आम क़ानून इस्तेमाल करने का सवाल है, तो वह इतना आसान नहीं है, क्योंकि हमारा जो क़ानून है, वह इतना पेचीदा है और वकीलों की हाज़िरी में वह इतना नाक़िस बन जाता है कि आदमी कितना ही क्रूर करे, वकील

[चौधरी रनबीर सिंह]

लोग अदालत में जा कर उसे बेकसूर साबित करने की कोशिश करते हैं और यह देखा गया है कि बहुत दफा वे ऐसा साबित करने में कामयाब भी हो जाते हैं, और इस तरह अपराधी लोग रिहा हो जाते हैं और उन्हें कोई दंड नहीं मिल पाता। यह बात इस हाउस के मेम्बरों से छिपी हुई नहीं है।

کیانی جی - ایس - مسافر :

پچھلے سال اس قانون کے مطابق کوئی بلیک مارکیٹو پکڑا بھی گیا ہے ؟

चौधरी रनबीर सिंह : आप कल यहां पर हाजिर नहीं थे जब हमारे माननीय मंत्री महोदय ने यह बताया था कि इस क़ानून के मातहत १०० आदमियों को गिरफ़्तार किया गया था। और मेरा तो अपना यह ह्याल है कि वह सौ आदमी जो इस में पकड़े गये, उन का नंबर बहुत थोड़ा है। इस बात को भी मैं जानता हूँ कि ब्लैक मार्केटिंग करने वालों पर सरकार ने बहुत सारे केस चलाये होंगे, इस के मुक़ाबिले में सबवरसिव एक्टिविटीज़ करने वालों के खिलाफ़ शायद उतने केस न चलाये गये हों। लेकिन उन्होंने आज हिन्दुस्तान के अन्दर एक तकलीज़ बरपा की हुई है, जिस का कोई मुक़ाबिला नहीं है, और वह इस हाउस से छिपी हुई नहीं है। पिछले साल का डिज़ाइन है जब कि बड़े बड़े कारख़ाने वाले गवर्नमेंट के पास आये और उन्होंने यह कहा कि खांड हमारे पास फ़ाल्तू है, उसे हमें विदेश में भेजने की इजाज़त दीजिये। लेकिन उस के दो ही महीने के अन्दर क्या देखते हैं कि हमारे देश के अन्दर खांड का एक बहुत फ़ैल गया और बम्बई जैसे शहरों के अन्दर खांड का क़हत आने की वजह

से दुकानें लूट ली गईं, ऐसे वाक्ये पेश आये। यह सिर्फ़ खांड का ही सवाल नहीं है, बल्कि करीब करीब यही हाल दूसरी चीज़ों का भी है। इस हाउस के बहुत से मेम्बर हैं जो यह चाहते हैं कि कन्ट्रोल (control) न रहे। और अगर हाउस यह फ़ैसला करने पर तुल भी जाये कि कन्ट्रोल को हटा दिया जाय, तो इस क़ानून के अलावा ऐसे आदमी जो सप्लाय (supply) के काम के बीच में दख़लअंदाज़ी करेंगे, तो उन लोगों को क़ाबू में करने के लिए इस के अलावा कोई क़ानून और क़ायदा हमारे पास नहीं रहेगा और यदि धारा पास हो गयी और अगर सरकार इस बात के लिए राज़ी भी हो जाये कि कन्ट्रोल के क़ानून को उठा कर रख दे, तो भी सरकार के पास यह क़ानून उन आदमियों का इन्तज़ाम करने के लिए होगा जो समाज के अन्दर सिर्फ़ अपना ध्येय मुनाफ़ाखोरी का ही रखते हैं और समाज की सेवा नहीं। जैसे हमारे एक लायक़ दोस्त ने कहा कि ब्लैक मार्केटिंग करने वालों का लाइसेंस (licence) कैंसिल (cancel) किया जा सकता है। यह ठीक है और उस के कैंसिल करने का भी क़ानून है। लेकिन लाइसेंस के देने और न देने के क़ायदे बड़े होशियारी से बनाये गये हैं, और हो सकता है कि जो आदमी ब्लैक मार्केटिंग करता है, वह उन क़ायदे क़ानूनों की हद के अन्दर हेराफेरी करता है, और उस तरह उस का लाइसेंस कैंसिल भी नहीं हो सकता है। और दूसरी बात यह है कि वह इन क़ानूनों और क़ायदों की आड़ में जो फ़ायदा उठाता है, वह मामूली नहीं होता, बल्कि हज़ारों और लाखों की तादाद में फ़ायदा उठाते हैं, तो ऐसे लोगों को अगर जेल में नज़रबन्द भी होना पड़े, तो भी मैं समझता हूँ कि उन के मुनाफ़े के

मुक़ाबिले में यह सच्चा शायद सस्ती ही साबित होगी, मंहगी नहीं। तो इसलिये सभापति महोदय, मेरा तो यह ह्याल है कि अगर आज नज़रबन्द करने की ज़रूरत है तो उन आदमियों के लिए ज़रूरत है, जो ब्लैक मार्केटिंग करते हैं। आज हमारे देश के अन्दर अनाज का क़हत है, क़हत इसलिये नहीं है कि हमारे किसान भाई अनाज कम पैदा करते हैं, बल्कि इसलिये है कि जो आदमी अनाज के अन्दर व्यापार करते हैं, वह अनाज को जमा करते हैं। अनाज जिस वक्त किसान के पास से आता है उस वक्त दस रुपये मन और ग्यारह रुपये मन बिकता है लेकिन वही अनाज, वही मक्की जो ५० पी० के और पंजाब के किसानों से दस रुपये मन ली गयी, वही बाज़ार में जनता को २२ रुपये मन में दी जाती है। तो आप अन्दाज़ा लगा सकते हैं कि यह चीज़ हमारे समाज और देश के लिए कितनी खतरनाक है। और आज ऐसी हालत में जब कि लोगों को अनाज नहीं मिलता, उस का नतीजा कितना उल्टा होता है। ब्लैक मार्केटिंग करने वालों के पास बड़े बड़े अखबार हैं, दूसरी बड़ी बड़ी चीज़ें हैं, उन के पास रुपया भी काफ़ी होता है, और वह यह प्रचार करते हैं कि अनाज सारा किसानों के घर में दबा पड़ा है और यह लोग बेचारे किसानों पर क़ानून की तलवार को चलवाने की कोशिश करते हैं। इस में ज़रा भी शक नहीं है कि मौजूदा क़ानून इस चीज़ को रोकने को काफ़ी नहीं है, इसलिये मेरा तो यही अनुरोध है कि बिल के इस संशोधन को फैंक दिया जाये।

(English translation of the above speech)

Ch. Ranbir Singh (Punjab): Sir, I have stood up to oppose the amendment. I feel that one of the reasons why it is necessary to extend the

period of this Act for one year is that even today it is essential to prevent such activities of those persons at present under detention, who had a mind to take part or who took part in the subversive activities. But, I submit, that a greater danger to our country is from those who indulge in black-marketing and profiteering. That is what I feel. Many of my hon. friends here will probably bear cut with me that it is very essential to detain such persons. It is a fact that the greatest danger to our country today is from the black-marketeer and no one else. In my opinion all those persons who indulge in subversive activities in our country or who incite people to indulge in them, are lesser criminals than blackmarketees, although that too is a serious crime because that incitement leads them to black-marketing. Nobody can deny that.

As regards the application of ordinary law against black-marketeers, it is not so easy because the law of our land is so complicated and becomes more so when dealt with by the lawyers that they will always try to save a man irrespective of the fact he has been indulging in all sorts of crimes, and it has often been seen that they succeed in saving him. In this way, criminals and offenders go unpunished. The House very well knows all this.

Giani G. S. Musafir (Punjab): Has any black-marketeer been arrested during last year under this Act?

Ch. Ranbir Singh: The hon. Member was not present here yesterday when the hon. Minister stated that a hundred persons had been arrested under this Act. My personal opinion is that this is a very small number. I also know that the Government might have prosecuted a large number of black-marketeers and that there may be comparatively lesser number of persons who might have been prosecuted for indulging in subversive activities. But, today they have created a miserable situation in India—a situation which is incomparable and which is not unknown to this House. Last year some factory owners approached the Government and told them that they had surplus stocks of sugar for which they wanted permission to export. But within only two months of that, we found that there was a famine of sugar in the whole of the country and there were disturbances in Bombay due to this shortage when shops were looted and other incidents happened. It is not a question of sugar alone but

[Ch. Ranbir Singh]

similar is the case with all other commodities. There are many hon. Members of this House who want the controls to go. If the House anyhow decides to do away with controls, even then we have no other Act or measure to deal with those who interfere with the maintenance of essential supplies. If this section of the Bill is passed, the Government, even if they set aside all controls, will have the powers under this Act to deal with those persons whose only aim is blackmarketing and profiteering. As one of my learned friends said, licences of black-marketeers can be cancelled. This is right and there is a law also to cancel them. But the laws of issuing or refusing licences have been very tactfully drafted and it is possible that a black-marketeer may indulge in black-marketing and still remain within the bounds of law. Thus his licence can also not be cancelled. Moreover, the profit which they reap by taking undue advantage of this law is not an ordinary one; it runs into thousands and lakhs. So, even if such persons are detained in a prison, I think the punishment which they get is insignificant as compared to the profit reaped by them. Therefore, Sir, what I feel is that if there is anyone today who should be detained, he is the black-marketeer. There is famine of foodgrains in our country today—not because the cultivators are producing less, but because those, who deal in foodgrains, hoard them. The cultivators sell the grains at ten rupees or eleven rupees a maund but the same foodgrains, the same millet that is purchased at ten rupees a maund from U. P. and Punjab cultivators is sold to the public at twenty-two rupees a maund. Sir, it can well be imagined how dangerous this thing is to our society and country and how adversely it affects us today when we do not get enough foodgrains. The black-marketeers own important newspapers, they have many other influential sources, they have enough money and they propagate that foodgrains are lying hoarded with the cultivators. They always try to make the poor cultivators a victim of law. There is little doubt that the present measure is inadequate to prevent this thing. Therefore I strongly urge that the amendment to this Bill should be rejected forthwith.

Shri Rajagopalachari: I was rather surprised to hear Pandit Kunzru maintain his support for the amendment that is put down in his name with such vehemence. I am sorry he is not here. He was succeeded by **Ch. Ranbir Singh.** With my

little understanding of Hindi I could myself see the fervour with which he spoke. Pandit Kanzru would have appreciated it a little more than I have been able to do.

Since the point was raised that this is a new kind of approach that we are making, I wish to point out to Pandit Kunzru that preventive detention is contemplated in List III—Concurrent List of the Seventh Schedule. Item 3 of the list reads:

“Preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community; persons subjected to such detention.”

This has been definitely recognised even at the time when the Constitution was passed as an important matter on which preventive detention laws would have to be passed. Otherwise it could not have gone into the Schedule in this very language. That shows the state of affairs which were taken into account at the time the Constitution was framed.

As a matter of fact, we are aware that sabotage of essential services and supplies has become the normal feature of the activities of all anti-social elements. Now, not to have dealt with that class of people when dealing with all other classes of criminals of this kind would have been strange; that is why the Constitution has provided for it. Those who interfere with water pipes and electric installations, or other services of that kind, must be dealt with quickly and promptly before the terrible crime has succeeded in taking shape. Otherwise the whole of a city would be plunged in darkness; the whole of the city would lose its water-supply; fires would be started and everything would be in confusion. That is one of the main purposes for which this clause is intended.

The clause also provides for the safeguarding of the food requirements of the community. It is a comprehensive clause to deal with a very important aspect of life in modern times. My hon. friend Mr. Kunzru in strong language said that the lazy officials want to enjoy leisure and that instead of waiting for an offence being proved they could arrest people under this law and that we should not play to that kind of appetite, as he called it. I will ask him to consider as to who deserves our attention.

He said that our officials are lazy—let him think so. But it should be acknowledged that the merchants are not lazy, they are extraordinarily diligent and agile. Now, whatever the diligence of the officials may be, they have not been able to sufficiently cope with the extraordinary diligence and agility of these merchants. My hon. friend challenged me on this point in a peculiar way. Pandit Kunzru also said that this Bill was introduced and accepted essentially for dealing with Communism, and that it is now sought to be used against the black-market-eers. After professing that he had no sympathy for black-market-eers, of which we are all aware, he said that if this Bill had not been meant against Communists, the black-market-eers would not have come in at all. I would like him to consider this. I believe that even if I omitted everything, even if I exempted Communists altogether, and had brought in a Bill solely directed against black-market-eers, I would have got greater support from this House than in the other case. That being the case, I am rather surprised by the stand taker, by Pandit Kunzru. I can understand jurisdic feelings of compunction or delicacy in this matter—I myself referred to it this morning. At the same time it should be appreciated that preventive action is necessary in modern times in regard to these matters. In the old days it was enough to proceed against a man who adulterated ghee or other food-stuffs. It was enough to wait for the crime and proceed against the man. But now the imprisonment that people get for crimes is not treated as much. In fact, we have set rather a bad example for a political reason. We have made going to jail not very troublesome, disgusting or dishonourable. It was not our intention, but it was an undesirable consequence of what we did.

Not only that, we have made so many improvements in prison now that people do not feel the annoyance of prison life. This preventive detention has an extraordinary virtue in regard to black-market-eers. Although there is no great annoyance suffered by the detenus, there is a sensitiveness and reaction to this kind of measure. I can quite understand why some people feel that this measure should particularly be applied against them. I must, however, tell my hon. friend Ch. Ranbir Singh that it is not particularly easy to apply this against large numbers of people. Let me also tell him that if we apply it too often, the sensitiveness may be lost and they may begin to think that

it is a patriotic duty to go to prison under the preventive detention law. Then we may lose the value of the sanction. It is good to apply sanctions, but it is good also to be careful in applying them and be cautious in making a thing too familiar. This measure began to be applied rather late against black-market-eers and that is why the figures which I have given are rather small. I may also tell the House that these figures are not up-to-date: they were collected some time ago. We cannot collect figures all over the country except for a particular period. I hope more-cases will be brought up under this measure and that a healthy fear will be generated in the minds of the people. I already see a great deal of improvement as a result of the discussion and the support which the House has given to this measure. In fact, we nowadays get *gur* more easily than we were doing before. When I went to Madras last—the House will bear with me—I was horrified to find that on the Dipavali day, because we had imposed control on *gur* and the merchants did not like it, they mixed cow dung with *gur* and sold it on that festival day.

Things like that are very bad. But we cannot help these things these days. We have to bear with criminals even to some extent and we will have to be tolerant. Let us hope that this measure will be strictly applied and people will be afraid of evading the laws with respect to essential supplies.

I hope the House will not accept this amendment and will reject it totally.

Mr. Deputy-Speaker: The question is:

Renumber clause 4 as sub-clause (2) of that clause and insert the following new sub-clause as sub-clause (1):

“(1) In sub-section (1) of section 3 of the said Act, sub-clause (iii) of clause (a) be omitted.”

The motion was negatived.

Shri Sonavane (Bombay): I beg to move:

In clause 4, for the proposed clauses (c) and (d) of sub-section (2) of section 3 of the Preventive Detention Act, 1950, substitute the following:

“(c) The Commissioner of Police for the cities of Bombay, Calcutta, Madras and Hyderabad;

(d) Collectors in the districts of the State of Hyderabad”.

Mr. Deputy-Speaker: It is only a readjustment of language, I think.

Shri Sonavane: But that is necessary.

Mr. Deputy-Speaker: It does not make any substantial difference except "Commissioner of Police for the city of Bombay" etc. "Bombay" will be the State of Bombay, I think.

Shri Sonavane: It is only to make the wording of the clause more clear that I have moved this amendment. Therefore I think there would not be any difficulty in accepting this amendment.

Shri Rajagopalachari: If I explain the position the hon. Member may not press his amendment. His proposal would lead to this result that every person against whom an order is passed by the Commissioner of Police or the Collector, if such person moves out of that city or that district, would get an asylum. That is not the intention and therefore I think he will not press it.

Mr. Deputy-Speaker: He is suggesting 'Commissioner for the City of...'

Shri Rajagopalachari: If his amendment is accepted it would mean that power is given to the Commissioner of Police for the particular city and to the District Collector in the district, so that any person who just crosses the road will get an asylum. It is for this reason that the language in the original Act is different. If we say Bombay, Hyderabad, etc. the city and the State could be distinguished, but as officers are named there can be no confusion. The Collector is only in the districts and the Commissioner of Police is only in the cities. There is no ambiguity which needs to be removed, whereas an ambiguity would be created by the amendment.

Mr. Deputy-Speaker: I suppose the hon. Member is not anxious to press it.

Shri Sonavane: If my wording is not acceptable to the hon. Minister I would not press it.

Pandit Thakur Das Bhargava: Under clause 5, the order passed by a Commissioner may be executed anywhere in India.

Shri Rajagopalachari: That is different. But this would create an ambiguity that the authority would be only for that area.

Shri Sonavane: Similar would it be the position if the clause standing as it is in the amending Bill.

Shri Rajagopalachari: I do not think so. The amendment would create difficulty.

Shri Sonavane: There is more clarity in my amendment.

Mr. Deputy-Speaker: Are there Commissioners of Police for the whole State or only for the cities?

An Hon. Member: Only for the cities.

Mr. Deputy-Speaker: Then there is no ambiguity there.

Pandit Thakur Das Bhargava: Sir, the Collectors will have jurisdiction in the State of Hyderabad, whereas the Commissioner of Police will have jurisdiction only in the city of Bombay, etc. But any warrant issued by them will be executed all over India under clause 5.

Shri Rajagopalachari: There are two things to be considered here. One is whether there is any serious ambiguity in the word "Hyderabad" or "Madras" etc. and whether it is necessary to put in the words "city of ..." etc. That is one point which is merely a matter of form. There is no Commissioner of Police except in the city, and there is no Collector except in the districts. So there is no real difficulty in understanding or for any court to interpret.

The other question that arises is this. When you say any of the following officers, namely, the "Commissioner of Police for Bombay, Collector in the State of Hyderabad" etc., there should be no ambiguity about his jurisdiction. A Collector could for instance pass an order against a man—it would not matter—anywhere in the State of Hyderabad. A Commissioner of Police could issue an order similarly. On the other hand, if we change it in the way proposed by Mr. Sonavane—I do not mean to say that the word 'City' cannot be introduced at all without raising any ambiguity—but in the particular amendment before us there would be a certain amount of ambiguity, because the expression "Collectors in the districts of the State of Hyderabad" may create a room for argument that the authority of the officer could not extend to any person outside his district, if the person moves off the district he would be outside his jurisdiction, and so on. Is there any reason for changing the language? There is no ambiguity worth alteration of the language. As the clause stands, the original Act

as amended by this amending Bill would read thus:

"Any of the following officers, namely:—

(a) district magistrate,

(b) additional district magistrate specially empowered in this behalf by the State Government,

(c) the Commissioner of Police for Bombay, Calcutta, Madras or Hyderabad,

(d) Collectors in the State of Hyderabad.

may, if satisfied as provided in sub-clauses...etc. exercise the power conferred by the said sub-section."

There is no ambiguity at all in this.

Mr. Deputy-Speaker: All right, it does not make any difference one way or the other. He wanted to copy the original language perhaps.

Shri Rajagopalachari: It may be possible to improve it, but there is no ambiguity here.

Mr. Deputy-Speaker: Anyhow the amendment is not pressed by the hon. Member.

Shri Kamath (Madhya Pradesh): I beg to move:

In clause 4, omit the proposed clause (d) of sub-section (2) of Section 3 of the Preventive Detention Act, 1950.

At the outset I must say I am gratified to see that the old clause (c) which vested power under this Act in sub-divisional magistrates has been deleted. I moved for its deletion last February, again last August. But on both occasions my amendment was not accepted. But several months later, now, Government has thought it fit not to invest sub-divisional magistrates with this power. I am glad that the clause which vested power in them has been deleted, and only D.M's and A.D.M's, that is, District Magistrates and Additional District Magistrates, are given the power.

As regards clause (d) whose deletion I propose in this amendment, I am asking for a little clarification. So far as I am aware, in the State of Hyderabad there are Collectors as well as District Magistrates. The officers who were formerly called Civil Administrators are, I am told, now designated Collectors, and District Magistrates are also functioning in each district. Collectors do not exercise criminal or judicial powers, whereas the District

Magistrates do. I see no reason why, when there is an officer in every district who exercises criminal and judicial or magisterial power, it is thought fit not to invest that officer, that is to say the Magistrate, with power under this section and it is thought fit to invest a Collector, who has got merely revenue powers, to exercise powers under this section of the Act.

All over India—except in certain Cities but even there the Commissioner of Police has been invested with the power—it is either District Magistrates or Additional District Magistrates who have been invested with the power, and only in the case of Hyderabad there has been an exception, and there officers normally exercising revenue powers are being clothed with the power under this section of the Act. I would therefore like to know why in this particular case of Hyderabad alone, officers who have got criminal and magisterial powers, that is District Magistrates in each district are not being invested with this power and why Revenue officers are being clothed with this power under the Act.

Shri Rajagopalachari: I discussed this matter with my friends in Hyderabad and I had no time to discuss with the Secretariat here. I am using the information that I got from the party yesterday. The point here is one of matter and not as to the source of my information. With regard to Hyderabad the District Magistrates are just judicial officers. Under the structure of this measure every order passed by any officer classified under A B C and D would have immediately to report their action on the grounds and the steps they have taken to the State Government and they would have to get the authority of the State Government before anything else is done. They would not be in intimate contact with the State executive as a whole if they are just judges. In the rest of India the District Magistrate does not try offences; he is merely an executive authority. Here in Hyderabad we would require an officer who would be in touch with the State and also have general supervisory powers. The District Magistrate in Hyderabad is not exactly in the position of the District Magistrates elsewhere. That is why it was thought necessary to have this sub-clause introduced. Otherwise we would not have one intimately associated with the executive Government. He is a judicial officer and it would not be right to throw on him the burden of preventive action of this kind. Therefore, from the point of independent judiciary, it would be better if clause 4 is kept as it is.

Shri Kamath: What are the powers that the Collectors have got besides revenue powers?

Shri K. Vaidya (Hyderabad): In Hyderabad there is a judge for each district. He exercises both the powers, civil as well as criminal. In several cases he hears judicial appeals as well as criminal cases. He has nothing to do with the administration at all. That is the position in the districts. Of course even in those days after the judiciary was separated from the executive certain powers had been given to the Talukdars. In those days they were called Talukdars having the status of Collectors as you call them here. They were given powers to maintain law and order. Some criminal powers have been given to them but generally they never tried criminal cases. Even now when the Civil Administrators came after the Police Action, they were also invested with criminal powers. But they never tried any cases. The name only has been changed from Civil Administrators to Collectors now. The District Judges are invested with powers to deal with both civil as well as criminal cases. That is the position at present.

Mr. Deputy-Speaker: As a matter of fact, he is a District Magistrate.

Shri K. Vaidya: He has got original criminal powers also. He has civil powers as well.

Shri Kamath: Sir, I do not press the amendment.

Mr. Deputy-Speaker: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5.- (Insertion of new section 3A)

Shri Venkataraman: I think that the amendment of Mr. Naziruddin Ahmad is very necessary and the Government may itself move that amendment, as Mr. Naziruddin Ahmad is not in his seat to move it.

Shri Rajagopalachari: Yes, Sir. I am thankful to Mr. Venkataraman. I had already marked it for acceptance. I beg to move:

In clause 5, in the proposed new section 3A of the Preventive Detention Act, 1950, for the words "by any law for the time being in force" substitute the following:

"of arrest by the Code of Criminal Procedure, 1898."

The clause as amended would read thus: "A detention order may be executed at any place in India in the manner provided, for the execution of warrants of arrest by the Code of Criminal Procedure, 1898."

An Hon. Member: "Under" would be better than "by".

Shri Rajagopalachari: "Under" is quite good.

Shri Kamath: May I further suggest an amendment to the amendment moved by the Hon. Minister? The clause begins with the words "a detention order" and as compared with this we have the words "warrants" in plural. Why not make it "a warrant of arrest"?

Shri Rajagopalachari: It is merely a question of language. "A detention order may be executed at any place in India in the manner provided for the 'execution'" and this word 'execution' is singular.

Mr. Deputy-Speaker: There is no harm. Then I shall take this as Government amendment. The question is:

In clause 5, in the proposed new section 3A of the Preventive Detention Act, 1950, for the words "by any law for the time being in force" substitute the following:

"of arrest under the Code of Criminal Procedure, 1898".

The motion was adopted.

Prof. K. T. Shah: I beg to move:

In clause 5, to the proposed section 3A of the Preventive Detention Act, 1950, add the following Proviso:

"Provided that such warrant shall contain the grounds for the arrest and detention of such person, and a copy of such warrant shall be forwarded at the same time as the arrest is made to the Advisory Board provided for in section 8 of this Act."

There are two substantial points with regard to this amendment which, I trust, would prove acceptable. One is with regard to the record of reasons, the grounds for which the arrest and detention is made. I want these grounds to be stated in the warrant at the same time that the arrest is made. The second is, the moment this warrant is executed...

The Minister of State for Transport and Railways (Shri Santhanam): This is really an amendment to section 7 and not to this section. Section 7 deals with order of detention.

Mr. Deputy-Speaker: It is provided that the grounds may be given as soon as may be; he wants that it should be given along with the warrant of arrest.

Shri Rajagopalachari: There he proposes to delete these words.

Mr. Deputy-Speaker: He can do it either way.

Prof. K. T. Shah: The second point is that the reasons in the warrant shall also be communicated at the same time that the warrant is executed to the Advisory Board. In my opinion, it should not await the convenience of the authority making the order to specify the grounds at some later date. I think the grounds should be furnished, at any rate, those which are necessary to be communicated, to the person arrested and detained under the warrant, and it should not wait till representation has to be made by the party detained or otherwise for being communicated or placed before the Advisory Board. Later on, I have suggested some other amendment to improve the procedure and increase the safeguards of the person who is detained. But in this place I think it is necessary.....

Mr. Deputy-Speaker: Would it not be more proper to have it there, as suggested? There is another point introduced namely communication to the Central Government and so on.

Prof. K. T. Shah: When a person is detained, we are referred to section 7. I have made that amendment there.

Mr. Deputy-Speaker: The wording is: "The authority making the order shall, as soon as may be, communicate....." If these words are omitted, it means the same thing.

Prof. K. T. Shah: I have suggested that amendment later on. Here, I am putting it because it seems to me more proper to the amendment proposed by the Bill itself. The reasons should be stated at once without there being a time lag for doubt and suspense, and secondly, the Advisory Council must also be informed of these reasons at the same time, so that needless delay should not take place in the consideration of the cases. A great deal of the hardships of this measure is in the detention of persons, without their knowing the reason why they have been detained. Provision has been made, I recognise, for giving the grounds or some of them, "as soon as may be." But, "as soon as may be" is very vague; and if the amendment suggested by me is accepted, there would be no cause for delay.

You will treat these people as ordinary criminals, give them the grounds in the warrant itself, and place these grounds also before the Advisory Council at the same time. All possible delays in considering their cases should be avoided and the parties should know, as well as those who have to advise upon their cases should know, the reasons they have been detained. The reasons, perhaps, may relate to the defence and security of the nation about which I have another amendment hereafter in the appropriate place. In this case, my object is to see that no delay that is possible to avoid should take place in the party concerned knowing the reasons or grounds for his arrest and detention, and also the authority going to advise about the propriety of those grounds knowing them too. I hope, Sir, that this amendment will be accepted.

Mr. Deputy-Speaker: Amendment moved:

In clause 5, to the proposed section 3A of the Preventive Detention Act, 1950, add the following Proviso:

"Provided that such warrant shall contain the grounds for the arrest and detention of such person, and a copy of such warrant shall be forwarded at the same time as the arrest is made to the Advisory Board provided for in section 8 of this Act."

Shri Rajagopalachari: The proposal is that unlike in ordinary cases of warrants of arrest, the warrant of arrest to be issued under this measure would have to be a long charge-sheet rather than a warrant. It would be contrary to expediency as well as previous practice. If it is necessary to proceed against a person, it would be advisable to proceed promptly and arrest him. Then, the grounds will have forthwith to go to him. 'As soon as may be' is not a loose phrase; it has been well understood to be 'forthwith' practically. Where officers arrest, they have to report their grounds to the State Government according to a provision we have made here later on and the State Government will have to scrutinise the grounds and either approve or not approve of them. The grounds will have to be clarified to some extent before they could be sent to the Advisory Board. Therefore, it would be impossible, at least impracticable and inexpedient to write down all the grounds in the paper that is shoved into the hands of the person who is arrested. It should reach him in a proper way so that he may reply properly. As a matter of fact,

[Shri Rajagopalachari]

normally, under the Criminal Procedure Code, when a man is arrested, he is not given the grounds on which he has been arrested. As soon as may be a charge-sheet is prepared and he is called upon to answer. The same procedure is also followed here. I am sorry, it would be throwing too great a burden and it would dislocate the whole scheme if we introduce such a measure here. I therefore oppose the amendment.

Mr. Deputy-Speaker: The question is:

In clause 5, to the proposed section 3A of the Preventive Detention Act, 1950, add the following Proviso:

"Provided that such warrant shall contain the grounds for the arrest and detention of such person, and a copy of such warrant shall be forwarded at the same time as the arrest is made to the Advisory Board provided for in section 8 of this Act."

The motion was negatived.

Mr. Deputy-Speaker: Sardar Hukam Singh. I think it is the same thing.

Sardar Hukam Singh: It is distinct, Sir, and I have different grounds. I would like to move it.

Mr. Deputy-Speaker: The amendment is "Provided that such warrant shall contain the grounds for the arrest and detention of that person". That is common. That is covered by the previous amendment.

Sardar Hukam Singh: I have to put it before the House. I hope I may be able to convince the Home Minister.

Mr. Deputy-Speaker: Once a decision is taken, it cannot be re-opened. It is barred. There may be other things also there. It cannot be re-opened.

Sardar Hukam Singh: Sir, I have got to say something on this. I support the amendment moved by hon. friend Prof. K. T. Shah; the clause is there and I oppose it on certain grounds.

I made it clear at the consideration stage that though the officers do issue warrants and orders of detention, they do not apply their mind when they are doing that. The law requires that they should be satisfied. There is no judicial authority which could interfere with that, before the case goes to the

Advisory Board. Of course, they have the option to move the High Court of the Supreme Court for taking out a writ of *habeas corpus*. The jurisdiction of the court is also barred, because, as I read from the judgment, it is the District Magistrate who has to be satisfied and not the court itself. The District Magistrate has to see, in the terms that we have put in the Act itself, that he is satisfied that such and such a person is going to act in a manner which is prejudicial to the maintenance of law and order or something like that. But, he never applies his mind to the rules. That would endanger the safety of the person. We have to see that he really applies his mind before issuing that order. I cannot speak on my amendment now; the object of my amendment was to see that before he issues that order, he should fully apply his mind in that direction and it should be impossible to issue an order without applying his mind. If he had to supply the grounds, it was certainly incumbent upon him to see that there are weighty grounds which would be weighed ultimately by the Advisory Board. At first hand, as soon as he is asked, automatically, he should not issue orders, as I showed from the judgment which I read out the other day, where there were two District Magistrates who issued orders as if they had been *cyclostyled*. There is no guarantee that a person is safe. Even though he may be set free by order of the Advisory Board, that would take a long time. If we really want that, even before the six weeks or ten weeks provided for the report by the Advisory Board, there should be some security that no man is unjustly treated, then, certainly, we ought to provide like that.

With these words, Sir, I oppose this clause.

Pandit Thakur Das Bhargava: Sir, I am rather surprised that such an objection could be brought forward by my hon. friend Sardar Hukam Singh. So far as my hon. friend Prof. Shah is concerned, I can understand his point of view; but I am rather surprised that a lawyer should say that the grounds should be given in the warrant which is merely an authority for arrest.

5 P.M.

Whenever a warrant is issued, whenever a summons is issued, whenever anything of that nature is issued, the court has to be *prima facie* satisfied, the officer issuing it has to be

prima facie satisfied that there is an offence. Later on further evidence is collected. Does my hon. friend contend that even before the warrant is issued these grounds and evidences should be finalised? In that case this period of six weeks would not be required at all. In fact, the idea is, as soon as there is a *prima facie* case, a warrant is issued and the man arrested. Are we to give him all the grounds of arrest and proclaim to all the world why he is arrested? And if he is absconding, he will take good precautions not to be caught. That will be quite wrong. So I say that when there is a *prima facie* case warrant is issued and then comes the stage of collecting the evidence and preparing the charges so that the matter can be placed before the Board. That is the law as we understand from the cases produced before the courts. Therefore the provision con-

tained in the Bill is the right one. The grounds and other things are prepared later which could bear scrutiny even in the High Court. That being so, I think it would be wrong to say that the warrant should contain the grounds on which the arrest is made.

Mr. Deputy-Speaker: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

The House then adjourned till a Quarter to Eleven of the Clock on Friday, the 16th February, 1951.