

(c) if so, whether Government would take any suitable action against the said company in this context ; and

(d) if not, the reasons therefor ?

THE MINISTER OF HEALTH AND FAMILY PLANNING AND WORKS, HOUSING AND URBAN DEVELOPMENT (SHRI K. K. SHAH) : (a) A sealed bottle labelled as containing syrup aruntii B. P., manufactured by M/s. Pure Products, Kishanganj Delhi (Managing proprietor : M/s. Hindustan Trust Private Ltd.,) containing a foreign matter resembling a fly was received from Shri Arjan Singh Bhadoria, M. P. on 21.2.1969.

(b) Yes, Sir.

(c) and (d). The investigations are in progress.

उत्तर प्रदेश में गोमती और औरसाई नदियों पर बांध

3401. श्री लागेश्वर द्विवेदी : क्या सिचाई तथा विद्युत मंत्री यह बताने की कृपा करेंगे कि :

(क) उत्तर प्रदेश में गोमती तथा औरसाई नदियों के, जिनमें बारह मास पानी बढ़ता है, जल का पर्याप्त उपयोग करने के लिए अब तक क्या कार्यवाही की गई है ;

(ख) क्या उन पर बांध बनाने की योजना विचाराधीन है ; और

(ग) ये बांध कब और कहाँ बनाये जायेंगे और उनका उपयोग किस प्रकार किया जायेगा ?

सिचाई तथा विद्युत मंत्रालय में उप मंत्री (श्री सिद्धेश्वर प्रसाद) : (क) गोमती और साई नदियों के पानी का उपयोग उठाऊ नहरों के जरिये किया जा रहा है। राज्य सरकार ने सूचित किया है कि गोमती नदी के 200 क्यूसेक और साई नदी के 100 क्यूसेक पानी को उपयोग में लाने की स्कीमें या तो पूरी हो गई हैं या फिर निर्माणाधीन हैं। सूचना मिली है कि शेष पानी को उपयोग में लाने की स्कीमों पर ये विचार कर रहे हैं।

(ख) गोमती और साई नदियों पर बराज बनाने की कोई स्कीम उत्तर प्रदेश सरकार के विचाराधीन नहीं है।

(ग) प्रश्न नहीं उठता।

12.00 hrs.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

Extension of Presidential Order of 1954 in respect of Jammu and Kashmir

श्री मधु लिमये (मुंगेर) : अध्यक्ष महोदय, मैं अखिलम्बनीय लोक महत्व के निम्नलिखित विषय की ओर गृह कार्य मंत्री का ध्यान दिलाना हूँ और प्रार्थना करना हूँ कि वह इस बारे में एक वक्तव्य दें :

“राष्ट्रपति के 1954 के आदेश की, जिसके रहने पर जम्मू तथा काश्मीर के प्रिवेंटिव डिटेंशन एक्ट को, जोकि संविधान के भाग तीन के उपबन्धों से असंगत है, असंबंधानिक घोषित नहीं किया जा सकता, अवधि आगे न बढ़ा कर जम्मू तथा काश्मीर की जनता के बुनियादी अधिकार बहान किये जाने की अखिलम्बनीय आवश्यकता।”

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : Mr. Speaker, Sir, under the Constitution (Application to Jammu and Kashmir) Order, 1954, as amended from time to time, articles 19 and 35 of the Constitution of India relating to fundamental rights apply to Jammu and Kashmir State with certain modifications. In substance, the modifications are that for a period of 15 years from the date of the aforesaid Order, reasonable restrictions on the rights conferred under the said articles can be imposed also in the interests of the security of Jammu and Kashmir State and that the reasonableness of the restrictions shall be construed as meaning such restrictions as the appropriate Legislature deems reasonable. This time-limit is to expire on 14th May, 1969. The Government of Jammu and Kashmir have informed

the Government of India that taking into consideration the circumstances prevailing in the State which constitute a constant threat to the security of the State, they consider it necessary that the existing modifications should continue to be in force for a further period of 5 years. The proposal has been accepted.

श्री मधु लिमये : अध्यक्ष महोदय, संविधान की दफा 22 के तहत नजरबन्दी कानून बनाने की गुंजाइश है लेकिन कुछ सीमाओं और मर्यादाओं के अन्दर। इस दफा में कहा गया है कि तीन महिने से अधिक किसी को नजरबन्द न किया जाए और अगर करना है तो एडवाइजरी बोर्ड के सामने जाना चाहिए और जो बन्दी है उसको उसकी गिरफ्तारी के बारे में बताने चाहिए। ये मारी मर्यादायें हैं। पार्लिमेंट के कानून में तो इन मर्यादाओं का समावेश किया गया है लेकिन जम्मू काश्मीर ने और वहां की विधान सभा ने उसमें जो संशोधन किया है उसके अन्दर ये मारी मर्यादायें खत्म हो जाती हैं, जैसे दो साल के लिए किसी को भी रख सकते हैं, एडवाइजरी बोर्ड के सामने जाने की जरूरत नहीं है, वगैरह वगैरह।

इस नजरबन्दी कानून में कई राज्य कर्मचारी, केन्द्रीय सरकार के कर्मचारी, नियासी कार्यकर्ता आदि नजरबन्द किये गये थे और इस वक्त भी किये जा रहे हैं। मामला जब सुप्रीम कोर्ट में गया तो सुप्रीम कोर्ट ने कहा कि जहाँ तक काश्मीर का सवाल है, 35 (सी) के अन्दर जिसका इन्होंने अभी उल्लेख किया है और कहा है पन्द्रह साल की उसमें बात है, इसमें मन्त्री महोदय ने थोड़ी बहुत गलती की है। इन बातों में इतनी चतुराई जो आप करते हैं, यह समझ में नहीं आती है। सारे तथ्य तो सदन के सामने आने चाहिये। मैं सी को पढ़ लेता हूँ। इन्होंने जो बताया है कि पन्द्रह साल की बात है, इसमें पांच साल की बात है। जो मूल प्रेजिडेंट का आर्डर है वह इस प्रकार है :

"No law with respect to preventive detention made by the Legislature of the State of Jammu and Kashmir, whether before or after the commence-

ment of the Constitution (Application to Jammu and Kashmir) Order, 1954, shall be void on the ground that it is inconsistent with any of the provisions of this Part, but any such law shall, to the extent of such inconsistency, cease to have effect on the expiration of five years from the commencement of the said Order, except as respect things done or omitted to be done before the expiration thereof."

पहले यह जो आर्डर था इसमें पांच साल की बात थी। पांच साल के बाद और पांच साल के लिए इसको बढ़ा दिया गया। जब यह अवधि खत्म हुई तब पांच साल के लिए यह फर्क इसलिए जरूरी है कि जब मूल आर्डर जारी किया गया था तब पांच साल की बात थी। पांच साल के बाद दस साल होता है और दस के बाद पन्द्रह साल होता है। सुप्रीम कोर्ट ने क्या कहा ? मैं सुप्रीम कोर्ट की जजमेंट की कापी दे देता हूँ। अगर मन्त्री महोदय इसको सक्युलेंट कर दें तो अच्छा होगा। इस जजमेंट का अंतिम जो वाक्य है, उसमें मैं पढ़ लेता हूँ। वह इस प्रकार है :

"The object of the subsequent Orders of 1959 and 1964 was to extend the period of protection to the preventive detention law and not to infringe or abridge the fundamental rights, though the result of the extension is that a detenu cannot, during the period of protection, challenge the law on the ground of its being inconsistent with Article 22. Such extension is justified *prima facie* by the exceptional state of affairs which continue to exist as before."

मेरा यह निवेदन है कि जब इन्होंने संकटक लीन स्थिति की घोषणा कर दी उस समय डिफेंस आफ इंडिया एक्ट लागू हो गया और डिफेंस आफ इंडिया एक्ट में भी इसी तरह 22 धारा के अन्दर जो मर्यादायें हैं और जो सीमायें हैं, उनको खत्म कर दिया था। लेकिन सुप्रीम कोर्ट उसके बारे में कुछ नहीं कह सका। इसलिए हम सभी लोगों ने मांग की कि एमरजेंसी आप कब तक चलायेंगे ? तीन चार साल हो गए हैं, अब इसको खत्म आप करें। मुझे खुशी है कि आपने उसको खत्म भी किया।

[श्री मधु लिमये]

मैं चाहना है कि तीन प्रश्नों का खुलाशा मन्त्री महोदय करें। पहला तो यह है कि क्या आप बतायेंगे कि इस 35 (सी) धारा के अंदर जो काश्मीर राज्य ने कानून बनाया है उसमें मुख्य दमनकारी दफाये क्या हैं, जो भारतीय कानून से अलग है ?

दूसरे इस कानून के अन्तर्गत काश्मीर सरकार ने कितने सियासी कार्यकर्ताओं को और दूसरे लोगों को नजर बन्द करके रखा है ?

तीसरे इन्होंने कहा है कि काश्मीर राज्य ने सुझाव दिया है कि अभी भी असाधारण स्थिति है, एक्मैप्शनल कंडिशन हैं और हमने उनके सुझाव को मान लिया है और पांच साल के लिए 35 (सी) को बढ़ायेंगे। मैं चाहता हूँ कि मन्त्री महोदय इस सदन की राय को ऐसा करते वक्त ध्यान में रखें। यह राय अभी अभिव्यक्त होने वाली है। मेरा केवल सवाल नहीं है। दूसरे दलों के नेता भी अपने विचार प्रकट करने वाले हैं। काश्मीर अगर भारत का अंग है तो भारत के दूसरे नागरिकों को जो अधिकार प्राप्त हैं, क्या वही अधिकार काश्मीर की जनता को प्रदान करना हमारा फर्ज नहीं है ? हम लोग जो बात उनसे कह रहे हैं, उसको मदेनजर रखते हुए क्या इसके बारे में वह फिर सोच विचार करेंगे ? विशेषकर इसलिए भी कि बाइस साल हो गए हैं जम्मू काश्मीर का भारत के साथ संबंध प्रस्थापित हुए, एक्मैशन हुए, क्या आज भी असाधारण स्थिति के नाम पर मनमानी स्वेच्छाचारिता और नागरिक स्वतंत्रता की हत्या करते रहेंगे ?

SHRI Y. B. CHAVAN : I will start with some of the preliminary observations that the hon. Member Shri Madhu Limaye made. He said I have tried to be somewhat clever in putting the facts before the House.

AN HON. MEMBER : He said "chatur" and that means "smart".

SHRI Y. B. CHAVAN : I am prepared to accept your translation.

SHRI MADHU LIMAYE : Over-smart.

SHRI Y. B. CHAVAN : There is no question of my bringing any smartness in it because what I have said in the very statement is :

"Under the Constitution (Application to Jammu and Kashmir) Order, 1954, as amended from time to time, article 19 and 35 of the Constitution of India."

I have not tried to be smart. I have given the facts. The hon. Member has no patience to hear me, what can I do.

श्री मधु लिमये : संशोधन पहले पाँच साल के लिए था। यह मैं कह चुका हूँ।

SHRI Y. B. CHAVAN : It was originally for five years, but by a Presidential Order the period has been extended from 5 years to 10 years and from 10 years to 15 years and now the proposal is to extend it from 15 years to 20 years.

This is the fact.

SHRI NAMBIAR (Tirucherappalli) : It may go to hundred years.

SHRI Y. B. CHAVAN : It is a hypothetical question which you are asking me. One point which he has asked is the difference between the Central Act and the Act of Jammu and Kashmir State. As far as I see, in two important respects there is difference between the Central and Jammu and Kashmir Act. Firstly, the maximum period for which a person can be detained under the Central Act is twelve months whereas under the Kashmir Act it is two years. On the Advisory Committee the period for the Central Act is 30 days and for the Kashmir Act is six months. These are the two major differences.

Then, a question was asked why the Central Act is not made applicable to Jammu and Kashmir. The relevant legislature to consider what is a reasonable restriction in this matter is the Jammu and Kashmir State Legislature. When the Kashmir State Legislature has accepted this as a reasonable restriction, I do not think we need have anything to do with it.

श्री मधु लिमये : प्रेजिडेंशल आर्डर तो आप निकालते हैं ।

श्री बलराज मधोक (दक्षिण दिल्ली) : आपने प्रेजिडेंशल आर्डर क्यों जारी किया ?

SHRI Y. B. CHAVAN : Here I am asked why it is not being discontinued. This proposal has come from the Jammu and Kashmir Government.

श्री मधु लिमये : कितने लोग गिरफ्तार हैं ?

SHRI Y. B. CHAVAN : The information that I have got is that at present 169 persons are detained in jail. Out of these, 49 persons are either Pakistani nationals or P. O. K residents. The rest are Indian residents. Almost all of them are involved in spying or sabotage activities. These are the reasons for which they have been detained. Many a time questions are asked here : what action we have taken and what action the Jammu and Kashmir Government has taken to stop these spying and sabotage activities. When we take some action to put a stop to that, we are again asked : why are you extending the period of this Act ? What can I do ?

श्री मधु लिमये : नजरबन्दी कानून उसका रास्ता नहीं है । कई दूसरे कानून हैं । पचासों कानून हैं ।

SHRI RANGA (Srikakulam) : Our party is second to none in our anxiety to give every possible power and opportunity to this government, as well as that government, to maintain security there and we do recognise the special place that it has come to have in our public life, in view of all the well-known difficulties that we are suffering from, so far as that security area is concerned. At the same time, would it not have been better and advisable for the government to have consulted this House and when it had an opportunity to express its views before taking that decision to extend the Act ? And does it redound to our credit that we should be extending this Act periodically like this, eternally, giving the impression that it is going to be there for

ever, for such a long time ? Why should it be that, in the light of the things that are going on, over the difficulties that they are having within the ruling party itself, why should it be that the government should not make an effort to get the maximum possible support from all politically-minded elements which are willing to cooperate with us so that there would not be any need for this kind of a special legislation there, in view of the fact that we have this overall All India Act ? Finally, my hon. friend just now said that some of these people have come over here for doing spying work and they are being detained. Can they not be brought before the court ? Should they not be brought before the court ? Why should we give them the special status of grand detenus if they have come to do that kind of heinous activities against our government and our country ?

SHRI Y. B. CHAVAN : The hon. Member has asked whether there are other ways of dealing with the situation in Kashmir. I have said that there are many other ways. This is one of those ways. That is the only point I wanted to make. So, my answer is that if you do not extend the period we are depriving ourselves one of these ways, because there should be a multi-pronged attack on this problem. Then, in the case of spies and saboteurs it is not always easy to prosecute them in a court of law and, therefore, I think this assessment of the Jammu and Kashmir Government was based on realities. Secondly, he raised the question why this could not have been discussed. Well, as the question is raised, I believe other occasions could be taken to discuss the Kashmir situation as such. I do not want to go into it now but I would, however, give one piece of information and that is this. The Jammu and Kashmir Government itself wanted to extend the period for another ten years ; but we thought that it is not necessary to extend it for ten years. We ourselves gave reasonable thought to it and decided to extend it only for five years.

SHRI H. N. MUKERJEE (Calcutta North East) : Our fundamental rights have their limitations but even so virtual abrogation of those fundamental rights is a very serious proposition. I could under-

[Shri H. N. Mukerjee]

stand that in the case of declaration of martial law or some thing very much approaching that steps of this sort had been taken, but we are living with the Kashmir problem for so many years now ; and that is why I want to ask the Home Minister about this. He has been telling us so often that wherever we have trouble with our own people we have to deal with it politically. And, we have to deal with it in a manner which would touch the people's hearts in the psychological sense. Now, here, in Kashmir, from the report that we get, there is this peculiar predicament in which the fundamental rights cannot be taken recourse to by the people there. This causes in the minds of the people there, who are prone to all kinds of discontent against India, a sort of grievance which only aggravates the difficulties of the scene and makes it more strenuous for us to settle the problem. In view of this, why cannot we do a simple thing ? If very serious cases are there you can take charge of them by special steps, but to have this kind of provision which deprives the people of the whole State of the protection of the fundamental right provisions seems to be a very wrong thing. And, therefore, I would like to know, why it is, that in view of the unpolitical nature of this step which might or might not bring a solution of the Kashmir tangle, the Government is so peremptorily agreeing with the Jammu and Kashmir Government regarding the five-year extension of this legislation ?

SHRI Y. B. CHAVAN : As far as the justification for this extension is concerned, I have given, what, according to me, are reasonable grounds. Well, the Preventive Detention Act is not something where one can say, we are very proud of it. We have also got the Central legislation to meet certain exceptional situations and there is no doubt that the situation in Jammu and Kashmir is more difficult than what we have found in the rest of India. I, therefore, feel that if there is a certain feeling that they should have some more powers in their hands to deal with the situation, they are fully justified in that regard.

SHRI BAL RAJ MADHOK : The Home Minister has just now said that an

extraordinary situation prevails in Jammu and Kashmir State. Such a situation prevails in some other border areas, in Nagaland and NEFA areas also. In all States where such border areas are there, and where there are hostile elements, such extraordinary situation does prevail and for that some extraordinary powers are needed. But may I know why of all States you should single out the Jammu and Kashmir State only for this special treatment ? It is a discriminatory treatment which is there in Article 370 of the Constitution. My submission is this. This is being used more to penalise their own political opponents than to penalise those who are working against the country. If these powers were to be used against the people who are working against the country the first man to be detained was Sheikh Abdullah. But what are you doing about it ? Why should this special status be given ? It is a discrimination against the people of Jammu and Kashmir State. There are various vested interests there who are using all these to the detriment of their own people. May I know whether in order to bring all the areas under the same pattern whether you will even now consider the abrogation of Article 370 so that this anomalous situation may not once again arise. And, secondly, I want to ask this. To meet the situation that has arisen, that is existing in Kashmir and some other areas and border regions, would you extend the Unlawful Activities Act ? We have already passed the Unlawful Activities Act in this Parliament. It does not extend to Jammu and Kashmir State. If this constitutional provision was not there, it would automatically extend to Jammu and Kashmir and the problem would not have arisen. And, thirdly, if you have any other difficulty, will you consider enactment of a law of treason so that all such people could be brought to trial under that law ?

SHRI Y. B. CHAVAN : The hon. Member, Shri Madhok has some special angle on Kashmir. I thought he is making out a case against the Preventive Detention. But he has made recommendation for further expansion of its operation. (*Interruptions*) It is again the same question that he raised, namely, why is it that there is a different Act than the Central Act in Jammu

and Kashmir. Sir, there are certainly some constitutional features which are different in certain restricted matters in relation to Jammu and Kashmir compared to what we have in the rest of India.

Again, he has raised the same question, whether it is necessary, whether we are prepared to have any Treason Act. It is not necessary to have...

SHRI BAL RAJ MADHOK : We have passed the Unlawful Activities Bill. Why not apply it to Jammu and Kashmir ?

SHRI Y. B. CHAVAN : We have brought a Bill—I do not know whether the hon. Member is aware of it—making that law applicable to Jammu and Kashmir. We have introduced a Bill in the House.

SHRI NATH PAI (Rajapur) : Looking at things as they stand today, it seems, the the Kashmir problem is going to remain with us, in the sense some threat to its security continues and, therefore, the security of the country will be there since almost all the so-called great powers are interested in keeping the problem alive because that is one way of not allowing India to emerge as a great power. Are we, therefore, to assume that since the threat will continue, all the time, we will deprive Kashmiris whom we call fellow Indians from being entitled to the basic right of freedom and liberty ? Will they be deprived of their rights for all the time since the security threat continues to be there ?

Secondly, I would like to point out to you and to the Home Minister a remark made by a very distinguished ex-Governor of the State who said that the State is being treated by the Government of India like a piece of land which is leased out to a farmer and whatever he does, of course, it is his look-out but when we get dissatisfied, we remove him. Kashmir is being regarded as something totally different and it is not India once you cross the Banihal Pass. I would like to tell the hon. Minister that if we are really concerned—I venture to say that he is concerned about the security—then the real protection will come from the conviction of the Kashmiris that they are not second-class Indians and that they must be given an opportunity

to see India as she is. Today, what they see is the totally distorted face of India where the basic rights are denied to them. If there is some hostility, it is not to India or its accession to it as such, it is because what they see is a distorted image of India where the citizens' rights are completely withheld from them. In the light of that, because the security aspect will continue to be there, are we going to deny them the basic rights for all the time ? Shall we not see the other aspect of security that a Kashmiri thinks, there is no land as good as India and, as an Indian, he enjoys the same freedom and liberty ?

Taking that into consideration, will the Kashmiris be deprived of their basic rights for all time to come ? The security and the interest of the individual is often equated with the security and the interest of the State. That should not be so. Often, it is individuals who get boosted up. I do not think it is always the interest and the security of the State that demands it. The law of the land gives enough powers to take care of individuals who indulge in anti-national activities. In the light of all this, the vital aspects of the matter I want a reply from the hon. Minister.

SHRI Y. B. CHAVAN : Certainly, the vital aspects are as important as the specific aspects. I would strongly differ from the hon. Member's contention that we are treating Kashmir as something different from the rest of India. I am surprised when he makes a statement that we are treating Kashmir...*(Interruption.)*

SHRI NATH PAI : In the case of the basic rights of freedom and liberty.

SHRI Y. B. CHAVAN : That we are treating them as second-class citizens. Is that the idea ?

SHRI BAL RAJ MADHOK : You do not treat Kashmir as part of India.

SHRI Y. B. CHAVAN : It is a part of India. There is no doubt about it.

SHRI MADHU LIMAYE : But there are fundamental rights ; no free elections.

SHRI NATH PAI : We can take some issues at the national level.

SHRI Y. B. CHAVAN : I was asking Shri Bal Raj Madhok.

SHRI BAL RAJ MADHOK : We agree in this matter. We want Kashmir to be a part of India.

SHRI Y. B. CHAVAN : We have also accepted certain reasonable restrictions on fundamental rights in India. We also have a law of Preventive Detention. They have also a law of Preventive Detention. It is somewhat more stringent than the Central Act. But that has been done by the Legislature of Jammu and Kashmir. It is not imposed by the Central legislature here. Secondly, as to whether this is going to remain for all time to come, this is only for five years.

SHRI NATH PAI : From five years to another five years. It will go on like that.

श्री अटल बिहारी वाजपेयी (बलरामपुर) : अध्यक्ष महोदय, मेरा इस बारे में एक निवेदन है कि जो प्रेसीडेंशियल आर्डर है वह सदन की मेज़ पर नहीं रखे जाते, उन पर चर्चा नहीं की जाती। क्या यह मन्त्री महोदय इसके बारे में सदन की राय लेने की कृपा करेंगे ?

श्री यशवन्त राव चव्हाण : राय तो ले ली गई। इंसीडेंटली आप की मेहरबानी से राय लेने का मौका भी मिल गया।

12.25 hrs.

PAPERS LAID ON THE TABLE

Papers under Companies Act on the working of the Hindustan Housing Factory Limited and Annual Report of the Hindustan Housing Factory, Limited, New Delhi

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY PLANNING AND WORKS, HOUSING AND URBAN DEVELOPMENT (SHRI B. S. MURTHY) : On behalf of Shri

K. K. Shah, I beg to lay on the Table a copy each of the following papers under sub-section (1) of section 619-A of the Companies Act, 1956 :—

- (1) Review by the Government on the working of the Hindustan Housing Factory Limited, New Delhi for the year 1967-68.
- (2) Annual Report of the Hindustan Housing Factory Limited, New Delhi for the year 1967-68 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon. [Placed in Library, See No. LT-358/69.]

Papers under Companies Act on working of the Indian Drugs and Pharmaceuticals Limited

THE MINISTER OF STATE IN THE MINISTRY OF PETROLEUM AND CHEMICALS AND MINES AND METALS (SHRI D. R. CHAVAN) : I beg to lay on the Table :

- (1) A copy each of the following papers under sub-section (1) of section 619-A of the Companies Act, 1956 :—
 - (i) (a) Review by the Government on the working of the Indian Drugs and Pharmaceuticals Limited, New Delhi for the year 1967-68.
 - (b) Annual Report by the Indian Drugs and Pharmaceuticals Limited, New Delhi for the year 1967-68 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon. [Placed in Library. See No. LT-359/69.]
 - (ii) (a) Review by the Government on the working of the Hindustan Organic Chemicals Limited, Rasayani for the year 1967-68.
 - (b) Annual Report of the Hindustan Organic Chemicals Limited, Rasayani for the year 1967-68 along with the Audited Accounts