

28273.525 acres and the annual income from lease rents in respect of the said area is Rs. 12.40 lakhs. This excludes the income from sources other than leases such as licenses, grazing rights, quarrying rights and disposal of dead trees.

3. I take this opportunity to correct the answer given previously.

12.05 Hrs.

PAPERS LAID ON THE TABLE

CINEMATOGRAPH (CENSORSHIP) AMENDMENT RULES

THE MINISTER OF INFORMATION AND BROADCASTING (SHRI K. K. SHAH) : I beg to lay on the Table a copy of the Cinematograph (Censorship) Amendment Rules, 1968, published in Notification No. G.S.R. 233 in Gazette of India dated the 3rd February, 1968, under sub-section (3) of section 8 of the Cinematograph Act, 1958. [Placed in Library. See No. LT-218/68].

STATEMENT RE : STATUS OF CENTRAL SOCIAL WELFARE BOARD

THE MINISTER OF STATE IN THE DEPARTMENT OF SOCIAL WELFARE (SHRIMATI PHULRENU GUHA) : I beg to lay on the Table a statement about the status of the Central Social Welfare Board. [Placed in Library. See No. LT-219/68.]

12.06 Hrs.

MESSAGE FROM THE PRESIDENT

MR. SPEAKER : I have to inform the House that I have received the following message dated the 26th February, 1968, from the President :—

"I have received with great satisfaction the expression of thanks by the

Members of the Lok Sabha for the Address I delivered to both the Houses of Parliament assembled together on the 12th February, 1968".

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

TWENTY-FIRST REPORT

SHRI KHADILKAR (Khed) : I beg to present the Twenty-first Report of the Committee on Private Members' Bills and Resolutions.

ESTIMATES COMMITTEE

THIRTY-FIRST REPORT

SHRI P. VENKATASUBBAIAH (Nandyal) : I beg to present the Thirty-first Report of the Estimates Committee regarding action taken by Government on the recommendations contained in the Seventieth Report of the Estimates Committee (Third Lok Sabha) on the Ministry of Transport and Shipping—Paradeep Port.

12.07 Hrs.

MOTION OF NO-CONFIDENCE IN THE COUNCIL OF MINISTERS—contd.

MR. SPEAKER : The House will now resume further consideration of the motion of no-confidence in the Council of Ministers. I will allow one or two speakers now and after lunch, the Prime Minister and the mover, Mr. Bal Raj Madhok will reply. Then, at 4 P.M. we will take up the motion regarding Bihar. Before we adjourn for lunch the Home Minister also will intervene. Now, Mr. T. M. Sheth.

SHRI T. M. SHETH (Kutch) : Mr. Speaker, Sir, I rise to oppose this no-confidence motion. I would merely confine myself to the consideration of the points made by the mover, Mr. Madhok. I come from a constituency from which this chunk of the territory will go. People in my constituency, as in other parts of India, are greatly agitated over that issue.

[Shri T. M. Sheth]

For me in particular the loss of territory is more or less personal. I was in charge of this territory for more than a decade. I have visited it several times and taken steps to see that proper jurisdiction was exercised over it for a decade or so. When I heard that Chhad Bet and the territory neighbouring it have been considered not Indian territory I was not only surprised, but shocked. Today also I feel that in addition to losing as an Indian, I have lost something which was my own property. However, anger should give place to calmness and reason should substitute sentiments and emotions. Therefore, we have to look at this question in an objective and impassioned way. When we consider this question in this way, the following three issues come to be considered—whether India should have agreed to refer this matter to the arbitration of an international tribunal, whether the award of the tribunal is proper or perverse and whether proper or perverse, should India implement this award.

Coming to the first issue, it is argued that the boundaries of Kutch and Sind before 1947 were settled and therefore, there was no dispute pending prior to the partition and as such the question of determination of the boundary did not arise. What did arise was the demarcation of the boundary on the ground and therefore, the appointment of the tribunal of the nature of the Indo-Pakistan Tribunal was not proper. Its appointment gave Pakistan an opportunity to reargue the question of boundary which was a settled fact.

I am afraid, as a statement it is not quite correct and does not reflect the true state of affairs. If as is alleged that the boundary was settled in 1871, then there would have been no occasion for settlement by the Maharao of Kutch during the period of 1903 to 1924 for negotiations with respect to the western part of the boundary. It may be remembered that at that time the question was in regard to about 1,000 square miles of territory and during negotiations Maharao had to give away about 450 square miles of territory. Therefore, the boundary of Kutch *vis-a-vis* Sind was never as such bilaterally settled. There was the traditional boundary and there were always some disputes with regard to one

part or the other and that dispute continued right up to 1947 and thereafter also. Therefore, when the question arose with regard to the settlement of its boundary after 1947 and when the negotiations between Noon and Nehru were started it was agreed that if in case there was no settlement by negotiations the matter should be referred to an independent tribunal. In my opinion, therefore, the reference to the Tribunal was quite proper and necessary.

It is, secondly, alleged that territorial disputes should never be referred to arbitration because territorial sovereignty is a non-justiciable issue. I am afraid this statement is not correct inasmuch as during the British time the various territories were such that there was no proper demarcation. This statement may be true with respect to the sovereign countries which had attained independence very early, but in respect of those countries which attained independence during the British time when the boundaries were left more or less vague and undetermined this statement that there should not be any reference to arbitration is not a proper one. Therefore, I think that the Government of India was well advised in referring this dispute to the settlement of a tribunal.

The second question, therefore, would arise whether the judgment or the award of the Tribunal is proper or not. When we come to consider this question we have to see that the Tribunal has gone through evidence the record of which covers more than 10,000 pages. More than 300 maps have been submitted to it and both the parties have had oral hearing lasting over about 200 days. After going through all these things the Tribunal has come to the conclusion which appears on page 152. The Tribunal says:

"Reviewing and appraising the combined strength of the evidence relied upon by each side as proof or indication of the extent of its respective sovereignty in the region, and comparing the relative weight of such evidence, I conclude as follows."

Therefore, the award is based not on anything else but on reviewing and appraising the combined strength of the evidence. When the award is based on a proper

appraisal and appreciation of the evidence it can hardly be said that the award is perverse or that it is not proper. If the award is proper, then I think it is the duty of everybody to accept that award.

Therefore, the third issue which I posed in the beginning, whether we should accept this award or not, comes to be concluded like this. That in view of the fact that the reference to arbitration was proper, that the award of the Tribunal is based on consideration of the evidence which has been produced by both the parties which have been given ample opportunity to argue their case, it is necessary that the award should be implemented and India in addition to being bound by its own agreement cannot even in law escape this award. Therefore, my submission is that India should accept this award on all these grounds.

Sir, you have given me ten minutes. So, before I resume my seat, I will draw attention to one fact and that is about the South Western boundary of this area. Very recently, the South Western boundary has been made the focus of attention by Pakistan. From Lakhpat to Jakau about 20 boats have strayed and 400 Pakistani intruders have come into this area. Again, between Kori and Sir creeks there is a vast fishing area and many fishermen from Pakistan come and fish there. Therefore, it is very necessary that this taluka of Lakhpat should be given proper attention. In addition to our northern boundary, the south western boundary will become very important. I would request the Government of India, particularly the Defence Ministry, to see that there are proper communications in this taluka, that there is proper development of the port of Lakhpat and Koteswar and that there are proper safeguards to see that we do not have any more encroachments on this side.

**SHRI TENNETI VISWANATHAM** (Visakhapatnam): Mr. Speaker, Sir, last time when I had occasion to mention something about the Kutch Award, the Award itself was not before me. It was supplied to us last Sunday. I have gone through it and I can say that there is a good deal that can be said in support of what Shri Madhok has said. When a Judge was nominated by the Secretary-General of the United Nations, all of us

expected that he would have a complete judicial approach. But, however, we find from the Award that really speaking it is not an award. An award is something like a decree, which must follow the judgment. A decree cannot be different from the judgment. A decree cannot contain findings which are not given in the judgment itself. In the reasoning, for example, it is stated that the two inlets on both sides of Nagar Parkar belong to India. But, at the same time, the arbitrator says that it is inequitable to recognise them as Indian territory. It is a clear case where the decree had differed from the findings. Therefore, there is certainly a case for our government to explore every means possible to get this so-called award reconsidered and reversed, if possible.

The Commission has not become *functus officio*. It is still there. It is quite unfortunate that the terms of reference to arbitration, were not very specific. The words used were: Determination and demarcation. They should have been really more specific so that the arbitrator also could have been clearly bound by the terms of reference. Therefore, my point is that there is a good case to get this referred back to the arbitration tribunal, because the finding is that the inlets belong to our country but the award itself says that it cannot be recognised as ours, because it would lead to friction and all that. In fact, the existence of India itself is a source of friction to some other countries. How can we help it? That the two inlets should be given to Pakistan just to avoid friction does not seem to be a convincing judicial pronouncement.

Actually, the arbitration tribunal should have made 1935 the starting point when Sind was being formed and all the documents that were there then. Then they should have gone back to 1924 and 1919. Then the matters would have been clear. Instead of that they go into all sorts of petty documents and cloud themselves under various things. Then the real issue was clouded. In 1935 the Government of Sind, the Government of Bombay and the Government of India all agreed upon certain boundaries. In 1947 at the time of partition those maps were considered adequate by both. There is no reason for this tribunal to have gone back upon the maps

[Shri Tenneti Viswanatham]  
supplied as in 1935 or in 1947 for the  
division of this country.

Therefore, there is good reason to tell them—whether it is perverse or not is another matter; but we certainly have a right to tell them—"You are saying that the territory belongs to India and you are given the function only of determining the boundary according to the documents and according to your own admission this portion belongs to India; yet, you say that in the interest of peace with which you are not concerned, in the interest of avoiding friction with which you are not concerned, you say that they must go to Pakistan; therefore, your award does not follow your findings as disclosed by the record. Reconsider the entire matter."

The Prime Minister has said that we must honour our international commitments; so also is our view, but the question is, "What was the commitment?" The commitment was to accept the finding of the tribunal on facts. On facts those two creeks belong to us. If the award itself writes something else, surely it is a case where we have got to tell them to correct the award. These things are done now and then. Where decrees are not properly worded and they vary a little from the judgement, we have got a right to go to the court and tell them to make the correction; otherwise, there would be a lot of trouble.

The tribunal itself should have realised that they cannot go beyond the terms of reference. They were not a partition commissioner. They were not appointed to partition the property of two countries or to look into the equity and all that. They were asked simply to fix the boundaries according to the record.

I do admit and I already said that once we agreed to stand by the award of the tribunal, we have to. Certainly, we cannot say that we shall not honour our own word. It will put us out of court in the international sphere. But all the same, is this the award which we envisaged? We did not want them to exchange or hand-over territories. All that we wanted was that they should look into the documents and give us the boundary and we said

that we would accept that. Therefore, I want the Government to take the aid of the best legal assistance available in India and outside and see what they can do in order to get the whole matter revised; otherwise, as several people have pointed out, there will be repercussions and this will form such a bad precedent that in future we would be bound hand and foot. Therefore I suggest to the Government to think twice before they come to a decision one way or the other.

SHRI R. D. REDDY (Kavali) : Mr. Speaker, Sir, I oppose the Motion of No-Confidence that has been moved by Shri Bal Raj Madhok. I am sure that the Government and all of us have been shocked and disappointed as a result of the Award that has been given.

The main point on which both the parties claimed the disputed area of 3500 miles was on the basis that each of them claimed it as their own. Pakistan claimed it that it was a land-locked sea or a lake and, therefore, under the international law, it was entitled to half of that area. That was their main case.

As far as India is concerned, India claimed that it was a part of the Kutch territory and, therefore, the entire territory belonged to it and that, under the international law, Pakistan was not entitled to it. This was upheld by the Tribunal. The Tribunal held that it was neither a lake nor a land-locked sea but it was only a marshy land. Normally, under such circumstances, the Tribunal should have awarded the entire area to India.

Then, Pakistan had a second case. Their second case was on the footing that they exercised certain jurisdiction over certain areas. Therefore, in the alternative, they alleged that in the event of not being able to establish that it was a part of their land under the international law, they would be entitled to claim certain area as their own. Under the Agreement, no doubt, the contentions put forward by both the parties, in preliminary paragraphs, were specific and definite. India claimed that there was no dispute in regard to boundary and that the dispute was only in demarcation. That was the case they set out in the preliminary paragraphs. Equally so, Pakistan

claimed emphatically that the entire area of 3500 miles was their territory. But in the subsequent paragraphs, when we conferred certain power on the arbitrators, we somehow diluted our case. We have said that they would have a right not only to demarcate the boundary but also to determine the boundary. That gave them scope to go into the entire material and go into the question raised by Pakistan that certain territory belonged to them on the basis that they exercised certain jurisdiction over it.

I would submit that, in the first instance, it is recognised by all nations that when disputes of this type arise, it is but proper that we should negotiate and settle the dispute and not settle only by means of an award. In this case also, both the parties thought, whatever might be their considerations, that this should be so settled. By trying to settle it, originally, they tried to settle it by negotiation at the ministerial level. As a part of the Agreement, they provided that in case they failed to do it, the matter must go before the arbitrators and that one of the arbitrators was to be appointed by each country and a third person was to be appointed by them jointly as a common person and that, in case they failed to agree to a common person, then the matter may be referred to the Secretary-General of the United Nations. So, the Secretary-General was requested to appoint a third person. The Secretary-General appointed the person and I must say that the person appointed by him is of international repute and well-acquainted with the international law.

The other matter that came up before the Tribunal was whether the Tribunal was to decide the issue on the question of international law or whether the principles of equity could also be taken into consideration. There are several decided cases by the arbitrators where they have taken into consideration not only purely the international law but the principle of equity has also been applied and all those cases have been upheld. Therefore, in this case, when the Tribunal found that the first case of Pakistan was not upheld, they went into the other question and they thought, as far as the exercise of jurisdiction is concerned, both the parties were claiming jurisdiction and both the countries had previously

exercised certain type of jurisdiction which they claimed was by virtue of their sovereign right. I feel, personally, that as far as these things are concerned, they are of exercising some type of jurisdiction but not conferred by sovereign rights. But the view taken by the arbitrators is different. I do not say that for that reason the arbitration is perverse or they have taken extraneous matters into consideration. They have taken an honest view. It is always possible, when the matter comes before the Tribunal, that the members take different views.

As far as our case is concerned, I would submit that it has been very ably presented and the entire material and the documents that were available have been placed before the Tribunal. The opinion expressed by the member nominated by us runs into 60 to 70 pages and every detail has been given. Therefore, it cannot be said that, as far as India is concerned, it did not present the case ably or properly.

Another matter was, from the very beginning the Indian Government had absolute confidence in this case; it thought that it had jurisdiction, it thought that it had possession there and that it was properly there. Therefore, with the firm belief and faith that their case was strong, that they would be able to establish the same before any international tribunal, that the Government agreed to go before it. It was with that firm belief that they were there. If you do not go before the tribunal, then it will be said that you have no case and you just want to argue it outside, just as it is said that issues are settled in streets and not in the House. Therefore, international arbitration is a method that has been put in for the purpose of settling such issues and nations go before international tribunals. The members brought before this tribunal are people of great repute. One member was nominated by us, one member was nominated by Pakistan and the third was selected by the UNO. Therefore my submission is that in this case, it cannot be said that we went before the tribunal without any proper reason. If we had not gone before them and if we had waged a war with Pakistan, it is quite possible that we would have won and retained the territory. My submission would be that, as far as this position is concerned,

[Shri R. D. Reddy]

it is not a case why the tribunal held that the territory in its entirety is not ours. I would submit that the first part of the case has been in our favour, namely, that it is not a lake or land-locked and so, Pakistan had no claim. As far as the other part is concerned, the tribunal has not held that the territory in its entirety is ours. No doubt, they have said that the evidence that has been adduced by either party is not satisfactory, and in the absence of there being any strong evidence one way or the other, naturally the principles of equity had to be used and on the basis thereof, they have given this award. My submission is that you cannot compare this with the other cases.

The Motion itself is worded very vaguely and has not given any specific reason why the no-confidence motion is being moved; mainly, the reliance has been only on this award. Therefore, my submission would be that even before the award was given it was a just case and we have tried to establish it properly, and that was done. Therefore, it is just and necessary, in the interest of our own prestige—not on what we have lost but on what we have retained—we should accept this award.

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : I am only intervening for a short speech. I was one of the Members of the Cabinet when this agreement was signed. Also I happened to be the Minister in charge of the operations in Kutch at that time. Therefore, I thought that I should say a few words on this Motion. Unfortunately, this Motion is not so straightforward as it should have been. It is a one-line Motion in which many members who wanted this Motion to be pressed are also supporting the case for the acceptance of the Kutch award. That is a very good thing.

In discussing the Kutch award and the issue it has raised,—we are discussing not merely the Kutch award but also the important issues involved in it—one must not overlook what was the situation at the time we accepted arbitration. I would like to briefly state that the Kutch situation started developing from February, 1965 onwards. At that time it became very

clear that this particular part of Pakistan-India border was accepted as one of the disputed problems between India and Pakistan... (*Interruption.*) I am only stating the fact. Whether that should have been accepted or not I am not going into that matter. But when the situation developed, this point became very clear. Then there were only three alternatives before the Government: one was to have direct negotiations, the second was reference to arbitration, and the third was going to war. As they had already started attacking some of the posts like Sardar Post, Biar Bet and Point 84, naturally we had to respond to that in that way. But at the same time those who were holding responsible positions in this matter had also to consider whether there were other alternatives open, alternatives other than war.

The hon. Member who moved the motion said that we possibly agreed to this question of referring this matter to arbitration as a sort of measure of appeasement of Pakistan. I would say that he has forgotten the history of 1965. It was not as a matter of appeasement. When they persisted in their aggressive activities, the Government of India and the Government of India's armed forces responded very hotly in the same year after a few months. So, there was no question of appeasement in a particular move. But what was to be done in that particular situation was really speaking the issue before the then Prime Minister and the Cabinet.

I entirely agree with Shri H. N. Mukerjee that we cannot treat our neighbour a permanent enemy. But at the same time we shall have to make a rather realistic appreciation and assessment of the relationship. I know that at the present moment Pakistan's foreign policy is based on hostility towards India. We have also to take note of that particular fact. We cannot also at the same time forget their flirtations with China; we cannot at the same time forget how they are trying to encourage the subversive elements in our eastern part of India. We have to take these things into consideration. I personally feel that our relations should be based on the principle of flexible response; if it is friendship, then friendship, if it is subversion, then necessarily subversion, and if it is aggression, certainly we shall have to respond to it also in the same way.

In this particular matter, I think what was done was very wise for any nation. When a mutually accepted dispute existed, we had to find out what methods other than war were possible and open to us. And arbitration was not accepted when their armed activities were going on, but it was accepted only when they accepted the *status quo ante*. This phrase was very popular in those days in this very House.

श्री मधु लिमये (मुंगेर) : कन्जरकोट के बारे में आप ने गुमराह किया ।

SHRI Y. B. CHAVAN : The then Prime Minister Shri Lal Bahadur Shastri is not present with us here today. I think it would be very unfair to his memory if I do not say this that when he acted then to accept this agreement, he acted in the interests of the nation. I have no doubt about it in my mind, and as his colleague—most of us were his colleagues—we cannot say today that only because he had agreed we have now to accept it. I think when it was agreed it was also agreed with a view to find a solution to a problem in a peaceful manner. Suppose in this particular matter their decision were in our favour, you would have said, 'very well done'.

श्री मधु लिमये : यह गलत है । मंत्री महोदय ऐसा कह कर अन्याय कर रहे हैं । हम ने कहा था कि ट्रिब्यूनल के सामने न जायें । मंत्री महोदय हमारे साथ अन्याय न करें ।

SHRI Y. B. CHAVAN : Those who had taken a different position had taken a certain logical position. I am not disputing it. I am not saying anything about it. Let them try to be consistent with that attitude themselves. I am not saying anything on that matter.

I can certainly give a compliment to Shri Hem Barua who on a point of order at that time had made many points which points all the Members are making today; possibly, he can be treated as a great man with a vision certainly it could be said. But the question of accepting the process of arbitration was accepted with open eyes.

SHRI HEM BARUA (Mangaldai) : I did not like Shri Lal Bahadur Shastri's

statement that we had a cast iron case; those were the words that he had used, but now it is proved that we did not have a cast iron case.

SHRI Y. B. CHAVAN : When we said that we agreed to arbitration, naturally we went by the evidence that was available before us and on the basis of which it appeared and appeared reasonably a good case. But naturally if we had gone in for it knowing that we were going to lose the case then it would have been a rather unwise thing to do. But on the basis of the evidence that was available then, it appears to be a cast iron case in our favour and it was, therefore, a reasonable risk to take.

SHRI J. B. KRIPALANI (Guna) : Did we avoid the war or did war come upon us? Even after the war had been declared, was it not the position that Government persisted in carrying out their perverse policy?

SHRI Y. B. CHAVAN : I do not want to enter into a controversy with a great man for whom I have great respect.

When this question was considered, the issue that arose in Kashmir was considered completely different from the issue in Kutch.

SHRI BAL RAJ MADHOK (South Delhi) : That was the basic mistake committed, when they separated the two issues.

SHRI Y. B. CHAVAN : I am not yielding. I want to pursue with my own approach in this matter.

SHRI HEM BARUA : May I draw your attention to a remark of his? This is very dangerous. He said that he did not want to enter into a controversy with a person for whom he has great respect.

MR. SPEAKER : He is not yielding.

SHRI HEM BARUA : Will he enter into a controversy only with people for whom he does not have any respect?

SHRI Y. B. CHAVAN : As regards the question whether the country should accept arbitration for the future, it is for this Parliament and Government to consider. But I have no doubt that at that time when Shri Lal Bahadur Shastri, in consultation with his colleagues, accepted the

[Shri Y. B. Chavan]

principles of entering into an agreement for arbitration, he did it in the national interest and did it with a view to find a peaceful solution to a disputed point.

SHRI J. B. KRIPALANI : Did you get the peace ?

SHRI Y. B. CHAVAN : I think the nation will have to consider these matters very carefully, because the whole question is : what should be our attitude in this matter ? As to what will be the legal complications, what will be the constitutional position, one cannot say what the courts may say tomorrow. On present advice is that a constitutional amendment will not be necessary. But that is not the issue. The issue is : what should be our attitude and what should be the attitude of this Government in this matter ? Our attitude should be to honour our international commitments—I have no doubt about it. Even if one has to pay a political price in this matter, I think honestly one should stand before the nation and say 'this was our commitment and it is our duty to abide by it even if in the process we have to pay a price for it'. Because this is the only way of educating people as to how on major issues we should conduct ourselves. We cannot say 'This suits me politically just now; therefore I would do it'. We should consider what is essential.

Even from the defence point of view, when you want to go to war, what should be the approach ? At least I had, I do not know whether I can call it a privilege, the terrific responsibility of taking a decision with the then Prime Minister, of deciding to go to war, if it was necessary. But the question is : would we be morally justified in sending our people to go and fight....

SHRI RANGA (Srikakulam) : Did we ever decide to go to war ? He was talking of war. At that time, we did not decide upon a war.

SHRI Y. B. CHAVAN : When I said war, I said we had to respond to aggression. We had to send our armed forces.

SHRI RANGA : Say that.

SHRI VASUDEVAN NAIR (Peer-made) : Be careful in your words.

SHRI Y. B. CHAVAN : Thank you very much. At the same time, I hope you will also keep this lesson all the time before you.

As I said, the question was of sending our armed forces, asking our armed forces to go and die for the country. It is a very terrific decision.

SHRI J. B. KRIPALANI : Did you save them ?

SHRI Y. B. CHAVAN : When you ask your young men to go and fight, you must make sure you have tried all other alternative methods of solving the issue. Then you can with a clean conscience go and tell your young men 'go and fight for your country'.

Therefore, I am saying that the decision that was taken at that time by the then Prime Minister was taken after full consideration of the issues involved, with a full sense of national responsibility and with a full sense of responsibility to the people of India. So when we had taken such a decision, when the award has come, we have to accept it with its consequences.

Naturally, I am not happy that we are losing certain areas. I am very sad because I have seen those areas more than most members of the House.

SHRI MADHU LIMAYE : There is a broad smile on your face—it shows you are very very happy.

SHRI Y. B. CHAVAN : I am not happy at all. If you want to look at things that way, I can say I am most unhappy, because Chad Bet was defended by our police and army sometime in 1956. I was then Chief Minister of the bilingual State. I was the first man to go and see what things were happening, what was happening to Chad Bet.

I know what the losing of these areas means. Let them say when they say that we are less patriotic than they. It is not a question of degree of patriotism. It is a question of what principles should guide us under all circumstances. What should be the attitude and what principles



should guide us in solving problems, taking decisions in national problems? That is, really speaking, the most important consideration. I personally feel that we should not under any provocation, under any temptation, try to take a rather litigant's attitude now. We have made certain commitments in the national interest to have solutions to certain problems. Certainly we should stand by them. If Pakistan tries to be unreasonable in other sectors we will be completely free to point out to the world, and we can take a strong position on those occasions.

This is my thinking on the problem. I thought I should state it rather openly before this hon. House before this motion is put to vote.

I have nothing more to add.

MR. SPEAKER: At 2 P.M. the Prime Minister will reply to the debate, and then Mr. Madhok.

Before we go to the other business, there is one more item in the agenda. Mr. Sambhali will have to reply.

AN HON. MEMBER: What about the Railway Budget.

MR. SPEAKER: Even after that, there is still time.

श्री न० क० साल्हे (बतूल) : अध्यक्ष महोदय. कच्छ ट्राइब्यूनल के निर्णय को लेकर विरोधी दल के वक्ताओं ने कांग्रेस वालों पर, कांग्रेस पार्टी पर और कांग्रेस की सरकार पर नालायकी के बेशुमार इल्जामात लगाये हैं। (व्यवधान)। दरअसल, हम लोग इस कवायद के आदी हो गये हैं। विरोधी दल के नेतागण हमें नानायक कहते हुये अपने आप को बहुत काबिल और लायक जताते हैं। इस में हम को कतरई ऐतराज नहीं है। हमें इस लिये इस पर ऐतराज नहीं है कि हम यह देख रहे हैं कि विरोधी दलों का जब कोई वक्ता बोलने के लिये खड़ा होता है तो वह अपनी काबिलियत को सिर्फ कांग्रेस को ही नालायक साबित करने तक ही सीमित नहीं रखते, वरन् अपने बगल में बैठे हुये विरोधी दल के दूसरे नेता को भी जलील करने के लिये, उस को बेइज्जत करने के लिये और उनकी दलीलों को जड़ से

उखाड़ने के लिये भी अपनी काबिलियत का उपयोग करता है। और ऐसी हालत में विरोधी दल वाले बगैर आपसी इत्फाक और एकमत के जब कांग्रेस पर हमला करते हैं तो कांग्रेस को काटने के पहले वह एक दूसरे को काटने का भरसक प्रयत्न करते हैं।

12.47 HRS.

[MR. DEPUTY-SPEAKER in the Chair]

इसके फलस्वरूप इस सदन के अन्दर इन काबिल नेताओं की सामुदायिक नालायकी का जो प्रदर्शन होता है उस के सामने हम गरीब कांग्रेस वालों की नालायकी फीकी पड़ जाती है।

यहां पर बहुत से आरोप लगाये गये हैं कांग्रेस सरकार और कांग्रेस पार्टी के ऊपर। मैं कुछ आरोपों के सम्बन्ध में अपने विचार आप के सामने रखना चाहूंगा। पहला आरोप यह लगाया जा रहा है कि श्री शास्त्री जी ने यह कहा था कि हमारा बिल्कुल "कास्ट आयरन" मुकदमा है। और चूंकि इसे "कास्ट आयरन" मुकदमा बताया गया था इस लिये इस सदन ने मंजूरी दी कि यह मुकदमा कच्छ ट्राइब्यूनल को सौंप दिया जाये। मैं यहां पर श्री शास्त्री के भाषण का जिक्र करना चाहता हूं और बतलाना चाहता हूं कि उन्होंने कास्ट आयरन की बात ठीक कही थी। उन्होंने उनको वैसा ही समझा था, लेकिन साथ-साथ उन्होंने जता दिया था, चेतावनी दी थी, कि अगर मामला ट्राइब्यूनल के सुपुर्द कर दिया जाता है, तो उस में एक खतरे का संकट भी निहित होत है। उन्होंने राज्य सभा में इस बात को माफ कर दिया था। 2-4-8-65 को उन्होंने राज्य सभा में जो भाषण दिया, उस की तरफ मैं आप का ध्यान आकर्षित करना चाहता हूं। श्री शास्त्री ने यह कहा था कि :

I do not think, Sir, that it would be advisable to cast any reflection or doubts on the tribunal just at the present stage.

### [श्री न० कु० साल्वे]

The tribunal will naturally consist of the most distinguished people of different countries from wherever they come. But, as I said, I have every hope that our case which is very strong will be considered appropriately by the tribunal. Pakistan may say that they have also some documents. But I am quite sure, Sir, that it would not be possible for them to prove their case or to prove or justify their claims. However, we have taken a risk no doubt.

माननीय सदस्य श्री अटल बिहारी वाजपेयी इस बात को याद रखेंगे कि जब उन्होंने राज्य सभा में इस बात की चर्चा उठाई थी तब शास्त्री जी ने इस बात को कहा था कि इस में रिस्क है। कास्ट आयरन केस के यह माने नहीं होते कि हर हालत में हम मुकदमा जीत ही जायेंगे। इसके सिर्फ इतने माने हैं कि हमारा मुकदमा मजबूत है और पाकिस्तान को यह मुकदमा जीतना मुश्किल हो जायेगा। अगर निष्पक्षता से यह निर्णय होता तो मुझे इस बात में बिल्कुल शंका नहीं है कि हमारे खिलाफ जो फंसला हुआ है वैसा फंसला कभी नहीं दिया जाता।

दूसरा आरोप यह लगाया गया है कि हमारे मुकदमे की पैरवी सही तरीके से नहीं की गई। यह आरोप लगाया गया है कि शहादत पेश करने में बहुत-सी खामियां रह गई हैं, वकील जो हमने इस काम के लिये लगाये थे उन्होंने हमारे केस की बकालत ठीक तरह से नहीं की है, योग्यतापूर्वक हमारे केस को नहीं रखा है। मैं एवार्ड के कुछ अंशों की तरफ आपका ध्यान इस सम्बन्ध में आकर्षित करना चाहता हूँ। मैं समझता हूँ कि इस तरह से वकीलों पर इल्जाम लगाना ठीक नहीं है। यह कहना कि हमने शहादत पूरी नहीं दी, या योग्यतापूर्वक अपना केस वहां रखा नहीं, मैं समझता हूँ कि बिल्कुल बेबुनियाद और निराधार आरोप है। जो हमारी शहादत पर या हमारे वकीलों की काबलियत पर शक करने हैं उन से मैं अनुरोध करूंगा कि

वे बैबलर साहब ने जो निर्णय दिया है उसको ध्यान से पढ़ें, उसमें से मैं कुछ अंशों को आपको पढ़ कर सुनाता हूँ, उसको ध्यान से सुनें। अगर बैबलर साहब के निर्णय को आप देखेंगे तो इस नतीजे पर पहुंचे बिना नहीं रहेंगे कि हमने पूरी-पूरी शहादत पेश की है। बैबलर साहब ने जो सर्टिफिकेट दिया है उसको आप देखें। बैबलर साहब ने, भारत के वकीलों ने जो शहादत पेश की थी, उसको तरह मुद्दों में बांटा था। बैबलर साहब ने उस शहादत के आधार पर जो अपना निर्णय दिया उसे आप सुनें। उसको देख कर यह साफ हो जाता है कि परम्पारित सीमा सही और प्रामाणिक सीमा है और जो भारत का दावा है वह हर हालत में सही है। बैबलर साहब पृष्ठ 72 पर शहादत के बारे में लिखते हैं :

The appraisal of the above summarized evidence of India presents no difficulties. As a corroboration of what was said by Kutch in its Administration Reports, which was the clearest possible expression of the animus, and what the Paramount Power said in official notes and publications of the Government of Bombay and the Government of India, more particularly in the form of official maps, which was the clearest possible expression of recognition, the evidence of the display of Kutch State authority over the whole of the Great Rann, and accordingly over its northern part up to the northern edge of the Rann is absolutely sufficient.

It has to be concluded, therefore, that the test of display of State authority gives a result in favour of the claim of India.

इसको देखते हुये मैं पूछना चाहता हूँ कि कौन-सी शहादत बाकी रह गई थी, कौन-सी दलील बाकी रह गई थी जिस की वजह से यह कहा जा सकता है कि बैबलर साहब जिस निर्णय पर पहुंचे हैं वह गलत निर्णय है।

दूसरी तरफ आप श्री इंतजाम साहब के निर्णय को देखें। उसे आप एक अजीबो-गरीब

चीज पायेंगे। अजीबो-गरीब तरीके से वह अपने निर्णय पर पहुंच गए हैं। उन्होंने अपने निर्णय में दो आल्टरनेटिव सीमा के प्रस्ताव रखे हैं। उन्होंने कहा है कि इन दो आल्टरनेटिव में से किसी एक को मान लिया जाए। कौन-सी शहादत पर, कौन-से दावे की बुनियाद पर वह इस निष्कर्ष पर पहुंचे हैं, बिल्कुल साफ नहीं है।

फिर आप लैंगरयेन साहब के निर्णय को देखें। वह बैबलर साहब के तर्क से सहमत तो हैं और कहते हैं कि वह ठीक है लेकिन हमारी बदकिस्मती यह है कि बैबलर साहब के जजमेंट के साथ सहमत होते हुये भी उन्होंने गलत फैसला दे दिया है। उनके इस निर्णय को पढ़ने के बाद मेरे दिमाग में बिल्कुल शंका नहीं है, बिल्कुल सन्देह नहीं है कि कच्छ ट्रिब्यूनल के मैजिस्ट्रेट जजमेंट देने वाले न्यायाधीशों ने शहादत और अन्तर्राष्ट्रीय कानून के माने हुए सिद्धान्तों की अवहेलना कर निर्णय दिया है। इस निर्णय की बेईसाफी को देखकर यह जायज शंका मन में पैदा होती है कि यह फैसला निष्पक्षता और न्याय की भावना से प्रेरित हो कर नहीं दिया गया है बल्कि कोई और कारणों से अन्यायपूर्ण फैसला दिया गया है।

यह कहना गलत है कि सिर्फ तीन सौ पचास वर्ग मील या झगड़े वाली सिर्फ दस फीसदी जमीन हमें देनी पड़ी है इसलिए यह फैसला हमारे खिलाफ नहीं है। जो हिस्सा पाकिस्तान को रहीम के बाजार के नीचे दिया गया है उससे पाकिस्तान के फौजी दस्तों को फौजी कार्रवाई करने की दृष्टि से बहुत सुविधाजनक जगह मिली है। यह खबर पाकिस्तान के अखबारों में छपी है, ऐसा हमने अपने अखबारों में पढ़ा है।

हमारे नाथपाई साहब ने एक बड़ी अजीबो-गरीब दलील पेश की। उन्होंने कल अपने भाषण में यह कहा है कि बैबलर साहब ने जो निर्णय दिया है वही ट्रिब्यूनल का निर्णय है, वही ट्रिब्यूनल का एवार्ड है और हम मैजिस्ट्रेट जजमेंट को कैसे मानें। मुश्किल यह है कि जब

वह भाषण देते हैं तो कभी उनकी विद्वत्ता नजाकत से आगे भागती है और कभी नजाकत उनकी विद्वत्ता से आगे भागती है। इस वक्त उनकी नजाकत ही आगे भागी है।

श्री एस० एम० जोशी : विद्वत्ता भी है, नजाकत भी है।

श्री न० कृ० साल्वे : मैं बताता हूँ। कोई उनकी गलती नहीं है।

खुदा जब हुस्न देता है नजाकत आ ही जाती है।

उन्होंने कहा है कि हम मैजिस्ट्रेट जजमेंट से इसलिए प्रतिबद्ध नहीं हैं कि यह जजमेंट ट्रिब्यूनल का एवार्ड नहीं है। अगर वह करारनामे की शर्तों को देखें तो उस में साफ लिखा हुआ है कि ट्रिब्यूनल का जो निर्णय होगा हर हालत में हम उससे प्रतिबद्ध होंगे। करारनामे की जो शर्तें हैं उनकी धारा 3(2) में साफ लिखा हुआ है :

"In the event of no agreement between the Ministers of the two Governments on the determination of the border being reached within two months of the cease-fire, the two Governments shall, as contemplated in the Joint Communiqué of 24 October, 1959, have recourse to the Tribunal referred to in (iii) below for determination of the border in the light of their respective claims and evidence produced before it  
आगे यह है।

"and the decision of the Tribunal shall be final and binding on both the parties."

At the end of the Award it has been stated :

"The alignment of the boundary described in the Opinion of the Chairman and endorsed by Mr. Entezam has obtained the required majority. It is therefore the boundary determined by the Tribunal."

Then, it is signed by the three members of the Tribunal.

इसको मद्देनजर रखते हुए मैं नाथपाई साहब से कहना चाहता हूँ कि यह मैजोरिटी जजमेंट हमारे पर बाईंडिंग है। अगर वह मैजोरिटी जजमेंट को कोई महत्व नहीं देते हैं और उसको मानने के लिए तैयार नहीं हैं और बैबल साहब की जजमेंट को ही मानना चाहते हैं तो फिर जो श्री नसरुल्ला इन्तजाम का निर्णय है उसका क्या होगा? उसको फाइनल क्यों न मान लिया जाए? उस में तो उन्होंने आधा रन पाकिस्तान को दे डाला है।

मैं समझता हूँ कि जो इल्जाम लगाये गये हैं वे बिल्कुल बेबुनियाद हैं और निराधार हैं। दरअसल मैं करारनामे की शर्तों के अनुसार ट्रिब्यूनल के क्या अधिकार थे और वह किस हद तक अपना फैसला दे सकता था यह न तो स्पष्ट है और न ही खुद न्यायाधीशों के बीच इस बात पर एक मत हो सका है। दरअसल भारत की यह दलील थी कि सिवाय यह तय करने के कि सिंध और कच्छ के बीच कौन-सी सीमा रही है, ट्रिब्यूनल को कोई अधिकार नहीं था। कौन-सी सीमा रहनी चाहिये, यह तय करने का ट्रिब्यूनल को कोई अधिकार नहीं था। भारत के वकीलों ने इसको अपनी दलीलों में साफ भी किया है और बैबलर साहब की जजमेंट में इस दलील को माना भी गया है। पेज 60-70 को आप देखें। उन्होंने यह मान लिया है कि करारनामे की शर्तों के अनुसार जो सीमा रही है उसको ही ट्रिब्यूनल तय कर सकता है, कौन सीमा होनी चाहिये, इसको तय करने का ट्रिब्यूनल को कोई अधिकार नहीं है। उन्होंने कहा है :

"If the Tribunal finds that there was no boundary at the critical date or that the boundary was not complete, it cannot supply a boundary of its own making or complete of its own making an incomplete boundary....."

"Nevertheless Pakistan says that if the Tribunal finds that the boundary is not fully coterminous, the Tribunal

should determine a coterminous boundary" on the basis of rules and principles applicable in such circumstances.

It has to be held with respect to this request of one Party that the Tribunal has not the power to do so. It cannot invent a boundary, a normal, coterminous boundary, where such boundary did not exist on the critical date, or partition territory which belonged to neither Party on the critical date.

अन्त में मैं एक चीज आपके सामने रखना चाहता हूँ। विरोधी दल वालों को 350 वर्ग मील भूमि जाने का अफसोस नहीं है। दरअसल मैं वे कांग्रेस को नीचा दिखाना चाहते हैं और उसके लिए वे यह सब कुछ कर रहे हैं। यह उनका अधिकार भी है और जायज अधिकार है। एक राजनीतिक दल दूसरे राजनीतिक दल की बात को गलत कह कर उस गलती का फायदा उठाना चाहता है तो यह स्वाभाविक भी है। लेकिन वे चीजें की जायें जिन से मुल्क में अराजकता, विद्रोह, अशान्ति, बदअमनी फैले और मुल्क को तबाही के रास्ते पर ले जाया जाए, यह किसी भी हालत में उचित नहीं है। इसके लिए अगर कांग्रेस की कमजोरियाँ जिम्मेदार हैं तो विरोधी दलों को भी अपने गैर-जिम्मेदाराना बरताव को देखना पड़ेगा। भाषा, जाति, धर्म, सम्प्रदाय, क्षेत्र आदि को ले कर जो मांगें खड़ी की जाती हैं उनको चुपके-चुपके या सरेआम प्रोत्साहन हमारे विरोधी दलों द्वारा दिया जाता है। विरोधी दल वाले समझ लें कि कांग्रेस अगर लुटती है तो मुझे कोई अफसोस नहीं है। एक नहीं दस कांग्रेस आ जायेंगी। लेकिन वे मुल्क को तबाही के रास्ते पर न ले जायें। जिस सत्ता के पीछे आज वे पड़े हुए हैं कहीं ऐसा न हो कि वह सत्ता ही नष्ट हो जाए।

नशेमन के ही लुट जाने का गम होता तो गम क्या था

यहां तो बेचने वालों ने गुलशन बेच डाला है।

13 HRS.

The Lok Sabha adjourned for lunch till Fourteen of the Clock.

*The Lok Sabha re-assembled after lunch  
at Fourteen of the Clock*

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

**MOTION OF NO-CONFIDENCE IN THE  
COUNCIL OF MINISTERS**

SHRI SHRI CHAND GOEL (Chandigarh) : Sir, I want to raise a point of order before the Prime Minister rises to reply. I have already sent a letter to the Speaker.

MR. DEPUTY-SPEAKER : There is nothing before the House now. How can you raise a point of order.

SHRI SHRI CHAND GOEL : I want to raise a point of order under rule 352 which lays down that a member while speaking shall not refer to any matter of fact on which a judicial decision is pending. Sir, two writ petitions have already been filed in this matter.

MR. DEPUTY-SPEAKER : This is altogether anticipatory. In case a reference is made to it, you will be justified in raising it. How are you justified at the present juncture ?

SHRI SHRI CHAND GOEL : In one of the writ petitions, the Prime Minister has been impleaded as a party and the prayer in that writ petition is that the Prime Minister be restrained from giving effect to the award given by the tribunal.

MR. DEPUTY-SPEAKER : All sorts of petitions may be made to the High Court or the Supreme Court. Are we going to make a plea on that basis on the floor of this House ?

SHRI SHRI CHAND GOEL : She is the Prime Minister and she is going to make an important statement, which has vital implications. She is going to bind the whole nation by her statement. I am seeking the assistance of this rule....

डा० महाबल प्रसाद (महाराजगंज) : अगर यह अविश्वास-प्रस्ताव वापस ले लिया जाये, तो प्रधान मंत्री को कुछ कहने की आवश्यकता नहीं रहेगी, अन्यथा उन्होंने इस प्रस्ताव पर हुई दिसकशन का जवाब तो देना ही है।

MR. DEPUTY-SPEAKER : You are expressing your own fears. In case a re-

ference is made to the matter before the court, I will allow him to raise it.

श्री ब्रह्मल बिहारी बाजपेयी (बलरामपुर) : इस सम्बन्ध में दो तरीके हैं। एक तरीका यह है कि जो रिट पेटिशन अदालत में दायर की गई है, उस की तरफ सदन का ध्यान खींच कर आप के द्वारा प्रधान मंत्री से कहा जाये कि वह ऐसी कोई बात न कहें, जो अदालत द्वारा न्याय-दान में बाधा पैदा करें। दूसरा तरीका यह है कि जब प्रधान मंत्री इस सम्बन्ध में बोलें, तब पायंट ऑफ आर्डर रोज किया जाये। मैं दोनों के लिए तैयार हूँ। मैं श्री गायल को कहूंगा कि वह प्रधान मंत्री को बोलने दें और उपयुक्त समय पर पायंट ऑफ आर्डर उठावें।

MR. DEPUTY-SPEAKER : It is a word of caution, not a point of order.

श्री अ० सि० सहगल (बिलासपुर) : उपाध्यक्ष महोदय, पहले तो हमें यह देखना होगा कि आया वह रिट पेटिशन एडमिट हो गई है या नहीं। अगर वह रिट पेटिशन एडमिट हो गई है, तो प्रधान मंत्री उस को दृष्टि में रख कर इस दिसकशन का जवाब दे सकती हैं।

MR. DEPUTY-SPEAKER : I have already ruled that it is not a point of order. If a petition is presented, it is yet to come before the court. It has nothing to do with this debate.

THE PRIME MINISTER, MINISTER OF ATOMIC ENERGY, MINISTER OF PLANNING AND MINISTER OF EXTERNAL AFFAIRS (SHRIMATI INDIRA GANDHI) : Before I begin, I would like to say that the simplest way to deal with this matter would be for the Hon'ble Members to withdraw the motion. Once they have brought forward the motion, they cannot say that I should not reply to the discussion. That is very simple.

SHRI SHRI CHAND GOEL : The statements of other members are not so vital and important. But whatever the Prime Minister is going to say, that is going to bind the whole nation. Therefore, she

[Shri Shri Chand Goel]

should be very careful and cautious. (*Interruptions*).

MR. DEPUTY-SPEAKER: I have already ruled that she is perfectly with her rights to reply to the debate. So there is no point of order.

SHRI PILOO MODY (Godhra): Sir, may I make a suggestion? The Prime Minister can speak without saying anything.

SHRIMATI INDIRA GANDHI: I leave that honour to the hon. Member.

Mr. Deputy-Speaker, actually the Government's point of view has been stated very clearly and cogently by my colleague, the Deputy Prime Minister, yesterday. So it is not that I am making any new pronouncement just now. I want to say that I welcome this discussion and the opportunity we have had to deliberate on various aspects of this award and the agreement, and I am grateful to the hon. Member for the level of the debate. It is natural that there should be differences in our points of view and in our convictions, but it is not right for any hon. Member to claim a monopoly of patriotism which some of our hon. friends opposite have tried to do. Even when we differ with them we do not attribute motives to their remarks or their reasonings and arguments. We expect the same from them. We, on this side, have had a long record of service to the nation and we are second to none in our determination to uphold national honour and to work for the welfare of our people. We do not wear our patriotism on our sleeves, so to speak.

Mr. Deputy-Speaker, you will appreciate that when we are called upon to form a government, to provide a government, we are of necessity compelled to face the hard facts of life. We cannot escape into emotion nor can we lay the blame on others and escape our responsibility. The approach of the Government, as I said earlier, was made very clear yesterday by the Deputy Prime Minister, and this morning my colleague the Home Minister also has spoken.

When all is said and the patriotic fervour and emotion spent in very legitimate expression, we are left with the fact that the freely elected government of this country entered into an agreement, an international

agreement. That agreement was placed before both Houses of Parliament which endorsed it by an overwhelming majority. I cannot understand how a democracy can function unless the Members are prepared to accept majority decisions. That is the whole point of democratic functioning. Nor can I understand the logic of the argument that the decision reached by Parliament, by a majority, is not binding on us all.

A few hon. Members have argued that we can retreat from our obligation to implement the decision of the Tribunal, and references have been made by some hon. Members to what they have called the compulsions of international public opinion. Naturally, we do not ignore international public opinion in many matters, but where national interest is concerned we think that it is national interest which must come before everything else, and I should like to assure the House that international opinion is certainly not the guiding factor in whatever decision the Government has taken. What is important is that India should not do anything which is not right and proper. The Government must honour its commitments which is that the decision of the Tribunal—and I am now speaking in quotes, a single sentence which has been quoted by other hon. Members,—“shall be binding on both the governments and shall not be questioned on any grounds whatsoever”. Many hon. Members who have spoken from the opposition, even though they have disagreed with us on other matters, have supported this view.

The Tribunal had to determine the boundary alignment and, I might add that the alignment claimed by India has been substantially accepted. The opinion of the Chairman of the Tribunal, which was concurred in by Judge Entezam, contains the following sentence:

“It might be added that the boundary proposed by me for the greater part of its length roughly coincides with the boundary proposed by my learned colleague, Mr. Bebler.”

I cannot say that I am satisfied with the Award. I expressed my views the other day when I made a statement. I entirely agree with what the Home Minister said a little

earlier. However, our natural disappointment at having succeeded only to the extent of 90 per cent, and not 100 per cent as we would naturally have liked, should not colour our judgment as to where our duty lies. We propose to honour our international commitment in the earnest hope that the settlement of this issue will close an unfortunate chapter of conflict and promote the development of normal relations between these two neighbouring countries.

The assertion by some hon. Members that the dispute between India and Pakistan did not exist is somewhat strange. How can hon. Members forget that there was not only a dispute but that there were bilateral talks about it and there was even a conflict? Since these failed to produce the desired results, the matter was referred to arbitration with the approval of our Parliament. I should like to recall the words of the late Prime Minister, Shri Lal Bahadur Shastri, as to what the Tribunal was meant to do and has done. He had stated :

"I would, at this stage, like to explain why the agreement referred both to the determination and demarcation of the boundary. It has been the Government of India's consistent stand that the boundary in question is already well established and officially settled and that what remains to be done is its demarcation on the ground. On this point, however, Pakistan has had a difference of opinion with us. Pakistan's contention has been that the boundary is yet to be determined. This difference had to be resolved either by negotiations or by reference to an impartial tribunal."

He went on to say :

"Once the boundary has been determined in this manner, the next step of demarcation on the ground will be taken."

The Tribunal has now determined the boundary alignment, and I should like to express our appreciation of Judge Bebler's fine judgment. I should also like to place on record Government's thanks to Secretary-General, UThant for the help provided to the Tribunal by the United Nations and, finally, I should like to express our deep appreciation of the services rendered by all our eminent counsel and concerned officials. They have worked with great thoroughness

and a deep sense of devotion and those who read the entire report of the Award will be impressed by their work.

Some hon. Members referred to the views of the hon. Member, Shri N. Chatterjee. He is away in the Andamans. But when he heard certain radio reports of the views expressed, he sent me a telegram. He has stated that the terms of the cease-fire agreement between India and Pakistan definitely commit them to two things—acceptance of the Award by both the countries and execution of the Award by the Tribunal in the event of any difficulty in the actual delineation of the boundary as declared by the Tribunal. He has further added that the presentation of India's case was both comprehensive and cogent and full justice was done to India's case by the members of the Indian Delegation.

The hon. Member, Shri Pashabhai Patel, has spoken of the possibility of the utilisation of the Narmada project in reclamation work in Kutch. The position is that the Narmada Water Resources Development Committee has recommended a master plan for the optimum and integrated development of the water resources of the river Narmada. This envisages the irrigation of 3 lakhs of acres in the little Rann and 4.5 lakhs acres in the Great Rann of Kutch. I appreciate the constructive suggestion made by the hon. Member. Now that the Award has settled the boundary, we should get down to work and develop this area so that it can also contribute to the prosperity of the country.

The debate has raised the general issue of our relations with Pakistan. Shri Madhok contended that we could never have good relations with Pakistan. This, at best, is a counsel of despair. The Government cannot proceed on the presumption of perpetual hostility. However distant the prospect might be of fashioning our relations with Pakistan so that they become peaceful, normal and friendly and however tortuous the route, it must always be our endeavour to work constantly to make Pakistan realise that its interests too lie in friendly and co-operative relations with India.

I was glad to find that there was an understanding among some hon. Members of the Opposition that as a Government we

[Shrimati Indira Gandhi]

must take a responsible and reasonable position in the matter of Indo-Pakistani relations.

Some hon. Members have expressed concern regarding the defence and security of this important border area. I quite appreciate their concern and also, of course, the concern specially of the people of Gujarat. Once the Kutch boundary has been delineated after this award, no one should be in any doubt that that border, like any other border of the country, shall be defended by the combined strength of the nation and by the valour of our valiant armed forces.

SHRI S. M. BANERJEE (Kanpur) :  
Sardar Swaran Singh should note it.

SHRIMATI INDIRA GANDHI : Once more we have before us what one hon. Member on the other side took pains to describe as a simple motion. The Home Minister also referred to this matter. I presume it was made "simple" so that all our friends opposite could get together on the motion. For the rest, as the House is aware, the mover of the motion, hon. Member Professor Madhok, spent some time criticizing his other colleagues who had joined him in this motion. I have no desire to defend his colleagues or those parties. Some of them have spoken for themselves and I am sure, they can defend themselves. But I should only like to remind the House that notwithstanding such confessions of regard for each other as are made on the floor of the House, Professor Madhok's party has not hesitated to combine with Professor Mukerjee's party to form governments in more than one State. However, I leave them to their own devices. I do not want to say anything further on this. . . . (Interruption). I am glad, they think that it is the same thing. That is not the impression I got from Professor Madhok's speech.

Although the motion brought before the House purports to be a general one, the debate, in fact, has centred around the Kutch Award almost exclusively and very few other points were raised. Anyhow, I have dealt with most of the economic and other matters just a few days ago when I was replying to the debate on the President's Address. Hon. Members have talked of the unity and the integrity of the

country. As I just now mentioned, we do not call their patriotism into question. I believe that they are sincerely concerned with these important questions and that is why I draw their attention to these issues time and time again.

I was very glad to hear hon. Member, Shri Krishnamoorthy, denounce the burning of the national flag in Coimbatore, Madurai and other places and the insult to the national anthem on another occasion. What has happened, whether in Coimbatore or in Madurai or in Assam, is naturally something which saddens us all. I sincerely hope that the misguided young people will realise the folly of their actions and that all responsible leaders, no matter to what party they belong, will join together to uphold the dignity of our national emblems.

All movements, all attitudes which create tension or fissiparous tendencies or separatist feelings, whether they are between people who speak different languages or live in different States or whether they are between people who profess different religions, castes and creeds, must be put down strongly. It is only then that we can build a firm base from which we can defend and strengthen our unity and our integrity.

SHRI BAL RAJ MADHOK : Mr. Deputy-Speaker, Sir, I have heard with great attention the utterances of the hon. Prime Minister, the Deputy Prime Minister, the Home Minister and a number of hon. Members from the Congress Benches who have spoken on this motion. The very fact that such senior-most members of the ruling party found it necessary to intervene shows that the arguments that we had put forth, that the case we had presented, has proved to be effective.

Sir, I am sorry to say that while replying to the debate, they have depended more on invectives, more on references, to the late Prime Minister, Shri Lal Bahadur Shastri, for whom we have as much respect. . . .

THE DEPUTY PRIME MINISTER  
AND MINISTER OF FINANCE (SHRI  
MORARJI DESAI) : Please cite the invectives.

SHRI BAL RAJ MADHOK : . . . as the Congress Benches have. I look upon him as the first, really, truly, Indian Prime



Minister of free India and, therefore, any reference to him is not going to create any kind of feeling in our minds against him or in favour of him. He was a great son of the country and we respect him.

The question is : What is the issue ? The hon. Prime Minister just now said that we are bound by international commitments. The Deputy Prime Minister said :

प्राण जायें पर वचन न जाई

May I know what has happened to your *vachans* about Kashmir ? What has happened to your *vachans* about other parts of the country ? You have forgotten them conveniently. You remember your *vachans* only when it serves your purpose and when it means surrender of the national territory. I wish even now you respect your *vachans*, what you have pledged to the country regarding Kashmir, your pledge to the country that you will not give up an inch of your territory.

We have already lost 50,000 sq. miles of Indian territory. There have been four invasions on our country in the last 20 years as a result of which we have lost 50,000 sq. miles. Do you have the cheek to say that you have been defending the country ? Do you have the cheek to say that you have been defending the sovereignty of the country ? You have been bartering away the integrity of the country; you have been bartering away the sovereignty of the country. This is a charge on you.

SOME HON. MEMBERS : Shame, shame !

SHRI BAL RAJ MADHOK : You say that you don't agree with my thesis of Indo-Pak relations. I have the good fortune or misfortune of coming from that area which is now Pakistan. My home is lost; my lands are lost and I lost a good number of my kinsmen. I know what is Pakistan. I wish you had understood the character of those who rule Pakistan. I am not against all Pakistanis. I know the people of Sind, the people of Bengal and Pakhtoonistan are groaning under the heels of Ayub. They want liberation now and. I think, we should help them in their liberation movements.

When I say Pakistan is going to remain our enemy, I mean the people who rule

Pakistan today are going to remain our enemy because their interests demand that. I agree with Mr. Chavan that there can be no permanent friends and permanent enemies and that here can be only permanent interests and it is the interests of the Pakistani rulers which impel them to remain our enemy.

SHRI NATH PAI (Rajapur) : That is Palmerston.

SHRI BAL RAJ MADHOK : Yes; he quoted him, the devil quoting the scriptures.

Look at the last 20 years of Indo-Pak relations. After all, one must learn by experience. What has been your experience in the last 20 years ? The more you try to appease them, the more you try to placate them, the more you try to befriend them, the more they kick you. What has happened to the Tashkant Agreement ? I am not a war-monger. I do not want to create scare in anybody's mind. Mr. Chavan said that there were three courses open: negotiation or war or arbitration. He said that we should not go to war lightheartedly. I know we should not go to war lightheartedly. I know the horrors of war. We have gone through them. A large number of my kith and kin are serving in the armed forces of the country. I myself would have been in the army. I got the commission in 1942. But the call of nation called me on this side and I am in politics. Otherwise, I would have been in the army. That has been the profession of our family all through the centuries. Therefore, don't tell me about the horrors of war. I know the horrors of war. But the question is : Were you able to avoid war by entering into this Agreement ? If it had avoided war, I would have agreed with you. But it only created an impression in the minds of Pakistanis that India cannot fight, that India is weak, that India has neither the will nor the capacity to fight and, therefore, it only encouraged Pakistan to wage a war on us. I say, this policy of appeasement, this policy of weakness, is going to bring war nearer. Shakespeare has said : "Cowards die many a time before their death." And we have the experience of Munich Agreement between Germany and England. Therefore, this is not the way of avoiding war. The only way to avoid war is : be strong, be powerful, stand on your

[Shri Bal Raj Madhok]

own legs. By depending on Mr. Kosygin or Mr. Johnson or Mr. Wilson you are not going to defend yourselves. My question is: what have you done all these twenty years to make this country strong? Had we been strong, there would have been no invasion from Pakistan; had we been strong, there would have been no invasion from China. But because you kept the country weak, there were these invasions.

We have everything to make us a strong power.

We have the manpower, we have the industrial power, we have a rich fighting tradition, but because we have a bad leadership, we have bad policies, all these things have gone to dogs and the country has remained weak. That is why I say that this is not the way of doing the things. By this way you cannot defend the country.

You have failed to defend the country and that is one reason why I demand that you must go. Our Prime Minister is like good Queen Bess. I wish she had also the qualities of that queen. I do not doubt anybody's motives, I do not doubt anybody's patriotism, but the question is what policy you follow. Your policies are leading the country towards destruction. She is a lady and that is the privilege she has. I cannot forget that I am a Hindu; I must show her respect, I must show her the respect that is due to Matri Shakti. But she must also show respect to the interests of this country, to the interests of the people of his country, and the greatest service that she can do to the country at the moment is that she should resign voluntarily. That is the only service that she can do because she cannot give the requisite leadership. What has happened during the last two years of her Stewardship? Fissiparous forces have raised their ugly heads all over the country and the country's image has gone down. Therefore, when I say that you have failed, I do not doubt your patriotism. Even a patriot can commit mistakes, and you have been committing mistakes, you have been following wrong policies. That is the main charge.

Even if this award is to be accepted why should you go about making propaganda that it is very good. The moment this award came, instead of discussing it dis-

passionately, objectively, the All India Radio began preaching, broadcasting, that it is very good that we have saved 90 per cent. I would request you to remember what Mr. Chagla said in this connection in the other House. We have saved 90 per cent. Is this an argument? The whole of Rann belongs to us. My friend, Mr. Sheth, said that there was a dispute. He is wrong. There was no dispute. There was a dispute only about the western sector and that dispute too had been settled by the Resolution of the Bombay Government in 1914. Pakistan never challenged it in 1947. The area of Sind given by Pakistan in 1947, 1948 and 1954 is 48,136 sq. miles. There was no dispute. Even then if you think it fit to plead the case of Pakistan, I can only pity you. That is not the way of doing things. Look at the way you are pleading. Chhad Bet is gone, but Point 84 is with us. What a pity! How are we trying to mislead the country! What is Point 84? There is the whole Rann and there are certain tracts, certain areas, which are lifted one or two feet above the Rann and there we have grassland. The Army for the purpose of identification has given names to certain points. This Point 84 is as good or as bad, as high or as low, as any other point or Bet in the whole of Rann. It may be just 6 inches higher or 6 inches lower. But our Government goes about saying that we have got the highest point with us. Can there be a greater attempt at misleading the country? Is this the duty that you are doing to the country? Why can't you tell the facts? Here we have 'Satyameva Jayate' as our motto. Is this 'Satyameva Jayate'? Is this the truth that you speak? You talk of 'Satya' but you murder 'Satya' in this country and in this Parliament. This is my charge against you.

My submission is that even now things are not beyond control. We can still amend the things. My hon. friend, Shrimati Sushila Rohatgi was saying, what can we do, how can we challenge the award. I can point out a number of cases in international law where the awards of arbitration have been challenged. There was a case in 1911 when there was a dispute about the Chamizal tract between Mexico and the United States. There, the award given by the arbitrators was that the tract should be cut into two parts. The USA contended that the whole tract belonged to her, and

Mexico contended that the whole tract belonged to her. But the arbitrator said, let it be cut into two halves, and let one half go to the USA and let the other half go to Mexico. But because the arbitrator had gone beyond his jurisdiction and gone beyond his terms of reference, this award was contested and repudiated.

Then, again, in 1931 there was a border dispute between Canada and the USA. There were two lines on the north-eastern border of Canada and the USA, one line claimed by Canada and the other line claimed by the USA as the boundary. The King of the Netherlands was called upon to arbitrate and give his award as to which line was correct. But instead of giving his award in favour of the one line or the other, he drew up a third line and said that that should be the line. This award was contested because he had only to decide which of those two lines was correct and he had no business to give a third line.

In the case of Kutch now what has happened? Here was a boundary. We said that the boundary had been demarcated. The tribunal had only to see whether the boundary was demarcated or not. But what does the tribunal say? The tribunal has said that no case has been proved, and since cattle from Pakistan or cattle from Sind had been grazing in Chaad Bet area, therefore, they would award Chaad Bet to Pakistan. Similarly because there are certain inlets and certain enclaves of India bulging into Pakistan on either side of Nagar Parker, the tribunal has said that it would award those inlets to Pakistan.

Shri Morarji Desai has said that it is demarcation of boundary and it is not transfer of territory. Shri Morarji Desai is an old man. I respect old men. He has the privilege of old age and old age has also its privileges, and, therefore, he can have his way and he can snub anybody here. But may I ask him how he can say that it is not transfer of territory? What business had the tribunal to say that those inlets should be given away to Pakistan? If you read the award you would find that the tribunal has quoted an old document from Pakistan which says that if these inlets remained in the hands of Kutch, it could build its fortification there and that might

endanger Sind territory. On this ground that Kutch can build its fortification there and, therefore, endanger Sind territory and Pakistan territory, the tribunal has said that these inlets should be given away to Pakistan. May I know whether this is demarcation of boundary or this is outright transfer of territory? In fact it is not only transfer of territory outright, but it is outright robbery of Indian territory to appease Pakistan. Government say that it is only demarcation and it is not transfer of territory. But my submission is that here is a case of transfer of territory; it is not demarcation of boundary at all. And they cannot transfer territory without amending the Constitution. The Constitution will have to be amended. Without amending the Constitution they cannot do it. On this point a reference will have to be made to the Supreme Court. Here is our Constitution and we are bound by it. Government cannot transfer the territory of the country without amending the Constitution.

I would like to make another constructive suggestion. If they do not want to repudiate the award, at least they can refer the case back to the tribunal pointing out the flaws and pointing out the discrepancies; they may refer the case back to the tribunal saying, here are the discrepancies, it is not a judicial award, and, therefore, they may please review it. At least, Government could ask them for a review. But then Government say that because the award has been given therefore, we are bound by it and so, we have to accept it, whether it be right or wrong. I submit that this is a wrong approach.

Government say that we are taking a partisan approach. My submission is that it is not we who are taking a partisan approach but it is they who are taking a partisan approach. They never rise above their party. They never think of the country. That is our charge against them. The question of national defence and the question of national sovereignty are not party questions. The Kashmir question is not a party question. We have always looked upon these questions as national questions. We have always suggested let us sit round a table and evolve a national policy, but Government never do it.

[Shri Bal Raj Madhok]

My appeal to Government in this. So long as they had almost a monopoly of power, that might have been all right. But now they are just one of the parties, and the country is facing great dangers, internal and external, and, therefore, in the name of the country and in the name of Bharat Mata, I appeal to them that for God's sake, some time at least let them rise above the party considerations and think of the country. I know that they have their loyalty to the Congress. I have also my loyalties to the Jan Sangh. But then it is only if the country lives and if the country remains strong and united that the Jan Sangh will grow and the Congress will grow. If the country does not remain, then where will the Jan Sangh be and where will the Congress be? Therefore, the country is above the Congress and the country is above the Jan Sangh and the country is above the PSP and the Swatantra parties. Let us think of the country first. If we think of the country first, then many of these problems can be tackled, can be solved, and public opinion in the entire country can be mobilised. We can have the public opinion of the country with us. Then we can meet the greatest enemy. We can meet China and we can meet Pakistan. But with a divided country, with a people who have lost faith in the rulers, who have lost faith in this Government and in the leadership

and with a crisis of confidence in the country, we cannot do that. What is important is to have a strong government. It is there that the present Government is falling. Therefore, I commend my motion for the acceptance of the House. I do hope that even the patriotic Congressmen will support me in throwing this Government out.

14.36 HRS.

[MR. SPEAKER *in the Chair*]

Before I conclude, I would like to pay my tribute to Judge Bebler of Yugoslavia. I do not do so in any partisan sense. Read the judgment. Any independent man, when he reads the judgement, feels that here is a judgement of a Judge, here is a Judge with a judicial mind. He has not allowed political considerations to come in. He has quoted documents, he has quoted maps and then given his judgement. Therefore, before I request the House to accept my motion and throw this Council of Ministers out, I would like to pay a tribute to Judge Bebler of Yugoslavia.

MR. SPEAKER: The question is:

"That this House expresses its want of confidence in the Council of Ministers".

*Lok Sabha divided:*

AYES

Division No. 5]

[14-43 hrs.

Amat, Shri D.  
Amin, Shri R. K.  
Amin, Shri Ramchandra J.  
Ayarwal, Shri Ram Singh  
Barua, Shri Hem  
Berwa, Shri Onkar Lal  
Bharat Singh, Shri  
Bose, Shri Amiyanath  
Brij Bhushan Lal, Shri  
Chaudhuri, Shri Tridib Kumar  
Daschowdhury, Shri B. K.  
Deo, Shri R. R. Singh  
Desai, Shri C. C.  
Devgun, Shri Hardayal  
Digvijai Nath, Shri Mahant  
Fernandes, Shri George

Girraj Saran Singh, Shri  
Goel, Shri Shri Chand  
Gowd, Shri Gadilingana  
Gowder, Shri Nanja  
Guha, Shri Samar  
Jha, Shri Shiva Chandra  
Joshi, Shri S. M.  
Kachwai, Shri Hukam Chand  
Kameshwar Singh, Shri  
Khan, Shri Zulfiquar Ali  
Kisku, Shri A. K.  
Kotbari, Shri S. S.  
Koushik, Shri K. M.  
Krishna, Shri S. M.  
Kundu, Shri S.  
Kushwah, Shri Y. S.