

[श्री मूल चन्द डागा]

कहने को तो बहुत सी बातें थीं। आपने मोशन को भी पुट कर दिया है। मंत्री जी ने पूरा उत्तर भी दिया है। मैं कहूंगा कि संसदीय कार्य मंत्री का यह काम है कि वह देखें कि सदन के सदस्य किस प्रकार अपना काम करते हैं। हमारी सुविधाओं का भी वह ध्यान रखें। यह कोई पार्टी का सवाल नहीं है। सभी माननीय सदस्यों ने इसको स्पोर्ट किया है। मैं आशा करता हूं कि काम को ठीक गति देने के लिए, देश में लोकतंत्र को कायम रखने के लिए, जनता की भावनाओं का आदर करते हुए वह इस काम को करेंगे। ज्वायंट कमेटी ने जो रिकोमेंड कर दिया है और जो पार्लियामेंटी कमेटी है और जिस का अर्थ होता है कि पार्लिमेंट ने रिकोमेंड कर दिया है, उसकी अनुपालना आपको करनी चाहिये। दो-दो बार वह रिकोमेंड कर चुकी है। मैं आशा करता हूं कि जल्दी ही उस पर ध्यान दे कर आप कोई निर्णय लेंगे।

MR. DEPUTY-SPEAKER: Mr. Daga, are you withdrawing it?

श्री मूल चन्द डागा : पार्लियामेंटरी एफेयर्ज मिनिस्टर के चेहरे से मुझे मालूम होता था कि वह जल्दी कुछ करने जा रहे हैं। मन और चेहरा उनका एक ही है न ?

MR. DEPUTY-SPEAKER: The question is:

"That leave be granted to withdraw the Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1980."

The Motion was adopted.

SHRI MOOL CHAND DAGA: I withdraw the Bill.

16.15 hrs.

(SHRI HARINATHA MISRA in the Chair)

INDIAN TELEGRAPH (AMENDMENT) BILL

(Amendment of section 5)

MR. CHAIRMAN: We now take up the next Bill. Shri Bhogendra Jha.

SHRI BHOGENDRA JHA (Madhubani): Mr. Chairman, Sir, I beg to move:

"That the Bill further to amend the Indian Telegraph Act, 1885, be taken into consideration."

The Indian Telegraph Act was enacted in 1985 when there was not even any semblance of democratic way of functioning during the colonial rule of British imperialists. Incidentally, that was the year when some British men founded the Indian National Congress which later on developed into a mass movement for our Independence against the British people.

MR. CHAIRMAN: Mr. Bhogendra Jha, there is a request from the Minister incharge of Communications that you may come here and occupy the front Benches to speak so that there may be proper communication.

SHRI HARIKESH BAHADUR: According to the rules, the member should speak only from his seat.

MR. CHAIRMAN: With the permission of the Chair, he can speak from another seat. Why don't you come here?

SHRI BHOGENDRA JHA: It will then become a habit.

MR. CHAIRMAN: It is a special request of the hon. Minister you kindly come here and speak.

SHRI BHOGENDRA JHA: All right, Sir.

Our colonial rulers, the British imperialists, were in need of curtailing

every democratic right, civil right of our people. So, the Post Offices Act and the Telegraph Act formed part of that policy of the British rulers.

On 28th August of last year, a privilege issue was raised in this House by my hon. friend, Shri Atal Bihari Vajpayee and some others with regard to the tapping of telephones and censoring of postal mail of Members of Parliament and the Speaker was constrained to give his ruling that amounted to saying that it was helpless, that is the Parliament of India was helpless.

The ruling was given on the basis of two main factors. One was that another Commonwealth country with which we are unfortunately still associated—and I do not know when that connection will end—was, he mentioned, as Australia.

I am quoting the Speaker:

'The Prime Minister of Australia, Rt. Hon. J. Curtin: quoted the Posts & Telegraphs Order gazetted quite early during the war time which laid down clearly that the Censor might open and examine all postal articles as defined in the Posts & Telegraph Act.

Mr. Curtin said that his own mail was subjected to censorship. The Attorney-General specially referred the matter to the Committee. The Committee was constituted and it submitted its report on 30th March, 1944. The ruling given by that Committee was that the opening by the Censors of letter addressed to Members of the House is not a breach of any existing privilege of the House.

Then the Speaker said:

'I also wanted to find out whether there is any law here in existence similar to the one referred to in the ruling. Here is a similar provision and he quotes that with regard to our own Act.

"The Central Government or a provincial Government or any Officer especially authorised in this behalf by the Central or the Provincial Government may, by order in writing, direct that no postal article or in course of transmission by post shall be intercepted or detained or shall be disposed of in such a manner as the Authorities issuing the order may direct."

There is no prima facie case for referring the issue to the Committee of Privileges.,

That is what the Speaker has said.

So he relied upon a Gazette Notification in Australia which was meant only for war and for war years and in that Australia Parliament itself, that very Committee, upon which our Speaker depended, that Committee wrote, at the same time, it declared that interfering with the mail of any citizen in peace time is a serious matter but, under war conditions, every effort must be made to ensure that no useful information can reach the enemy and in this regard the Committee considers that the Member of the House should not enjoy any immunity which in the interests of national security is denied to the ordinary citizen.

These two things are mixed up. One thing that no citizen of the country should be under postal censorship or telegraphic censorship or telephone tapping during peace time and during war time even the Members of Parliament should not be immune from such tappings or censors.

That was the Australian Parliament's ruling upon which the Speaker depended.

Then it is one aspect. According to me, the Speaker should revise the ruling with regard to the notes of Parliament because it is peace time. Our country is not at war with any other country at present. When there is war, when our independence is in danger, I do not think this House or any

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Member of this House will grudge any such power to the Government which exists at that time in our country and so, it is in control of the defence of our country.

But here Section 5 of the Indian Telegraph Act, 1885, states:

"On the occurrence of any public emergency or in the interests of the public safety, the Central Government or a State Government or any Officer especially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do, take temporary possession (for so long as the public emergency exists or the interest of the public safety requires the taking of such action) of any telegraph established, maintained or worked by any person licensed under this Act."

Sub-section (2) of that section reads:

"On the occurrence of any public emergency, or in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do in the interests of the sovereignty and integrity of India, the security of the State friendly relations with foreign States or public order or for preventing incitement to the commission of an offence, for reasons to be recorded in writing, by order, direct that any message or class of messages to or from any person or classes of persons or relating to any particular subject, brought for transmission by or transmitted or received by any telegraph, shall not be transmitted, or shall be intercepted or detained or shall be disclosed to the Government making the order or an officer thereof mentioned in the order."

So, this is the existing Act which bound the hands of our Speaker and he was compelled to give the ruling as I have referred to earlier. Here my Bill does not propose to do away entirely with such power of censorship. Here what I propose in sub-section (1) of section 5 is:

"for the words 'on the occurrence of any public emergency, or in the interest of the public safety', the words 'On the issue of a Proclamation of External Emergency by the President under article 352 of the Constitution of India declaring that the security of India is threatened by war or by external aggression and during the period in which such a Proclamation is in force' shall be substituted;

"the words and brackets for so long as the public emergency exists or the interest of the public safety requires the taking of such action' shall be omitted."

"(ii) sub-section (2) shall be omitted."

I have read sub-section (2) which means that incitement to violence, any agitation, any trouble, anything, can come within the orbit of that sub-section. So I propose omitting of that sub-section.

Here I do want to submit to this House and to the Treasury Benches also that this section has anyhow continued to exist. It is not that it is required in our democracy. It has played havoc with our system. I know, when the present Prime Minister, for a while happened to be in the Opposition, on her behalf Shri K. Lakkappa had raised the issue of tapping while my friends on the right were in the Government and there was a clamour in the country that such tapping did take place. The pre-

sent Prime Minister had some taste of this Act, some taste of the harmful effects of this Act. Not only that, during those days there were clear voices from the ruling Party as well: Shri Krishna Kant raised the issue in Parliament and also outside in the press that his own mail and telephones were tapped, and the telephone of Mr. Chandrashekar, President of the then ruling Party, the Janata Party,—at that time it was ruling at the Centre and in many States—was also being tapped, his mail was also being censored, that was reported in this House itself, and the House again seemed to be helpless. In this situation, another incident has come to notice namely the Chief Minister of Tripura had written to the then Communication Minister, Shri Varma that his telephone was being tapped. It seems that this Act is playing havoc with the privacy or even with the personal conduct of topmen in the country, the Chief Minister, the Ministers. I would like to recall the statement given by Shri Jagjivan Ram before the Shah Commission even when he was a Minister. He was being washed, there was a surveillance over him. It is not a question concerning the ordinary Members of Parliament. It is not a question only of the ordinary citizens of our country. It is a question where even the Ministers' mails or the telephones are being tapped. Their mails are concerned. Even the Chief Minister is not spared. So, in such a situation, it is high time that we do away with the provision of the Act.

Again, I would like to say that our country is facing an aggression or danger from outside. We know that on our Western frontier there is the military dictatorship of Pakistan where sophisticated weapons are being placed not in the hands of the elected Government of Pakistan but in the hands of a Government which have the executive power for the people of Pakistan. Most probably those arms may be used against us. They have used them against us in the past also. In the Indian Ocean the U.S. is there with a base in Diego Garcia. They are

having nuclear weapons and other weapons there. There is an external danger which exists. In such a situation, we have to provide for that too.

That is why, in my Bill, a provision has been made that only when there is an external emergency or external aggression or threat, this exception can be made and not in the normal circumstances. I would like to say here that a privilege issue has also been raised by Members of Parliament. The Members of Parliament are given their own privileges and they have also the privilege of being the representatives of the entire population of India. I propose that here the censorship of mails and telegrams should be done away with. Here only the privilege of Members of Parliament and Legislatures is raised. In such a situation I would like to say that Members have complained to the Speaker also and he had expressed his helplessness or his inability to do anything. In such a situation it is high time that the House takes care of its own privileges as also the privileges of the citizens as they claim to represent them in the democratic set up here.

I would like to submit a few things for the consideration of this House. One is that there is a discontent in the country because prices are rising. Despite the claim of the Prime Minister that during the last two weeks there has been a slight fall of the inflationary rate, it has grown and not gone down. During the harvesting season, hoarders are amassing food-grains produced by the peasants. That is why the producers do not get a remunerative price or the price that they ought to get. It happens that during the lean season, when there is price rise among the consumers and the producers there is discontent. There is discontent in all the fronts against the anti-democratic measures taken by Government. There are instances where corruption charges were made against those who were in power.

In such a situation, the sub-section 2 which I have brought in this Bill will

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apply thereby mails can be censored and anyone can be debarred for communicating with any person. I myself stated about the case. On the 19th of January, there was a call for a general strike in the country. In Bihar, you remember, Sir, there was the call for a Bandh; it was a totally peaceful Bandh. I had been arrested under Section 151 and 107. No offence, no allegation, no charge. But I was arrested I was detained. (*Interruption*) So, I was kept there. From that angle, any telegram can be seized. Any telephone can be tapped. Any mail can be censored, as a preventive measure, as a precautionary measure. The entire gamut will come up. During the Janata Rule, Mr. Morarji Desai stated that it is he who will decide as to whose mail should be censored or whose telephone should be tapped. Sir, in this country of 680 million people, not one individual, howsoever dutiful he may be, howsoever efficient he, may be, can bring in his personal and his individual considerations and decide as to whose mail should be censored, whose telephone should be tapped. No single person can do it. Even in ordinary blocks it cannot be done. Why talk of a big country like India? In such a situation we have to defend the democratic rights of our people. Where is the guarantee that those who are now sitting on the Treasury Benches will not come to this side in the next election? The Indian people have shown and they have proved that. Those who had been there have come to this side. My friends on the right have been there on the Treasury Benches and now they have come here. That is the vitality of our democratic system. That is the democratic strength we have; this is a calculated step taken by our electorate; they have decided things like that when necessary.

In such a situation, such obnoxious parts, such anti-democratic enactments, should not be allowed to remain here on the Statute-book.

Three things come together: Telephone; ordinary mails and Telegrams. Here we have the Indian Telegraph Act. The wordings are more or less the same. In all these three things, if the Parliament decides to accept my Bill, to approve my Bill, that will be making a lot of improvement and certain other things will follow and that will be a great achievement for this Parliament particularly for the Treasury Benches, who have been in the wilderness for about two years and they have again been sent to govern this country. I think that they should take lesson from their own previous rule and the Janata rule; they should learn from what the Janata party could not do. They thought they could rule the country for 20 or 30 years.

MR. CHAIRMAN: May I seek a clarification?

SHRI BHOGENDR JHA: Why not?

MR. CHAIRMAN: You have spoken about external aggression; there are some sort of constraints; may be, that they would be natural. Don't you think that certain internal dissensions may assume such alarming proportions when some sort of constraint may be necessary even for the functioning of democracy, may be, not for the whole country, but for parts of the country? Don't you think so?

SHRI BHOGENDR JHA: May be; that also cannot be ruled out, Sir. We know that in some parts of the country there are some troubles. The trouble may persist. The trouble may again erupt in some other form. Because, our country is a vast country. And, in a multi-lingual, multi-religious, multi-cultural country, combined into one, united in diversity, such things cannot be ruled out. But, Sir, what I want to say is: Where will be the border-line? Who will decide it? Who will decide these things when the ruling party Chairman could not be spared by the Janata party, when

Chandra Shekhar could not be spared by his own Government, when even the Ministers could not be spared? An experienced old person, Shri Jagjivan Ram, while a Minister could not be spared during the Emergency. So, here is a temptation and once you have got the undemocratic power in your hands, there is a temptation to use it against anyone who differs with you, against any force or group of people or party or political opinion which challenges it. So, that is the thing that we have to believe in our democracy, in our democratic set up. If there is some trouble in some part of the country—take the example of Assam—we have to consider it in a dispassionate manner. Many of us do feel that there is some basis for the grievances which the people of Assam have. That is not baseless. But despite that, when the trouble or agitation takes its turn which harms our democratic set up, which hampers our national integration, then the whole country turns united and there is no question of division of the ruling party or the Opposition on that point. When there is some trouble in some parts of the country, it must be accepted, it must be depended upon that the whole country will stand as one man. So, this obnoxious enactment should not remain in our Statute Book and our Acts and that is why I say that war is something else. When we are attacked by some foreign force particularly when the U.S. Imperialists at present unfortunately are in collusion with our neighbour, the Chinese, we have to be vigilant. In such a situation, we have to be more careful and that is something big. That is why in my Bill, it is provided that during war-time, during aggression, some such cut we have voluntarily to accept, as a country, as a nation we have to accept. But within the country, I fear, because of the misrule of the ruling party, more and more of its dependence upon the monopoly houses of the country, more and more of forgetting its own commitment to the country, to the electorate, to the cause it had once cherished, that it has taken the lead

in adding the word "Socialism" to its Preamble, all these things are forgotten. Even the Prime Minister never mentions these things. In such a situation, when you are naturally depending upon the monopoly houses, when you are naturally depending upon the exploiters, the people's discontent is bound to grow and in such a situation there is an increasing temptation to use such Act against the people, against the democratic Opposition and against those who honestly differ with you, not on the issue of national integrity, on the issue of country's defence, not on the issue of our national unity but on the issue of your misdeeds, your misrule, exploitation by the non-producing classes and that is why I say that on the issue of external aggression that alone can be made an exception, that alone should be made an exception for tapping.

Besides, I would like to add another point. When I send a telegram anywhere, it is an open thing, it is not a secret thing. The present Bill seeks to amend the Indian Telegraph Act. It itself is open, nothing secret. I do not say that in regard to the telephone the tapping suits them. I do not think that in regard to the mails, sensor should be there. But here the present Bill is seeking to amend the Telegraphic Act. It is an open thing. Anyone can know what is there. Even the person who delivers the telegram can know, should know and does know what is there. In such a situation, no one can be a fool to say something which does not want to be known to anyone else or the party's concerned. So, that aspect you have very pertinently raised to which I have replied that it does not apply in this case, in the case of telegrams. That is why I think that the ruling party and the Treasury Benches will consider this issue and will enable this Parliament to do away with this slur on our democratic system, this slur which exists in the form of Section 5(2) of the Indian Telegraph Act and also some parts of Sub-Section (1) of Section 5 of this Act. That is why while intro-

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ducing this Bill, I hope that this House in its wisdom will find it possible to accept this Bill with one voice.

श्री गिधारी लाल व्यास (भीलवाड़ा):

यह बिल जो श्री भोगेन्द्र झा ने प्रस्तुत किया है, मैं इसका विरोध कर करता हूँ ।

इस बिल के अंदर यह जो प्रावधान ब्रिटिश काल से रखा गया था, उसका मकसद क्या था ? किस वजह से यह प्रावधान रखा गया, उसके पीछे मकसद यह था कि यदि देश में लड़ाई हो जाती है या कोई अंदरूनी गड़बड़ी हो जाती है तो उस समय चैक करने के लिए, इस प्रकार के कामों में जो लोग सहायक होते हैं, उनकी डाक और टेलीफोन सेंसर करने के लिए यह प्रावधान रखा गया था और यह आज भी जारी है ।

माननीय सदस्य ने बड़ी लंबी-चौड़ी बातें कहीं हैं । उन्होंने कहा कि जनता पार्टी के शासन काल में भी उनके स्वयं के चेयरमैन के टेलीफोन टेप किए जाते थे और उनकी डाक सेंसर की जाती थी । अन्य मंत्रियों के संबंध में भी उन्होंने अपने विचार प्रकट किए । मैं निवेदन करना चाहता हूँ कि यदि इस प्रकार का प्रावधान नहीं होगा तो आपके पास चीन बैठा है, पाकिस्तान बैठा है और उसके जासूस यहां पर काम करते हैं । कोई मुल्क ऐसा नहीं है जहां के जासूस यहां पर काम न करते हों । इन लोगों का अधिकारियों से और बड़े लोगों से संबंध रहता है तो यदि उसे ऐसे लोगों की डाक सेंसर की जाती है तो यह प्रावधान नितांत आवश्यक है । यदि देश में गड़बड़ी पैदा हो जाती है और दुश्मन हमारे यहां के लोगों से मिलकर गड़बड़ी पैदा करता है तो इस प्रकार

का प्रावधान नितांत आवश्यक है । अगर इस प्रावधान को हटा दिया गया तो बहुत बड़ी गड़बड़ी पैदा हो सकती है ।

दूसरा मेरा निवेदन है कि इस देश में होर्डर्स हैं, स्मगलर्स हैं, ब्लैक मार्केटियर्स हैं और ये लोग नाजायज तरीके से धन कमाते हैं । इनका संपर्क अधिकारियों से और राजनेताओं से होता है और इससे ये लोग अपना धंधा फैलाने में कामयाब हो जाते हैं । इन सब की जानकारी प्राप्त करने के लिए यह प्रावधान आवश्यक है । आप जानते हैं कि ये कितने साधन-संपन्न लोग होते हैं । इनकी अपनी टेलेक्स और टेलीग्राफ्स काम करती हैं और ये एक तरह से पेरलर गवर्नमेंट की तरह काम करते हैं । इनके लिए अगर इस प्रकार की व्यवस्था नहीं रखी गई तो देश की व्यवस्थाओं को बहुत बड़ा धक्का पहुंचेगा । इसी प्रकार राजनीतिक पार्टियों के लिए यदि इसका प्रयोग किया जाता है तो जो सही काम कर रहे हैं, उन्हें डरने की क्या जरूरत है । उनको कोई फर्क पड़ने वाला नहीं है, लेकिन अगर कोई दुश्मनों के साथ मिला हुआ है या बाहर के लोगों से मिला हुआ है तो उनके लिए इस तरह का प्रावधान नितांत आवश्यक है । यदि इसको हटा दिया जाता है तो हमारे पास ऐसी कोई व्यवस्था नहीं रहती, जिससे देश की रक्षा और जनता की रक्षा को कायम रखा जा सके । आप तो जानते ही हैं कि बहुत से लोग हैं जो देश का विभाजन करने में लग गए हैं, टुकड़े टुकड़े करने में लगे हुए हैं, खालिस्तान का नारा देते हैं, असम में गड़बड़ी की बात करते हैं और इस प्रकार के लोग अगर कोई मैसेज फोन से या तार से या चिट्ठी पत्री द्वारा भेजते हैं तो उनको सरकार को जरूर सेंसर करना चाहिये अगर उनके मैसेज

उन लोगों तक पहुंच जाएं जो देश में गड़बड़ी या उत्पात मचाना चाहते हैं तो निश्चित तौर पर देश की सुरक्षा को बहुत बड़ा खतरा पैदा हो सकता है । यह चीज नितान्त आवश्यक है । ब्रिटिश गवर्नमेंट के जमाने में यह प्रावधान किया गया था यह सही है । इसको स्लेवरी की निशानी कहा गया है । लेकिन सरकार को कायम रखने के लिए, देश की सुरक्षा की व्यवस्था करने के लिए, देश की आजादी को बनाए रखने के लिए इस प्रकार का प्रावधान बनाए रखना नितान्त आवश्यक है । अगर ऐसा नहीं होता है तो उससे देश को बहुत बड़ा खतरा पैदा हो सकता है ।

कुरप्शन की बात भी कही गई है । बहुत से लोग आज कुरप्शन में लिप्त हैं । उनकी बातें चिट्ठी पत्नी द्वारा या फोन द्वारा दूसरों तक न पहुंच सकें इसके लिए यह आवश्यक है कि सेंसरशिप की व्यवस्था जारी रखी जाए, उनके फोन्ज को टैप किया जाए । कुरप्शन को घटाने में इस का उपयोग किया जा सकता है । ऐसे लोगों के बारे में निश्चित तौर पर सरकार के पास जानकारी होनी चाहिये, उनकी सूची बननी चाहिये । कौन होर्डर्ज हैं, प्राफिटीयर्स हैं, ब्लैक मार्किटियर्स हैं, स्मगलर्स हैं, कुरप्ट हैं, उनकी सूची खुफिया विभाग द्वारा बनाई जा सकती है और इस विभाग को दी जा सकती है और वैसे लोगों के खिलाफ अगर इस व्यवस्था को मजबूती से लागू किया जाए तो हमारी बहुत सी कठिनाइयां दूर हो सकती हैं । इस वास्ते इस व्यवस्था को और ज्यादा मजबूत बनाया जाना चाहिये ।

यह ठीक है कि रोजमर्रा के काम-काज में सरकार का दखल नहीं होना चाहिये । लेकिन मैं समझता हूं कि सरकार तभी टिकी रह सकती है, देश

की सुरक्षा व्यवस्था तभी बनी रह सकती है जब जो लोग विदेशी दुश्मनों के साथ मिले हुए हैं, एंटी सोशल एक्टिविटीज में हिस्सा लेते हैं, कुरप्शन करते हैं, ऐसे लोगों के ऊपर चैक तभी लगा रह सकता है जब इस प्रकार के प्रावधानों को और ज्यादा मजबूत किया जाए । टेलीफोन या डाकतार विभाग के पास अगर इस प्रकार के लोगों की सूची नहीं है तो उसको यह उपलब्ध कराई जानी चाहिये ताकि उनके खिलाफ प्रभावी रूप से इस सम्बन्ध में कार्रवाई की जा सके, उनकी गतिविधियों पर चैक लगाया जा सके, देश की व्यवस्थाओं को मजबूत बनाने में हम ज्यादा से ज्यादा योगदान कर सकें ।

एमरजेंसी की बहुत सी बातों का जिक्र किया गया है । यह कहा गया है कि उस वक्त किन किन लोगों के फोन टैप किए जाते थे । आप एमरजेंसी की बात को छोड़ें । स्वयं आपने कहा है कि श्री मोरारजी देसाई ने जब एमरजेंसी समाप्त हो गई थी तब भी आपके बड़े बड़े पदाधिकारियों और मंत्रियों आदि के फोन्ज को टैप करवाया, तभी भी फोन टैप होते थे यह तो गवर्नमेंट का एक तरीका है, एक व्यवस्था है जिस के जरिये गवर्नमेंट चलती है, जानकारी उसको मिलती है कि कौन कौन से राजनीतिक दल किस किस प्रकार की गतिविधियां कर रहे हैं, कौन कौन से लोग हैं जो इस देश के साथ गद्दारी कर रहे हैं, देश के साथ दुश्मनी करके देश के टुकड़े टुकड़े करवाने का बात करते हैं । अगर इस सब की जानकारी सरकार के पास नहीं होगी तो वह किस प्रकार देश की सुरक्षा को बनाए रख सकती है, किस प्रकार से आजादी को बनाए रखा जा सकता है, आर्थिक व्यवस्थाओं को ज्यादा मजबूती से चलाया जा सकता है ।

[श्री गिरधारी लाल व्यास]

इस बास्ते इस प्रकार की जो व्यवस्थायें हैं उनको और ज्यादा मजबूत बनाया जाना चाहिये ।

माननीय सदस्य ने जो बिल रखा है उसका मैं विरोध करता हूँ । इसको मान लेने से हमारी सुरक्षा, हमारी आजादी, हमारी आर्थिक उन्नति के लिए जो कुछ किया जा रहा है, उसको बहुत बड़ा खतरा पैदा होगा । मैं प्रार्थना करता हूँ कि माननीय सदस्य इसको वापिस ले लें :

SHRI BHOGENDRA JHA: I have a submission to make. I understand that the Telegraph Department has no machinery to intercede or tap mail or telegrams. That is done by the Home Ministry, Intelligence Department. So, I think it is better if the Home Minister is present here. I don't think they do it; it has to be done by the Home Ministry.

MR. CHAIRMAN: Whenever the Minister of Communications replies, he will reply on behalf of the entire Government. Shri Madhu Dandavate.

PROF. MADHU DANDAVATE (Rajapur): Mr. Chairman, while extending my support to the Bill that is moved by my hon. friend, Shri Bhogendra Jhaji, I would like to remind him that the Bill which he has moved has a restricted scope. On the same lines, I had already introduced a Bill in this House, which is a more comprehensive one in which I have combined amendments to both the Bills, that is, Indian Telegraph Act 1885 and also the Post Office Act 1898. Unless these two Bills are amended, the wide powers that have been given to the Government, which can tamper with the democratic liberty of the people, cannot be prevented at all. Though such a comprehensive legislation is

not coming here, all the same, since I agree with the aims and objectives of the Bill that has been introduced here, I would like to extend my support to it.

It is true that these legislations were enacted under the British regime when our present Constitution did not exist. But after the Constitution has come into operation, I would really like to challenge the constitutional and legislative competence of this House. I would also like to challenge the constitutional competence of this legislation.

We have adopted the Constitution in which Part III deals with Fundamental Rights of the citizens. Article 19 dealing with the right to freedom says, "All citizens shall have the right—(a) to freedom of speech and expression." Now part (a) categorically says, "Right to freedom of speech and expression". Freedom of expression has a wide connotation; it is not merely an expression. Right to expression is exercised through articles. Right to expression which is exercised through speeches, which is expressed or exercise through our freedom of speech in the legislature has the widest possible connotation. I can have a communication with my colleague or a friend; I can send letters. In that, I can express certain political views of mine. My right to privacy demands that these views of mine expressed to my colleague through a private letter should not be tampered by an agency like the State. Therefore, these two Acts which are already on the statute, that is, Indian Telegraph Act 1885 and the Post Office Act 1898 really come into conflict with Article 19 of the Constitution. Therefore, some of us would like to challenge the constitutional validity of these two Acts, outdated Acts in the framework of the new Constitution which free India already accepted.

So, obviously, that aspect cannot be ruled, cannot be decided upon in this House because there are a large number of precedents in the past. When we challenge the constitutional validity of any legislation, the presiding authority has already declared that it is not the fit authority or the competent authority to decide the constitutional validity of any particular legislation. Therefore, you have to go to the court of law, you have to seek judicial remedy. Thank God that particular aspect of the judicial remedy which was sought to be removed in the emergency has again been restored. And therefore, it should be possible for the citizens to go to the highest judiciary of the country and seek redressal in connection with this particular Act, these two Acts, which violate the Fundamental Rights guaranteed to us in Part III of the Constitution. We will do that. But at the same time, I would like to refer you to some of the rulings and some of the observations that were made by the Hon. Speaker in this House when some of us sought to raise the question of the censorship of the mail of the Members of Parliament. On that occasion one significant observation was made by the Speaker. The Hon. Speaker said that "My hands are tied by the existence of these two Acts on the Statute book". He said that "so long as the Acts of 1885 and 1898 exist, my hands are tied".

17 hrs.

Sir, men like me regret this and those who had brought similar bills, as I said in the aims and objects of my Bill, precisely with the object of untying the hands of our Hon. Speaker that I have sought to bring this Bill. He himself said that 'my hands are tied'. And if his hands are tied by these Acts, in that case the best way to untie the hands of the Hon. Speaker is to bring this Private Member's Bill by which we will try to see that the provisions of these Acts are actually amended.

I do not want to dwell on that particular aspect in detail, but I would mention, or make a cursory reference to Australian Parliament and the precedent in Australia. That was really a most unfounded precedent. As my friend and colleague rightly pointed out, in the framework of certain conditions, in the atmosphere of war, certain references were made, and discussion took place in Parliament. Certain rulings were given, but those ruling which were given in the context of the war time, they cannot be considered as valid in the peacetime. And, therefore, the context is completely different. Therefore, I would like the House to consider the entire amending Bill in the context of the present situation and also in the background of the Fundamental Rights that are guaranteed in Part III of the Constitution. If this particular Act survives, these two Acts of 1885 and 1898, what will be the repercussions as far as the civil liberties of the people are concerned? It has a very wide scope. So it is not dealing with the actual war conditions. It is not dealing with only the occurrence of public Emergency but it talks of the interest of public safety. "Interest of Public Safety" is a very dangerous term. It is more unsafe than the term itself. Public Safety can be interpreted by the Government in different ways. And especially an authoritarian Government is likely to interpret this particular clause in the most dangerous way. We were the victims of such provisions in times of Emergency. Some of the powers that are given to the Government have been misused during the Emergency. In peacetimes also they are being misused, and therefore, I would feel that if this particular Act continues and if the Private Member's Bill is not adopted by the House, in that case, personal freedom, right to privacy and democratic rights of liberty will be reduced to a farce. I will briefly support this. In Karnataka when *Kannada Prabha* and the *Indian Express* published one secret circular of the police authori-

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ties, in that case the debate started and the debate was not whether the contents of the secret circular were correct, or whether a direction was given to tap the messages and to keep an eye on certain legislators. That particular aspect was not considered. But the debate was how the Editor of *Indian Express* and *Kannada Prabha* caught hold of this secret circular! For instance if we complaint to the Police Station that certain atrocities had taken place in certain villages and if the Police authorities start asking us the question how it is that we were able to get the secret regarding these atrocities, we would tell the Police authorities, "you should not be concerned as to how we were able to secure the information about the secrets of the atrocities". But you should be concerned about dealing with the atrocities." But in relation to that secret circular, they started investigating how the secret circular reached the editorial tables of *Kannada Prabha* and *Indian Express*. They were not concerned with the contents of the secret circular. I am more concerned with the contents, not the form. I can draw the conclusion from our experiences during the emergency, pre-emergency and post-emergency period that once you give this weapon in the hands of the bureaucracy, they are likely to misuse it. When bureaucracy is pressurised by political forces, the misuse of these powers is extremely dangerous. Even if personal matters are being communicated to relations, if the authorities try to tap those letters, what is the sanctity of privacy in our life? It is not always that political messages will be intercepted. When we were in jail, when our letters were being examined, I always used to tell my wife, who was also in jail, "Let your letters be related not to personal matters which cannot be objectionable." Once when my wife complained that in all the letters which were sent to her in jail, I addressed the letters as if they could be

addressed to any other lady, knowing fully well that my letters addressed even to my wife in the jail always passed through the hands of the jailors and censor authorities, I humorously wrote to her...

MR. CHAIRMAN: What was the reply like?

PROF. MADHU DANDAVATE: I will tell you. I humorously wrote, "What is the sense in carrying on romance with one's wife through the agency of the superintendent of jails and others? It is better to write letters which are harmless like vegetables."

MR. CHAIRMAN: Are you a vegetarian?

PROF. MADHU DANDAVATE: I am non-vegetarian, but I have to be vegetarian in practice. In all countries of the world where right to privacy is respected as one of the important rights, as one of the pillars of personal liberties, when that particular right is taken away, in that case it is a dangerous encroachment on the rights and liberties of man. Very often, we would like to carry on certain internal debates without colleagues in the political parties. We would like to discuss certain issues. If political parties hold their deliberations *in camera*, it is precisely for this reason that whenever they have certain discussions and debates, different points of view are put forward. Even one tries to put forward a point of view as a result of which sometimes there is an artificial confrontation in the debate, so that both sides of the proposition can be properly discussed; it is not that one believes in that particular point of view. Sometimes the point of view is put forward in a committee meeting in order to ensure that both sides of the proposition are properly discussed and debated. If these documents, the minutes of the meetings, are communicated to our colleagues and if they are tapped by

the Government and they are exposed, in that case certain dangerous conclusions regarding the political views of the political parties can be brought about.

MR. CHAIRMAN: There is another aspect. While there may be union so far as the parties are concerned, the Government might be misled into thinking that you are quarrelling!

PROF. MADHU DANDAVATE: Sometimes probably if the correspondence is revealed, the Government is put on the wrong track and that is an advantage. But that is only an exceptional case. In this context I would like to give you an interesting precedent. Since you yourself were a freedom fighter, you may recall that before the out-burst of 1942 struggle there were discussions in the AICC Working Committee and there were conflicting points of view about the 1942 struggle itself. Maulana Abul Kalam Azad had put forward one point of view. Pandit Jawaharlal Nehru had put forward another point of view. Acharya J. B. Kriplani had put forward a different point of view. Mahatma Gandhi had put forward one point of view. And the socialist members of the Working Committee had put forward one point of view.

MR. CHAIRMAN: But Mahatma Gandhi had not attended the Allahabad session.

PROF. MADHU DANDAVATE: I am talking of the Working Committee meeting. Please check up your old political diary. If it is not available with you, I will produce one which was published by the British.

MR. CHAIRMAN: I will go through it.

PROF. MADHU DANDAVATE: What the Government did was that they utilised these same powers under both these laws and tried to temper with their mail. They got hold of the

documents. They got hold of even the rough notes that were maintained by the then General Secretary, Acharya J. B. Kriplani. In order to expose the Working Committee members or down their prestige and show before the world that even in launching the struggle against British imperialism, the Congress leaders were not at all united, they published the minutes that were maintained by Acharya J. B. Kriplani.

You may remember one more important incidence. When Jayaprakash Narayan, who was detained in Deoli jail, tried to smuggle out some letters the police got hold of those letters. When those letters were published, the British had the satisfaction that they would be able to drive a wedge between Jayaprakash Narayan and Mahatma Gandhi. And the British authorities challenged Mahatma Gandhi on the basis of those letters and tape recorded material that Jayaprakash Narayan was trying to make preparations for an armed revolt in the country and that if he had any courage and gust he should condemn Jayaprakash Narayan. But Gandhiji was a different type of man. He came out with a small article in his paper and said that we might have some difference of opinion with Jayaprakash Narayan about the methodology of struggle, but how the Britishers were concerned with it when their regime was based on violence and that they should not worry about the difference of opinion between himself and Jayaprakash Narayan. Even after the release of these letters and records by the Britishers, Mahatma Gandhi said that as far as Jayaprakash Narayan was concerned, I might differ with him, but his patriotism was as clear and clean as crystal.

I have just narrated these historic incidences to tell you how the Britishers tried to tape letters, telegrams, telephones under these laws in order to damage the reputation of political

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parties. If the Britishers could do that, those who are following the legacy of the Britishers in certain respects, they can also use the same laws and can try to play one political party against another. They can try to utilise the internal discussions in the political party in order to put one man against another in the same political party. All these activities are there. Therefore, do not think that these particular provisions are there in order to get hold of the smugglers, corrupt men and spies. In spite of all these provisions, smuggling goes on and the collaborators and smugglers had also become the rulers of the state. That very often happens. Therefore, these Acts are not at all to build defence against all such anti-social activities. They are different matter. There are different legislative power, there are different State powers with the help of which smugglers can be dealt with the corrupt men can be dealt with and the anti-social activities can be dealt with. There is COFEPOSA, which is still on the statute book, which can be utilized to deal with the Activities of the smugglers. If there are any foreign exchange irregularities they can be dealt with very effectively under the Foreign Exchange Regulations Act. Such legislation are not at all required in order to deal with anti-social elements. Therefore, these legislations are not likely to be used in the public interest and for public security or safety.

Again, what is "public safety"? If you see the wording of section 5, it says:

"On the occurrence of any public emergency or in the interest of public safety, the Central Government, or the State Government, or any of the officers specially authorized in this behalf by the Central Government or the State Government may, if satisfied that it is necessary or expedient so to do, take temporary possession of any telegraphic establishment, maintained or

worked by any person licensed under this Act."

A similar provision is there in the Post Offices Act also. So, in relation to mail (I am not referring to male and female), in relation to telegraphic messages, telephone messages, everything can be intercepted under the garb of public interest or public safety.

Why do I say that this clause is dangerous? It is because from our own experience we have learnt how the term "public safety" is very dangerous. The National Security Act, which we were told will be utilized only in the interest of national security and nation's integrity is being used even when the workers decide to go on a token strike, to express their resentment against certain atrocious acts of the Government. We were told that the National Security Act will not be used against the political workers. But it is being utilized in the interest of public security, which is supposed to be created only when the political struggles are fought adequately. Therefore, Whenever there is political struggle by the working class it is being used against them.

Just as "public security" and "public safety" are being misused in defining the scope of the National Security Act, in an identical manner, this particular expression "public safety", used in clause 5 of this particular Act, is likely to be misused in the future; it has been misused in the past, it is being misused in the present and it is likely to be misused in the future. Therefore, by way of abundant caution, to protect the life and liberty of the people and to defend the most important right to privacy, guaranteed indirectly by Part III of the Constitution, really speaking, this Bill is absolutely necessary. Therefore, though I think it is inadequate, I extend my whole-hearted support to this Bill.

श्री अटल बिहारी वाजपेयी (नई दिल्ली):
सभापति महोदय, मैं योगेन्द्र झा द्वारा प्रस्तुत

विधेयक का समर्थन करने के लिए खड़ा हुआ हूँ। केवल तार के मामले में नहीं, तो डाक के मामले में भी इसी तरह का संशोधन विधेयक लाने की आवश्यकता है।

17.19 hrs.

[SHRI GULSHER AHMED in the Chair]

मैंने स्वयं इस तरह के दो विधेयक पेश किए, लेकिन बैलेट ने श्री भोगेन्द्र झा का साथ दिया है और इसलिए उन के विधेयक को आधार बना कर हम लोग अपने विचार प्रकट कर रहे हैं।

हमारे कांग्रेस के मित्र यह तर्क न दें कि सरकार को चलाने के लिए इस तरह के कानूनों की आवश्यकता है। अंग्रेज इस देश को गुलाम रखना चाहते थे। उन के लक्ष्य अलग थे, उन के तरीके अलग थे। वे स्वतन्त्रता के आन्दोलन को कुचलने पर उतारू थे। सचमुच में स्वाधीनता के बाद और विशेषकर नये संविधान के निर्माण के पश्चात् इन कानूनों में संशोधन किया जाना चाहिए था। अंग्रेजी जमाने के कानून चल रहे हैं। क्या केवल इसलिए वे ठीक हैं कि वे सरकार के हाथ में ऐसे अधिकार देते हैं, जिन का दुरुपयोग किया जा सकता है। अभी मेरे मित्र प्रो० मधु दण्डवते ठीक ही कह रहे थे कि पब्लिक सेफ्टी, पब्लिक ट्रान्क्युलिटी की व्याख्या क्या है, उन्हें यह बात स्पष्ट नहीं है और मुझे भी स्पष्ट नहीं है। राष्ट्रीय सुरक्षा के लिए खतरा समझ में आ सकता है। इसीलिए हम ने संविधान में संशोधन कर के इमर्जेंसी को भी एक्सटरनल इमर्जेंसी के साथ जोड़ा है। अगर देश पर आक्रमण हो, तो स्वाधीनता को सीमित करना पड़ेगा लेकिन शान्ति के काल में क्या व्यक्तियों को इस बात का अधिकार नहीं होगा कि वे पत्र-व्यवहार कर सकें और वह पत्र-व्यवहार सरकार की आंखों सामने से न गुजरे?

सभापति महोदय, आज भी मेरा टेलीफोन टेप किया जा रहा है। मैं इस आरोप को साबित करने के लिये तैयार हूँ अगर आप एक पार्लियामेंटरी कमेटी बनाएं और जो कर्मचारी टेलीफोन के टेपिंग में लगे हुए हैं उन्हें अगर आप अभयदान दे दें और यह आश्वासन दे दें कि उन के खिलाफ कोई कार्यवाही नहीं की जाएगी, तो उस अवस्था में मैं साबित कर दूंगा कि होम मिनिस्ट्री द्वारा नियुक्त लोग डाक व तार विभाग में बैठे हैं और टेलीफोनों को टैप कर रहे हैं। क्या यह बात किसी से छिपी हुई है कि दिल्ली में चिट्ठियों की सेंसरशिप शुरू कर दी गई थी। दिल्ली एडमिनिस्ट्रेशन ने एक लिस्ट बनाई थी और उस में मेरा भी नाम था और कांग्रेस (आई) के भी कुछ लोग हैं, जिन का नाम उस में है।

एक माननीय सदस्य : व्यास जी का है ?

श्री अटल बिहारी वाजपेयी : व्यास जी महाभारत के बाद फिर आए नहीं।

PROF. N. G. RANGA (Guntur): Let him not think that he is the only criminal. There are others also in the list.

SHRI ATAL BIHARI VAJPAYEE: I would like nobody to be a criminal unless he is proved a criminal.

मंत्री महोदय से सवाल पूछा गया था लेकिन मंत्री महोदय उस का जवाब टाल गये। मगर दिल्ली प्रशासन ने एक सूची बनाई थी और चिट्ठियों को इन्टरसेप्ट करना शुरू कर दिया था। श्री लाल कृष्ण अडवाणी के नाम एक ऐसी चिट्ठी आ गई जो श्री हंसराज गुप्ता को लिखी गई थी। यह कैसे हुआ ? बाद में पता लगा कि डाकखाने में चिट्ठी खोल कर पढ़ी गई और बन्द कर के गलत पते के लिफाफे में बन्द कर दी गई। यह आरोप भी साबित किया जा सकता है। डाक व तार विभाग में काम करने वाले

[श्री अटल बिहारी वाजपेयी]

देशभक्त हैं। यह ठीक है कि वे सरकारी कर्मचारी हैं, मगर इन बातों से खुश नहीं हैं, संतुष्ट नहीं हैं। यह ठीक है कि मेल की सेंसरशिप अब बन्द कर दी गई है लेकिन मैं यह जानना चाहता हूँ कि क्या टेलीफोन को टैप नहीं किया जाता है? टेलीफोन टैपिंग में एक फायदा जरूर है कि टेलीफोन बिगड़ता नहीं है क्योंकि जैसे ही टेलीफोन बिगड़ जाता है, जो टैप करने वाले लोग हैं, उनको पता लग जाता है कि टेलीफोन बिगड़ गया है और वे एकदम खबर करते हैं कि टेलीफोन ठीक करो। . . . (व्यवधान) . . . मगर ऐसा फायदा कोई नहीं लेना चाहेगा। सेंसरशिप अगर करनी है, तो खुल कर करो और मैं इसको समझ सकता हूँ मगर जिसकी चिट्ठी सेंसर करनी हो, जिस का मेल सेंसर करना हो, उसको नोटिस दीजिए और लिफाफे पर लिख दीजिए "सेंसर्ड"। दुनिया को पता लगना चाहिए, चोरी-छिपे मत करिये। किस अधिकार से करते हैं? आप कहेंगे कि जो अधिकार अंग्रेजों से लिया था और जिस अधिकार का जनता-पार्टी ने परित्याग नहीं किया, क्या सारी बातें वे ही करनी हैं जो हम करते थे? क्या कोई ऐसा भला काम नहीं करना है जो हम नहीं कर पायें। कुछ तो करके दिखा दीजिए। मुझे याद है कि उस समय भी पार्टी में इस बात को कहा गया था कि यह चीज बंद होनी चाहिए, लेकिन मैं एक बात बतलाना चाहूंगा कि जनता सरकार में भी जो बड़े मंत्री थे वे सभी पुराने कांग्रेसी ही थे। उनके सोचने और काम करने का तरीका वहां बना हुआ था।

THE MINISTER OF COMMUNICATIONS (SHRI C.M. STEPHEN): Congress and the Socialist Party also?

श्री अटल बिहारी वाजपेयी : सोशलिस्ट अलग थे और हम जनसंघ वाले अलग थे।

SHRI C. M. STEPHEN: Mr. Rakesh, why are you clapping?

SHRI R. N. RAKESH (Chail) You are not for democracy.

श्री अटल बिहारी वाजपेयी : जनता पार्टी का निर्माण लोकतंत्र की पुनर्र्स्थापना के लिए आवश्यक था। हमारे मन में कोई भ्रम नहीं था। श्री जय प्रकाश नारायण के नेतृत्व में उन की समग्र क्रान्ति की कल्पना वाली सरकार स्टेट्समैन की सरकार थी, लेकिन उसने एक ऐतिहासिक आवश्यकता को पूरा किया। उसने लोकतन्त्र की पुनर्र्स्थापना कर दी। आप तो लोकतन्त्र का गला घटने पर उतारू थे। . . . (व्यवधान) . . .

सभापति महोदय, उस दिन जब यह मामला सदन में उठा तो स्पीकर महोदय ने कहा कि वे असहाय हैं—कानून बदलना पड़ेगा। अब हम सरकार को बसौटी पर कसना चाहते हैं। कानून बदलने का विधेयक लाए हैं और इस की वजह से वेतन-भत्ते वाला विधेयक रोक दिया गया। गैर-सरकारी मेम्बरों के समय में यदि ऐसे विधेयक पर चर्चा होती है तो वह समय का सदुपयोग है। जब इस विधेयक का जवाब आएगा तो सरकार का चेहरा बेनकाब हो जाएगा।

यह किस के लिए है, इस पर विचार होना चाहिए। यह असाधारण अधिकार किस का सामना करने के लिए है? कहा गया कि पड़ौस में चीन है, पाकिस्तान है, तो क्या चीन और पाकिस्तान जब कोई साजिश करेंगे तो वे टेलीफोन पर खबर देंगे या टेलीग्राम भेजेंगे कि तैयार हो जाओ।

सभापति महोदय, आज हालत यह है कि टेलीग्राम बाद में पहुंचता है और चिट्ठी पहले पहुंच जाती है। श्री बी. एम. बिड़ला की मृत्यु हुई, उस समय मैं दक्षिण के दौरे पर था। मैंने टेलीग्राम दिया, बाद में पता चला कि टेलीग्राम नहीं मिला। कहा जाता है टेलीग्राम—पता नहीं। टेलीफोन टैप होते हैं या नहीं मगर उस में इतनी आवाजें होती हैं कि यह शक पैदा हो जाता है कि टैपिंग

हो रहा है। किस के टेलीफोन आप टैप करना चाहते हैं, किस लिए करना चाहते हैं? व्यक्ति की प्राइवसी की कोई रक्षा होनी चाहिए।

एक माननीय सदस्य ने सवाल उठाया कि देश के भीतर कोई गड़बड़ी हो जाए तो क्या होना चाहिए। श्री मिश्र जी उस समय चेयर पर थे। देश के अन्दर गड़बड़ी हो जाती है तो क्या उस के लिए यह काला कानून जरूरी है? क्या अन्य तरीकों से उस परिस्थिति का सामना नहीं किया जा सकता? कौन सी बात देश में छिपी हुई है मगर विघटन-कारियों को रोकने के लिए इस कानून का उपयोग नहीं होता। तस्करों की बात छोड़ दीजिए। राजनीतिक विरोधियों के खिलाफ इन कानूनों का उपयोग होता है। अगर जनता राज में यह हुआ है तो भी गलत था। जनता राज की बहुत सी अच्छी-अच्छी बातें आप छोड़ रहे हैं तो इस बुरी चीज को छोड़ने में संकोच क्यों। इन सवालों पर विचार होना चाहिए। नागरिक की व्यक्तिगत स्वाधीनता के परिपेक्ष्य में और उस की गोपनीयता बनाए रखने के अधिकार को ध्यान में रख कर विचार होना चाहिए।

यह मामला सुप्रीम कोर्ट में गया है। हम सदन में भी यह लड़ाई लड़ेंगे और अदालत में भी लड़ेंगे। संविधान के आधारभूत अधिकारों के अनुसार यह कानून टिक नहीं सकता है। अभी तक इस प्रकार के कानूनों को चुनौती नहीं दी गई थी। लेकिन अगर सुप्रीम कोर्ट ने इसको रद्द कर दिया तो सरकार की प्रतिष्ठा बढ़ेगी नहीं। अंतुले साहब को जाना पड़ा लेकिन जाना पड़ा कोर्ट के फैसले के बाद। अगर प्रधान मंत्री ने उनको पहले हटा दिया होता तो प्रधान मंत्री की गरिमा बढ़ती। अगर कम्युनिकेशन मिनिस्टर इस विधेयक को स्वीकार कर लें या आश्वासन दे दें कि अंग्रेजी राज के काले कानून अब नहीं चलेंगे तो उनकी इज्जत बढ़ेगी। एक्सटर्नल

एग्रेसन के दौरान व्यक्तिगत स्वाधीनता को सीमित करने की बात विरोधी दल भी मान रहे हैं। लेकिन आश्वासन दिया जाना चाहिये कि इसका दुरुपयोग नहीं किया जाएगा। लेकिन मुझे नहीं लगता है कि हमें यहां से न्याय मिलेगा। उसके लिए अदालत के सामने हमें जाना पड़ेगा। अगर अदालत भी नहीं मानी तो हमें जनता की अदालत में इस मामले को ले जाना होगा। धन्यवाद।

श्री हरेश चन्द्र सिंह राय (अल्मोड़ा): विरोधी दल के जनता पार्टी के दो भूतपूर्व मंत्रियों और जनता पार्टी के घटकों के दो नेताओं के मन की अन्तर्वेदना के कुछ स्वर हमें आज यहां पर सुनाई दिए हैं। कितनी मानसिक पीड़ा ढाई साल तक उनको रही जब वे श्री मोरारजी देसाई साहब की सरकार में रहे उसका कुछ इजहार उन्होंने किया है। मैं एक बात समझ नहीं सका हूं। जिस समय हम सत्ता में हों उस समय तो किसी अच्छे काम को करने में जिस को हम आज जब सत्ता में नहीं हैं, हिचकिचाएं, परहेज करें, उसको टालने की कोशिश करें लेकिन जब सत्ता में न रहे तो दूसरे पक्ष पर आक्षेप लगाए कि वह इस कार्य को नहीं कर रहा है ठीक नहीं है। ढाई साल तक आप सत्ता में रहे। प्रजातंत्र को आप कहते हैं कि आप ने अपने शासनकाल में रेस्टोर किया। लेकिन मैं पूछना चाहता हूं कि क्या उनका प्रजातंत्र यही कहता था कि विरोधी दल के नेता को तंग किया जाए, उस को झूठे मुकदमों में फंसाया जाए और ऐसा करके उसके राजनीतिक जीवन को समाप्त करने की चेष्टा की जाए? क्या उनका प्रजातंत्र इस तरीके का था कि सैंकड़ों कांग्रेस कार्यकर्ताओं के ऊपर झूठे मुकदमों लगा कर उनको तंग करने की कोशिश की जाये? क्या यह एक प्रकार की ज्यादाती नहीं थी? जनता पार्टी के राज्य के दौरान बाजपेयी

[श्री हरीश चन्द्र सिंह रावत]

जी एक घटक के नेता थे। उनके एक मुख्य मंत्री ने मध्य प्रदेश में मिनी मीसा लागू किया। तब उनके अन्तर्भन को चोट नहीं पहुंची? उस समय क्या उन के मन में यह भावना नहीं आई कि मुझको अपने घटक को टोकना चाहिये और कहना चाहिये कि इस मिनी मीसा को न लाओ। जब वे दुहाई देते हैं कि हमने प्रजातंत्र को रेस्टोर किया है, मैं समझता हूं कि सामान्य आदमों जो संसद में नहीं हैं लेकिन बाहर हैं, वह भी उनकी इस बात पर हंसेगा।

इससे मिली जुली बात प्रो० मधु दंडवते जी ने भी कही है। मैं भी महसूस करता हूं कि शासन को कम से कम व्यक्तिगत स्वतंत्रता में दखल देना चाहिये। जिस प्रकार की ओपन डेमोक्रेसी हमारी है उस में क्या वाजपेयी जी या दंडवते जी साहब गारंटी दे सकते हैं कि हमारी प्रजातांत्रिक स्वाधीनताओं को मिसयूज नहीं किया जाएगा, संविधान द्वारा प्रदत्त अधिकारों का दुरुपयोग नहीं किया जाएगा? आज ऐसा हो रहा है। कई जगह किया जा रहा है। ऐसे व्यक्तियों के द्वारा किया जा रहा है जो किसी प्रकार से विधान सभाओं में महत्वपूर्ण पदों पर रहे हैं और ऐसा जनता के हित के नाम पर कर रहे हैं।

वाजपेयी जी ने दुहाई दी कि हमें यदि यहां से यह अधिकार नहीं मिलेगा तो हम न्यायपालिका में जाएंगे। न्यायपालिका में आप जाने के लिये स्वतंत्र हैं। लेकिन यह जरूरी नहीं है कि जो निश्चय न्यायपालिका करती है वही उचित है। निश्चय वही उचित होता है जिसको जनता और उसकी प्रतिनिधि सभा यह पार्लियामेंट करती है।

कोर्ट किसी चीज को किसी फला के आधार पर सरकार के पक्ष को गलत

समझते हैं तो जरूरी नहीं है कि जनता भी उसे गलत समझती हो। बहुत बार ऐसा हुआ है, इतिहास इस बात का साक्षी है कि जिस फैसले को न्यायालय ने टेक्नीकल कमियों के आधार पर दिया हो उसको जनता ने सुधारा, और जनता ने बारबार ऐसे लोगों को चुन कर के संसद में भेजा है। और हमारी कांग्रेस पार्टी बराबर इस प्रकार के संशोधन लायी है जिनको किसी न किसी तरह से कोर्ट ने वायड करार दिया। लेकिन जनता ने फिर उसी पार्टी के सदस्यों को चुनकर यहां भेजा। तो हम इस धमकी में आने वाले नहीं हैं, और मैं समझता हूं कि मंत्री जी भी आने वाले नहीं हैं, क्योंकि आपका जब राज्य था तो जनता पार्टी की सरकार ने उनके टेलोफोन को टैप किया होगा और उन की मेल को भी सेंसर किया होगा और पार्लियामेंटरी पेपर्स जो वर्तमान मंत्री जी के जाते होंगे और जो चिट्ठियां हमारे सदस्य लिखते होंगे उनको भी जनता पार्टी के शासन काल में सेंसर किया जाता होगा। क्योंकि आपकी मशीनरी को आप पर भी कोई भरोसा नहीं होगा क्योंकि उनको मालूम होगा कि आपकी पार्टी के लोग किस प्रकार की साम्प्रदायिकता का प्रचार करते हैं। उनको मालूम होगा कि कुछ लोग ऐक्सट्रिमिस्ट तत्वों के साथ मिले हुए हैं। तो मैं समझता हूं उस समय भी यह प्रैक्टिस रही होगी। लेकिन इतना मैं जरूर मंत्री जी से कहूंगा कि मिसयूज की गुंजाइश नहीं रहनी चाहिये। मिसयूज कम से कम हो। और आपको देखना चाहिये कि विभाग के लोग इस अधिकार का दुरुपयोग न करें। आप इस बात का भी प्रावधान करें कि चाहे मेल सेंसर की बात हो या टेलोफोन टैप करने की बात हो, निश्चित तौर पर उसको कोई पार्टिजन या किसी और ऐंटीट्यूड के आधार पर कोई लिस्ट हमारी मशीनरी तैयार न करे। क्योंकि मशीनरी कुछ गाइडलाइन्स के

आधार पर काम करती होगी, हो सकता है कि कुछ गलतियां वह इस तरह की करे, तो उसको इफेक्टिवली चैक करना चाहिये, चाहे आपका मंत्रालय करे या गृह मंत्रालय करे।

मैं समझता हूं कि जो बिल माननीय भोगेन्द्र झा लाये हैं वह निश्चित तौर पर अव्यावहारिक हैं और उसकी कोई आवश्यकता नहीं है। जनता की चुनी हुई सरकार जो उचित समझती है वह कर रही है और उसमें किसी प्रकार की शंका नहीं होनी चाहिये केवल इस भ्रम के आधार पर कि कहीं हमारे अधिकार का हनन तो नहीं किया जा रहा है इस आधार पर यह कहना कि टेलीग्राफ ऐक्ट उचित नहीं है, मैं इसका ठीक नहीं समझता हूं और माननीय भोगेन्द्र झा के विधेयक का विरोध करता हूं।

SHRI CHITTA BASU (Barasat): Mr. Chairman, Sir, I rise to support the Bill moved by my esteemed friend, Shri Bhogendra Jha.

As a matter of fact, I agree with Prof. Madhu Dandavate that the objective of the Bill is limited, Particularly with regard to the very important issue of personal liberty and right to privacy which has been affected by two very important Acts of the British regime, namely, the Telegraph Act and the Post Offices Act, that we introduce more or less, a comprehensive Bill to ensure this fundamental right to liberty and privacy. But in this Bill, only the Telegraph Act is sought to be amended in the way in which my hon. friend, Shri Bhogendra Jha suggests.

I support the Bill because this Telegraph Act of 1835 was enacted by the British for their own particular purpose of keeping our country under slavery. It was necessary for the British to crush the freedom movement

in our country and for that, they considered it essential to have that kind of draconian law which enables them to intercept any telegraph communication. But, I do not know whether Mr. Stephen will now propose to have that kind of regime as that of British regime to be still imposed upon the people of this country. Our country is no longer under British imperialism particularly having regard to the fact that we have got a written Constitution which guarantees certain fundamental rights and naturally the provision of this Telegraph Act militates against the fundamental rights as enshrined in the Constitution of our country. Therefore, you would agree and everybody in this country having an iota of democratic sense would agree that this provision of the Telegraph Act is no longer necessary and it requires to be done away with as soon as possible.

One aspect of the danger has been highlighted by Prof. Madhu Dandavate regarding the efforts which might be made to create certain confusion among the political parties' leadership or in the Government ranks.

I would like to draw the attention of the House to certain difficulties which are being encountered by the journalists. Some complaints have been made by certain correspondents of certain periodicals in our country that when a telegraph message is given from their side in order to transmit some information to the editorial office, it is being withheld by the Home Ministry under the provisions of this Act and thereby the rights which are guaranteed for the freedom of people are also even today abridged. Therefore, when a reporter or a journalist stands come information by telegraphic message under the provisions of this Act, 1835, it can be intercepted and that can be done under the convenient plea that it is in the interests of public emergency and public safety. It is an omnibus concept that every piece of message sent by a journalist if it is inconvenient and unsavoury piece of news

[Shri Chitta Basu]

may be considered as inimical to the interest of the public sector. Suppose an atrocity committed or perpetrated on a Harijan or some other information which a journalist sends by reporting to the editorial office can be intercepted and the Home Ministry may withhold that message in the name of and in the interest of public safety. Therefore, it was calculated by the British Government to have this kind of draconian power in order to muzzle the freedom of the Press and in order to destroy the democratic movement in our country and that was the work of the imperialist interests. But I think that this Government has got not that kind of interest to follow today.

Therefore, it is necessary that there should be a change in the outlook. Now in case of external threat to the country and in the case of an emergency arising out of an external aggression, we agree that there should be certain limitation imposed on the right, liberty or even the privacy of the ordinary citizen. But the Telegraph Act has empowered any State Government or Central Government official to have that right even during peace, during the period when there is no such Emergency in the country. I am reported, and it is a fact, that the P&T Department has got no machinery to take care of all these things—to intercept, to censor, to examine, to withhold; as a matter of fact, the Home Ministry deputed certain persons to do the job and it has become a regular practice as has been reported from different quarters. Therefore, in the interest of personal liberty, in the interest of safeguarding the right to privacy, it is necessary that the Government should revise their attitude, see reason and accept at least this amendment as has been sought by this simple Bill, if they do not accept this, then I will have to draw this conclusion, which will be a very unfortunate conclusion, that, whatever might be the democratic potential, they want to follow the British tradition, the tradition of

subverting democracy, the tradition of attacking civil liberty, the tradition of destroying the privacy of private citizens. Take the question of the Constitutional provision; article 19 guarantees certain freedoms, freedom of expression...

THE MINISTER OF COMMUNICATIONS (SHRI C. M. STEPHEN): Prof. Madhu Dandavate has made that point.

SHRI CHITTA BASU: He has made that point. If you agree to that, then I will not deal with it....

SHRI C.M. STEPHEN: I agree that he said it.

SHRI CHITTA BASU: It is very kind of you to say that you at least agree to agree that he said it. (Interruptions) There is no reason, there is no argument, for not accepting this proposal to amend the Telegraph Act of 1935. As regards the activities of anti-social elements, as regards the questions raised by the security and safety of the country, this is not the Act which can guarantee the security of the country, this is not the Act which is capable of dealing with anti-social elements, black-marketeers and others. There are other laws which can be made use of to effectively deal with those anti-social elements. As a matter of fact, this Act is not necessary to deal with them. This was basically aimed at destroying the democratic movement in our country by the British imperialists. The object of the British Government was not to deal with the anti-social elements or black-marketeers, etc., by the application of this Act. The basic object of the British Imperialism was to destroy the democratic movement in our country and to destroy the freedom. That was their basic objective.

If the Government holds the same view that that is the basic objective, then, I have got nothing to say. But, in order to deal with the blackmar-

keteers and the anti-social elements, laws are already there to deal with them. For that this kind of a draconian law is not necessary. Therefore, if they have got any pretension for democracy, I think, the hon. Minister should stand up and say that the principal of amending the Bill is accepted. And, naturally, Mr. Chairman, you may reconsider the question of continuing this discussion on this Bill.

*SHRI ERA MOHAN (Coimbatore): Mr. Chairman, Sir, on behalf of my party, the Dravida Munnetra Kazhagam, I rise to say a few words on the Indian Telegraphs (Amendment) Bill, 1981 which has been introduced by Shri Bhogendra Jha in this House.

The Indian Telegraph Act was passed by the British Government in India in 1885 with the sole motive of perpetuating British rule in India and to suppress internal insurgency by means of this legislation. After a lapse of 97 years, it has been the good fortune of Shri Bogndra Jha to introduce this amending bill for eliminating the legislative tools of exploitation through the parent Act. None can deny that many radical changes have taken place in the country during the interregnum of 97 years. India is an independent country now. India is also known among the galaxy of free nations as the bulwark of democracy. During these years many Acts of the British Government in India have either been annulled or amended by the Government of free India. I wonder why this obnoxious Act has also not gone into the oblivion like those Acts. One begins to entertain doubts as to whether the Central Government wants to follow the footsteps of the British Government in this matter alone, particularly when this Act is still on the statute book.

The hon. Members who preceded me, particularly from the opposition benches, enumerated endless instances to emphasise how this Act is being

misused. The hon. Members from the ruling party insisted that there is every need for this Act to foster democracy. I feel that just because the Opposition Member, Shri Bogendra Jht, has introduced this Bill, the ruling party members have put forth their counter-points in support of the parent Act. Otherwise, in their heart of hearts they also might be feeling that this is a black Act and it must be amended or annulled. This Act empowers censoring of mails of anyone in the country, tapping or taping of telephones of anyone in the country and also intercepting of telegrams of any one in the country. The ruling party members themselves may not be an exception to the operation of this Act.

The hon. Members from the ruling party stressed the need for the continuance of this Act by stating that the activities of smugglers, black-marketeers, hoarders and other anti-national elements can be curbed only by means of this Act. But, today this Act has become a potent weapon for suppressing democratic opposition in the country. It is being used against the prominent leaders of Opposition. When Indira Congress was the ruling party before 1977, at the Centre this Act was used against all the leaders of Opposition. When Indira Congress became the Opposition Party, the Opposition parties became the ruling party in the name of Janata Party and then this very same Act was applied against our present Prime Minister Shrimati Indira Gandhi, who was then in the Opposition. The present Communications Minister, Shri Stephen was also not spared. He was then the Leader of Opposition and his telephone was tapped and taped; his mail was censored and his telegrams were intercepted. I am sure that he now realises how bad this Law is and what he should do to end its misuse.

It is not that the Central Government alone is implementing this Act. The State Governments have also been

[Shri Era Mohan]

empowered to apply this law as they like. I would like to know whether all the State Governments have used this law judiciously. You know that in Tamil Nadu there is AIADMK Government. This State Government is using this law to understand the political moves of the Opposition parties and the political programme of activities of the Opposition parties. This law is not being applied against smugglers and hoarders or against anti-national elements and anti-social elements. The telephones of Indira Party M.Ps. from Tamil Nadu are being tapped by the State Government. The telephones of D.M.K. Members of Parliament and also the telephones of high dignitaries in the D.M.K. are being tapped and tapped. Their mails are censored. For example, the telephone of a senior Indira Party M.P., Shri K. T. Kosalram, who is here just now, is being tapped by the AIADMK Government. His mail is censored and his telegrams are intercepted. You can imagine the extent to which this law can be utilised to serve the interests of the ruling party. The hon. Members of the ruling party should ponder over this problem because they may be in the Opposition at some future date. The hon. Minister should bestow his personal attention on this important issue. This Act is being used to undermine the democratic ethics which we have established over the years. It is being used to blackmail the Opposition.

It is not only that the Opposition Party members have become the victims of this vicious law. The Press has also been subjected to the oppressive provisions of this law. If the newspapers publish anything that discredits the ruling party either in the Centre or in the State immediately the telephones of the newspapers are tapped; their mail is censored and

their telegrams are censored. For example in Tamil Nadu, the telephones of Murosoli, and Ethiroli which are popular Tamil dailies, are being regularly tapped. Their mails are censored and their telegrams are intercepted. The Central Government should ensure that this Act is not a potent instrument to suppress Opposition Parties and the Press in the country.

17.55 hrs.

[MR. SPEAKER in the Chair]

In Tiruchendur a murder has been committed and the murderers are scot-free. Their telephones are not being tapped or taped. But the telephone of our illustrious leader Dr. Kalaignar Karunanidhi who is on a long march of 130 miles demanding justice to the dependents of the victim and punishment to the murderers and the marauders of temple funds, is being tapped and taped. This sucoating and visious grip of this Act should not breathe out the soul of Opposition in a big democracy like ours. The hon. Minister of Communication should realise these dangerous portends and accept this amending bill for nurturing democracy in our country. With these words I conclude my speech.

17.59 hrs.

ESSENTIAL COMMODITIES PRICE FIXATION BILL*

SHRI K. LAKKAPPA: (Tumkur): I beg to move for leave to introduce a Bill to provide for the fixation on a permanent basis the prices of essential commodities.

(Interruptions)

AN HON. MEMBER: He was absent at that time.