

supposed to sponsor everything that happens on the soil of Russia.

It is respectfully submitted that the contentions of the Hon. Member are not correct.

SHRI D. N. PATODIA : He made certain irresponsible charges. . . .

MR. SPEAKER : I made a mistake. Let me not make second mistake. I thought it was a correction and allowed a long statement to be made, and a bigger, longer statement in reply. No please.

12.23 hrs.

UNLAWFUL ACTIVITIES (PREVENTION) BILL—Contd.

MR. SPEAKER : We have to take up Clause 5. I would like to tell the House that the Business Advisory Committee had allotted 2 hours, but we have already taken 3 hours and we are still on Clause 5.

There are some amendments.

श्री प्रेम चन्द वर्मा (हमीरपुर) : अध्यक्ष महोदय, मेरा पायंट आफ आडर है।

अध्यक्ष महोदय : क्या इम विल के बारे में ?

श्री प्रेम चन्द वर्मा : नहीं, इस हाउस के 107 मेम्बरों ने दस्तख्त कर के आप को लिखा है कि इस हाउस में हजारी रिपोर्ट पर बहम की जाये। उस का कोई जवाब नहीं दिया गया है।

अध्यक्ष महोदय : आर्डर, आर्डर।

श्री प्रेम चन्द वर्मा : अध्यक्ष महोदय, आपको मेरी बात सुननी पड़ेगी।

अध्यक्ष महोदय : आर्डर, आर्डर। आन-रेबल मेम्बर ब्रैठ जायं।

श्री प्रेम चन्द वर्मा : नहीं, अध्यक्ष महोदय, आप को यह सुनना होगा।

MR. SPEAKER : No point of order. I have taken up the Bill.

SHRI S. KUNDU (Balasore) : He says *sunna hoga*. It is a threat to you.

श्री प्रेम चन्द वर्मा : अध्यक्ष महोदय, हमारे पत्र का जवाब नहीं दिया गया है। हमें जवाब कब मिलेगा ?

अध्यक्ष महोदय : नहीं मिलेगा।

श्री प्रेम चन्द वर्मा : क्यों नहीं मिलेगा ? ऐसे काम नहीं चल सकता है। हमेशा इस बहस को टाल दिया जाता है। पिछले सेशन में भी टाल दिया गया था और इस सेशन में भी टाला जा रहा है।

श्री इसहाक साम्मली (अमरोहा) : मैंने भी उम खत पर साइन किये हैं। विजिनेस एड-वाइजरी कमेटी ने यह तय किया था कि हजारी रिपोर्ट पर बहस होगी।

MR. SPEAKER : No, no. I cannot allow you. If I do not allow him, I am not going to allow you also. I am not going to answer it. The Business Advisory Committee's meeting is there. You can go there if you want. Mr. P. C. Verma may also go there. All of you can go to that meeting. Please sit down.

श्री प्रेम चन्द वर्मा : अध्यक्ष महोदय, आप को हमारे पत्र का जवाब देना चाहिये और इस बहस के लिये वक्त मुकरंर करना चाहिये। इस को लगातार टाला जा रहा है।

SHRI NATH PAI (Rajapur) : Sir, I move that the hon. Member be named.

SHRI V. KRISHNAMOORTHY (Cuddalore) : He may be named.

MR. SPEAKER : I request the hon. Member not to raise that point again and again. I have already requested him to sit down.

SHRI NATH PAI : Sir, I move that the hon. Member be named for persistently defying the Chair.

SHRI KANWAR LAL GUPTA (Delhi Sadar) : I second that motion. He should be stopped from doing like that. (Interruption).

MR. SPEAKER: Order, order. No, no. I appeal to the hon. Member not to press it. I think we should avoid it. I have already requested that hon. Member to sit down.

SHRI NATH PAI: Because you appealed to me, I withdraw my motion.

MR. SPEAKER: All right.

Clause 5—(Tribunal)

SHRI ATAL BIHARI VAJPAYEE (Balrampur): I beg to move:

Page 4, line 5,—

for "one person" substitute—

"three persons" (48)

SHRI NAMBIAR (Tiruchirappalli): I beg to move:

Page 4, line 6,—

add at the end—

"and two persons by the State Government wherein the headquarters of the association notified as unlawful situations." (49)

SHRI ATAL BIHARI VAJPAYEE: I beg to move:

Page 4,—

for lines 7 and 8 substitute—

"Provided that the Chairman shall be a Judge of the Supreme Court and the remaining two persons shall be Judges of High Courts." (50)

SHRI P. RAMAMURTI (Madurai): I beg to move:

Page 4, lines 5 and 6,—

for "one person, to be appointed by the Central Government" substitute—

"three persons, appointed by the Supreme Court" (93)

Page 4, line 10,—

for "in the office" substitute—

"in an office" (94)

Page 4, line 11,—

for "Central Government" substitute—
"Supreme Court". (95)

SHRI SEQUEIRA (Marmagoa): I beg to move:

Page 4, lines 5 and 6,—

for "one person to be appointed by the Central Government"

substitute—

"three persons, to be appointed on the advice of the Chief Justice of the Supreme Court of India."

(167)

MR. SPEAKER: Shri Kanwar Lal Gupta.

श्री कंवर लाल गुप्त : अध्यक्ष महोदय, क्लॉज 5 में एक ट्रिब्यूनल बनाने की व्यवस्था है। उसमें कहा गया है कि उस ट्रिब्यूनल में एक ही व्यक्ति रहेगा। मेरा संशोधन यह है कि उस ट्रिब्यूनल में एक के बजाये तीन व्यक्ति होने चाहिये। जैसा कि मंत्री महोदय ने कल कहा है यह कोई नामल कानून नहीं है। यह बहुत ड्रास्टिक स्टैप है।

गृह-कार्य मंत्री (श्री यशवन्त राव चव्हाण):
ड्रास्टिक भी नामल होता है।

श्री कंवर लाल गुप्त : यह कानून ड्रास्टिक भी है और डेंजरस भी है। इसके द्वारा संविधान के द्वारा दिये गये हमारे फंडामेंटल राइट्स में काफी रुकावट डाली गई है। जिन कार्यवाहियों को दृष्टि में रख कर यह रुकावट डाली गई है, हम लोग उनके विरुद्ध हैं। लेकिन हम चाहते हैं कि इससे पहले कि एसोसियेशन बनाने के हमारे फंडामेंटल राइट्स में रुकावट डाली जाये सरकार को यह बताना चाहिये कि वह जो कार्रवाई करने जा रही है, उसकी कोई जस्टिफिकेशन है या नहीं। जिस संस्था के खिलाफ सरकार कार्यवाही करे, जिसको वह अवैध घोषित करे, जब तक उसके जनता के और सरकार के पास उसकी जस्टिफिकेशन न आ जाये, तब तक सरकार को कोई कार्यवाही नहीं करनी चाहिये।

12.28 Hrs.

[Mr. DEPUTY-SPEAKER in the Chair]

जैसा कि मैंने अभी कहा है, किसी संस्था को अनलाफुल डिक्लेयर करना एक बहुत सीरियस और एक्स्ट्रीम स्टेप होगा। मैं समझता हूँ कि इस सम्बन्ध में जो ट्रिब्यूनल बनाया जायेगा, उस में केवल एक व्यक्ति को रखना उचित नहीं होगा। सुप्रीम कोर्ट और हाई कोर्ट में कांस्टीट्यूशन बगैरह के बारे में जितने बड़े और सीरियस कैंस जाते हैं, उन सब के लिए हमेशा एक के बजाये तीन चार, पांच या छः जज होते हैं और कई बार तो फुल बेंच होती है, क्योंकि हो सकता है कि उन मा में अलग अलग जजिज में आपस में डिफरेंस आफ ओपीनियन हो। मैं निवेदन करना चाहता हूँ कि यह मामला भी उतना ही संगीन है। जब यह सरकार लाखों लोगों को अधिकारों पर कुठाराघात करने जा रही है, उनकी एक्टिविटीज को खत्म करने जा रही है, तो यह उचित नहीं है कि इस बारे में निर्णय लेने का काम केवल एक व्यक्ति पर छोड़ दिया जाये।

तो मैं यह कहा रहा था कि अभी जैसे सुप्रीम कोर्ट के एक फैसले के ऊपर नाथ व जी का प्रस्ताव था कांस्टीट्यूशन के बारे में। उस में दो राय थी कि कांस्टीट्यूशन बदलना हो तो इस पार्लियामेंट को अधिकार नहीं है लेकिन कुछ की राय थी कि अधिकार है। अब मेजरिटी का डेसीशन हुआ क्योंकि एक बहुत बड़ा ईशू था अध्यक्ष महोदय। इसी तरीके से किसी अग्रर संस्था के ऊपर पाबन्दी लगती है तो वह भी बहुत बड़ा ईशू है। तो मेरा कहना यह है कि आप पाबन्दी लगाएँ। ठीक है लेकिन जिसके खिलाफ पाबन्दी लगाते हैं जनता को, और उस आदमी को, उस संस्था को पूरा मौका दिया जाना चाहिये। ऐसा नहीं होना चाहिए कि उस में किसी प्रकार का शुबहा हो, चाहे एक भी परसेंट क्यों न हो। इसलिए ज्यादा जरूरी है उस की सीरियसनेस देखते हुये कि आप एक के बजाय तीन आदमियों का ट्रिब्यूनल बनायें। अभी माननीय मंत्री जी

ने कल कहा था कि हाई कोर्ट के जज नहीं मिलते हैं, यह एक व्यावहारिक कठिनाई धाती है। मैं गृह मंत्री महोदय से कहूंगा कि आप रोजाना तो इस तरह का करेंगे नहीं। यह मान कर मैं चलता हूँ, जो आप यहां कहते हैं उस को मानते हुये कि आप का विस्वास डिमोन्स्ट्री में है, उस के अनुसार रोजाना आप एक बड़े से एक सिरे से तो शुरू करेंगे नहीं कि एक से शुरू किया और आखिर तक पाबन्दी लगाते चले गए और उसके लिए इतने हाई कोर्ट के जज आप को नहीं मिलेंगे, ऐसा तो होने वाला नहीं है। यह ठीक है कि नान-कांग्रेस सरकारें तोड़ना आप ने जैसे शुरू कर दिया एक सिरे से दूसरे सिरे तक तो इस तरह से पार्टियों पर तो कम से कम आप पाबन्दी नहीं लगायेंगे। तो क्या हुआ दो चार वर्ष में कोई कैसे हो गया? भ्रबल तो पार्टियां कोई ऐसा काम नहीं करेंगी लेकिन अग्रर करें तो कभी कभी ऐसा मौका प्रायेगा चार साल में, दस साल में, बीस साल में ऐसा सीरियस कोई मामला हो सकता है। तो उसके लिए जैसे एक तरमीम बड़े फराखदिलि से आपने मंजूर कर लिया था, उस के लिए हम आप के आभारी हैं, उसी तरह से यह भी इतना ही जरूरी है, मैं मंत्री महोदय से अनुरोध करूंगा कि इस को भी आप मंजूर कर लें।

MR. DEPUTY-SPEAKER: Yesterday while discussing clause 2, we have taken half an hour on the question of the tribunal I postponed the discussion on only one point whether the tribunal should consist of 1 Judge or 3 Judges. The Law Minister who was here said Government would consider it. I would like to bear the Home Minister or the Law Minister on that particular point.

SHRI Y. B. CHAVAN: The Law Minister said that the question of Tribunal should be considered when we take up the concerned clause. According to my view, a tribunal of one judge is the only thing that is just in this matter and I am not going to reconsider the issue.

SHRI V. KRISHNAMOORTHY: Now the climate has changed, Sir. Yesterday the Law Minister said he would consider

[Shri V. Krishnamoorthi]
it and we thought Government would agree.

THE MINISTER OF LAW (SHRI GOVINDA MENON): I only said it will be considered when clause 5 is taken up.

SHRI V. KRISHNAMOORTHY: Now that the Home Minister thinks that one judge is enough, we want to convince him that one judge is not sufficient. While commending my amendments Nos. 126, 127 and 128, I would like to plead that instead of entrusting the question whether a particular political party's existence is necessary or not to a single judge of a High Court, we must entrust it to a larger number of judges, preferably 3. If there is a bench of 2 judges, there may be a difference of opinion. Therefore, to arrive at a majority opinion, the tribunal must consist of 3 judges, who should be appointed not by the Central Government, but by the Supreme Court. As Mr. Gupta said, there are judges holding different views even on fundamental rights. Therefore, there may be judges holding different views about political parties also. The judges must be impartial. Their partiality or impartiality must not be decided by the Home Minister who wants to ban a particular party. That must be left to the Supreme Court. That is why we say that the tribunal should consist of 3 judges to be appointed by the Supreme Court. Then only justice will be rendered

SHRI S. M. BANERJEE (Kanpur): Sir, I refer to my amendment No. 146 which says that for lines 7 and 8 substitute—"Provided that the Chairman shall be a Judge of the Supreme Court and the remaining two persons shall be Judges of the High Courts". Yesterday, Sir, we have expressed ourselves enough, and we wanted to impress upon the Law Minister, in the absence of the Home Minister, that when a party, a recognised party, recognised by the Election Commission, recognised by the people, is going to be declared unlawful, it is not fair on the part of this Government to seal the fate of that party or try that party in a court which comprises of one judge. I have a feeling that by that justice is going to be denied to that particular political party. What does the Bill say? It says:

"(1) The Central Government may, by notification in the Official Gazette, constitute, as and when necessary, a tribunal to be known as the 'Unlawful Activities (Prevention) Tribunal' consisting of one person, to be appointed by the Central Government: Provided that no person shall be so appointed unless he is a Judge of a High Court."

[The hon. Law Minister, when he was replying, did not reject it as such. What he said was that there was the financial aspect and the question of availability of judges from the High Court. When it is a question of expenses, as very ably argued by my hon. friend, Shri George Fernandes, there is a provision in sub-clause (4) which says that all expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India. So some fund will be necessary for implementing this particular Bill and further funds that may be necessary will also be made available. Therefore, it is no question of funds, it is no question of availability of judges, it is a question of denying justice and implementing this law in such a manner that any decision taken by the Government, legal or illegal, lawful or unlawful, is held also by the court as correct. This is absolutely wrong and I would press my amendment to vote.

MR. DEPUTY-SPEAKER: Before I call Shri Ramamurti, I would like to say that I will not permit more than three minutes on any amendment. Even if I permit three minutes on each amendment, looking to the number of clauses and the amendments tabled thereto, this Bill will not be finished in another six hours. Therefore, no argument need be repeated, and I will not allow more than three minutes on any amendment.

AN HON. MEMBER: Do not steam-roller like that.

MR. DEPUTY-SPEAKER: It is not a question of steam-rolling. In the Business Advisory Committee you agreed to two hours. We have already taken more than three hours. It is not possible to give more time.

SHRI P. RAMAMURTI: Mr. Deputy-Speaker, Sir, I was really surprised when

the Home Minister stated that in his opinion, justice can be done only by a single Judge. He did not disclose the reasons which impelled him to think that a single Judge alone will be able to dispense justice. In that case, I do not know why the Supreme Court and the High Courts appoint benches. Are we to take it that these benches do not dispense justice or they dispense only justice? After all, when you are making a draconian law—the law is very drastic, according to the Home Minister himself—why do you not agree to a bench of three Judges. After all, what is the tribunal going to do? The tribunal is not going to have any interpretation of the law. The function of the tribunal is to go into the evidence adduced by the government, assess the evidence and come to the conclusion whether on the evidence as assessed there is sufficient ground for declaring any particular organisation unlawful. That is all the function of the tribunal. Why should we say that the question of assessment by one individual, however eminent he might be, should be the basis for the final verdict on the question? After all, we know it for a fact that judges differ in their assessment of evidence. Therefore, instead of one judge, if there are three judges, the assessment is bound to be more balanced. All the three judges need not belong to the same High Court; they can be drawn from different High Courts. These are all matters of detail on which we do not want to stand on formality. It may be either a bench of the High Court or a tribunal consisting of three High Court judges, if necessary, from different High Courts.

I would even now request the Home Minister not to take up an unreasonable position. He is not doing the right thing by taking up this rigid and absolutely unreasonable attitude. Could you say that it is a reasonable stand? In fact, the reasonableness of our request was such that even two members of the Congress Party said there is something in it. Therefore, why should the Home Minister take such a rigid attitude and say that he is not prepared to accept any modifications? Even the Chairman has said that there is something valid in this suggestion. Why don't you consider all these comments and at least now change the provision?

Then I would say that in the case of elections, while no doubt there is a tribunal to decide cases, there is a direct appeal to the Supreme Court against the decision of the tribunal. But here, in this case, there is no such provision. Therefore, unless you are prepared to provide such a provision for appeal, the final arbiter of the whole thing will be one single individual. It is something very strange, particularly when he is deciding not the fate of one individual but hundreds of thousands of people throughout the country who may be members of some organisation or association. So, I submit that there should be at least three judicial members to assess the evidence and the majority decision should ultimately prevail. In the end, I would again request the Home Minister to reconsider the whole question.

SHRI RANDHIR SINGH (Rohtak): The amendment, as pointed out by my hon. friend, Shri Ramamurti, stands to reason. After all, to err is human and a judge is not a prophet. I feel that in a case like this, where the question of wiping out a party or association hinges on the sole discretion of the tribunal, it should consist of at least three judges and not one judge. The tribunal has to decide on crucial matters like cession or secession of a territory and whether the integrity of the nation is involved, keeping in view, at the same time, the fundamental rights of a citizen who may be a member of an association or a party. So, it should consist of three judges, as contemplated in the original Bill. What I say is that instead of leaving the fate of one party or individual to be decided by one judge, it should be left to be decided by a tribunal of at least three judges.

Then, regarding the composition of the tribunal, I do not feel that only a High Court Judge is a person who is sanctified and who is not assailable in his judicial position. If the Home Minister feels that three High Court judges may not be available, then I will go even to this extent that a working Judge of the High Court should preside and two working District and Sessions Judges could be there in the Tribunal. At least three minds should be there to make the adjudication.

I support the amendment moved by Shri Ramamurti.

श्री श्रीचन्द्र गोयल (चण्डीगढ़) : उपाध्यक्ष महोदय, मैंने इस के सम्बन्ध में दो संशोधन ४८ तथा ५० दिये हैं। मेरा नं० ५० का जो संशोधन है, उसमें मैंने यह मांग की है कि तीन जजेज का पैनल हो और उस का अध्यक्ष सुप्रीम कोर्ट का जज हो। हमारे गृह मंत्री जी ने अभी इस के सम्बन्ध में अपना मत बताया, लेकिन मैं यह समझता हूँ कि उन्होंने इस सदन के माननीय सदस्यों के विचार अभी नहीं सुने हैं। कल चूँकि इस सदन के सभी सदस्यों ने इसका समर्थन किया था, उसको दृष्टि में रखते हुये कल हमारे विधि मंत्री जी उसको कुछ मानते हुये नजर आते थे, मुझे विश्वास है कि हमारे गृह मंत्री जी भी सब के विचार सुन कर इस संशोधन को स्वीकार करेंगे।

उपाध्यक्ष महोदय, मैं तीन चीजों की तरफ आपका ध्यान दिलाना चाहता हूँ—पहला ला-कमीशन ने अपनी रिपोर्ट में यह कहा है कि Even High Court Judges are appointed on consideration other than merit.

यानी कई बार हाई कोर्ट जजेज की एप्वाइन्ट-मेन्ट भी दूसरे और विचारों के अधीन होती है। केवल योग्यता के आधार पर नहीं। इसलिये एक हाई कोर्ट जज के हाथ में किसी संस्था के भाग्य का निर्णय करने का हक सुपुर्द कर दिया जाय। मैं इस को उचित नहीं समझता। उपाध्यक्ष महोदय आप एक बहुत काबिल बैरिस्टर हैं, आप जानते हैं कि एक जज के फैसले के लैटर्स-पेटेन्ट अपील का प्रोवीजन होता है, इसके अधीन अनेकों बार अनेकों फैसलों के विरुद्ध निर्णय बदल जाते हैं, इसके अलावा सुप्रीम कोर्ट में अपील की भी व्यवस्था है। जब किसी की सम्पत्ति का झगड़ा हो, शहरी ज्यादती का झगड़ा हो, तो इस के लिये अपील का विधान है, परन्तु जब किसी संस्था के अस्तित्व को आप नष्ट करने जा रहे हैं, तो उसका निर्णय करने के लिये यदि कम से कम तीन जजे की राय आप लेंगे, तब उस संस्था को इस बात का विश्वास होगा कि उनके साथ न्याय किया जा रहा है। मौजूदा कानून से पैदा होने वाले शायद मैं समझता हूँ कि साल में

या कई सालों में कोई एक आघ ही कैसे आयेगा, तब मैं नहीं समझता कि आप तीन जजेज की व्यवस्था को नहीं कर सकते। ऐसी स्थिति में आप की इस दलील के कोई मायने नहीं हैं कि आप तीन जजेज की व्यवस्था नहीं कर सकेंगे। जब हम डीअरनेस एलाउन्स या दूसरे मामलों को तय करने के लिये हाई कोर्ट के जजेज को एप्वाइन्ट करते हैं, तो एक प्रति गम्भीर समस्या अर्थात् किसी संस्था के भाग्य का निर्णय करने के लिये इस लिये तीन जजेज के एप्वाइन्ट-मेन्ट की व्यवस्था निश्चित रूप से होनी चाहिये और मुझे भरोसा है कि आप हमारे इस संशोधन को जरूर स्वीकार करेंगे।

SHRI SEQUEIRA : Sir, my amendment is No. 167. I submit that there are two questions here. One is as to how many members a tribunal should have and the other is how they should be appointed. The hon. Home Minister has stated that he feels that one member is enough. The Bill states that he should be appointed by the Central Government. I have suggested that instead of one there should be three persons and that they should be appointed on the advice of the Chief Justice of the Supreme Court of India. I want to recommend this amendment by drawing to the Home Minister's attention the following.

Firstly, this tribunal is going to decide whether a whole political organisation or any kind of organisation is to be banned. It is a very serious matter. Secondly, if the organisation is declared unlawful, every member who belongs to it is liable to an imprisonment of two years and they may be hundreds of thousands. Thirdly, there is a fear—and I believe, a just fear—in the mind of the Opposition that this law may be used in order to stifle opposition. We have the assurance of the Home Minister that this is not so. I would request him to make this amendment to show to the House and to give the Opposition the satisfaction of knowing that if the Government, not this government but may be future government, moves to ban a party that party will at least be reasonably sure of being able to get justice at least from the tribunal.

That is all that I have to say.

SHRI NAMBIAR: Sir, I do not want to add much because much has been said on this. I only appeal to the hon. Minister to accept this. The entire Opposition is united on this. After all, the difference between the Government and the Opposition is only 20 or 30 votes. We are all demanding only one thing. You want to condemn a party saying that this party is illegal. You have got the right to say that by an order to be published in the Gazette and then you have to refer the whole matter to the Tribunal and the Tribunal can give judgment within six months. What we want is only this that let that Tribunal be manned by three Judges instead of one Judge.

The hon. Minister says that his idea is not to suppress any party and he also says that everyday we are not going to bring the law into use because, occasionally, one case might happen. If that is so, he may kindly agree to have three Judges either of one High Court or another High Court. That is a different thing. I appeal to him to agree to that. It is a very moderate demand.

Then, there is reasonableness in my amendment No. 49 which says :

"add at the end—

'and two persons by the State Government wherein the headquarters of the association notified as unlawful situations.'

This is to be added so that he will get the cooperation of the State Government as well to implement this Act. Otherwise, whatever he writes and issues orders from here, if the State Government is not there to implement it, this cannot be implemented. This is my request.

I have got two amendments, one is that instead of one Judge, there should be three Judges and the other is that two persons may be nominated by the State Government. If he does not agree to the nomination of two persons by the State Government, let him agree to this at least that instead of one Judge, there should be three Judges. We are all united on this. This is not a political fight or a question of simply saying 'Yes' or 'No'. This is only an understanding to see that when we provide a legislation, let us do it in a proper manner. I hope he will agree to this.

SHRI D. C. SHARMA (Gurdaspur): Sir, I think, it is the business of the Government and the duty of the Government, the function of the Party in power, to allay the fears of the Opposition, whether they are justified or not. Personally speaking, I think, these fears are not justified. But since all the Parties are united on this matter, since they are all expressing fears about this, I think, the Government's duty is to see to it that they do not harbour any kind of fear in their hearts. The question is whether there should be one Judge or three Judges.

There are some persons who want that justice should be swift and not a long-drawn out process. I think, what the hon. Home Minister has to say is this that he wants that the thing should be decided soon and that it should not take a very long time. But, I think, in this matter, when it concerns the cession or secession of our country, when an individual or a party or an association is involved, it is best that justice should not look to the public as a kind of summary justice but it should look to the public that the justice has been meted out in a proper and regular manner and after the utmost deliberation on the part of the Judges. Therefore, I think, there is no use having the Supreme Court to nominate Judges and I do not want that one Supreme Court Judge should preside over the Tribunal or that two Judges should come from one State and the third Judge should come from another State. I think, we can leave it to the Home Ministry to nominate the Tribunal. But I must say that the Tribunal must consist of three High Court Judges. I am very sorry that some aspersions have been cast on the merits of the High Court Judges, on the reputation of the High Court Judges.

SHRI SHRI CHAND GOEL: We have not cast any aspersion. The Law Commission has done it.

SHRI D. C. SHARMA: Some hon. Member said that there is *obiter dictum* of the Law Commission. We all have these *obiter dicta*. But I must submit very respectfully that our Judges are impartial and their merit is unquestioned. But at the same time I would like that this should be a Tribunal consisting of three judges to be nominated by the Home Ministry and that a time limit should be

[Shri D. C. Sharma]

set to give the decision on the question. If the proceedings go on hanging, then I think justice will not be there. Therefore, I would say that there should be a Tribunal consisting of three judges of High Court to be nominated by the Home Ministry, but they must decide the issue within three months and should not keep it hanging for a long time.

SHRI Y. B. CHAVAN: I am sorry, I cannot agree to the suggestion made by the hon. members. I will give the history behind it. The original Bill proposed a Tribunal consisting of three persons, if I can take you back to that thing. Really speaking, this matter was discussed in the Joint Committee and I was told that it is much better to have only one man.... (Interruptions)

AN HON. MEMBER: No, no... (Interruptions)

SHRI Y. B. CHAVAN: He never said that.

Are you prepared to go back to the original position of the draft....

SHRI V. KRISHNAMOORTHY: In the original Bill, it was, one High Court judge and two District Judges....

SHRI Y. B. CHAVAN: No, no. I cannot agree.

The only point is this. We are thinking of having some sort of a full bench of a High Court sitting as a Tribunal because in some places the High Court consists of three judges only. Therefore, what is this? In order to meet the feelings of the Opposition, I agreed to one position and that is this. Originally the position was that the Chairman of the Tribunal could be a retired judge also, and I said, alright, it is much better to have a sitting judge. I agreed to one more position that the entire proceedings should be completed within a period of six months. If this has to be done, it is much better to have one judge, one-judge Tribunal would certainly expedite matters. This is not something which you can just carry on for months together....

SHRI KANWAR LAL GUPTA: You have put a time-limit.

SHRI Y. B. CHAVAN: I have put a time limit. Putting a time-limit does not

mean this. Suppose there is no provision and you do not punish within six months, what is to be done? (Interruptions)

SHRI V. KRISHNAMOORTHY: If there are three judges, would they take more than six months? (Interruptions)

SHRI Y. B. CHAVAN: I am giving my opinion. Let him not interrupt me. It is not fair to say that only when three judges sit, there will be more justice. Here is a sitting judge of the High Court....

SHRI V. KRISHNAMOORTHY: Definitely, justice will not be there.

SHRI Y. B. CHAVAN: I do not agree with this.

SHRI KANWAR LAL GUPTA rose—

MR. DEPUTY-SPEAKER: He may sit down. No argument now.

SHRI KANWAR LAL GUPTA: I am not arguing at all.

SHRI V. KRISHNAMOORTHY: If the whole House agrees, he is prepared to go back?

श्री कंबरलाल गुप्त: उपाध्यक्ष महोदय, मैं आप के जरिए गृह मंत्री जी से कहना चाहता हूँ कि जो बातें कही गई हैं और जो शंकाएं प्रकट की गई हैं उनका वह स्पष्टीकरण करें लेकिन इस तरह से उन का गुस्से में आ जाना और कहने लगना कि मैं नहीं करूंगा तो वह तो कोई जवाब नहीं है।

SHRI Y. B. CHAVAN: Somebody was shouting. I can also shout like that.

Now I have given my reasons. I cannot agree.

SHRI D. C. SHARMA: Mr. Chavan is a person of imperturbable temperament.

SHRI KANWAR LAL GUPTA: I want to press my Amendment, No. 48.

MR. DEPUTY-SPEAKER: I will put Amendment 48 separately to the vote of the House.

The question is:

"Page 4, line 5,—

for "one person" substitute—

"three persons". (48)

The Lok Sabha divided:

Division No. 26]

AYES

13.05 hrs.

Ahmed, Shri J.
Amat, Shri D.
Amin, Shri R. K.
Amin, Shri Ramchandra J.
Anbucchezian, Shri
Anirudhan, Shri K.
Banerjee, Shri S. M.
Chakrapani, Shri C. K.
Chaudhuri, Shri Tridib Kumar
Deiveekan, Shri
Deo, Shri K. P. Singh
Fernandes, Shri George
Goel, Shri Shri Chand
Gopalan, Shri P.
Gowd, Shri Gadilingana
Guha, Shri Samar
Gupta, Shri Indrajit
Gupta, Shri Kanwar Lal
Joshi, Shri S. M.
Kalita, Shri Dhireswar
Kameshwar Singh, Shri
Khan, Shri Ghayoor Ali
Kiruttinan, Shri
Krishnamoorthi, Shri V.
Kundu, Shri S.
Kashwah, Shri Y. S.
Maiti, Shri S. N.
Majhi, Shri M.
Mayavan, Shri
Meghachandra, Shri M.
Meghrajji, Shri

Menon, Shri Vishwanatha
Mody, Shri Pilloo
Mohamed Imam, Shri
Naik, Shri G. C.
Naik, Shri R. V.
Nair, Shri N. Sreekantan
Nair, Shri Vasudevan
Nambiar, Shri
Nihal Singh, Shri
Pandey, Shri Sarjoo
Parmar, Shri D. R.
Paswan, Shri Kedar
Patil, Shri N. R.
Rai, Shri Charanjit
Ramabadrans, Shri T. D.
Ramamurti, Shri P.
Ramji Ram, Shri
Rao, Shri V. Narasimha
Samanta, Shri S. C.
Saminathan, Shri
Satya Narain Singh, Shri
Sequeira, Shri
Sezhiyan, Shri
Shalwale, Shri Ram Gopal
Sharma, Shri Beni Shanker
Sharma, Shri Yajna Datt
Thakur, Shri Gunanand
Tyagi, Shri O. P.
Yajnik, Shri

NOES

Agadi, Shri S. A.
Arumugam, Shri R. S.
Babunath Singh, Shri
Bajpai, Shri Shashibhushan
Barua, Shri Bedabrata
Baswant, Shri
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhakt Darshan, Shri
Bhanu Prakash Singh, Shri
Bhargava, Shri B. N.
Bhattacharyya, Shri C. K.

Bhola Nath, Shri
Birua, Shri Kolal
Bist, Shri J. B. S.
Bohra, Shri Onkarlal
Chanda, Shri Anil K.
Chandra, Shrimati Jyotsna
Chandrika Prasad, Shri
Chatterji, Shri Krishna Kumar
Chaturvedi, Shri R. L.
Chaudhary, Shri Nitiraj Singh
Chavan, Shri D. R.
Chavan, Shri Y. B.

Choudhary, Shri Valmiki
 Choudhury, Shri J. K.
 Damani, Shri S. R.
 Dasappa, Shri Tulsidas
 Dass, Shri C
 Desai, Shri Morarji
 Deshmukh, Shri B. D.
 Deshmukh, Shri K. G.
 Dhuleshwar Meena, Shri
 Dinesh Singh, Shri
 Gajraj Singh Rao, Shri
 Gandhi, Shrimati Indira
 Gavit, Shri Tukaram
 Ghosh, Shri Parimal
 Girja Kumari, Shrimati
 Gupta, Shri Lakhan Lal
 Iqbal Singh, Shri
 Jadhav, Shri Tulshidas
 Jadhav, Shri V. N.
 Jagjiwan Ram, Shri
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kedaria, Shri C. M.
 Kesri, Shri Sitaram
 Kinder Lal, Shri
 Kripalani, Shrimati Sucheta
 Kushok Bakula, Shri
 Lakshmikanthamma, Shrimati
 Laskar, Shri N. R.
 Laxmi Bai, Shrimati
 Mahajan, Shri Vikram Chand
 Mahida, Shri Narendra Singh
 Malimariyappa, Shri
 Manikya Bahadur, Shri
 Mehta, Shri P. M.
 Menon, Shri Govinda
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mohammad Yusuf, Shri
 Mrityunjay Prasad, Shri
 Mukerjee, Shrimati Sharda
 Nahata, Shri Amrit
 Oraon, Shri Kartik
 Padmavati Devi, Shrimati
 Pahadia, Shri Jagannath
 Pandey, Shri K. N.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Parmar, Shri Bhaljibhai
 Partap Singh, Shri
 Parthasarathy, Shri
 Patel, Shri Manibhai J.
 Patil, Shri S. B.
 Patil, Shri S. D.
 Poonacha, Shri C. M.
 Pramanik, Shri J. N.
 Radhabai, Shrimati B.

Raj Deo Singh, Shri
 Rajani Gandha, Kumari
 Rajasekharan, Shri
 Raju, Shri D. B.
 Ram, Shri T.
 Ram Sewak, Shri
 Ram Subhag Singh, Dr.
 Ram Swarup, Shri
 Rana, Shri M. B.
 Rane, Shri
 Rao, Shri Rameshwar
 Rao, Shri Thirumala
 Rao, Dr. V. K. R. V.
 Reddy, Shri Surendar
 Rohtagi, Shrimati Sushila
 Roy, Shrimati Uma
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Sambasivam, Shri
 Sant Bux Singh, Shri
 Sarma, Shri A. T.
 Savitri Shyam, Shrimati
 Sen, Shri Dwaipayana
 Sen, Shri P. G.
 Sethi, Shri P. C.
 Shah, Shrimati Jayaben
 Shambhu Nath, Shri
 Shankaranand, Shri
 Sheo Narain, Shri
 Shinde, Shri Annasahib
 Shinkre, Shri
 Shiv Chandika Prasad, Shri
 Shukla, Shri S. N.
 Siddayya, Shri
 Singh, Shri D. N.
 Singh, Shri D. V.
 Sinha, Shri Satya Narayan
 Sinha, Shrimati Tarkeshwari
 Sonar, Dr. A. G.
 Sonavane, Shri
 Supakar, Shri Sradhakar
 Sursingh, Shri
 Suryanarayana, Shri K.
 Swaran Singh, Shri
 Tarodekar, Shri V. B.
 Tiwary, Shri K. N.
 Uikey, Shri M. G.
 Venkatasubbaiah, Shri P.
 Verma, Shri Prem Chand
 Virbhadra Singh, Shri
 Vyas, Shri Ramesh Chandra

13 hrs.

MR. DEPUTY-SPEAKER: The result of the Division, as it is:—corrections will be made later—Ayes .. 59....

SHRI S. M. BANERJEE : Sir how can you announce the result now, in case correction is to be made later on ?

MR. DEPUTY-SPEAKER : It is not going to affect the position. I said that correction will be made. Instead of waiting for correction, I said I am going to announce it.

The result*of the Division is : Ayes—59; Noes—133.

The motion was negatived

MR. DEPUTY-SPEAKER : I shall now put all the other amendments to the vote of the House.

Amendments Nos. 49, 50, 93, 94, 95 & 167 were put and negatived.

MR. DEPUTY-SPEAKER : The question is :

"That clause 5 stand part of the Bill."

SHRI NAMBIAR : We want a Division on this. We would not allow any clause to go uncontested.

MR. DEPUTY-SPEAKER : Now the doors are closed. You want them to be opened ?

SOME HON. MEMBERS : Yes.

SHRI NAMBIAR : No clause will be allowed to be passed without a division. Every clause will be voted upon by division. They may have their majority, but that is a different point. We are not going to leave it like that.

MR. DEPUTY-SPEAKER : The question is :

"That clause 5 stand part of the Bill.

The Lok Sabha divided.

Division No. 27]

AYES

13.11 hrs.

Agadi, Shri S. A.
Arumugam, Shri R. S.
Awadesh Chandra Singh, Shri
Baburath Singh, Shri
Barua, Shri Bedabrata
Basu, Dr. Maitreyee
Baswant, Shri
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhakt Darshan, Shri
Bhargava, Shri B. N.
Bhattacharyya, Shri C. K.
Bhola Nath, Shri
Birua, Shri Kolai
Bohra, Shri Onkarlal
Chanda, Shri Anil K.
Chanda, Shrimati Jyotsna
Chatterji, Shri Krishna Kumar
Chaturvedi, Shri R. L.

Chaudhary, Shri Nitiraj Singh
Chavan, Shri D. R.
Chavan, Shri Y. B.
Choudhury, Shri J. K.
Damani, Shri S. R.
Dasappa, Shri Tulsidas
Dass, Shri C.
Desai, Shri Morarji
Deshmukh, Shri B. D.
Deshmukh, Shri K. G.
Devinder Singh, Shri
Dhuleshwar Meena, Shri
Dinesh Singh, Shri
Gajraj Singh Rao, Shri
Gandhi, Shrimati Indira
Gavit, Shri Tukaram
Ghosh, Shri Parimal
Girja Kumari, Shrimati
Gupta, Shri Lakhna Lal

The following Members also recorded their votes :

Ayes : Sarvshri Mohammad Ismail,
C. Janardhanan, Yageshwar Yadav
and Ranjit Singh.

Noes : Sarvashri Chengalraya Naidu,
G. S. Reddi and M. N. Reddy.

Iqbal Singh, Shri
 Jadhav, Shri Tulshidas
 Jadhav, Shri V. N.
 Jagjiwan Ram, Shri
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kedaria, Shri C. M.
 Kesri, Shri Sitaram
 Kinder Lal, Shri
 Kripalani, Shrimati Sucheta
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 *Lakkappa, Shri K.
 Lakshmikanthamma, Shrimati
 Laskar, Shri N. R.
 Laxmi Bai, Shrimati
 Mahajan, Shri Vikram Chand
 Mahida, Shri Narendra Singh
 Malimariyappa, Shri
 Manikya Bahadur, Shri
 Mehta, Shri P. M.
 Menon, Shri Govinda
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Misra, Shri Srinibas
 Mohammad Yusuf, Shri
 Mrityunjay Prasad, Shri
 Mukerjee, Shrimati Sharda
 Nabata, Shri Amrit
 Naidu, Shri Chengalraya
 Padmavati Devi, Shrimati
 Pahadia, Shri
 Pandey, Shri K. N.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Parmar, Shri Bhaljibhai
 Partap Singh, Shri
 Parthasarathy, Shri
 Patel, Shri Manubhai
 Patel, Shri N. N.
 Patil, Shri S. B.
 Patil, Shri S. D.
 Poonacha, Shri C. M.
 Pramanik, Shri J. N.
 Radhabai, Shrimati B.
 Raj Deo Singh, Shri
 Rajani Gandha, Kumari
 Rajasekharan, Shri

Raju, Shri D. B.
 Ram, Shri T.
 Ram Sewak, Shri
 Ram Subhag Singh, Dr.
 Ram Swarup, Shri
 Rana, Shri M. B.
 Rane, Shri
 Rao, Shri Rameshwar
 Rao, Shri Thirumala
 Rao, Dr. V. K. R. V.
 Reddi, Shri G. S.
 Reddy, Shri Surendar
 Rohatgi, Shrimati Sushila
 Roy, Shrimati Uma
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Sambasivam, Shri
 Sant Bux Singh, Shri
 Sarma, Shri A. T.
 Savitri Shyam, Shrimati
 Sen, Shri Dwaipayana
 Sen, Shri P. G.
 Sethi, Shri P. C.
 Shah, Shrimati Jayaben
 Shambhu Nath, Shri
 Shankaranand, Shri
 Sheo Narain, Shri
 Shinde, Shri Annasahib
 Shinkre, Shri
 Shukla, Shri S. N.
 Siddayya, Shri
 Singh, Shri D. N.
 Sinha, Shri Satya Narayan
 Sinha, Shrimati Tarkeswari
 Sonar, Dr. A. G.
 Sonavane, Shri
 Supakar, Shri Sradhakar
 Swaran Singh, Shri
 Tarodekar, Shri V. B.
 Tiwary, Shri K. N.
 Uikey, Shri M. G.
 Venkatasubbaiah, Shri P.
 Verma, Shri Prem Chand
 Virbhadra Singh, Shri
 Vyas, Shri Ramesh Chandra
 Yadab, Shri N. P.

NOES

Ahmed, Shri J.
 Amat, Shri D.

Amin, Shri R. K.
 Amin, Shri Ramchandra J.

*Wrongly voted for 'AYES'

Banerjee, Shri S. M.
 *Bist, Shri J. B. S.
 Chakrapani, Shri C. K.
 Deiveekan, Shri
 Deo, Shri K. P. Singh
 Fernandes, Shri George
 Ghosh, Shri Ganesh
 Goel, Shri Shri Chand
 Gopalan, Shrimati Suseela
 Gounder, Shri Muthu
 Gowd, Shri Gadilingana
 Gupta, Shri Indrajit
 Gupta, Shri Kanwar Lal
 Janardhanan, Shri C.
 Joshi, Shri S. M.
 Kalita, Shri Dhireswar
 Kameshwar Singh, Shri
 Khan, Shri Ghayoor Ali
 Kirutinan, Shri
 Kundu, Shri S.
 Kushwah, Shri Y. S.
 Majhi, Shri M.
 Mayavan, Shri
 Meetha Lal, Shri
 Meghachandra, Shri M.
 Meghrajji, Shri
 Menon, Shri Vishwanatha
 Mody, Shri Piloo
 Mohammed Imam, Shri J.

Mohammed Sheriff, Shri
 Naik, Shri G. C.
 Naik, Shri R. V.
 Nair, Shri N. Sreekantan
 Nambiar, Shri
 Nihal Singh, Shri
 Pandey, Shri Sarjoo
 Parmar, Shri D. R.
 Paswan, Shri Kedar
 Patil, Shri N. R.
 Ram Gopal, Shri
 Ramabadran, Shri T. D.
 Ramamurti, Shri P.
 Ramji Ram, Shri
 Ranjit Singh, Shri
 Rao, Shri V. Narasimha
 Samanta, Shri S. C.
 Sambhali, Shri Ishaq
 Saminathan, Shri
 Satya Narain Singh, Shri
 Sequeira, Shri
 Sezhiyan, Shri
 Sharma, Shri Yajna Datt
 Shastri, Shri R.
 Thakur, Shri Gunanand
 Tyagi, Shri O. P.
 Uikay, Shri M. G.
 Viswanatham, Shri Tenneti
 Yadav, Shri Jageshwar

13.10 hrs.

MR. DEPUTY-SPEAKER: The result† of the Division is: *Ayes*: 133; *Noes*: 61

The motion was adopted.

Clause 5 was added to the Bill

MR. DEPUTY-SPEAKER: After lunch, we shall take up clause 6. We shall now adjourn and meet again at 2.10 p.m. as I have already promised.

*Wrongly voted for "NOES"

†The following Members also recorded their votes:

Ayes: Sarvashri Bhaun Prakash Singh, Kartik Oraon, J.B.S. Bist, Shashibhushan Bajpal, Valmiki Choudhary, Shiv Chandika

The Lok Sabha adjourned for Lunch till Ten Minutes Past Fourteen of the Clock.

The Lok Sabha reassembled after lunch at Ten Minutes Past Fourteen of the Clock.

[MR. DEPUTY-SPEAKER in the Chair]

UNLAWFUL ACTIVITIES (PREVENTION) BILL—*contd.*

Clause 6—(*Period of operation and cancellation of Notification*)

Prasad, Sursingh, Dr. Govind Das, and Sarvashri K. Suryanarayana, M. N. Reddy.

Noes: Sarvashri Tridib Kumar Chaudhuri, K. Lakkappa, Mohammad Ismail, K. Anirudhan, Baidhar Behera, Charanjit Rai and Anbuhezhan.

SHRI GEORGE FERNANDES (Bombay South): I beg to move:

Page 5, line 13, for "two years" substitute "one year". (9)

SHRI NAMBIAR: I beg to move:

Page 5, line 14,—add at the end "after the Parliament approves it". (52)

Page 5, line 13,—for "two years" substitute "six months". (96)

MR. DEPUTY-SPEAKER: These amendments and the clause are now before the House.

श्री जार्ज फर्नेन्डिस: उपरोक्त बिल, इस धारा में यह व्यवस्था की गई है कि सरकार द्वारा जारी की गई नोटिफिकेशन कितने साल के लिए प्रमल में रहें। पहले बिल में यह अवधि दो साल रखी गई थी। हम चाहते हैं कि उस अवधि को कम करके एक साल कर दिया जाये। जब यह बिल जायंट सिलेक्ट कमेटी के पास गया था, तो उस ने इस में भी गई प्रमल प्रमल सजाओं में कटौती की थी। मैं नहीं समझ पाता हूँ कि पहले बिल में नोटिफिकेशन को जारी रखने के सम्बन्ध में जो दो साल की अवधि रखी गई थी, उस में कमी क्यों नहीं की गई है। जब सरकार की ओर से किसी संस्था को प्रवैधानिक घोषित किया जायेगा, तो उस के लिए सरकार को इतनी लम्बी अवधि रखने की क्या जरूरत पड़ेगी, यह समझ में नहीं आता है।

इस बिल में कई ऐसी धारयाँ हैं, जिन में सम्बन्धित लोगों को सजा देने की व्यवस्था की गई है। अगर यह नोटिफिकेशन दी साल तक जारी रहे तो उस से अन्य लोगों को काफी दिक्कतें पहुँच सकती हैं। जिस संस्था को प्रवैधानिक घोषित किया जायेगा, उस के जैसे ओर उस के द्वारा इस्तेमाल की जाने वाली शक्तों की ओर सरकार का ध्यान रहेगा। सब से महत्वपूर्ण बात यह है कि जिस जगह से उस

संस्था का काम चलता था, उस जगह से जान जाने के सम्बन्ध में उस संस्था से सम्बन्ध न रखने वाले लोगों को भी कई परेशानियाँ होंगी। हम यह चाहते हैं कि वे परेशानियाँ लम्बे समय तक न रहें। इस लिये हमने यह तरकीब रखी है कि नोटिफिकेशन को जारी रखने के लिये दो साल की अवधि न रखी जाये।

SHRI NAMBIAR: My argument is more or less on the basis of what Shri Fernandes has said. I want the period to be one year instead of two years, and after that I wish to add, "after Parliament approves it."

Why should the period be two years? After all, the purpose of declaring an association unlawful is to prevent it from acting prejudicially to the nation. Once it is notified and the tribunal also confirms it, by that time six months are over by that time, more or less that association's activities will come to a standstill, and if at all anything is left out, another six months you can allow. All told, within one year that association cannot function. If it is extended to two years, that will be a source of irritation and nuisance and trouble to many innocent people. We know how the bureaucracy acts when powers are given to them. The hon. Minister, Mr. Chavan, is not going to do everything. He is a good man, subject to qualifications later on. However, I suggest that it be confined to one year, and then it must get the approval of the House. At any stage, whether it is immediately after the notification or immediately after the tribunal's verdict, it must come to the House.

He says that rules will be framed later on and will be placed on the Table of the House. That is not a speciality for this law; for every law whatever Rules are framed are placed on the Table of the House, that is not sufficient. What we want is that the party which is declared unlawful must be quoted in this House and let the House say that it gives its seal to the declaration. Then, at least something like democratic content will be there. So, I

request that he may accept both my amendments.

SHRI Y. B. CHAVAN : Certainly I have always been very considerate about these demands. Even in the Select Committee I conceded certain points. As you know, in the original draft there was a provision for extending the period of two years to three years. Then, it was the desire of the members of the opposition in the Select Committee that without further enquiry by the tribunal this further extension of one year should not be made, and I agreed to that proposition. Therefore, it has become two years.

There is nothing very sacrosanct about two years or one year, I can see that point, but when we declare a certain organisation to be illegal under the Act, and we propose to take certain action, we do not do it for fun's sake. We do it because there is certainly some extraordinary situation, and one has to deal with it.

Further, in sub-section 2 of the same clause, it is said that Government on its own motion or on the application of any aggrieved party can cancel it even before the expiry of two years. So, really speaking, the period of two years is not the minimum period, it is the maximum period, and I therefore think that there is nothing unreasonable in the period as it is.

SHRI NAMBIAR : What will happen after the two years period? I want to know whether you will again do it, because, under the Preventive Detention Act, as soon as one is released, one gets again a two-year period. What is the idea?

SHRI Y. B. CHAVAN : After two years, if the Government thinks it necessary to extend the period further, they will have to constitute a tribunal again and the whole thing will have to be put afresh before the tribunal. If the tribunal again confirms the notification, then it is a further period of two years.

SHRI NAMBIAR : Then, one year will be all right.

SHRI Y. B. CHAVAN : Two years. That is the maximum period. It can also be converted into one year if the necessity arises.

MR. DEPUTY-SPEAKER : I shall put all the amendments together to the vote : amendment Nos. 9, 52 and 96.

Amendments Nos. 9, 52 and 96 were put and negatived.

MR. DEPUTY-SPEAKER : I shall now put clause 6 to the vote. The question is :

"That clause 6 stand part of the Bill."

The Lok Sabha divided :

Division No. 28]

AYES

[14.27 Hrs.

Agadi, Shri S. A.
Aga, Shri Ahmad
Arumugam, Shri R. S.
Awadesh Chandra Singh, Shri
Babunath Singh, Shri
Barua, Shri Bedabrata
Barupal, Shri P. L.
Basu, Dr. Maitreyee
Baswant, Shri
Besra, Shri S. C.
Bhattacharyya, Shri C. K.
Bhola Nath, Shri
Bohra, Shri Onkarlal

Chanda, Shrimati Jyotsna
Chandrika Parsad, Shri
Chatterji, Shri Krishna Kumar
Chaudhary, Shri Nitiraj Singh
Chavan, Shri D. R.
Chavan, Shri Y. B.
Choudhary, Shri J. K.
Dalbir Singh, Shri
Dasappa, Shri Tulsidas
Dass, Shri C.
Desai, Shri Morarji
Deshmukh, Shri K. G.
Dhillon, Shri G. S.

Dhuleshwar Meena, Shri
 Dixit, Shri G. C.
 Gajraj Singh Rao, Shri
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Gavit, Shri Tukaram
 Gupta, Shri Lakhna Lal
 Heerji Bhai, Shri
 Hem Raj, Shri
 Jadhav, Shri Tulsidas
 Jadhav, Shri V. N.
 Kasture, Shri A. S.
 Kavade, Shri B. R.
 Kedaria, Shri C. M.
 Kesri, Shri Sitaram
 Kinder Lal, Shri
 Krishna, Shri M. R.
 Kureel, Shri B. N.
 Lakshmikanthamma, Shrimati
 Lalit Sen, Shri
 Laxmi Bai, Shrimati
 Mahadeva Prasad, Dr.
 Mahajan, Shri Vikram Chand
 Malimariyappa, Shri
 Mandal, Dr. P.
 Marandi, Shri
 Mehta, Shri P. M.
 Menon, Shri Govinda
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mohammad Yusuf, Shri
 Mohinder Kaur, Shrimati
 Mondal, Shri J. K.
 Nahata, Shri Amrit
 Naidu, Shri Chengalraya
 Oraon, Shri Kartik
 Pabadia, Shri
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Parmar, Shri Bhaljibhai
 Partap Singh, Shri
 Parthasarathy, Shri
 Patel, Shri Manubhai

Patil, Shri S. B.
 Patil, Shri S. D.
 Poonacha, Shri C. M.
 Pramanik, Shri J. N.
 Raj Deo Singh, Shri
 Raju, Shri D. B.
 Ram, Shri T.
 Ram Sewak, Shri
 Ram Subhag Singh, Dr.
 Randhir Singh, Shri
 Rane, Shri
 Rao, Shri J. Ramapathi
 Rao, Shri Rameshwar
 Rao, Shri Thirumala
 Reddy, Shri Surendar
 Rohatgi, Shrimati Sushila
 Roy, Shrimati Uma
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Sambasivam, Shri
 Sarma, Shri A. T.
 Sayyad Ali, Shri
 Sen, Shri Dwaipayana
 Sen, Shri P. G.
 Shah, Shrimati Jayaben
 Shambhu Nath, Shri
 Shankaranand, Shri
 Sharma, Shri D. C.
 Sharma, Shri M. R.
 Sheth, Shri T. M.
 Shinde, Shri Annasahib
 Shiv Chandika Prasad, Shri
 Shukla, Shri S. N.
 Siddeshwar Prasad, Shri
 Singh, Shri D. N.
 Sinha, Shri Mudrika
 Sonavane, Shri
 Supakar, Shri Sradhakar
 Suryanarayana, Shri K.
 Tiwary, Shri K. N.
 Uikey, Shri M. G.
 Ulaka, Shri Ramachandra
 Virbhadra Singh, Shri
 Vyas, Shri Ramesh Chandra

NOES

Amat, Shri D.
 Amin, Shri R. K.
 Amin, Shri Ramchandra J.
 Anirudhan, Shri K.

Badrudduja, Shri
 Banerjee, Shri S. M.
 Basu, Shri Jyotirmoy
 Behara, Shri Baidhar

Bharat Singh, Shri
 Chakrapani, Shri C. K.
 Deb, Shri D. N.
 Dipa, Shri A.
 Fernandes, Shri George
 Ghosh, Shri Ganesh
 Gowda, Shri M. H.
 Gowder, Shri Nanja
 Gupta, Shri Indrajit
 Halдар, Shri K.
 Jha, Shri Shiva Chandra
 Joshi, Shri S. M.
 Kalita, Shri Dhireswar
 Khan, Shri Ghayoor Ali
 Khan, Shri M. A.
 Kiruttinan, Shri
 Krishnamoorthi, Shri V.
 Kushwah, Shri Y. S.
 Maiti, Shri S. N.
 Majhi, Shri M.
 Mayavan, Shri
 Meetha Lal, Shri
 Meghachandra, Shri M.
 Menon, Shri Vishwanatha
 Modak, Shri B. K.
 Mohamed Imam, Shri J.
 Molahu Prasad, Shri

Mukerjee, Shri H. N.
 Naik, Shri G. C.
 Naik, Shri R. V.
 Nambiar, Shri
 Nihal Singh, Shri
 Pandey, Shri Sarjoo
 Parmar, Shri D. R.
 Paswan, Shri Kedar
 Patil, Shri N. R.
 Ramamoorthy, Shri S. P.
 Ramamurti, Shri P.
 Ramji Ram, Shri
 Rao, Shri V. Narasimha
 Roy, Shri Chittaranjan
 Samanta, Shri S. C.
 Sequeira, Shri
 Sezhiyan, Shri
 Sharma, Shri Ram Avtar
 Sharma, Shri Yogendra
 *Sheo Narain, Shri
 Sreedharan, Shri A.
 Surei Bhan, Shri
 Thakur, Shri Gunanand
 Viswanatham, Shri Tenneti
 Viswanathan, Shri G.
 Yadav, Shri Jageshwar

MR. DEPUTY-SPEAKER : The result of the division is Ayes 113, Noes 61.

The motion was adopted.

Clause 6 was added to the Bill.

CLAUSE 7.—(Power to prohibit the use of funds of an unlawful association.)

SHRI GEORGE FERNANDES : I move amendments 10, 11, 12 and 13.

SHRI NAMBIAR : I move amendments 53, 54 and 55.

SHRI P. RAMAMURTI : I move amendment 99.

MR. DEPUTY-SPEAKER : Amendments 129, 147 and 148 are the same as amendments already moved.

SHRI GEORGE FERNANDES : I beg to move :

Page 5, line 25,—
 omit "or are intended to be used"
 (10)

Page 5, lines 29 and 30,—
 omit "or with any other moneys, securities or credits which may come into his custody after the making of the order" (11)

Page 6, line 9,—
 omit "or are intended to be used"
 (12)

*Wrongly voted for 'NOES'

AYES : Shri R. Barua and Shri Sheo Narain.

†The following Members also recorded their votes :

NOES : Shri Mohammad Ismail and Shri S. S. Kothari.

Page 6, lines 15 to 17,—

omit "or by leaving it or sending it by post addressed to the corporation, company, bank or other association". (13)

SHRI NAMBIAR : I beg to move :

Page 5, line 24.—

after "think fit" insert—... ..

"on hearing the objections raised by the association so declared illegal" (53)

Page 6,—

for lines 3 to 10 substitute—

"of the Government it may select" (54)

Page 6,—

omit lines 28 to 34 (55)

SHRI P. RAMAMURTI : I beg to move :

Page 6,—

for lines 23 to 25, substitute—

"on business or personally works for gain, the Central Government shall have to establish that the moneys, securities or credits in respect of which the prohibitory order has been made, are being intentionally used or are intended to be used intentionally for the purpose of" (99)

MR. DEPUTY-SPEAKER : Shri Fernandes.

SHRI S. M. BANERJEE : Sir, neither the Home Minister nor the Minister of State in the Home Ministry nor the Deputy Minister in the Home Ministry is present. Have they taken it for granted that the Bill is going to be passed? The House should not be treated with such contempt.

MR. DEPUTY-SPEAKER : The Deputy Prime Minister and the Law Minister are here.

SHRI V. KRISHNAMOORTHY : Yesterday the Law Minister conceded something, but today the Home Minister said, no

SHRI GOVINDA MENON : I did not concede anything.

श्री शिव नारायण (बस्ती) : अध्यक्ष महोदय, असूल है पालियामेंट्री सिस्टम में कि एक कैबिनेट मिनिस्टर रहना चाहिए।

A Cabinet Minister must be here. The Deputy Prime Minister and the Law Minister are already here.

SHRI S. M. BANERJEE : But the reply is to be given by the Home Minister—either the Cabinet Minister or the Minister of State—or by the Deputy Home Minister. I am not concerned with other Cabinet Ministers; they are as good as Mr. Sheo Narain. I am only concerned with the Home Minister.

MR. DEPUTY-SPEAKER : The Home Minister was just here. Let the debate continue.

श्री जार्ज फरनेन्डीज : अध्यक्ष महोदय, मैं एक बार फिर आप से यह निवेदन करना चाहता हूँ कि मंत्री महोदय यहां पर हाज़िर रहें क्योंकि कई बड़े मसलों पर इस घारा में लिखा हुआ है और उस पर बहस होनी है तो हम यह चाहेंगे कि उन से कुछ इन चीजों के बारे में उत्तर मिले वरना जैसे कल हुआ कि कानून मंत्री ने कुछ चीजों के बारे में कहा कि सोचेंगे और आज गृह मंत्री बोले कि उस में कुछ नहीं हो सकता तो इस किस्म की परेशानी हम लोगों के सामने आ जायगी और सारी बहस बेमतलब हो जायगी। इसलिए गृह मंत्री जी को बुलाए जो इन मसलों पर जिम्मेदारी से सोच सकते हैं और जवाब दे सकते हैं.

THE DEPUTY PRIME MINISTER AND MINISTER OF FINANCE (SHRI MORARJI DESAI) : I shall reply to it if necessary.

श्री जार्ज फरनेन्डीज : प्रमैडमैंट तो मैं भूब कर चुका हूँ और मुझे उस पर बोलना है। यह क्लॉज 7 सब-क्लॉज (1) में मैंने लाइन 25 में प्रमैडमैंट दिया है। वह इस प्रकार है :

"any person has custody of any moneys, securities or credits which are being used or are intended to be used for...."

तो उसमें मैंने तरमीम पेश की है कि—

"or are intended to be used"

इस को हटाया जाय। और प्रागे 30 नम्बर की लाइन में है :

"securities or credits or with any other moneys, securities or credits which may come into his custody after the making of the order...."

इसको हटाया जाय :

"or with any other moneys, securities or credits which may come into his custody after the making of the order"

इस के प्रागे सब-क्लाज़ (2) की लाइन नं० 9 में फिर वही शब्द—

"or are intended to be used"

को हटाया जाय।

इस के बाद सब-क्लाज़ (3) में लाइन 15 में—

"or by leaving it or sending it by post addressed to the corporation, company, bank or other association"

इसको हटाया जाए।

अब अध्यक्ष महोदय, मैं चाहता हूँ कि गृह मंत्री जी इसके महत्व को अच्छी तरह से समझ लें। जो पैसा किसी भी व्यक्ति के पास अथवा संस्था के पास जमा है या खर्च किया जा रहा है, उसको रोकने के लिये सरकार का अदालत निर्णय देंगे—मैं यह समझता हूँ कि सरकार को या इस कानून को अमल में लाने वाले अधिकारी को जो अधिकार दिये गये हैं, वे बहुत ज्यादा हैं, हम समझते हैं कि ये अधिकार उनके साथ में नहीं जाने चाहियें—क्योंकि इनका दुरुपयोग हो सकता है। जब से इस कानून पर यहां बहस हो रही है, तब से एक चीज़ हम लोगों के सामने बहुत सफाई से आई है कि राजकीय-दल मजदूर संगठनों अथवा

अन्य किसी भी ऐसे संगठन पर, जिसको कि वे पसन्द नहीं करते हैं, इस कानून का इस्तेमाल कर सकते हैं। ऐसी हालत में यदि आप अधिकारियों के हाथ इतनी सत्ता देंगे कि वे ऐसा निर्णय कर सकें कि वे किसी भी व्यक्ति के पास जो पैसा है उस पैसे का इस्तेमाल ऐसे किसी भी काम के लिये किया जा चुका है जो सरकार की राय में भ्रवैधानिक है, उसको रोकने का अधिकार यदि आप अधिकारियों को देंगे, तो इसमें बहुत परेशानी हो जायगी।

इससे प्रागे की धारा में आपने कहा कि जिस व्यक्ति के पास वह पैसा है, उसके पास आपका हुकम जाने के बाद भी, उसके पास जो पैसा है, उसके लिये सरकार दावा कर सकती है, उस के इस्तेमाल पर बन्धन लगा सकती है। इस देश में ऐसे व्यक्ति हो सकते हैं, चाहे मामूली व्यक्ति हो जो मान लीजिए किसी काम को अच्छा समझता है, उस काम के लिये वह दान दे सकता है, अनुदान दे सकता है, लेकिन अब अगर इस कानून को जिस रूप में आपने लिखा है उसी रूप में स्वीकार करते हैं, तो उस व्यक्ति के रुपये पर भी सरकार अपना दावा कर सकती है। मेरे विचार में यह अनुचित है।

तीसरे क्लाज़ में नोटिस देने की व्यवस्था के बारे में प्रावीजन है। इसके बारे में आपने जो व्यवस्था की है—वह यह है कि—

"or by leaving it or sending it by post addressed to the Corporation, company, bank or other association."

मैं इसका सख्त विरोध करता हूँ। प्राप इतना महत्वपूर्ण निर्णय लेने जा रहे हैं—किसी इस्टीचूशन को भ्रवैधानिक घोषित करने जा रहे हैं, उस इस्टीचूशन के पैसे पर दावा करने जा रहे हैं, उसको प्रागे मिलने वाला जो पैसा है, उस पर भी अपना दावा लगा रहे हो ऐसी स्थिति में जब नोटिस देने की बात आती है—वहां ऐसी व्यवस्था क्यों

[श्री जाजं फरनेन्डीज]

कर रहे हैं कि हम नोटिस दें और वह व्यक्ति न मिले, तो फिर उनके दफ्तर में रख कर चले आयेंगे अथवा पोस्ट से भेज देंगे—यह पर्याप्त नहीं है। जब हम इतना गम्भीर निर्णय करते हैं कि अमुक संस्था अवैधानिक है और जब हम उसकी सम्पत्ति पर अधिकार कर रहे हैं, तो उसको अपने संरक्षण का पूरा मौका देना चाहिए। कल ऐसी स्थिति भी आ सकती है कि जब अदालत में जायेंगे, तो आपका अधिकारी वह कह सकता है कि हम ने नोटिस डाक से भेज दिया है या हमारा चपरासी उनके दफ्तर में रख कर आ गया है, जब कि इस की असलियत कुछ और हो, वह नोटिस उन के घर या काम की जगह पर न पहुँचा हो—तो ऐसी स्थिति में वह कुछ भी नहीं कर सकता, उसके पास अपना पक्ष रखने की इसमें कोई व्यवस्था नहीं है। आप तो इतना ही कह देंगे कि हम ने नोटिस दिया है और अदालत के पास आपकी जुबान के अलावा और कोई सुबूत नहीं होगा। उसका नाम तो आपने पहले ही बदनाम कर दिया है कि अमुक आदमी मुलक को खतरा पहुँचाने वाला है, अब अदालत के सामने आने पर भी उसके लिये आपने कोई गुंजाइश नहीं छोड़ी है। अदालत के सामने उस व्यक्ति की बात नहीं मानी जायगी, अदालत सरकार की बात को ही मानेगी। कल कोई भी अधिकारी जान-बूझ कर उस को ठीक प्रकार से नोटिस नहीं भेजता, तो अदालत में अधिकारी की बात सही मानी जायगी, उसकी बात को अदालत स्वीकार नहीं करेगी। मैं चाहता हूँ कि इतने महत्वपूर्ण कानून को स्वीकार करते हुए सरकार इसमें कोई ऐसी व्यवस्था करे कि जिसमें किसी अधिकारी को बेइमानी करने का मौका नहीं मिले। इस लिये मैं सरकार से अनुरोध करता हूँ कि मेरी तरमीम को स्वीकार करें।

SHRI S. M. BANERJEE : Mr. Deputy-Speaker, I have moved my amendments Nos. 147 and 148. I fully support the arguments advanced by my hon. friend,

Shri George Fernandes. What does section 7 say? It reads :

“Where an association has been declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section and the Central Government is satisfied after such inquiry as it may think fit, that any person has custody of any moneys, securities or credits which are being used or are intended to be used for the purpose of the unlawful association....”

The term employed here is not “used” but also “intended to be used” which is a vague term. I think the government will never take action on that. So, it should be deleted.

Sir, you will remember that after the Chinese aggression in 1962, when we were collecting funds for the National Defence Fund, an amount of Rs. 2½ crores was misappropriated by the ex-Chief Minister of Uttar Pradesh, Shri C. B. Gupta and no inquiry was made even though we have been putting questions.

AN HON. MEMBER : No.

SHRI S. M. BANERJEE : Do not say “No”. You have not got a share from it, I agree. No action has been taken for this misappropriation of Rs. 2½ crores. They are not doing anything. Even though he is a member of a big association called Congress and he has misappropriated money, what action have they taken? Nothing. If the government is serious about taking action against people who have misappropriated money, they should have done it in this case. This money was collected from poor people getting Rs. 50 or 60 a month. Out of the total collection of Rs. 62 crores, about Rs. 40 crores came from people who are earning not more than Rs. 50 a month.

My amendment is practically the same as that of Shri George Fernandes. I have suggested the omission of the words “or with any other moneys, securities or credits which may come into his custody after the making of the order”. Even if you have forfeited certain things, you have seized certain documents, money and so on, even after that, whatever money comes should not be used. I am concerned with one

thing. Under the Indian Trade Unions Act, 1926 those associations and unions which are registered maintain some funds. If it is an association of government employees political funds are not allowed.

Suppose, there is one particular union representing the textile workers. It is registered under the Act of 1926 under which there is no bar. I can maintain a political fund. As to how we use it can be seen by the Registrar of Trade Unions because my accounts are audited every year and I submit a copy of the audited balance sheet to the Registrar of Trade Unions.

I am affiliated to the All India Trade Union Congress. Even Shri Nambiar is there. Both the Left CPI and the Right CPI are members of the All India Trade Union Congress. They are affiliated to the All India Trade Union Congress. Because a particular trade union is affiliated to the All India Trade Union Congress and is also registered under the Trade Union Act of 1926, it can maintain a political fund and use it for political purposes. Now there is no safety for me whether I have used for the unlawful association or person or who has been declared by the Government as unlawful. How is it to be proved? I cannot prove it even by this. So, I request you kindly to see that this amendment is accepted.

MR. DEPUTY-SPEAKER: The hon. Member's time is up.

SHRI S. M. BANERJEE: Sir, as long as you are in the ruling party you have no clear view about it, but I belong to the Opposition and I may be hauled up tomorrow.

SHRI S. K. TAPURIAH (Pali): He has been gheraoed.

SHRI S. M. BANERJEE: I am used to gheraos. I arrange gheraos. That is not the thing. Then somebody says that I was manhandled. I say, I was given a mandate for handling the Congress properly. That is manhandling.

Then, it says:—

"A copy of an order made under this section shall be served in the manner

provided in the Code of Criminal Procedure, 1898, for the service of a summons, or, where the person to be served is a corporation, company, bank or other association, it shall be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or other association at its registered office".

Now, suppose, my union is registered with the Registrar of Trade Unions who is in Kanpur and I am working in a particular union situated at Bareilly or Dehra Dun. Where will the notice be sent? It will be sent to that office. How am I to know of it?

Then, I have got an all-India association. Shri Joshi and myself are the Vice-President and President of a particular all-India organisation called the All India Defence Employees' Organisation. Its office is at 17 Market Road, Kirkee, Poona-3. The notice will be served there, but we have got our 163 unions throughout the country. Now what will happen?

So, there is no safety. The Home Minister is not here and the Deputy Prime Minister has not read the Bill carefully. He was trying to read it. Who is to answer? We are absolutely left in the lurch.

SHRI MORARJI DESAI: Why do you say that it will not be replied to?

SHRI S. M. BANERJEE: If the Deputy Prime Minister will reply, I shall be very happy because he gives a very straight reply. But the Home Minister is not here, his deputy is not here and the Minister of State is not here. The Law Minister is unable to convince us. I do not know what is going to happen. So, let the Deputy Prime Minister reply at least.

SHRI KRISHNA KUMAR CHATTERJI (Howrah): Sir, it is rather unfortunate that although this Bill was examined fully in the Joint Committee in which some of the hon. Members who are now moving amendments were present, amendments are being now pressed like this I feel that there is some psychology of obstruction prevailing with them. They are entitled to their parliamentary right; I have nothing

[Shri Krishna Kumar Chatterji]

to say about that, but this clause is a logical conclusion of the previous clauses.

If you once accept that a particular organisation has been carrying on certain unlawful activities as incorporated in the Bill, then the question of freezing its money in the bank and elsewhere also comes in. Not only that its account should be freed but also the future amount of money that would be pouring in has to be prevented from being utilised for unlawful purposes. That is why this particular clause is there.

The question of notice or summons also comes in. Suppose, this unlawful assembly members or its executive try to evade the notice or summons. Then there is no alternative left with the Government or any authority whatsoever to adopt some course to be followed. That provision has been incorporated in the Bill and I do not know why these amendments have been moved. I strongly oppose these amendments and I would appeal to the Members not to obstruct, at every stage, this Bill when it has already been examined threadbare in the Joint Committee.

SHRI NAMBIAR : Sir, what Mr. Chatterji has said is absolutely wrong and it is a very bad procedure also. Here, the question of obstruction does not come at all. Even for reading the whole clause 7, it takes 10 minutes. It is such a long clause. It is so badly worded that it requires changes.

SHRI KRISHNA KUMAR CHATTERJI : Why didn't you take it up in the Joint Committee ?

SHRI NAMBIAR : I have given my amendments No. 53, 54 and 55; please go through them.

My submission is that this is a very dangerous clause, as other hon. Members have said. I may just give the gist of this clause. It says that if the Central Government feels that some money of a particular organisation which they have declared illegal is being used for the purpose of an unlawful association, the Government can immediately take possession of that money. What they say is :

"...if the Central Government is satisfied..."

That is all what is required that a particular money is likely to be used for that purpose and they can immediately take it. But that money is in possession of somebody else and that person is not given an opportunity to say that this money is not the money which is intended for that purpose. That is the lacuna there. Even before a person is hanged, he must be given a hearing. Here, instead of giving him a hearing to explain the position, that money is taken

You say :

You say :

"Where an association has been declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section and the Central Government is satisfied, after such inquiry as it may think fit, that any person has custody of any moneys, securities or credits which are being used or are intended to be used for the purpose of the unlawful association, the Central Government may, by order in writing prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with such moneys..."

This is the position. What I say is that it is a wrong method. Whenever the Central Government feels that the money is going to be used or misused, you must give an opportunity to explain. That is why my amendment is :

after 'think fit' insert—

"on hearing the objections raised by the association so declared illegal."

That should be incorporated here. You should give an opportunity to explain and then do it. That is the first part of the clause.

The second part of the clause is still worse. Here, the power is given to the police to go and search any house, anywhere, taking this order as a warrant, and enter into any premises and take the possession of the money. That power of warrant is also given in sub-section (2). It says :

"That Central Government may endorse a copy of the prohibitory order made under sub-section (1) for investigation to any gazetted officer of the Government it may select, and such copy shall be a warrant..."

So, that copy is to be declared as a warrant for this purpose. A fresh warrant need not be issued. These are very peculiar provisions. After all, granting that the money is going to be used for a particular purpose for an association which is declared illegal and the Government wants to take possession of the money, after giving an opportunity to the accused, the officer of the Government who goes there must go with a specific warrant from the Magistrate to take possession of 'X' or 'Y' or 'Z' money. But here, with a prohibitory order saying that this organisation is declared illegal, and that copy is endorsed to any gazetted officer of the Government, any gazetted officer of the Government can get into any premises he likes without any specific warrant from the Magistrate, and that is to be executed as a warrant. The hon. Law Minister has known law for such a long time, for the last 20 to 30 years and he has had the opportunity of taking very important positions. Leave alone the question of opposition from this side. Even in the case of an ordinary law, will he allow such an obnoxious thing to get into the Statute Book? This is very strange. Therefore, this has to be changed. After all, the dog is given a bad name and you are going to hang it. I do not mind your declaring a party as illegal, you may do whatever you like, but there must be a certain etiquette, certain procedure, certain civilised behaviour. Even that, is not there. Even without a specific warrant, the officer can go and search the premises. This is absolutely wrong. This has to be changed.

Finally, I want to say one more thing. Initially the person is not given an authority or opportunity to say that this money is not that money which is used for something else; that is not given. Finally when the money is taken, when the premises are searched, when the officer even without a warrant has gone in and played havoc, afterwards, the person is given an opportunity to go and tell the court that it is his money and it is not used for that purpose. That opportunity will be given afterwards. How can he do it? All the money, papers and everything are taken away and how can he prove? For instance, 'X' has got Rs. 10,000 in some bank and somebody comes and says that this 'X' is connected with an organisation which is declared

illegal; the Government gets some suspicion and the Government takes the money. This person afterwards is given an opportunity to go to a district court and say that this money has nothing to do with that. How can he prove that this money has nothing to do with the illegal organisation? That cannot be proved. He can only prove that this money is his own money; he got the money by selling goods or as profit from some business and that this money is his own money. How can he prove that this money is not connected with that? The onus of proving this is on the accused; he has to disprove that this money is used for that purpose. This is something very strange.

I find that the whole wording of Clause 7 is topsy-turvy, is wrong and is without any sense of justice, any sense of civilisation, any sense of even a democratic symptom in it. Leave alone the question of notice to be given, which Mr. Fernandes mentioned and with which I agree. What I want is that these points must be clarified and they should see that whatever amendments are required for this purpose, those amendments should be accepted; they can accept our amendments. Of course, there is no sanctity that our own amendments should be accepted. Whatever amendments are necessary to see that this minimum is guaranteed, may be accepted. This is my request. Otherwise, people will laugh at this legislation and will say that this is ridiculous and is so badly worded.

SHRI D. C. SHARMA (Gurdaspur) : I have supported my hon. friends on the other side on certain things. But I must submit very respectfully that so far as Clause 7 is concerned, it is a self-healing clause; it is a clause which carries its own remedy in its body. It is a clause that need not be taken in the sense in which my hon. friend, Mr. Banerjee, has taken it or in which my hon. friend, Mr. Nambiar, has taken it. After all, what does it say? If a man has some money and is going to use it or he intends to use it for an unlawful purpose, he will be caught. I think, that provision has already been accepted. My friend has not read sub-section (4) of Clause 7. I wish he had read the sub-section (4). If he had read it, he would not have called it topsy-turvy, wrong, this and that. He would have said that the malady has also its own cure. This malady

[Shri D. C. Sharma]

also provides for justice. This clause also has a built in provision that :

"Any person aggrieved by a prohibitory order made under sub-section (1) may, within fifteen days from the date of the service of such order, make an application to the Court of the District Judge within the local limits of whose jurisdiction such person voluntarily resides or carries on business or personally works for gain, to establish..." etc.

So he can go to the District Judge.

SHRI NAMBIAR : How is he to establish ?

SHRI D. C. SHARMA : Do you mean to say that the District Judges have no eyes, have no ears, have no sense of justice, have no knowledge of jurisprudence, have no knowledge of democratic values, and have no proficiency in the field of jurisprudence ? I do not think that our District Judges are so incompetent as you have put it. You can go to the District Judge and establish that the monies in respect of which the prohibitory order has been served are not being used or are not intended to be used for the purpose of the unlawful association and the District Judge will judge. The whole thing is there. I think that my friends are unnecessarily excited over this section. I believe Sub-section (4) in Clause 7 contains the remedy they want. It gives them the kind of 'Amrit Dhara' they want, it gives them the kind of 'Oushadi' they want. They should not feel so much excited about it and I feel that the Government of India as also the Joint Select Committee have acted in conformity with the democratic thinking and procedures of this country by having this clause (4) put in this section.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : Without excitement I am going to say only one thing. Here it is said 'If the Central Government as satisfied, after such inquiry as it may think fit etc.' If this inquiry includes giving an opportunity to the person concerned to explain before any order is made against him, it would satisfy us to some extent. Will the hon. Home Minister be able to say it, Sir ?

SHRI Y. B. CHAVAN : Naturally, when an inquiry is whether the money which a certain person, say 'X' has, is being used, naturally the inquiry will include his statement.

SHRI TENNETI VISWANATHAM : The point is : the person against whom or the Association against which an order is going to be made should be given a reasonable opportunity to explain before an order is passed. If that assurance is given, it will go a long way to meet the objection and if that can be done, an amendment like that can be included here.

SHRI Y. B. CHAVAN : When it is said, 'after such inquiry as it may think fit', certainly that point is taken care of. It is a question about the procedure. But when it is an inquiry, naturally the inquiry will give an opportunity to the person concerned to explain his position regarding the money.

SHRI TENNETI VISWANATHAM : After that assurance, this inquiry will include an opportunity being given.

SHRI Y. B. CHAVAN : If you see clause (4) there the person concerned has got a right to go to the District Judge.

SHRI TENNETI VISWANATHAM : Generally, no man is hanged without being given an opportunity of being heard in the first instance. Going to the High Court after the sentence of hanging is different, but he is given also, prior to the sentence, an opportunity to explain.

SHRI Y. B. CHAVAN : That is what I said, an inquiry will be done.

SHRI TENNETI VISWANATHAM : I am glad that an inquiry will include this. The Home Minister has said that it certainly includes an opportunity to the person concerned. That will go a long way to allay the suspicion.

15 Hrs.

The phrase 'touching the origin of any dealing in any moneys' is somewhat difficult to understand. I wish the Home Minister explains that phrase. We do not know the scope of such inquiry, what kind of inquisitorial proceedings will be held and so on. Government must be satisfied about

only one thing, namely that when an association is declared unlawful, it should not be given the opportunity of using its funds for any unlawful purpose. But to go further than that and find out the origin of those moneys, where the money has come from, through how many hands it has changed, for what purpose it came, through what route and so on would cause only an inquisition and may, not lead to any concrete result ultimately. Government should be satisfied with seeing that once an association is declared unlawful, the funds belonging to it shall not be used for and unlawful purpose. If that is all that is intended, then he can say it and then we shall try to understand the entire clause in the light of that.

SHRI RANDHIR SINGH : You may recollect that the provision in clause 7(4) is analogous to section 47 of the CPC. You may further recollect that order 21 and rules 91—96 of the CPC are very relevant here. If anybody is aggrieved by an attachment order under the CPC, whether it be a tenant or anybody else, the remedy is provided under section 47 of the CPC, and he can go to the sub-judge or district judge or whoever else is there. I cannot appreciate why my hon. friends are taking objection to that. This is something very advantageous to the aggrieved party. The district judge is open to conviction, and, therefore, the aggrieved party can prove that it is his property which is attached or in respect of which a prohibitory order has been issued and it has nothing to do with the object of the attachment and that is not being used for the purpose in respect of which it is attached. I would submit that this is something which is justiciable and it is something which goes to the benefit of the aggrieved party. I do not know why they want that it should be deleted and it should not be there. If any amendment is made in this regard, and if they want any modification in this, that will go to the detriment of the aggrieved people. Therefore, I feel that whatever provision is there is complete and full and should not be deleted lest it might go to the detriment of the aggrieved party. Therefore, the present provision should continue.

SHRI NAMBIAR : He did not ask for the deletion of.

SHRI RANDHIR SINGH : Perhaps, the hon. Member did not catch it.

SHRI Y. B. CHAVAN : I would like to make one thing clear in regard to what Shri Tenneti Viswanatham has raised, because I do not want to keep any vagueness in this matter. Let us see how exactly the whole thing will function. Once it is known that certain amounts or certain accounts are being utilised by an unlawful association, naturally they will have to make an inquiry. But, first of all, they will have to issue a prohibitory order. That will have to precede all the inquiries. The inquiries will follow later on. What is the use of issuing a prohibitory order if the money is already made use of or is transferred or spent? Then, the very purpose of the order will be defeated.

I would like to make it clear that the order of prohibition on the use of the money will be made first of all. Then, the person concerned has remedies open to him. He can go to the district judge and get the order cancelled if he wants to get that done. Once we accept the position that the decision of the tribunal that an association is unlawful is a just or correct decision, then all other things must follow. Once we say that an unlawful association is using certain funds for unlawful purposes, even then if it is to be made easy for them to make use of the money, that really speaking is the complete antithesis of the Bill itself, and, therefore, I am sorry I cannot accept it.

Then, I come to the phrase 'intended to be used'. What is the use of prohibiting the use of money which is already used? If we have information that certain money are intended to be made use of, then we have to prohibit it. Otherwise, it becomes meaningless. Therefore, I cannot accept Shri George Fernandes's amendment.

Then, a question was raised in regard to the serving of notice. I think that this question was discussed when we discussed the other clause. These are the most accepted forms of serving notice. Otherwise, it can never be served. These are the only accepted methods of serving of notice. I do not think I can find any other alternative.

MR. DEPUTY-SPEAKER : Shall I put all the amendments together to the vote of the House ?

SOME HON. MEMBERS : Yes.

SHRI NAMBIAR : What is the use ? They are not even prepared to issue a fresh warrant. Why do they want to say that this very order is the warrant itself ? Let there be a fresh warrant issued in which at least they can specify the details, place and other things.

SHRI Y. B. CHAVAN : All these difficulties arise out of the fact that he is not reconciled to the very concept of the Bill.

MR. DEPUTY-SPEAKER : I shall now put amendments Nos. 10—13, 53—55, and 99 to the vote of the House.

Amendments Nos. 10 to 13, 53, 54, 55 & 99 were then put and negatived.

MR. DEPUTY-SPEAKER : The question is :

"That clause 7 stand part of the Bill."

The Lok Sabha divided :

Division No. 29]

[15.12 HRS.

AYES

Agadi, Shri S. A.
Ahirwar, Shri Nathu Ram
Aga, Shri Ahmad
Arumugam, Shri R. S.
Babunath Singh, Shri
Bajpai, Shri Shashibhushan
Barua, Shri Bedabrata
Barua, Shri R.
Barupal, Shri P. L.
Baswant, Shri
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhanu Prakash Singh, Shri
Bhattacharyya, Shri C. K.
Bhola Nath, Shri
Bohra, Shri Onkarlal
Bose, Shri Amiyannath
Chanda, Shrimati Jyotsna
Chandrika Prasad, Shri
Chatterji, Shri Krishna Kumar
Chaturvedi, Shri R. L.
Chaudhary, Shri Nitiraj Singh
Chavan, Shri D. R.
Chavan, Shri Y. B.
Choudhury, Shri J. K.
Dasappa, Shri Tulsidas
Dass, Shri C.
Desai, Shri Morarji
Deshmukh, Shri B. D.
Deshmukh, Shri K. G.
Dhillon, Shri G. S.
Dinesh Singh, Shri
Dixit, Shri G. C.

Gajraj Singh Rao, Shri
Ganesh, Shri K. R.
Gavit, Shri Tukaram
Ghosh, Shri Parimal
Gupta, Shri Lakhan Lal
Himatsingka, Shri
Jadhav, Shri Tulshidas
Jadhav, Shri V. N.
Jaggiwan Ram, Shri
Kasture, Shri A. S.
Kavade, Shri B. R.
Kedaria, Shri C. M.
Krishna, Shri M. R.
Kureel, Shri B. N.
Kushok Bakula, Shri
Lalit Sen, Shri
Laskar, Shri N. R.
Laxmi Bai, Shrimati
Mahadeva Prasad, Dr.
Mahajan, Shri Vikram Chand
Mahida, Shri Narendra Singh
Malhotra, Shri Inderjit
Malimariyappa, Shri
Mandal, Dr. P.
Marandi, Shri
Mehta, Shri P. M.
Menon, Shri Govinda
Mishra, Shri Bibhuti
Mishra, Shri G. S.
Mohinder Kaur, Shrimati
Mondal, Shri J. K.
Mrityunjay Prasad, Shri
Murthi, Shri B. S.

Naghnoor, Shri M. N.
Nahata, Shri Amrit
Narayanan, Shri
Nayar, Dr. Sushila
Oraon, Shri Kartik
Pandey, Shri K. N.
Pant, Shri K. C.
Parmar, Shri Bhaljibhai
Partap Singh, Shri
Parthasarathy, Shri
Patil, Shri S. B.
Patil, Shri S. D.
Poonacha, Shri C. M.
Pramanik, Shri J. N.
Radhabai, Shrimati B.
Raj Deo Singh, Shri
Rajasekharan, Shri
Raju, Shri D. B.
Ram, Shri T.
Ram Kishan, Shri
Ram Sewak, Shri
Ram Subhag Singh, Dr.
Ram Swartup, Shri
Rana, Shri M. B.
Randhir Singh, Shri
Rane, Shri
Rao, Shri J. Ramapathi
Rao, Shri Rameshwar
Rao, Shri Thirumala
Rao, Dr. V. K. R. V.
Reddy, Shri P. Antony
Reddy, Shri Surendar
Rohatgi, Shrimati Sushila

Roy, Shrimati Uma
Saha, Dr. S. K.
Saigal, Shri A. S.
Sambasivam, Shri
Sapre, Shrimati Tara
Sarma, Shri A. T.
Sayyad, Ali, Shri
Sen, Shri Dwaipayan
Sen, Shri P. G.
Sethi, Shri P. C.
Shah, Shrimati Jayaben
Shah, Shri Shantilal
Shambhu Nath, Shri
Shankaranand, Shri
Sharma, Shri D. C.
Sharma, Shri M. R.
Shashi Ranjan, Shri
Sheo Narain, Shri
Shined, Shri Annasahib
Shiv Chandika Prasad, Shri
Siddayya, Shri
Singh, Shri D. N.
Sonar, Dr. A. G.
Sonavane, Shri
Supakar, Shri Sradhakar
Sursingh, Shri
Suryanarayana, Shri K.
Tarodekar, Shri V. B.
Tiwary, Shri K. N.
Uikey, Shri M. G.
Venkatasubbaiah, Shri P.
Virbhadra Singh, Shri
Vyas, Shri Ramesh Chandra

NOES

Adichan, Shri P. C.
Amin, Shri Ramchandra J.
Banerjee, Shri S. M.
Basu, Shri Jyotirmoy
Bhagaban Das, Shri
Bharti, Shri Maharaj Singh
Chakrapani, Shri C. K.
Dhandapani, Shri
Esthose, Shri P. P.
Fernandes, Shri George
Gajraj Singh Rao, Shri
Gounder, Shri Muthu
Gowder, Shri Nanja
Gupta, Shri Indrajit
Jha, Shri S. C.

Joshi, Shri Jagannath Rao
Joshi, Shri S. M.
Kalita, Shri Dhireswar
Kameshwar Singh, Shri
Khan, Shri H. Ajmal
Khan, Shri Ghayoor Ali
Khan, Shri Latafat Ali
Krishnamoorthi, Shri V.
Mangalathumadom, Shri
Meetha Lal, Shri
Meghachandra, Shri M.
Menon, Shri Vishwanatha
Misra, Shri Srinibas
Modak, Shri B. K.
Mody, Shri Piloo

Molahu Prasad, Shri
Mukerjee, Shri H. N.
Naik, Shri G. C.
Naik, Shri R. V.
Nair, Shri N. Sreekantan
Nambiar, Shri
Nihal Singt, Shri
Paswan, Shri Kedar
Patil, Shri N. R.
Ramamoorthy, Shri S. P.

Ramamurti, Shri P.
Rao, Shri V. Narasimha
Saminathan, Shri
Satya Narain Singh, Shri
Sequeira, Shri
Sezhiyan, Shri
Sharma, Shri Yogendra
Suraj Bhan, Shri
Thakur, Shri Gunanand
Viswanatham, Shri Tenneti

MR. DEPUTY-SPEAKER : The result* of the division is Ayes : 131; Noes : 50;

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8—(Power to notify places used for purpose of an unlawful association)

SHRI GEORGE FERNANDES :

Page 7,—

omit lines 9 to 23 (14)

Pages 7, lines 27 and 28,—

omit "and may detain any such person for the purpose of searching him" (15)

Page 7,—

omit lines 31 to 35 (16)

Page 7, lines 37 and 38,—

omit "or by an order made under sub-section (3) or sub-section (4)" (17)

Page 7, lines 38 and 39,—

omit "or order, as the case may be" (18)

Page 8,—

omit lines 5 and 6 (19)

SHRI NAMBIAR : I beg to move :

Page 7,—

omit lines 24 to 35 : (56)

SHRI P. RAMAMURTI : I beg to move :

Pages 6 to 8,—

for clause 8, substitute—

"8. Where an association has been declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section, the Central Govern-

ment shall make an application; to declared any place which in its opinion is used for the purpose of unlawful activities, to the Court of the District Judge of local limits in whose jurisdiction the place is situated and on receipt of the application the Court of the District Judge shall, after giving the parties an opportunity of being heard, decide the question." (100)

SHRI N. SREEKANTAN NAIR (Quilon) : I beg to move :
Page 7, line 7,—

for "trivial" substitute "utilitarian" (101)

श्री जार्ज फरनेन्डीज : अध्यक्ष महोदय, मेरी जो तरमीमें हैं उस में पहले दो तरमीमें महत्व की हैं और उस के आगे की जो हैं कांसीक्वेंसियल प्रमॉडमेंट है। सब-क्लाज 3, 4 और 5 को पूरा हटा दिया जाय यह मेरी पहली तरमीम है। इस में 3 को अगर आप पढ़ेंगे वह इस प्रकार है :

"if in the opinion of the District Magistrate, any articles specified in the list are or may be used for the purpose of the unlawful association, he may make an order prohibiting any person from using the articles save in accordance with the written order of the District Magistrate."

अब यह जो 2 नम्बर सब-क्लाज में सूची बनाने का अधिकार डिस्ट्रिक्ट मजिस्ट्रेट को दिया है और 3 नम्बर में कुछ धरेल चीजों

*The following Members also recorded their votes :

Ayes : Sarvashri N. Sethuramae, Chengalraya Naidu, Bhagwat Jha Azad, Shrimati Savitri Shyam and Shrimati Sharda Mukerjee.

Noes : Sarvashri Mohammad Ismail, Ranjit Singh and Shri Chand Goel.

को छोड़ कर बाकी तमाम चीजों के इस्तेमाल पर बन्धन लगाया जा रहा है, हम चाहते हैं कि सरकार जरा इस के मतलब को अच्छे ढंग से समझे। सरकारी दल में बैठने वालों को और हम सभी को यह अनुभव है कि जो सार्वजनिक संस्थाएँ हैं हिन्दुस्तान में राजनैतिक अथवा मजदूरों की अथवा दूसरे किसी भी प्रकार की सार्वजनिक संस्थाएँ, वह ज्यादातर बहुत ही लाचारी और गरीबी की हालत में काम करती हैं। मजदूरों का अगर एक संगठन हो तो एक ही संगठन अपने लिए दफ्तर ज्यादातर नहीं चला पाता है। आठ दस बारह यूनियनों एक जगह पर अपना दफ्तर चलाती हैं। किसी मजदूर संगठन के दफ्तर में किसी पार्टी या किसी दल का दफ्तर रहता है। एक टाइपराइटर, एक माइक्रोस्टाईलिंग मशीन, एक टेलीफोन, इन का इस्तेमाल कई संगठन करते रहते हैं। जब मैजिस्ट्रेट की ओर से यह हुक्म होगा कि घरेलू चीजों को छोड़ कर और तमाम चीजों के ऊपर हम बन्धन लगाएंगे, उन के इस्तेमाल पर तो जिन संगठनों का गैर-कानूनी कामों से कोई भी सम्बन्ध नहीं रहा उन को भी तकलीफ़ में और अड़चन में डालने का काम इस विधेयक के जरिए हो जायगा। इस तरीके से हो जायगा कि किसी अमुक संगठन की जानकारी न रहते हुए उसी दफ्तर में चलाया जाने वाला दूसरा संगठन गैर-कानूनी कामों को कर रहा था जिस के ऊपर आप बन्धन लगा रहे हैं और वह संगठन इस पहले वाले संगठन के किसी भी सामान का इस्तेमाल कर रहा था, उस को यह न जानते हुए कि यह गैर-कानूनी कामों में फँसा हुआ है, तो आप पहले संगठन के कामकाज के लिए भी कुछ अरसे के लिए ही क्यों न हो मगर बन्धन लगाने का काम जरूर करने वाले हैं। इस मुल्क की गरीबी और लाचारी को ख्याल में रख कर, हमारे संगठनों को आज जिस परिस्थिति में काम करना पड़ना है अपनी गरीबी को वजह से, दूसरे किसी कारण से नहीं, उस को ख्याल में रख कर

में गृह मंत्री से यह निवेदन करना चाहूंगा कि ऐसा कोई भी कदम वह न उठाए कि जिससे जो बेगुनाहगर व्यक्ति है अथवा संस्था है उस को भी वह कानून पास होने के बाद तकलीफ़ में डाला जाये।

आगे का जो है नम्बर 4 वह इस प्रकार है :

"The District Magistrate may thereupon make an order that no person who at the date of the notification was not a resident in the notified place shall, without the permission of the District Magistrate enter, or be on or in, the notified place: provided that nothing in this sub-section shall apply to any near relative of any person who was a resident in the notified place at the date of the notification."

इस बात को लिखते हुए गृह मंत्री जी एक चीज को तो मंजूर कर रहे हैं कि जो हमारे संगठन हैं यह तो ऐसी जगहों पर भी अपने छोटेमोटे दफ्तरों को चलाते हैं जहां लोग रहते हैं। मैं तो बम्बई के कई उदाहरण दे सकता हूँ कि जहां किसी व्यक्ति के घर में या कोई दफ्तर में काम करने वाला मजदूर है उस के घर में उस के संगठन का दफ्तर, उसकी पार्टी का दफ्तर या दूसरी जो भी संस्थाएँ हैं उन के चलाने का काम होता है। वह प्राबिन्धो यहां पर लिखते हुए गृह मंत्री ने इस चीज को कबूल भी किया है कि यह असलियत है और इस असलियत को आप मानते हैं। फिर जब आप यह कह रहे हैं कि डिस्ट्रिक्ट मैजिस्ट्रेट की इजाजत के बिना कोई भी व्यक्ति वहां पर नहीं जा पायेगा तो मैं एक दो चीजें आप के सामने रखना चाहूंगा कि अगर वह किसी का भी मकान हो तो आप उन लोगों के जीवन पर बन्धन लगाना चाहते हैं। सरकार इस चीज के बारे में जरा सोचे कि इस किस्म का बन्धन लगाना कहां तक मुनासिब है? आप का रिश्तेदार तो आ सकेगा लेकिन उस रिश्तेदार के भी आने पर अगले कदम में जो दिक्कत निर्माण कर

[श्री जार्ज फरनेन्गी]

दी कि कोई पुलिस वाला उस को सर्च करे, उस को रोके जाने से, तो यह जो इकावट डाली जा रही है, एक तो इस चीज के बारे में जरा सोचें और दूसरे, वह जो मुद्दा मैं ने पहले कहा था कि मान लीजिए दस संगठन चलते हों, एक संगठन को अवैध घोषित किया हो तो दूसरे संगठन के सदस्यों के वहाँ जाने में जो दिक्कत आने वाली है, उस के बारे में सोचें। जिस को आप ने गैर-कानूनी संगठन घोषित किया है उस से कोई भी रिश्ता न रहे यहाँ तक तो ठीक हो सकता है। लेकिन वह जो दूसरे संगठन उसी दफ्तर में चलने वाले हैं, उन के आदान-प्रदान को उन के व्यवहार को अड़चन में डालने वाली बात इस क्लॉज के द्वारा कर रहे हैं। इस को भी आप को सोचना चाहिए।

इस के बाद नम्बर 6 सब-क्लॉज में मैंने यह कहा है—

"in the notified place and may detain any such person for the purpose of searching him :"

इस को हटा दिया जाय। इस का मतलब है, अगर कोई व्यक्ति उस मकान में जाना चाहे तो पुलिस को अधिकार होगा कि उस को रोके और उस की जांच कर ले। उस की जब मैं या उस के साथ मैं उस के पूरे शरीर में कोई चीज मिलेगी तो उस को रोकने और उस की तत्काल जांच करने का अधिकार पुलिस को दिया गया है। लेकिन यह डीटेन जो करेंगे वह कितने समय के लिये कर सकेंगे? कहां डिटेंन करेंगे इस का कोई खुलासा नहीं है। इसलिए इस का कितना गलत इस्तेमाल हो सकता है, इस का क्लॉज आप कीजिए। कोई भी रिश्तेदार या घर का आदमी मिलने को जाता है, पति हो सकता है, पत्नी मिलने को जा सकती है या किसी का बूढ़ा बाप या मां मिलने जा रही है और मामूली पुलिस अधिकारी वहां खड़ा हो कर उन लोगों को जो बिल्कुल बेगुनाहगार हैं, उन के जीवन को कितने

अड़चन में डाल सकता है, जरा इस के बारे में भी सोचें। इसलिए मैं तो गृह मंत्री जी से यह निवेदन करूंगा कि जब आप ने सर्च करने का अधिकार पुलिस अफसर को दिया तो यह मामला वहां पर रुक जाना चाहिए। लेकिन आगे भी उस को डीटेन करेंगे और कहां करेंगे, कब तक करेंगे, कैसे किस जगह करेंगे इस के बारे में भी आप ने कोई खुलासा नहीं किया है। इसलिए यह जो डीटेन करने का अधिकार दिया जा रहा है उसको हटा देना चाहिए। ये जो अधिकार आप देने जा रहे हैं, इनको हटा देना चाहिये। ये दोनों बुनियादी तर्कों में आपको मंजूर कर लेनी चाहिये, तीसरी जो है वह कम्प्लीकेशन है। गृह मंत्री जी ने प्रथा पर पेश की है, अभी तक किसी भी अमेन्डमेंट को नहीं माना है, मुझे उम्मीद है कि कम से कम ये इन संशोधनों को जरूर कुबूल कर लेंगे।

SHRI N. SREEKANTAN NAIR : While supporting the other amendments moved from this side, I would like to plead for the acceptance of a very small amendment No. 101. Knowing the attitude of the Government towards our amendments, I thought they might accept at least something of a trivial nature. My amendment No. 101 seeks to substitute the word 'trivial' in sub-clause (2) by the word 'utilitarian'. Even cattle and other things are considered to be sacred by Jan Sanghis and many other people. Can you call it a trivial thing?

AN. HON. MEMBER : What about you?

SHRI N. SREEKANTAN NAIR : I do not consider the cow as sacred. That is something which I would like to have as a dish.

So, instead of saying things of a trivial nature, I want it to be substituted by "things of a utilitarian nature". I was having the same thought as Mr. Fernandes had. We have got several trade unions in the same building. There is the same typewriter and same typist used by all the trade unions. These are utilitarian things which should not be tampered with in the interest especially of the modern life where the same building houses so many organisations

and institutious and so many people. Any search itself is obnoxious. At the same time, such articles of use should not be tampered with.

15.23 Hrs.

[SHRI G. S. DHILLON *in the Chair*]

SHRI NAMBIAR : Apart from the facts narrated by Mr. Fernandes, I ask if sub-clauses (6) and (7) are removed from clause 8, what is going to be the harm? Sub-clause (6) says :

"Any police officer not below the rank of a sub-inspector or any other person authorised in this behalf by the Central Government may search any person entering, or seeking to enter, or being on or in, the notified place and may detain any such person for the purpose of searching him;"

The scheme is this. A party is declared illegal. It has got some building as its headquarters. That place is kept under police control. Certain inmates living there are allowed to go and come; otherwise nobody can enter it. If anybody other than the authorised person seeks to get in, he will be subjected to police search and detention.

SHRI Y. B. CHAVAN : Not detention.

SHRI NAMBIAR : He will be detained for the purpose of searching him. You put him in the lock-up for interrogation. Searching can be in the police lock-up also. When police use the word 'interrogation', it means upto killing anything can be done. After killing they will say, it is an accidental death. After all, an organisation may be big, but its office may not be big like the Parliament House; it may be a small one. Some may be living there and some may not be living there. The moment it is declared illegal, it will be like a ghosthouse and everybody will run away from it. Why do you want to give another handle to the police officers to torture, and tease anybody who goes there?

This is something that is unwarranted, something that is unnecessary here. After

all, if you read the whole clause 8 without these sub-clauses (6) and (7) it reads well. I quite understand the Home Minister's feeling, but what I would suggest to him is, please do not do a thing with a feeling of poison or a feeling of venom. You do your job without that feeling. You have to do your job and I have also to do my job. My job is to shout and your job is to deny what I ask for. That is something different, but a provision like this looks very harmful. Anybody may come to a house or go from that house. That person who comes or who goes out on his own work should not be teased. My amendment, therefore, is a simple one, and that is to delete lines 24 to 35 and by that sub-sections (6) and (7) go. Then you will have to re-number the lines which we can do. Otherwise, it has got to go to Rajya Sabha and then come back here. There will be no difficulty of its coming back here if you accept this here and now and then send it to Rajya Sabha. Let us not have so much of this police, police to search, police to detain, police to do other things, all added on to a legislation like this.

SHRI D. C. SHARMA : Mr. Chairman, Sir, I am amazed at what has been said this afternoon by hon. Members of the Opposition. One hon. Member of the Opposition has taken exception to sub-sections (3), (4) and (5) and another hon. Member has blessed those very sub-sections.

SHRI NAMBIAR : I did not bless, I supported him.

SHRI D. C. SHARMA : But he has taken exception to sub-section (6) and (7).

SHRI NAMBIAR : In particular.

SHRI D. C. SHARMA : Another hon. Member of the Opposition has said that we should not use the word 'trivial' but we should use the word 'utilitarian'. I agree with his entirely. The word 'trivial' says that it is of the trivial nature, it is a trivial Bill, a trivial postulate. Therefore, I think the word 'trivial' should be changed to the word 'utilitarian'.

But I cannot understand these good friends who are today taking exception to these powers being given to the police. On the floor of this very House they have been

[Shri D. C. Sharma]

pleading the cause of the police. They have been saying that the Union Government has not been dealing fairly with the police; the police, are honourable persons, they should be given housing, their children should be given free education and all that. They have been standing for the police as I also have been standing for the police. But today the weather being cloudy their minds are clouded and I think they are now saying something against the police. I think this is something which is happening everyday in life all over the world except in those countries which do not follow a democratic policy, a democratic procedure. Therefore, the policemen who are our own people should not be looked upon with so much suspicion as they are doing.

In this Bill provision has been made that you can go to a District Magistrate and prefer an appeal to him. Therefore, if the sub-inspector of police behaves in a high-handed way there is a loop-hole in this very clause to off-set his high handedness.

My hon. friend, Shri Fernandes has been saying that one building may be utilised by two or three labour unions or by two or three organisations. My very good friend is arguing about a hypothetical case.

SHRI N. SREEKANTAN NAIR : It is a real thing.

SHRI D. C. SHARMA : It is a hypothetical case. If a union is getting money for disrupting this country, if an organisation is getting money for sabotaging the unity of this country, if an organisation is getting funds from some other country in order that the unity of the country may be subverted, do you mean to say that they will have a small office, to which a reference was made by Shri George Fernandes? Certainly, they will have a very big office to prove their *bona fides*, to prove that they are acting in broad daylight. Nobody is going to catch the secretaries of those unions which are so poor, as poor as church mice, which cannot afford to have even an office of their own. Nobody is going to do it. Therefore, I think my hon. friend, Shri George Fernandes and my hon. friend, Shri Nambiar, have fears which are unfounded.

I think in this Bill nothing has been done which is not already there now in the Indian Penal Code. In this clause nothing extra has been said, which is not said already in the IPC. Therefore, I say, they should not make much ado about nothing. They should not talk of an imaginary office, imaginary buildings, imaginary relatives coming and going, imaginary friends entering in and going out and their being searched. But, then, why should they protect those persons who want to subvert the unity of India? We should not give them any concession which they are normally entitled to, on account of their unlawful activity. I do not think any union that undertakes any lawful activity will be penalised on account of this clause. Therefore, I say that this clause should be accepted by my hon. friends, as it is.

SHRI Y. B. CHAVAN : I think most of the objections of the hon. Members arise from the fact of their having not reconciled to the basic idea of declaring any association an unlawful association. Once we accept this fact that because of certain anti-national activities certain association has to be declared unlawful; once we accept that, and once government accept it as a responsibility, all other powers must automatically flow from that position.

Now, the hon. Member, Shri George Fernandes, mentioned some of the difficulties of small unions etc. I think he is rather imagining things. It is unnecessary to bring in such small things. The idea is not to harass any genuine trade unions. There is no doubt about it. Why should he have any apprehension I do not imagine any of his organisations can be thought of as indulging in anti-national activities and, therefore, unlawful. The idea is not to do that. But once we accept that a certain association is functioning as an unlawful association, then we must take into account all the techniques of underground activities and my hon. friends, Shri Nambiar and Shri Sreekantan Nair would agree with me that all those steps would have to be taken.

Here I may say, for example, that sometimes they are trying to misread the clause. Here the term is "detention for the purpose of searching him". The word "detention" has unfortunately some association because

of the Preventive Detention Act. That detention follows arrest. In this case, arrest is not contemplated. Here detention is stopping him, making him stop, so that he can be properly searched. Otherwise, stopping a person can also be an offence under the Indian Penal Code.

Therefore what really speaking is being conveyed is that stopping any person, that is, detaining a certain person for a certain time, for carrying out the search will not be an offence.

AN. HON. MEMBER : How long ?

SHRI Y. B. CHAVAN : Till the search is over.

SHRI DHIRESWAR KALITA (Gauhati) : Then it may mean many days.

SHRI Y. B. CHAVAN : It cannot be. Then certainly he has the remedy to go to court and it would absolutely be an offence under the ordinary law of the land... (Interruption).

If it is the question of searching a female, naturally she would not like and she should not be searched on the open road; possibly, she may be requested to go somewhere where she can be searched by another female person in a proper place.

So, detention does not mean that he is going to be arrested and put in jail. Please do not misread the English language.

SHRI K. LAKKAPPA (Tumkur) : He has to commit another offence, wrongful confinement.

SHRI Y. B. CHAVAN : Otherwise it will become wrongly confinement.

SHRI K. LAKKAPPA : When he is going to detain him, that officer will commit an offence falling under wrongful confinement under the Indian Penal Code. Therefore he has to commit another offence and he has to file a case against him.

SHRI Y. B. CHAVAN : Unfortunately, he has not understood me nor the Bill. What can I do about it ?

The other amendment, which Shri Sreekantan Nair says is a very trivial amendment, is a most clever amendment, if I may say so. He says that the word 'trivial' should be replaced by 'utilitarian', that is, utilitarian for the unlawful association.

SHRI TENNETI VISWANATHAM : Wearing apparel, cooking vessels, beds and beddings.

SHRI Y. B. CHAVAN : That is mentioned there.

SHRI N. SREEKANTAN NAIR : They are all trivial.

SHRI Y. B. CHAVAN : Beddings, tools of artisans, implements of husbandry, cattle, grain and food-stuffs and such other articles as he considers to be of a trivial nature—that is mentioned there. But he mentioned, for example, telephone and typewriter. These are certainly the most important articles which could be made use of for unlawful activities.

SHRI TENNETI VISWANATHAM : Is a typewriter such a dangerous weapon ?

SHRI NAMBIAR : Is it not possible to purchase a typewriter anywhere ?

SHRI Y. B. CHAVAN : A fountain pen does not matter because it is a trivial thing but a telephone is not.

श्री अटल बिहारी वाजपेयी : अगर टाइप-वियल नेचर की जगह पर्सनल यूज कर दिया जाय तो आपको आपत्ति होगी ?

श्री यशवन्तराव चव्हाण : अब पर्सनल यूज में टाइपराइटर हो सकता है ।

It is rather a very difficult thing. That is why we have rather knowingly put the words 'of a trivial nature'.

SHRI INDRAJIT GUPTA (Alipore) : What about the furniture ? Take away all the office furniture. Is that for underground purposes ? Chairs, tables, everything is for underground purposes ?

SHRI Y. B. CHAVAN : If it is of a trivial nature, it is exempted. That is why we have left it for the interpretation of the person who passes the order.

Some other hon. Members suggested that sub-clauses (6) and (7) should be dropped. That was said I think, by Shri Nambiar. If I take away those two clauses, it will really speaking be taking away the teeth of the Act itself. I do not

[Shri Y. B. Chavan]

want to make it a toothless Act. I want it to be an effective Act, if the Act is to be accepted, I say that it is a drastic measure but it is a drastic measure for a drastic situation.

SHRI NAMBIAR : I think, the hon. Minister should understand what I said. What I said was that you have declared some party as illegal, you have taken possession of the house, you have taken possession of the property, money and everything and you have notified as to who can live in that particular house. Now, somebody may be going to that house to visit the remaining persons. You say that those persons must be searched and the police must have the powers to search them. I say that that need not be there. Is that the teeth of the whole Bill? I do not know what else I can speak to make you understand.

SHRI Y. B. CHAVAN : I have some personal experience of underground activity. . . . (Interruption). That is a known thing; I am not bring in a novel thing. It is a fact of life. What we have said is that members of the family or near relatives who normally reside in that house can reside. but if anybody who is not in normal residence of that house, after knowing that the place is declared as an unlawful place, wants to go he must have the intention of doing certain unlawful activity.

SHRI P. RAMAMURTI : I cannot understand. You say, you have underground experience. . .

SHRI Y. B. CHAVAN : I have not come to that.

SHRI P. RAMAMURTI : If the place is declared unlawful, if anyone wants, he will find some other place.

SHRI Y. B. CHAVAN : If nobody is going there, why have you got any difficulty?

SHRI NAMBIAR : Some relatives may go; the milkman may go. . . .

SHRI Y. B. CHAVAN : The near relatives are exempted. This point was gone into in more details in the Joint Committee. The normal residents of the house and the near relatives are exempted. If

other people are likely to go, then, certainly, one will have to be very careful about it as to why they are going there. It is not that any of the milk vendors will be suspected. But, certainly, such milk vendors and other people who are made use of will have to be very carefully watched.

MR. CHAIRMAN : I will first put amendments Nos. 14 to 19 moved by Shri George Fernandes.

Amendments Nos. 14 to 19 were put and negatived.

MR. CHAIRMAN : Then, Amendment No. 56 moved by Shri Nambiar.

Amendment No. 56 was put and negatived.

MR. CHAIRMAN : Now, Amendment No. 100 moved by Shri Ramamurti and others.

Amendment No. 100 was put and negatived.

MR. CHAIRMAN : I will not put Amendment No. 101 moved by Shri Sree-kantan Nair.

Amendment No. 101 was put and negatived.

MR. CHAIRMAN : There is Amendment No. 131 by Shri V. Krishnamoorthi. It is the same as Amendment No. 100. So, I am not going to put that to vote. Now, I put clause 8 to vote.

The question is :

"That Clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9—(Procedure to be followed in the disposal of applications under this Act.)

SHRI GEORGE FERNANDES : I move :

"Page 8, lines 15 to 17,—

omit "and the decision of the Tribunal or the Court of the District Judge, as the case may be, shall be final." (20)

आप एक सख्त कानून बनाने जा रहे हैं। आप जिन लोगों को इस कानून के अन्तर्गत सजा देंगे फिर चाहे वह कौसी भी सजा क्यों न हो, उनको अपील करने का उस सजा के विरुद्ध अधिकार होना चाहिये।

किसी भी गुनहगार को नीचे की अदालत से जब सजा मिल जाती है तो वह ऊपर की अदालत में जाकर उस सजा के खिलाफ अपील कर सकता है और यह उसका माना हुआ एक अधिकार है। जो खून करता है, जो चोरी करता है या जो डाका डालता है उसको भी आप यह अधिकार देते हैं कि वह जो सजा उसको निचली अदालत से मिलती है उसके खिलाफ वह अपील कर सकता है। यहां पर कई लोगों के विचारों का मुकाबला करने की बात कर रहे हैं। कानून का मकसद तो यही है कि सरकार जिन लोगों के विचारों से नफरत करेगी और जिनके विचारों को वह अपने विचारों से खत्म करना कठिन समझगी उन विचारों को प्रकट करने वाले संगठनों को खत्म करने का अधिकार सरकार अपने हाथ में ले रही है। यही इस कानून का बुनियादी मकसद है। मैं पूछना चाहता हूँ कि जब आप खून करने वाले को, चोरी करने वाले को, डाका डालने वाले को खुद ऊपर वाली अदालत में जाने का अधिकार देते हैं और आपने दिया हुआ है, उसको अपने आपको बचाने की हर प्रकार सुविधा दी हुई है, नीचे की अदालत में अगर कहीं गलती हो गई हो तो वह ठीक ढंग से न्याय प्राप्त कर सके और ऊपर की अदालत में अपील कर सके, जब यह अधिकार आप उसको देते हैं तो यहां क्यों नहीं देते हैं। भारत में तो यहां तक प्रथा है कि जिसको फांसी की सजा दी जाती है वह राष्ट्रपति तक भी अपील कर सकता है और इसकी सुविधा उसको आपने दे रखी है। अपने विचारों को प्रकट करने वाले संगठन के बारे में अगर आपको कोई आपत्ति है, उसको गैर कानूनी संगठन आप घोषित करते हैं तो उसके मामले को आप एक ही जज के सामने रखेंगे।

L103LSS/67-9

आपको याद होगा कि पांच नम्बर धारा के बारे में जब यहां पर बहस चल रही थी तो मांग की गई थी कि एक जज की जगह पर आप तीन जज रखें। दो नम्बर पर भी जब बहस हो रही थी तब भी इस मसले को उठाया गया था।

मैं इतना ही कहना चाहता हूँ कि एक व्यक्ति की राय पर यह सारा मामला न चले। कम से कम तीन व्यक्तियों को बिठाया जाए। उस चीज को गृह मंत्री ने नहीं माना है। कानून जिस ढंग से तैयार होते हैं, सरकार की राय को जिस तरह से उसके नौकरशाह बनाते हैं और नौकरशाह और सरकार की राय को किसी भी अदालत के सामने जब आप ले जाते हैं तो हो सकता है कि हजारों ही नहीं लाखों लोगों के जो बुनियादी अधिकार हैं उन अधिकारों को आप इस विधेयक के द्वारा छीन लें। जब इतना सख्त आप कानून बनाते हैं तो कम से कम इतनी तो इंसानियत आप बरतें कि जो सुविधायें आप दूसरे गुनहगारों को देते हैं उतनी तो इनको भी दें। मैं इसको गुनाह नहीं मानता हूँ। किसी भी व्यक्ति को अपनी राय प्रकट करने की खुली छूट है, ऐसा मैं मानता हूँ फिर चाहे उसकी राय कुछ भी हो। अपनी राय प्रकट करने का जो उस संगठन का अधिकार है उसको जब आप छीनते हैं तो आपको कम से कम इतना तो उनको अधिकार दे देना चाहिये कि वे न्याय पाने के लिए अपील में जा सकें, अपील करने की गुंजाइश तो आपको इसमें रखनी चाहिये।

MR. CHAIRMAN: Is Mr. Ramamurti moving his amendments?

SHRI P. RAMAMURTI: Yes.
I beg to move:

Page 8,—

for clause 9, substitute—

"9. Inquiries under sections 7 and 8 by the Court of a District Judge shall be treated as suits subject to all the provisions of the Code of Civil Procedure

[Shri P. Ramamurti]

1908, including provisions for appeal, revision and review." (102)

Page 8,—

for lines 16 and 17, substitute—

"appeals against the decisions of the District Judge shall be to the High Court and against the decisions of the High Court or Tribunal shall be to the Supreme Court if preferred within a period of three months from the infringed order." (103)

SHRI V. KRISHNAMOORTHY rose—

MR. CHAIRMAN: He will get his time. I have called Mr. Ramamurti.

SHRI V. KRISHNAMOORTHY: There is no question of getting time. Sir. When a particular Clause is taken into consideration, those who have given amendments to that Clause must be called first and they must move their amendments. Afterwards, the discussion will start.

MR. CHAIRMAN: He is correct. But his amendments are identical with those of Mr. Ramamurti.

Mr. Ramamurti.

SHRI P. RAMAMURTI: I would appeal to the Home Minister to think of the consequences of the position that he took in the morning. In the morning he had taken up the position that there cannot be a Tribunal composed of even three judges. Ultimately, one gentleman is going to decide the fate of millions of people, hundreds and thousands of people. After all, in our country, the right of appeal is not provided only in those cases which are considered to be trivial, i.e. those cases where the punishment is just below six months, only in those cases where summary trial is provided for. Even there, there is the revision in the High Court, i.e., on the facts we cannot go, but we can go on the question of sentence. This is the position. Excepting in the case of trivial offences, the ordinary understanding is that, when somebody is accused of something very grave, then it is not enough if a single person

comes to a judgment on assessing the facts. May be his assessment may be wrong, may be his assessment may be clouded. All these factors are there. The ordinary law provides that in all serious cases there must be a right of appeal, but here, even according to the Home Minister, it is a very drastic measure and the punishment you are meting out to an organization is that that organization should not function altogether. May be that decision itself is a wrong decision. Therefore, I say, 'Why not allow your decision be tested by a higher tribunal. On the facts there is not going to be another case. The facts are there. The appellate court has only to go into the records and on the basis of the records and arguments based on the recorded evidence, it will come to a decision. Therefore, it is a question of assessment, whether the Tribunal has come to a proper assessment of the evidence that was tendered before that, that is all that is meant there. I do not see what you lose by it. After all the Tribunal is going to pronounce it within six months, I do not know if it is going to pronounce, but we are providing that. No provision is there that if it does not pronounce its judgment within six months, it will be automatically cancelled. Therefore, I want an appeal to the High Court. I know it will take nearly one year. Immediately a case is registered in the calendar it does not automatically come the next day. At least it will take one or one and a half years. Then there will be only 1 or 2 months by the time the appeal is over. It comes to a question of moral right. You are coming to a judgment that an association is an unlawful association, but let it be got properly judged. Why do you deny the right of the association to establish its *bona fides* before the highest Tribunal in the country even though during that period that association has already been punished and that Association has got to function with the difficulties of being an unlawful association. After all even that moral right to establish its *bona fides* why are you denying? It does not in any way take away the effect of the Act. But once you pass this Bill the Association is going to be unlawful, and pending appeal all these things are going to happen. Therefore, I would say, you should at least give the right of appeal to the Association to establish its *bona fides*. Why do you deny that?

SHRI V. KRISHNAMOORTHU : In moving my amendments 131 and 132 and in supporting the amendments moved already, I would like to say that this is a question whether a political party is to be allowed to function or not. The decision of the Tribunal may even debar the Parties sending their representatives to the very Parliament here. That decision about a Party will deny several lakhs of people representation here. This is a very drastic measure. My submission is : in such cases, a revision petition to the Tribunal or appeal from the judgment of the District Judge should be provided. I do not understand the hon. Minister's contention, 'I am going to make certain parties unlawful, but I will refer the case only to such and such Judge in whom I have got confidence. I will not even increase the number of Judges and there would not be any appeal or revision against the order of the single Judge Tribunal. Sir, it does remind me of the procedure which was adopted in the Nazi courts. This is a military procedure where martial law is followed. I do not know whether this is the way in which the hon. Home Minister is going to deal with the parties, democratic parties existing or recognised by the Election Commission here. Why is the judiciary being shut in this manner even without providing either revision or appeal? What harm is there if you provide that? Heavens are not going to fall. Why should not the hon. Minister show this piece of justice for the political parties before he bans a particular Party. I will rather accuse this Government that in order to oppose or suppress political parties in each and every section they are opposing this judicial review. Thank you, Sir.

SHRI RANDHIR SINGH : I feel that what has been said by my hon. friends Shri P. Ramamurti and Shri V. Krishnamoorthi has substance. I take an absolutely legal view of the matter. In fact, it is not only a legal view but it is something which is to be weighed by the principles of justice, equity and good conscience.

This Bill is a special legislation and some special procedure has been laid down, and in some cases the law of the land, namely the CPC and the Evidence Act would be applicable. From my point of view, there is some lacuna but that has not been filled up.

In this country we have many special tribunals. For instance, we have the industrial tribunal; than formerly we had the election tribunals, and then there are tribunals which try cases of corruption. An appeal lies against the decisions of all these special tribunals. Under this Bill also we are having a special tribunal. Then appeals are allowed against the decisions of all other special tribunals to the High Courts as well as to the Supreme Court, I do not know what special character is attached to the special tribunal under this Bill which makes it distinct from the other special tribunals. I quite accept that much weight is there so far as this tribunal is concerned, and as my hon. friend Shri D. C. Sharma has said, no doubt should be created. But I would submit that ours is a democracy. If on the question of cession or secession which is involved there is a special tribunal or a special court which goes into the matter and whatever they do is final, I submit that the powers that we would be vesting in the tribunal would be arbitrary powers, and if further we shut out all appeals again to the decision of this tribunal that would be an inroad into the Constitution itself. I feel that a tribunal of two or three judges should have been created. But that has not been done. So, one man will have the final word. After all, even a judge is a man; he is not God or a Prophet, and he can also err. Of course, there is still some remedy left under article 226 of the Constitution in the shape of a writ petition before the High Court. But the High Court can only go into the legality or the constitutionality of the matter. In a case like this where evidence is to be weighed and where facts are gone into, we find that no appeal is provided. The High Court would, therefore, say that there is no intricate question of fact involved and they would only go into the legality of the whole thing. What I earnestly feel is this. Just as we have letters-patent appeal against a Bench of the High Court, likewise there should be an opportunity to file a letters-patent appeal against this single-judge tribunal's decision also.

So far as the order of the district judge is concerned, it is a matter of normal course that an appeal would lie against his orders. For, his order can be challenged under article 226 of the Constitution. But

[Shri Randhir Singh]

in the case of the tribunal, there is absolutely no avenue left open and no forum is left open where the matter can be raised in appeal. So, democracy demands, justice demands, equity demands and the laws of natural justice demand that the benefit of appeal should be made available, and let the appeal lie even to a single judge; it does not matter much, but some forum should be provided for the purpose of appeal. I strongly support the amendment.

16 Hrs.

SHRI NAMBIAR : I do not want to add much to what has already been said. I would only say this that the right of association is a fundamental right guaranteed under the Constitution and it is that which is being restricted now. An association which has got the right to exist under the Constitution can be declared unlawful by an order of Government under this Bill. That declaration goes before a Judge. That Judge has given his verdict. Now the question is whether there should not be an appeal. Let us approach the question from its real perspective. Normally, a fundamental right cannot be taken away. There is a provision that it can be restricted. It is restricted. Once it is restricted, there must be a limit on the restriction. Once the harm is done, if the association is declared unlawful and has ceased to exist, the moment it is declared unlawful and all its properties are taken away and all its members are prosecuted, the question remains whether that decision has not to be ratified by an appellate court. What harm is there in Government allowing the court to come in. If access to the appellate court is allowed, it does not come in the way of the executive discharging its duties with regard to the prevention of the unlawful activities. After all, the court goes through the papers and sees whether the order issued by a particular judge is right or wrong, whether the association has got the right to continue or not. On the facts placed before it, the court may take a decision. I cannot understand the difficulty of the Home Minister in providing for the right of appeal if his intention is not to deprive the citizen of his normal legitimate right. Therefore, he must agree to this appeal. Or is it his intention to deprive the citizens of their legitimate rights under the

cloak of some legality or unlawful activity allegedly committed by that organisation and that the final say must be with the executive? By referring it to only one judge, it may not be looked into properly. Therefore, the right of appeal is a normal right which a citizen can expect. The executive does not lose anything thereby; its hands are not tied thereby. After all, here an organisation has been declared illegal and its members feel aggrieved. They are branded as anti-national and so on. It only stands to reason that those persons must have the opportunity to go to a court and clear themselves. Why should Government grudge that opportunity?

I therefore request the hon. Minister to grant the right of appeal. It is an elementary thing we are pleading for. It will go in the records of Parliament's proceedings that we are fighting for a legitimate, elementary right of the citizen under the Constitution.

श्री श्रीचंद गोयल : अध्यक्ष महोदय, मैं इसके सम्बन्ध में एक दो मिनट लेना चाहूंगा। जिस संशोधन पर मेरे मित्रों ने अभी विवाद किया है। मैं उसका समर्थन करना चाहता हूँ। मैं दो चीजों की तरफ आपका ध्यान दिलाऊंगा। एक तो हमारे देश का जो संविधान है उसमें न्यायालय की व्यवस्था इस प्रकार से की गई है कि जब किसी एक डिस्ट्रिक्ट जज या ट्रिब्यूनल का फैसला होता है, तो उसकी पहली अपील हाईकोर्ट में जाती है। एक जज के फैसले के खिलाफ दो जजों के सामने लेटर्स पेटेंट अपील जाती है और उससे भी यदि किसी की तसल्ली नहीं होती तो फिर सुप्रीम कोर्ट में अपील दायर करने की व्यवस्था है। मैं यह समझता हूँ कि जब साधारण सम्पत्ति के झगड़ों में, अथवा व्यक्तिगत स्वतन्त्रता छीनने के बारे में या किसी और प्रकार के विवाद के बारे में हमारे संविधान ने न्यायालय की इस प्रकार की व्यवस्था की है, तो ऐसे गंभीर प्रश्न पर जब कि हम एक संस्था को अवैध घोषित करने जा रहे हैं, और जब हमें अपने न्यायालय के ऊपर पूर्ण विश्वास है तो मैं यह समझता हूँ कि यह क्यों हमारे गृह मंत्री इस बात को स्वीकार नहीं करते और जो साधारण न्यायालय की प्रक्रिया हमारे संविधान

में दे, उससे इस केश में क्यों डिपार्चर किया जा रहा है? आखिर यह सिद्धान्त तो मानते हैं कि ए जज कौन डिसाइड थिंग्स राइटली ऐंड रॉगली। नो जज इज इनफैलिबल। किसी जज के बारे में हम यह नहीं कह सकते कि जो कुछ वह फैसला करेगा वह हर हालत में दुरुस्त होगा। जज भी गलती कर सकता है और इसलिए इसके विरुद्ध ऐसी अपील की व्यवस्था की जाती है ताकि अगर एक जज ने किसी कारण कोई गलती की है।

16.05 Hrs.

[Mr. DEPUTY-SPEAKER in the chair]

तो उस गलती का सुधार हो सके, इसलिए यह अपील की, रिवीजन की न्यायालयों की सारी व्यवस्था है। मैं गृह मंत्री जी से कहना चाहता हूँ, मैंने उनके लिए कुछ निवेदन किया है, उनका ध्यान दूसरी तरफ था। मैंने निवेदन यह किया है कि हमारे संविधान के अंदर न्यायालयों की जो साधारण प्रक्रिया है कि एक हाई कोर्ट के जज के निर्णय के विरुद्ध लेटर्स पेटेंट अपील के द्वारा दो जजों के सामने मुकदमे जाते हैं और उससे भी कोई असंतुष्ट है तो सुप्रीम कोर्ट में जा सकता है। गंभीर मामले का गम्भीर इलाज चाहिये यह सिद्धान्त भी जब स्वीकार किया गया है कि एक जज फैसला दुरुस्त भी कर सकता है और गलत भी कर सकता है, मान लीजिये उसने गलत फैसला कर दिया किसी संस्था को अवैध घोषित कर दिया तो उस संस्था के अधिकारियों के पास उसका इलाज या रेमिडी ही न रहे यह तो उचित नहीं है। मैं समझता हूँ कि इस सिद्धान्त पर आप दोबारा विचार करें और किसी न किसी अपील के प्रोवाइड करने की व्यवस्था करें क्योंकि आर्टिकल 226 और 32 के द्वारा यह मामला हल नहीं होगा। जब तक आप इसमें अपील की व्यवस्था नहीं करेंगे तब तक लोगों को विश्वास नहीं होगा।

SHRI RANGA (Srikakulam): I do not know why the Home Minister has

not thought it fit to make provision for the appeal that is asked for. If it is only an individual involved, it is bad enough not to provide that right of appeal. When a group of people is involved as an association, as a party, it becomes much more serious.

If Government wishes to take action against any organisation for indulging in unlawful activities, then before they do that they would have had to go through a lot of procedure, they would have found some of those individual members behaving badly, and they would come within the mischief of the ordinary law. The organisation also would have indulged in so many activities before the conviction is born in the mind of the Government that it was indulging in unlawful activities. By that time also, there would have been so much material before the Government to get it committed. It is only after that they come to the decision that it is indulging in unlawful activities. So, I do not see any reason why Government should fight shy of an appeal, because they would have had all that material before them. With the support of that evidence before them, they would have taken the decision and gone before a Judge and the judgment would have been obtained by them.

With the support of all these things, if they fight shy of meeting an appeal, then either there must be something wrong with the materials that would have been obtained by the Government, or there would be some substantial justice on the side of the association concerned, and therefore Government fights shy of an appeal. So, I am particularly anxious that the Government should be willing to concede this right of appeal to whatever organisation might be sought to be brought within the mischief of this law.

One point I take for granted, that the Government has the prior right to declare an organisation unlawful, and they may take the additional power of not allowing any opportunity for that organisation to continue the kind of mischief of which it is accused while these appeals are pending. that is a kind of writ petition or something like that, to set aside the decision of the Government, the Government declares it unlawful, but while the organisation is

[Shri Ranga]

declared unlawful and it is prevented from functioning under this disability, they should be willing to allow that organisation and its members to go on appeal and seek redress in the court.

SHRI HIMATSINGKA (Godda) : Sir, I feel that there is some misunderstanding about this section. The Government comes to a decision before declaring an association unlawful; that decision is placed before the judge and the judge, by way of appeal, goes into the facts and comes to a decision as to whether the decision of the Government is right or wrong. And when the tribunal agrees with the finding of the Government and holds the association unlawful, then this section comes into the picture. Therefore, practically, the tribunal acts more or less in the capacity of the court.

AN HON. MEMBER : How can it be ?

SHRI HIMATSINGKA : Because it goes into the correctness or otherwise of the decision of the Government. The other two sub-sections refer to the subsequent orders; when an association has been declared illegal, certain things follow. The money is there; they may be prohibited from using it, and this section provides for an appeal against the order of the magistrate prohibiting the use of the money. So, that order of the magistrate should be certainly treated as final. I do not think there is anything wrong in this.

Then again, this provision does not take away the right of the Supreme Court under article 136.

SHRI V. KRISHNAMOORTHY : That is about special leave; not a matter of the right of appeal.

SHRI HIMATSINGKA : Yes; but if there is sufficient cause, certainly the Supreme Court can go into it and give special leave and the matter can be thrashed out there. Article 136 is very clear. It can give special leave against any order by any court or tribunal in the territory of India. Therefore, there is sufficient provision for this.

SHRI TENNETI VISWANATHAM : Sir, the hon. Member who has just now spoken drew our attention to the fact that the tribunal is going to look into the matter but he has been thinking that the

tribunal corresponds to a court of appeal. I submit it is not. The scheme of the Act is not that. The scheme of the Act is that the Government, on its own enquiry, comes to the conclusion that the association is unlawful and then places it for approval before the tribunal. (Interruption) But in other cases, under the proviso to section 3, it need not come even before the tribunal. They can immediately declare an association unlawful and other consequences follow. The plea of the Opposition Members is that the right of appeal must be provided because, as he says, an extraordinary situation is now existing in India and the Government have to take extraordinary powers. Now, according to the admission of the Government, if it is extraordinary power, there should not be any harm in giving the right of appeal. Actually, there are certain rights which the accused possesses under the ordinary procedure of the criminal law, the criminal procedure code. All that is now being taken away. For example, where the accused feels that he cannot get justice before a criminal court, he has got the right to get a transfer. Here, he has not got that right of transfer. There is another section where the high court on its own can transfer a case from one court to another. That also is denied to the High Court. All that the Opposition Members are saying is that having taken the power, a drastic power, give the right of appeal to the high court. That is to say, you ask only such power as is absolutely necessary for you to declare an association unlawful, and so far as the rest is concerned, let the ordinary course of criminal procedure and let the working of the high court go unrestricted, unimpaired and unaltered. The Government must be satisfied with that position. All that they want is the power to declare an association unlawful, to seize it, to take hold of the money, and also, they propose to detain them, and place the person under house arrest also. In a previous clause, you have taken powers for house arrest also. Nobody else can go there. Everybody coming under that clause will be in the position of Sheikh Abdullah. So, Government have obtained all that they wanted. The rest is only a matter of procedure. In this country the only thing which an accused has is some procedural right to get justice assuming that some injustice has been done. That is all that

is wanted. Government having had the initial right of declaring an association unlawful and do everything with the house, property, etc., at least the right of appeal must be given. It does not harm the Government in any way, but it does a lot of good to the judicial conscience of this country.

SHRI D. C. SHARMA : Sir, I have been supporting the earlier clauses, but this clause jars on my sense of democratic value. There are two types of jurisprudence operative in this world today. One is that you catch hold of 20 innocent persons so that one wrong-doer may not escape. The other is, 20 wrong-doers may escape, but no innocent person should be convicted. This clause goes against the basic principles of jurisprudence we have in our country. After all, we are working under the jurisprudence which Macaulay had framed and which my hon. friend has been advocating in courts of law. We should go by that jurisprudence which gives a man the chance of proving himself innocent, even though he is accused of treason and other things. Therefore, the right of appeal should be there.

It is said that power corrupts and absolute power corrupts absolutely. I know my friend is incorruptible. But if you give this absolute, unbridled power to the district magistrates and to High Court judges, our magistracy and our High Courts will be corrupted. Therefore, in the interest of purity of judicial administration in the country, the right of appeal should be conceded. The hon. Minister is smiling and I am sure he is getting up to concede this.

SHRI Y. B. CHAVAN : If I were convinced that this provision is against the sense of justice, certainly I would have agreed. But I am not convinced. The very idea of having a tribunal would be defeated if you provide for that type of second appeal here. As far as I know, there is no provision for appeal against the decision of any tribunal under any Act.

SHRI V. KRISHNAMOORTHY : There is an appeal against the decision of an election tribunal.

SHRI Y. B. CHAVAN : There is no election tribunal now. (*Interruptions*). Let us try to understand what is the purpose in having a tribunal. Certainly we can leave it to a High Court judge as a High Court judge. Why convert him into a tribunal? The idea is, when an extraordinary situation is developing, quick action is necessary. If you provide a second and third appeal, the purpose would be defeated.

SHRI V. KRISHNAMOORTHY : You only want a judicial stamp for your actions.

SHRI Y. B. CHAVAN : In the normal course, if you go to a High Court in appeal certainly they can give a stay. That position is there.

SHRI RANGA : That you can prevent.

SHRI Y. B. CHAVAN : How can I prevent that? Once you give the right of appeal, the right of appeal means benefit. If at all I have to give the right of appeal, it is better not to give that right at all. I am not convinced it is necessary. As far as District Judges are concerned, most of the orders that they will pass will be orders on appeal. He will sit as an appellate court. Most of the orders passed by District Magistrates come under clause 8 and sub-section (4) of clause 4 on appeals. So you cannot say there is no appeal provided. Really speaking, as I said, orders of District Judges will be orders on appeal.

MR. DEPUTY-SPEAKER : There are three amendments to this clause—amendments Nos. 20, 102 and 103. I shall put them all together.

Amendments Nos. 20, 102 and 103 were put and negated.

MR. DEPUTY-SPEAKER : The question is :

“That clause 9 stand part of the Bill.”

The Lok Sabha divided :

AYES

Division No. 30]

[16.28 Hrs.

Agadi, Shri S. A.
 Aga, Shri Ahmad
 Arumugam, Shri R. S.
 Babunath Singh, Shri
 Bajpai, Shri Vidya Dhar
 Barua, Shri Bedabrata
 Barua, Shri R.
 Barupal, Shri P. L.
 Basu, Dr. Maitreyee
 Baswant, Shri
 Besra, Shri S. C.
 Bhagat, Shri B. R.
 Bhakt Darshan, Shri
 Bhanu Prakash Singh, Shri
 Bholu Nath, Shri
 Bohra, Shri Onkarlal
 Bose, Shri Amiyanath
 Chanda, Shri Anil K.
 Chanda, Shrimati Jyotsna
 Chandrika Prasad, Shri
 Chatterji, Shri Krishna Kumar
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chavan, Shri Y. B.
 Choudhary, Shri Valmiki
 Damani, Shri S. R.
 Dasappa, Shri Tulsidas
 Dass, Shri C.
 Desai, Shri Morarji
 Deshmukh, Shri B. D.
 Deshmukh, Shri K. G.
 Dhillon, Shri G. S.
 Dhuleshwar Meena, Shri
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Gajraj Singh Rao, Shri
 Ganesh, Shri K. R.
 Ghosh, Shri Parimal
 Gupta, Shri Lakhan Lal
 Hazarika, Shri J. N.
 Heerji Bhai, Shri
 Hem Raj, Shri
 Himatsingka, Shri
 Jadhav, Shri Tulshidas
 Jadhav, Shri V. N.
 Jamir, Shri S. C.
 Kasture, Shri A. S.
 Kavade, Shri B. R.
 Kedaria, Shri C. M.
 Kinder Lal, Shri
 Kripalani, Shrimati Sucheta
 Krishna, Shri M. R.
 Kureel, Shri B. N.
 Laskar, Shri N. R.

Laxmi Bai, Shrimati
 Mahadeva Prasad, Dr.
 Mahishi, Dr. Sarojini
 Malhotra, Shri Inderjit
 Malimariyappa, Shri
 Mandal, Dr. P.
 Marandi, Shri
 Mehta, Shri P. M.
 Menon, Shri Govinda
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mohinder Kaur, Shrimati
 Mondal, Shri J. K.
 Mrityunjay Prasad, Shri
 Mukerjee, Shrimati Sharda
 Nagnhoor, Shri M. N.
 Nahata, Shri Amrit
 Naidu, Shri Chengalraya
 Nayar, Dr. Sushila
 Oraon, Shri Kartik
 Padmavati Devi, Shrimati
 Pahadia, Shri Jagannath
 Pandey, Shri K. N.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Parmar, Shri Bhaljibhai
 Pratap Singh, Shri
 Parthasarathy, Shri
 Patil, Shri S. B.
 Patil, Shri S. D.
 Poonacha, Shri C. M.
 Pramanik, Shri J. N.
 Radhabai, Shrimati B.
 Raghu Ramaiah, Shri
 Raj Deo Singh, Shri
 Raju, Shri D. B.
 Ram, Shri T.
 Ram Dhan, Shri
 Ram Kishan, Shri
 Ram Sewak, Shri
 Ram Subhag Singh, Dr.
 Ram Swarup, Shri
 Rana, Shri M. B.
 Rane, Shri
 Rao, Shri J. Ramapathi
 Rao, Shri Thirumala
 Rao Dr. V. K. R. V.
 Reddy, Shri P. Antony
 Rohatgi, Shrimati Sushila
 Roy, Shrimati Uma
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Sambasivam, Shri
 Sapre, Shrimati Tara

Sarma, Shri A. T.
 Savitri Shyam, Shrimati
 Sayyad Ali, Shri
 Sen, Shri Dwaipayan
 Sen, Shri P. G.
 Shah, Shri Shantilal
 Shambhu Nath, Shri
 Shankaranand, Shri
 Sharma, Shri M. R.
 Shashi Ranjan, Shri
 Shastri, Shri B. N.
 Sheo Narain, Shri
 Sheth, Shri T. M.
 Shinde, Shri Annasahib
 Shinkre, Shri
 Shiv Chandika Prasad, Shri
 Siddayya, Shri

Siddeshwar Prasad, Shri
 Singh, Shri D. N.
 Sinha, Shri Mudrika
 Sinha, Shri Satya Narayan
 Sinha, Shrimati Tarkeshwari
 Sonar, Dr. A. G.
 Sonavane, Shri
 Supakar, Shri Sradhakar
 Swaran Singh, Shri
 Tarodekar, Shri V. B.
 Tiwary, Shri K. N.
 Uikey, Shri M. G.
 Ulaka, Shri Ramachandra
 Venkatasubbaiah, Shri P.
 Verma, Shri Prem Chand
 Virbhadra Singh, Shri
 Vyas, Shri Ramesh Chandra

NOES

Amin, Shri R. K.
 Amin, Shri Ramchandra J.
 Anbazhagan, Shri
 Anirudhan, Shri K.
 *Bajpai, Shri Shashibhushan
 Banerjee, Shri S. M.
 Behera, Shri Baidhar
 Bhagaban Das, Shri
 Bharti, Shri Maharaj Singh
 Deo, Shri K. P. Singh
 Devgun, Shri Hardayal
 Dhandapani, Shri
 Dhirendranath, Shri
 Esthose, Shri P. P.
 Fernandes, Shri George
 Gajraj Singh Rao, Shri
 Ghosh, Shri Ganesh
 Goel, Shri Shri Chand
 Gopalan, Shri P.
 Gopalan, Shrimati Suseela
 Gounder, Shri Muthu
 Gowda, Shri M. H.
 Gupta, Shri Indrajit
 Gupta, Shri Kanwar Lal
 Haldar, Shri K.
 Joshi, Shri Jagannath Rao

Kalita, Shri Dhireswar
 Khan, Shri H. Ajmal
 Khan, Shri Ghayoor Ali
 Khan, Shri Latafat Ali
 Kundu, Shri S.
 Kushwah, Shri Y. S.
 Mahato, Shri Bhajahari
 Maiti, Shri S. N.
 Majhi, Shri M.
 Mangalathumadom, Shri
 Manoharan, Shri
 Meghachandra, Shri M.
 Menon, Shri Vishwanatha
 Modak, Shri B. K.
 Mody, Shri Piloo
 Mohamed Imam, Shri J.
 Mohammad Ismail, Shri
 Mukerjee, Shri H. N.
 Muthusami, Shri C.
 Naik, Shri R. V.
 Nambiar, Shri
 Nihal Singh, Shri
 Patil, Shri N. R.
 Ramamurti, Shri P.
 Ranga, Shri

Samanta, Shri S. C.
Sambhali, Shri Ishaq
Satya Narain Singh, Shri
Sequeria, Shri
Shah, Shri Virendrakumar
Sharma, Shri Ram Avtar
Sharma, Shri Yogendra
Shastri, Shri R.
Shastri, Shri Raghuvir Singh

Shastri, Shri Shiv Kumar
Shivappa, Shri N.
Sondhi, Shri M. L.
Suraj Bhan, Shri
Tyagi, Shri O. P.
Vidyarthi, Shri R. S.
Viswanatham, Shri Tenneti
Viswanathan, Shri G.

MR. DEPUTY-SPEAKER : The result † of the division is as follows :

Ayes 142; Noes 68.

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10.—(Penalty for being members of an unlawful association)

SHRI GEORGE FERNANDES : I beg to move :

Page 8, line 26,—

for "may extend to two years".
substitute—

"shall not extend one year". (21)

Page 8,—

after line 27 insert—

"Provided, however, that if the member concerned is able to establish that he had no personal knowledge of the unlawful activity conducted by the association declared unlawful, no action shall be taken against him, and the provisions of this section shall not apply to him." (22)

SHRI NAMBIAR : I beg to move :

Page 8, line 20,—

for "is" substitute—

"continues to be" (57)

Page 8,—line 22 and wherever it occurs in the clause,—

for "or" substitute "and" (58).

Page 8, line 26,—

for "two years" substitute "six months" (59).

SHRI SHRI CHAND GOYAL : I beg to move :

Page 8, line 26,—

after "two years" insert—

"or for a period upto which the notification issued under section 3" (60).

Page 8, line 26,—

after "two years" insert—

"or for a period upto which the notification issued under section 3, operates under sub-section (2) of section 6, which ever period is shorter" (76).

SHRI INDRAJIT GUPTA : Mr. Deputy-Speaker, clause 10 of the Bill reads as follows :

"Whoever is a member of an association declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section, or takes part in meetings of any such unlawful association, or contributes to, or receives or solicits any contribution for the purpose of, any such unlawful association, or in any way assists the operations of any such unlawful association, shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine."

Our amendment is to the effect that at the end of this clause, after the words "liable to fine" the following should be added :

"Provided, however, that if the member concerned is able to establish that he had no personal knowledge of the unlawful activity conducted by the association declared unlawful, no action shall be taken against him, and the provisions of this section shall not apply to him."

As the hon. Minister knows, the right of individual liberty is also involved here. An association, which may be a political party or some trade union, or any other kind of

† The following Members also recorded their votes :

Ayes : Shri Shashibushan Bajpai and Shri Sadhu Ram.

Noes : Sarvashri Mohammad Ismail, C. K. Chakrapani and S. S. Kothari.

body, may have thousands or hundreds of thousands of members, scattered throughout the country and it may be found guilty and declared unlawful under this Act. Am I to believe that the government cannot imagine a situation where the people who are in charge of running that organisation, the leadership of that organisation or a part of the leadership of that organisation, let us say for the sake of argument, has taken part in something which comes under the mischief of the Act, but can they not imagine a case where an individual member of that association or party may be totally ignorant or unaware of what is going on? Is it such a fantastic thing to imagine? And yet here the clause says that any individual, simply by reason of the fact that he is a member of that association—the other parts, of course, say or talk of involving or taking part in some positive activity, taking part in a meeting or contributing to that meeting and things of that sort—if he simply goes to a meeting without being conscious of the fact that somebody in that organisation has been indulging in unlawful activity, he is also made punishable with imprisonment for two years and fine and so on.

I think that the hon. Minister will agree that some reasonable safeguards should be provided to see that some innocent individual is not penalised. Why should he be? In a big organisation it is very likely that a particular individual may not have anything to do with that unlawful activity; he may not even know that it was being carried on. Can he not imagine such a situation? But he is not prepared to provide the slightest safeguard for him.

My amendment only says that if that particular individual member concerned can satisfy the tribunal and establish that he had no personal knowledge of this unlawful activity, no action should be taken against him and the provisions of this section should not apply to him. The onus is being put on him by my amendment. The Government does not have anything to do about it; the onus is put on the member. I think, it is elementary justice. At least some arrangement should be provided whereby unjustified and arbitrary action is not taken against an individual who may be completely innocent in this matter. Therefore let the onus of proof be put on him. Let him be considered guilty unless he has pro-

ved that he is innocent. But give him a chance to prove his innocence. If he can prove that he is innocent, then he should not be brought under this blanket illegality with all the consequent penalties. This is the meaning of my amendment and I request the hon. Minister to consider this dispassionately and see whether this much safeguard at least can be provided for an individual.

श्री श्रीचन्द्र गोयल : मेरे दो संशोधन एक ही आशय के हैं। पंक्ति नम्बर 26 जहाँ यह कहा गया है :

"imprisonment for a term which may extend to two years, and shall also be liable to fine."

मैंने दो वर्ष के बाद ये शब्द एड किये हैं :

"or for a period upto which the notification issued under section 3".

संस्थाओं का जो इतिहास है वह यह बताता है कि अनेकों बार संस्थाओं के इतिहास में अवैध घोषित होने के प्रसंग आते हैं। सत्तारूढ़ संगठन कांग्रेस के इतिहास में भी ये प्रसंग आए हैं, जब कि उन संस्थाओं को अवैध घोषित किया जाता है। उसके बाद फिर ऐसे अवसर भी आए हैं जब उन संस्थाओं को दुबारा वैध घोषित किया गया है। अगर किसी संस्था को किसी आन्दोलन के कारण या किसी विशेष परिस्थिति के कारण अवैध घोषित किया जाता है और बाद में केन्द्रीय सरकार इस निष्कर्ष पर पहुँचती है कि संस्था को वैध घोषित किया जाये और बाद में अपने नोटिफिकेशन द्वारा पहले नोटिफिकेशन को वापिस लेती है तो फिर जिन लोगों को दो वर्ष या इससे अधिक का दंड दिया गया हो, वे संस्था के वैध घोषित हो जाने के बाद भी जेल में ही पड़े रहेंगे। मुझे पता है कि अनेकों बार कई आन्दोलनों को वापिस लिये जाने के बाद भी जिन लोगों को उस आन्दोलन में भाग लेने के कारण दंड मिले होते हैं वे कारावास में ही पड़े रहते हैं। इसलिए मैंने इसमें यह संशोधन उपस्थित किया है कि दो वर्ष के बाद नोटिफिकेशन के या जो

[श्री श्रीचंद गोयल]

पीरियड है उससे पहले अगर नोटिफिकेशन को वापिस ले लिया जाये और एक संस्था को वैध घोषित कर दिया जाये तो उसी अवधि तक उसको सजा दी जा सकती है। मेरे इस संशोधन का आशय यही है कि जो लोग संस्था के वैध घोषित होने के बाद भी दंड भोगें उनको उस दंड से निजात मिल सके।

श्री जार्ज फरनेन्डीज : श्री इंद्रजीत गुप्त और मेरा भी संशोधन एक जैसा है। दो चीजें इस धारा से हम समझ पा रहे हैं। एक तो सदस्यों के बारे में और दूसरे हालांकि वह बिल्कुल साफ नहीं कहा गया है गृह मंत्री जी की ओर से, कोई भी नागरिक के बारे में। इसका कारण यह है कि जब यह कहा जाता है कि :

"Whoever is a member of an association declared unlawful by a notification issued under section 3 which has become effective under sub-section (3) of that section".

यह हो गई बात मੈम्बर के बारे में, सदस्य के बारे में। लेकिन आगे आप देखें

"or takes part in meetings of any such unlawful association, or contributes to, or receives or solicits any contribution for the purpose of, any such unlawful association, or in any way assists the operations of any such unlawful association."

मैं यह समझता हूँ कि यह जो आगे का एक हिस्सा है यह सिर्फ सदस्यों के बारे में नहीं है बल्कि किसी भी नागरिक पर यह लागू होता है। जिस संगठन को आप गैर कानूनी संगठन घोषित करते हैं उसकी ओर से जो सभायें होती हैं उन सभाओं में सिर्फ उसके सदस्य ही जाते हों, ऐसी बात नहीं है। कोई भी नागरिक उनमें जा सकता है। आर्थिक मदद की बात को भी आप लें। सदस्य ही उस संगठन की आर्थिक मदद करेगा ऐसी बात नहीं है। कोई भी दूसरा व्यक्ति, कोई भी नागरिक, मामूली मजदूर वह हो सकता है, करोड़पति हो सकता है, कोई भी मदद ऐसे

संगठन की कर सकता है जिसको आपने गैर कानूनी घोषित किया है। कोई विज्ञापन दे सकता है, अगर उस संगठन की ओर से सोवनीयर निकलने वाला हो, पर्चा निकलने वाला हो उसमें विज्ञापन देकर मदद करने का काम वह कर सकता है। इस वास्ते मैं चाहता हूँ कि सदस्य के बारे में और सामान्य नागरिक के बारे में बात साफ होनी चाहिये और दोनों को अलग-अलग दृष्टिकोणों से देखा जाना चाहिए।

आगे जाकर सदस्य हो या मामूली नागरिक हो उन्हें सजा दी जाएगी। इसमें कहा गया है, ही शैल बी पनिशड, ही शैल बी सेंटेंसड। ऐसी कोई इसमें सुविधा नहीं है कि वह किसी प्रकार से बच सके। अगर वह सदस्य है तो उसको जरूर जेल जाना चाहिये और अगर उसने इस संगठन की कोई भी मदद की हो तो भी उसको जरूर जेल जाना चाहिये। यह इस धारा में लिखा गया है। हमने यह मांग की है अपने संशोधनों में कि दो साल की सजा को एक साल किया जाए। आगे की क्लॉजिज में भी दो तीन तरमीमें हमने पेश की हैं जो कि सजा के बारे में हैं। यहां और आगे भी सजा को कम करने के बारे में मैं चाहता हूँ कि आप हमारी कुछ तरमीमों को मान लें।

एक तरफ आप किसी संगठन को गैर कानूनी संगठन घोषित करते हैं, उसके तमाम दफ्तरों, तमाम चीजों को आप दबा रहे हैं और उस संगठन के लिए काम करना असम्भव बना रहे हैं और उसके वाद उस संस्था से सम्बन्ध रखने वाले सदस्य अथवा अन्य लोगों को इतने बरसों के लिए जेल में रखने जा रहे हैं तो यह तो कोई इंसानियत नहीं है। यह तो कोई इंसाफ नहीं है। हमारा निवेदन है कि आप सजा को कम करें।

कौन जेल जाता है। गरीब लोगों को जेल जाना पड़ता है। बीस साल जो गुजर चुके हैं इनमें आपने देखा होगा कि कांग्रेस वाले जेल में नहीं गए हैं। हम लोग काफी बार जा चुके हैं। मैं बता सकता हूँ कि अंग्रेजों के जमाने में

हिन्दुस्तान की जेलों की जो हालत हुआ करती थी उससे कहीं खराब हालत उनकी आज हो चुकी है। जैसे मुल्क रोज-रोज गिरता जा रहा है वैसे ही जेलों में जो परेशानियों का सामना करना पड़ता है वे भी बढ़ती जा रही हैं। मैं इस बात को अपने अनुभव के आधार पर आपको बता रहा हूँ। मैंने दिल्ली से लेकर बीसापुर तक की जेलों को देखा है। इतनी हालत उनकी बिगड़ती जा रही है कि वहाँ जाकर रहना आज कल बहुत ही मुश्किल हो गया है। अंग्रेजों के सामने मैं इतनी मुसीबतें और मुश्किलें नहीं थीं जितनी आज हैं।

गरीब आदमियों के लिए आप जब दो साल से लेकर सात साल तक जेल भेजने का इंतजाम कर रहे हैं, कारखाने में काम करने वाले मजदूर को या नौकरी करने वाले मजदूर को या राजनीतिक कार्यकर्ता को आप अगर इस तरह से जेल भेजने का काम करने जा रहे हैं तो उनके कुटुम्ब वालों का क्या होगा क्या आपने कभी इस पर सोचा है। इस प्रकार से राजनीति में भाग लेना क्या असम्भव आप नहीं बना रहे हैं। पिछले कई बरसों से आपने प्रिवेंटिव डिटेनन एक्ट बना रखा है, उसके अंतर्गत रूज बना रखे हैं और उसके तहत भी आप लोगों को जेलों में बन्द करते हैं। बापूराव बापट को तो आप जानते ही हैं। आज वह इस दुनिया से चले गए हैं। उनके कुटुम्ब की क्या हालत हो गई थी जब उनको जेल में डाला गया था, उनका कुटुम्ब कैसे बरबाद होने लगा था, इसकी आपको व्यक्तिगत रूप से जानकारी है। मैं उनका इसलिए जिक्र कर रहा हूँ कि आप सियासी कार्यकर्ताओं को उनके मत से चूँकि आपका मतभेद है इस वास्ते उनको लम्बे असें के लिए जेल भेजते हैं तो उनके कुटुम्बों के बारे में भी सोचना आपका कर्तव्य हो जाता है। जेल जाने वाले के जो स्कूल जाने वाले बच्चे होते हैं वे बरबाद हो जाते हैं, उनकी पढ़ाई बरबाद हो जाती है। उसके परिवार वालों की जिन्दगी बरबाद हो जाती है। जो तरीका आप अपनाते हैं इसके

बारे में भी आपको सोचना होगा। सियासी क्षेत्र में काम करने वाले लोगों को किसी भी कारण से अगर आप जेल भेजते हैं तो उनके कुटुम्बियों की जिम्मेदारी सरकार को उठा लेनी चाहिये, हमेशा के लिए यह प्रथा सरकार को चलानी चाहिये कि वह उनका भरण पोषण करे। वर्ना सियासत में काम करना और खास तौर पर आपकी सरकार के मुकामबले में अपने विचारों का प्रचार करना दूसरे लोगों के लिए करीब-करीब असम्भव हो जाएगा।

अन्त में मैं निवेदन करता हूँ कि एक तो आप सज़ा कम करें क्योंकि सदस्य और नागरिक की बात इसमें आ जाती है। दूसरे जो सदस्य समझते हैं कि वे गुनाहगार नहीं हैं उनको इसको साबित करने का मौका आप जरूर दें और तीसरे इस क्लज में और आगे की दो तीन क्लजिज में जो आपने बहुत लम्बे असें की सज़ा रखी है उसको आप कम करें। अगर आप इसमें इसको नहीं जोड़ सकते हैं तो कुछ नियम ऐसे बनायें जिससे राजनीतिक कार्य करने वाले अगर जेल में डाले जाते हैं तो उनके बच्चों के शिक्षण, उनके मकान के किराये जैसी मामूली चीजों के बारे में आप ध्यवस्था करें ताकि उनके कुटुम्बीजन बर्बाद न हों।

SHRI NAMBIAR : My amendments 57, 58 and 59 are as follows :

Page 8, line 20,—

for "is" substitute—
"continues to be".

Page 8,—

line 22 and wherever it occurs in the clause,—

for "or" substitute "and"

Page 8, line 26,—

for "two years" substitute—
"six months".

I want to ask the hon. Home Minister about these things. These are things which he must explain. Today is the 20th December, 1967, and an organisation is declared illegal. 'X' is a member of that organisation. On the 21st morning, i.e., tomorrow morning, that 'X' is arrested and told that

[Shri Nambiar]

he is a member of an organisation which is declared illegal and, therefore, he has to undergo imprisonment for two years. This is the sum and substance of this clause. The Clause reads thus :

"Whoever is a member of an association declared unlawful by a notification issued under section 3 . . ."

Whatever may be the reason, Government finds that a particular association is illegal—by Government's understanding—and Government notifies it and it comes in the Gazette. All these members do not know what has actually happened and they do not automatically get dissolved. So, any one can be hauled up in a court and said that he is a member of this organisation which is declared illegal. That is why, I have given this amendment. It should read as follows :—

"Whoever continues to be a member of the association . . ."

It should be altered in this way. Today you are declaring it as illegal. Till today he does not know whether he is committing any illegal act. Tomorrow after seeing the notification, he feels that this an illegal organisation, according to the Government's law. You should give him an opportunity to decide whether he should continue to be a member or not. You cannot call every member and say that he is punishable under the law. This Clause as it is reads like that. That is what exactly Mr. George Fernandes and Mr. Indrajit Gupta have said. If this is not so, let the hon. Minister explain this; let him explain what is the meaning of the construction of this Clause. Automatically, *suo moto*, a member, without even knowing what has happened, lands himself into the jail; he gets no opportunity to defend himself. He might have become a member of that association unknowingly . .

SHRI INDRAJIT GUPTA : He has to resign from the jail.

SHRI NAMBIAR : Yes; he has to send his resignation from the jail! We want justice. The hon. Minister may make it clear and say what he wants. A member of an organisation, which is likely to be declared illegal on a particular day, cannot become a non-member before that day without knowing anything. These are the provisions. The provisions say that any-

thing and everything under the Sun can be hauled up as an unlawful activity. That, we have decided earlier. Clause 2 makes it very clear. What is meant by an 'unlawful activity'? 'Unlawful activity' started with cession and secession of any part of India and now it has stretched itself to anything that comes under this. I will just remind you what exactly is meant by 'unlawful activity'. 'Unlawful activity' is an omnipotent, omnipresent and something like an all-pervading thing. I will just read this out. 'Unlawful activity' means any act,

"(i) which is intended, or supports any claim, to bring about on any ground whatsoever the cession of a part of the territory of India or the secession of a part of the territory of India from the Union" etc., etc.

(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and integrity of India."

Which disclaims what, which disrupts what, which questions what? Which disrupts the sovereignty of India. Sovereignty is such a big thing. Holding a meeting against the Language Bill is disruption of the sovereignty of India. Why? Because you will create trouble. Holding up the train or the pulling the chain of the train is also unlawful.

SHRI Y. B. CHAVAN : Language Bill does not mean 'sovereignty'.

SHRI NAMBIAR : All right, did you define it anywhere? Therefore, it is an all pervading Act. At least there must be justice. A Member must know what it is by becoming a member of an organization. By becoming a member of that organization he is committing an offence, must be told that member, and that member must be conscious of that. Still if he continues to be so, he should be penalised. Is he to be penalised for his ignorance and innocence? Is that purpose of this Bill? After all if the mischief is done, you have done it. You have disorganized that organization which is supposed to be a legal organization. Why cannot you accept my amendment which reads 'whoever continues to be'? Then he can say, 'I do not become. Or I will not continue to be a member. Or I was a member

but I am not a member to-day'. You give him an opportunity to say so.

Then instead of 2 years I have wanted this to be reduced to 6 months. Then there are many 'or's. Instead of 'or' I want 'and' to be put so that the overt act continues, and he continues to be a member, therefore he is punished. Then I want the punishment to be reduced to 6 months. There is some justice, there is some reason, in that.

AN HON. MEMBER : We accept your amendment.

SHRI NAMBIAR : You must accept something, you do not accept anything except my throat.

श्री रणधीर सिंह : डिप्युटी स्पीकर साहब, यह एक मज़ाक है कि देश के साथ गद्दारी करने वाले के लिए सिर्फ़ दो साल की सज़ा रखी गई है। जो आदमी देश के साथ गद्दारी करे, देश के खिलाफ़ सरगमियों में भस्करू हों, उसको सिर्फ़ दो साल की सज़ा। मैंने पहले तरमीम दी थी कि पिनेल्टी क्लोज़ में बहुत कम सज़ा प्रोवाइड की गई है, इसलिए उसको बढ़ाया जाये। जो आदमी देश के हिस्से-बख़रे करना चाहे, देश को पाश-पाश करना चाहे, देश को तोड़ना चाहे, पाकिस्तान या चीन को देश में बुलाना चाहे, जयचन्द बनना चाहे, उसको सिर्फ़ दो साल की सज़ा देना वाफ़ई एक मज़ाक की बात है।

जो भाई कानून से वाकिफ़ हैं, वे जानते हैं कि अगर कोई आदमी किसी को धप्पड़ दिखाता है, आई० पी० सी० की दफा 323 में उसको तीन साल की सज़ा होती है। लेकिन जो शरूस माओ-त्से-तुंग या रूस के अपने आका को बुलाए कि वे आकर हिन्दुस्तान पर कब्ज़ा कर लें, उनको कहें कि नीफ़ा उनका है, नागालैण्ड उनका है, मिजोरैण्ड उनका है, सारा कश्मीर उनका है, जो इस किस्म की एक्टिविटीज़ में हिस्सा ले, लेक्चर दे, ऐसी बात कहने वाली पार्टी को चन्दा दे, उसके लिए दो साल की सज़ा बहुत थोड़ी है।

मैं अपने फ़्राज़िन दोस्त के साथ हूँ कि मासूम आदमियों को सज़ा न मिले। जैसा कि फ़ारसी के एक स्टान्जा में कहा गया है, चाहे गुनाहगार आदमी एक हजार बच जायें, लेकिन एक भी मासूम आदमी को सज़ा नहीं मिलनी चाहिए। यह ठीक है कि मासूम आदमियों को सज़ा न मिले, लेकिन जिन आदमियों के बारे में यह साबित हो जाये कि वे देश-दुश्मन सरगमियों में मसरूफ़ हैं और देश-दुश्मन पार्टीज़ या श्रुप्स की एक्टिविटीज़ में हिस्सा लेने पर बजिद् हैं, उनके लिए दो साल की सज़ा नाकाफ़ी है। मैं आपको बताना चाहता हूँ कि इस जुर्म की सज़ा चीन और रूस में फांसी है और कई दूसरे देशों में ट्रांसपोर्टेशन फ़ार नाइज़ है। मैंने यह तरमीम दी थी कि इस बिल में जो दो साल की सज़ा रखी गई है, उसको और बढ़ाया जाये। शायद होम मिनिस्टर साहब ऐसा नहीं कर सकते हैं, लेकिन इस सज़ा को किसी भी हालत में कम नहीं किया जाना चाहिए।

श्री क० ना० तिवारी (बेतिया) उपाध्यक्ष महोदय, माननीय सदस्य श्री नम्बियार, ने यह संशोधन रखा है कि किसी दल या संगठन को अनलाफ़ुल डिक्लेयर किये जाने के बाद अगर उसका कोई सदस्य यह कहे कि मैं अब उस दल का मँबर नहीं हूँ, तो उसके विरुद्ध कार्यवाही न की जाये। मैं समझता हूँ कि होम मिनिस्टर साहब को उस संशोधन को मान लेना चाहिए।

श्री जार्ज फ़रनेन्डीज़ ने यह सुझाव दिया है कि अगर किसी व्यक्ति को इस कानून के अन्तर्गत कैंद की सज़ा दी जाये, तो उसके कुटुम्ब का भार गवर्नमेन्ट को उठाना चाहिए। इसका अर्थ यह है कि अगर सब लोग जेल चले जायें, तो गवर्नमेन्ट उनके कुटुम्बों का भार उठा लेगी और इस प्रकार हमारी अनएम्पलायमेंट की समस्या हल हो जायेगी। मैं इस सुझाव के विरुद्ध हूँ।

SHRI Y. B. CHAVAN : I think Shri Nambiar is moving some amendment to the amendment.

It is not enough that the member is a member but he should continue to be a member. I think that that was the point that the hon. Member had raised. So, the words should be 'is and continues to be'. I suppose his objection was on that score. Suppose a notification is issued declaring some association as an unlawful association, then the hon. Member's point is that immediately the member must have some opportunity to dissociate himself from such an association so, he has to make further effort to continue to be a member; I think that is what he wants should be put in. I am prepared to accept that principle. But let that amendment be moved separately. I have consulted the Law Minister and according to him that amendment will have to be for the purpose of adding the words 'and continues to be'. If that is the amendment, I am prepared to accept it.

SHRI NAMBIAR : My amendment is here, and it seeks to substitute the words 'continues to be' in place of 'is'. With the permission of the House I would like to change it to 'and continues to be a member'. The new amendment would be as follows :

I beg to move :

Page 8, line 20, *after 'is' add 'and continues to be'.*

SHRI Y. B. CHAVAN : I accept it.

MR. DEPUTY-SPEAKER : According to the rules of procedure, at this stage I am not suppose to do in, but with the concurrence of the House I can accept it. I suppose the House agrees.

SEVERAL HON. MEMBERS : Yes.

MR. DEPUTY-SPEAKER : The new amendment is now before the House.

SHRI Y. B. CHAVAN : I quite see that point. Any person who happens to be a member of an unlawful association must have an opportunity further either to discontinue or to continue. Once he exercises his choice to continue the membership, he must face all the consequences of his action. I accept this point in principle. Therefore, I have no hesitation in accepting the new

amendment that he has just now moved with the consent of the House.

As far as I could see, this was the most important point that was raised by most of the Members. I think this was the point that Shri Indrajit Gupta had also raised.

SHRI INDRAJIT GUPTA : But my amendment is different.

SHRI Y. B. CHAVAN : I know that he has another amendment, but I think he made the same argument.

SHRI INDRAJIT GUPTA : In case he is able to show that he had no personal knowledge, and this onus is put on him, why should he be proceeded against ?

SHRI Y. B. CHAVAN : After this amendment is accepted, we give him one more opportunity to discontinue his membership. Really speaking I must say that this was certainly a deficiency in the original draft. When I saw it I felt that it must be remedied. Therefore, I am prepared to accept this new amendment. After this, I do not see any reason why the other amendments should be pressed.

As regards the term of imprisonment, two years is the maximum period. It is the maximum punishment that is provided, and the court will go in all cases into the facts while deciding the quantum of punishment. This is the maximum punishment, and, therefore, I feel that the present provision should be accepted.

MR. DEPUTY-SPEAKER : I shall now put the amendment of Shri Nambiar to vote. Amendment No. 57 was his amendment. He has slightly amended it, and the new amendment would read like this.

SHRI Y. B. CHAVAN : Let it be treated as a fresh amendment.

MR. DEPUTY-SPEAKER : The question is :

Page 8, line 20, *after 'is', add 'and continues to be'.*

The motion was adopted.

MR. DEPUTY-SPEAKER : I shall now put the other amendments to this clause, namely amendments Nos. 21, 22, 57, 58, 59, 60 and 76 to vote. Shri Indrajit Gupta's amendment No. 150 is covered by

another amendment and, therefore, that is dropped.

Amendments Nos. 21, 22, 57, 58, 59, 60 & 76 were put and negatived.

MR. DEPUTY-SPEAKER : The question is :

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

The motion was adopted.

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

Clause 11—*(Penalty for dealing with funds of unlawful association)*

MR. DEPUTY-SPEAKER : There are some amendments.

SHRI GEORGE FERNANDES : I beg to move :

Page 8, lines 32 and 33,—
for "may extend to three years"
substitute "shall not extend one year"
(23)

Page 8, line 33,
after "fine", insert—
"which shall not exceed rupees one hundred," (24)

SHRI NAMBIAR : I beg to move :

Page 8, lines 32 and 33,—
for "three years" substitute—
"three months" (61)

SHRI SHRI CHAND GOEL : I beg to move :

Page 8, line 33,—
after "years" insert—
"or for a period upto which the notification issued under section 3, operates under sub-section (2) of section 6, whichever period is shorter"
(62)

SHRI VISWANATHA MENON : I beg to move :

Page 8, line 30,—
after "otherwise" insert "intentionally"
(104)

Page 8,—

for lines 32 to 38, substitute—

"punishable with imprisonment for a term which may extend to three months or with fine not more than one hundred rupees" (105)

SHRI NAMBIAR : My amendment No. 61 is very simple. Instead of three years, I want it to limit it to three months. The person on whom a prohibitory order is issued shall be punished if he deals in any manner with the property in contravention of the order. It is a technical order. He has been asked that so much money should not be taken or that he should not take a cooking utensil or that he should take a table instead of a desk and so on. If there is contravention, he is proposed to be punished with three years. I say it is too much; it should be only three months. The association itself is declared unlawful only for two years, but here the proposed punishment is three years.

श्री जार्ज फर्नेन्डीस : सजा कम करनी चाहिए । दंड कम होना चाहिए ।

SHRI Y. B. CHAVAN : I have nothing to add to what I have said.

MR. DEPUTY-SPEAKER : I shall now put all these amendments together to the vote of the House.

Amendments Nos. 23, 24, 61, 62, 104 & 105 were put and negatived.

MR. DEPUTY-SPEAKER : The question is :

"That clause 11 stand part of the Bill".

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12—*(Penalty for contravention of an order made in respect of a notified place)*

MR. DEPUTY-SPEAKER : There are some amendments.

SHRI GEORGE FERNANDES : I beg to move :

Page 8, line 41,—
for "one year" substitute—
"three months" (25).

[Shri George Fernandes]

Page 8, line 42,—

add at the end—

"which shall not exceed rupees one hundred" (26).

Page 9, line 2,—

for "one year" substitute—

"three months" (27).

Page 9, line 2,—

add at the end—

"which shall not exceed rupees one hundred" (28).

SHRI NAMBIAR : I beg to move :

Page 8, line 41,—

for "one year" substitute—

"one month" (63).

SHRI SHRI CHAND GOEL : I beg to move :

Page 8, line 41,—

after "one year" insert—

"or for a period upto which the notification issued under section 3, operates under sub-section (2) of section 6, whichever period is shorter" (64).

SHRI NAMBIAR : I beg to move :

Page 9, line 2,—

for "one year" substitute—

"one month" (65).

SHRI SHRI CHAND GOEL : I beg to move :

Page 9, line 2,—

after "one year" insert—

"or for a period upto which the notification issued under section 3, operates under sub-section (2) of section 6, whichever period is shorter" (66).

SHRI VISWANATHA MENON : I beg to move :

Page 8, line 39,—

after "Whosoever" insert "intentionally" (106).

Page 8, lines 41 and 42,—

for "one year, and shall also be liable to fine," substitute "one month or shall be liable to fine not more than fifty rupees" (107).

Page 9, line 2,—

for "one year, and shall also be liable to fine" substitute "one month or shall be liable to fine not more than fifty rupees" (108).

MR. DEPUTY-SPEAKER : Shri V. Krishnamoorthi's amendment No. 134 is the same as 106 already moved.

Whatever has to be said has been said already. Let us dispose of these first. Then we will have some more time at the third reading stage.

I shall now put all these amendments together to the vote of the House.

Amendments Nos. 25 to 28, 63 to 66 and 106 to 108 were put and negatived.

MR. DEPUTY-SPEAKER : The question is :

"That clause 12 stand part of the Bill".

The motion was adopted.

Clause 12 was added to the Bill.

Clause 13— (*Punishment for unlawful activities*)

MR. DEPUTY-SPEAKER : There are a number of amendments. I shall read them out.

Shri George Fernandes : Nos. 29, 30, 31, 32, 33.

Shri Nambiar : 67, 68, 71, 109, 110, 111, 112, 113.

Shri Shrichand Goel : 69, 70, 72.

These are treated as moved. The other amendments Nos. 135, 136, 137, 138, 139, and 151, are the same as those already moved.

As regards No. 159, the member is absent.

SHRI GEORGE FERNANDES : I beg to move :

Page 9, line 8,—

for "seven years" substitute—

"two years" (29).

Page 9, line 8,—

add at the end—

"which shall not exceed rupees two hundred" (30).

Page 9, line 13,—
for "five years" substitute—
"one year" (31).

Page 9, line 13,—
after "fine" insert—
"which shall not exceed rupees one hundred" (32).

Page 9,—
omit lines 14 to 17 (33).

SHRI NAMBIAR : I beg to move :
Page 9, line 6,—
omit "advocates, abets, advises or"
(67).

Page 9, line 8,—
for "seven years" substitute—
"one year" (68).

Page 9, line 13,—
for "five years" substitute—
"six months" (71).

SHRI P. RAMAMURTI : I beg to move :
Page 9, line 4,—
after "Whoever" insert "intentional-
ly" (109).

Page 9, line 8,—
for "seven years, and shall also liable to fine" substitute "three months or with fine not more than two hundred rupees" (110).

Page 9, line 9,—
after "Whoever" insert "intentionally"
(111).

Page 9, line 13,—
for "five years, or with fine, or with both" substitute "three months or with fine not more than two hundred rupees" (112).

Page 9, line 17,—
add at the end,—
"and nothing shall be an offence for any group of persons to either advocate, abet or assist for concluding any treaty, agreement, or convention or negotiations" (113).

SHRI SHRI CHAND GOEL : I beg to move :

Page 9, line 8,—
for "seven years" substitute—
"three years, or for a period upto which the notification issued under
L103LSS/67-11

section 3, operates under sub-section (2) of section 6, whichever period is shorter" (69).

Page 9, line 13,—
for "five years" substitute—
"three years or for a period upto which the notification issued under section 3, operates under sub-section (2) of section 6, whichever period is shorter" . (70)

Page 9,—
after line 17, insert—
"Provided that the Central Government shall obtain prior approval of the Parliament for entering into such treaty, agreement, convention or negotiations with the Government of any other country" (72).

श्री जार्ज फरनेन्डीस : अध्यक्ष महोदय, मैं तो एक ही वाक्य कहना चाहूंगा। 13(3) को हटाया जाय यह मेरा कहना है। (3) में यह लिखा है

"Nothing in this section shall apply to any treaty, agreement or convention entered into between the Government of India and the Government of any other country or to any negotiations therefor carried on by any person authorised in this behalf by the Government of India".

अध्यक्ष महोदय, सरकार यह छूट चाह रही है

सरकार यह चाहती है कि कांग्रेस पार्टी चाहे तो अनलाफुल एक्टीविटी करे, उनको अनलाफुल एक्टीविटी करने की माफ़ी दी जाय, और उनके लिये अनलाफुल एक्टीविटी करने के लिये इस कानून में इन्तज़ाम कर दिया है।

17 Hrs.

उपाध्यक्ष महोदय, हम इस सब क्लॉज को बिलकुल हटा देना चाहते हैं। सरकार को भी इस मुल्क का कोई भी हिस्सा दूसरे किसी मुल्क को देने के लिये हम इस कानून में संमत मनाही चाहते हैं। इसलिये मैंने यह तर्कमीन पेश की है और मैं उम्मीद करता हूँ कि गृह मंत्री जी इसको ज़रूर मंज़ूर करेंगे, यदि वह इस कानून को ईमानदारी से अमल में लाना चाहेंगे।

श्री श्रीचन्द्र गोयल : उपाध्यक्ष महोदय, मैंने सब-क्लाउज़ तीन के बाद यह संशोधन किया है कि इसमें ये शब्द एड किये जायें—

"Provided that the Central Government shall get the approval of Parliament for entering into such treaty."

चूँकि कांग्रेस का आज का इतिहास इस प्रकार का रहा है कि इन्होंने बेरूवाड़ी को संसद का परामर्श लिये बगैर दुश्मनों के हवाले सौंप दिया। हिन्दुस्तान और पाकिस्तान के युद्ध में हमारे नौजवानों ने जिस हाजीपीर, कारगिल के इलाके को बड़ी वीरता के साथ जीता था, इन्होंने उसको ताशकन्द स्प्रिट का शिकार बना दिया और वे जीते हुए इलाके बगैर देश की और संसद की राय लिये पाकिस्तान के सुपुर्द कर दिये गये। इसलिये मैं यह संशोधन पेश कर रहा हूँ कि जब इस प्रकार का प्रसंग आये तो ये संसद को विश्वास में लें, उसकी अनुमति लें, उसमें मोहर लगावायें, तब हिन्दुस्तान का कोई इलाका दुश्मनों के हाथ में सौंपे, यदि ऐसा नहीं हुआ तो इस कानून से तो इनको हक मिल जायगा—मेरी दृष्टि में यह अनुचित है।

SHRI V. KRISHNAMOORTHY: Without political party advocating whether a particular treaty or agreement is necessary or not; treaty cannot be made or an agreement cannot be entered into, because this is democratic country. If it is China, Mao Tse-tung can straight away enter into it; if it is Pakistan, Ayub Khan can straight-away enter into an agreement with the Government of India or other countries, but ours is democratic country, and whether it is an agreement or treaty favourable to India may be debatable point. The whole Act goes into the air if this clause 3 is applied strictly. Therefore, my amendment is to add at the end :

"and nothing shall be an offence for any group of persons either to advocate, abet or assist for concluding any treaty, agreement, or convention or negotiations."

According to this particular sub-section, if the hon. Home Minister enters into a

treaty, he escapes from the liability of the law, but if some party wants some peaceful settlement, then the law applies. That is why the amendment should be accepted. Moreover, if this clause 3 is strictly applied the entire Act is going to be annulled by the court.

SHRI NAMBIAR : My amendment No. 67 wants to take away the words "advocates, abets, advises or". Then, it will read, "Whoever takes part in or commits, or incites the commission of any unlawful activity...". The man who commits an unlawful act must be punished; otherwise, anybody can be hauled up. It is so vague that whomsoever the police does not like can be hauled up. That is the point.

My next amendment is that seven years punishment should be changed to one year. After all, for unlawful activity in organisation becomes illegal only for two years, but whoever commits an offence is given seven years, in inverse proportion, that is not proper. So, the amendment of Mr. Goel may be accepted, or mine may be accepted which is very moderate, that it may be one year. After all, a man cannot escape. Once his association is declared illegal and he undergoes one year's imprisonment and he comes out, if he again does the same thing, you can give him one year every time. You give him terms like that. But do not give him seven years imprisonment. That is too much. That is not proportionate. Please alter it to one year and six months.

SHRI S. KUNDU : Sir, in this clause, very deterrent punishments have been provided for. I have two points to make in respect of this clause. One is that in clause 13(b), a punishment of seven years' imprisonment is provided for. It is therefore giving a long handle to the executive and the police to use the provisions in any way they like. It is something to haul up a person for unlawful activity, such as trying to sabotage the integrity of the country and to award him a punishment of imprisonment for a certain number of years. But to say that somebody is inciting and so he should be given seven years' imprisonment as a punishment, is too much. After all, it is easy to manufacture such evidence, to cook up such evidence, to show that some one has incited. Therefore, this is wrong.

When I was imprisoned under DIR I know how it is misused. Under section 109 of the Criminal Procedure Code, some people have been hauled up because they have been found to be moving like vagabonds. This is their crime because they have been found to be moving like vagabonds. Therefore, under section 109 of the Cr.P.C. they were given punishment, and their civil liberty was taken away. Therefore, my fear is this. When you take such powers on yourself, it is liable to be misused.

Then, about sub-clause (3), I would like to say one thing. This clause is also very deterrent, because anybody who wants to meddle or who wants to interfere with the integrity—may be some government or may anybody—is attracted by this provision and he is hauled up. Sub-clause (3) says: "... entered into between the Government of India and the Government of any other country." This should not come into force; this is a discriminatory provision. I suspect and I strongly believe that this is a discrimination, and this clause will be hit by the Constitution and would be thrown out if it is taken to a court of law. Therefore, I would plead that sub-clause (3) of this clause should be deleted.

MR. DEPUTY-SPEAKER : Mr. Ramamurti, would it not be better if you speak at the final stage? I will give you time then.

SHRI P. RAMAMURTI : I did not speak on the other amendments. I am now speaking on this amendment because this is particularly important in view of what the Home Minister stated yesterday. Yesterday, the Home Minister stated that he understood Mr. Daphtary to say that he logically agreed, that it was logical. We were not having a class on logic. What we were having before us was the observation of the Attorney-General. In his statement, while giving evidence on the Bill, he said that this Bill comes within the reasonable restrictions clause of the amendment to the Constitution. It was my task as well as the task of other Opposition Members to point out certain facts more or less as a sort of cross-examination and then draw out things from him. Therefore, that is what has taken place. Actually, there in the course of that examination,—I do not go very much into the details I quoted at one time certain judgements and asked him what exactly was his view. I asked him how he could call the restrictions

provided for in the Bill as reasonable. He said, "May I answer, though it is not easy to answer. Let me start with the judgment first. That was in 1952." It was said that the Supreme Court was taking a liberal view. It was a stricter view. It may have been liberal from the point of view of the Government. And let us hope that in future, they will take a stricter view. Therefore, he put the whole thing on the basis of an astrological prediction that the Supreme Court might give later on. I am not concerned with that. I am only concerned with this particular thing : here again, I tried to ask him only on the question of reasonable restriction. I asked him, "Therefore, the Government of India is authorised to negotiate with any other country even for the purpose of cession of a part of our country or territory. Now, you said, an expression of opinion is not barred. Supposing, a political party thinks that the policies that the Government of India is pursuing in a certain border dispute is not correct and, therefore, it thinks that there must be a political settlement which may be 'give and take', while an expression of opinion by an individual is considered to be correct, but a political party, in the interest of the country and genuinely thinking it to be in the interests of the country, in view of the power which the Government is authorised to exercise, in order to make the Government do that thing, it tries to mobilise the people and canvass support for the public opinion, will that be wrong?" The Attorney-General replied : "As I understand it, if you express an opinion collectively or singly, provided it is an opinion." This was the answer. Then I further pursued the matter. I did not leave it at that. I said :

"It is a question of acting when you say 'it incites other people', when it asks the Government of India to act in this particular manner. Therefore, it is wrong to ask the Government to do a particular thing which the Government is entitled to do under this Act. This Act provides that the Government of India can enter into negotiations etc. and act in a particular manner."

"How do you say that it is reasonable? Section 13 is very clear that the Government can act. If I ask the Government to act—after all democracy means popular opinion—and the popular

[Shri P. Ramamurti]

opinion asks the Government to act in a particular way, how is it wrong?

Without supporting any claim—I need not support any claim—but in the interests of peace and in the interests of our country....”

In the interests of peace, if I say that there must be a political settlement, how do you say that it is wrong? He said :

“The party collectively expresses an opinion; you meet together and say, ‘We express the opinion’....”

I further pursued :

“Political parties in this country function not only among its members; in a democracy, the political parties go to the people, ask their opinion, give their opinion and ask the people to express themselves in favour of that. That means something—going, inciting people to act in a particular way. Therefore, if we in- under section 13, then you say, ‘You can cite the people in a way as provided for express an opinion but you cannot ask the people to do that’.... If the government is prohibited from ceding anything, then I can understand your saying ‘You cannot do that’, but the government is empowered with those powers.”

He said : “Why do you put into the Constitution ‘integrity and sovereignty of India’? It is to preserve it.”

I said :

“But the Government in certain circumstances is authorised to do certain things. Therefore, in a democracy people can certainly ask the Government to do a thing in a particular way. How is it unlawful?”

Then, when I finally pinned him down, after waiting for 5 minutes, he said, “I agree. It did not strike me then.”

Therefore where is the question of putting some interpretation which is not warranted? The whole question was about ‘reasonable restriction’. That is why I have moved an amendment.

Apart from that, are we responsible for the state of affairs on the borders today? It is the Government of India which referred the Kashmir issue to the U.N. in 1947 on the advice of Mountbatten and today it has become an international issue. Are

we responsible for that? Are we responsible for the fact that in Aksaichin China is there and not we? We are not responsible for that. It is the Government of India that has given us this situation. It was the Prime Minister of this country who said on the floor of the House in 1959, 12 years after independence, “I do not know to whom this area belongs”.

17.13 Hrs.

[MR. SPEAKER *in the Chair*].

We are not upholding the claim of anybody. But the Government of India is authorised to have a settlement. After all, a political settlement means give and take. You may give something and get Kailash. By some give and take, you may solve the problem. Without supporting any claim, we are only interested in seeing that the problem is settled somehow or other. So, can we not ask for a political settlement? Yesterday, the Home Minister said, “You appoint me as your lawyer and I will tell you”. Sir, I have never defended my cases with the help of lawyers; I have done it myself and I have proved myself to be a good lawyer.

In view of the specific evidence given by the Attorney General and in view of the democratic practice, why should you deny this right to a political party? I agree that no claim is to be supported. But if it is open to somebody to have a settlement, it is open to me to rally public opinion to say that the Government of India must take the initiative to have a political settlement. That should not be penalised.

SHRI TENNETI VISWANATHAM : Sir, we have passed clause 10 which says :

“Whoever is a member of an association declared unlawful by notification... or takes part in meetings of any such unlawful association or continues to or receives or solicits any contribution for the purpose of, any such unlawful association....”

Clause 13 says the same thing :

“Whoever takes part in or commits or advocates, abets, advises or incites the commission of any unlawful activity....”

In clause 10 also it is said “assisting the operation of any unlawful activity”. There we get two years. Here the same thing is paraphrased again into two clauses, in one

it is a punishment of seven years and in another it is five years. Therefore, for the same thing there are two clauses, one is clause 10 and the other is clause 13 with two sub-clauses. I submit that the Government should make up its mind whether it would like to proceed under clause 10 or clause 13 instead of leaving to the judge. The tribunal cannot understand any of these dubious things. Will they make it clear?

SHRI GOVINDA MENON : The main criticism has been against sub-clause (3) of clause 13 regarding treaty, agreement convention etc. The Government thinks that this Act will be on the statute-book only for a limited period. When the situation becomes normal certainly Government will be interested in repealing this Act, characterised extraordinary by the Home Minister himself. With respect to treaty and other things, in all governments everywhere in the world it is the duty of government and its privilege to enter into treaties with other sovereignties. But Government do not go about propagating their views in regard to this matter and inciting people in this regard. Shri Ramamurti was saying that they may like to plead for a certain settlement of certain outstanding questions in a certain manner. This Bill does not prohibit propagation of these views within the four corners of Parliament. That is my answer to the several points made against sub-clause (3) to clause 13. Government are not in a position to accept the amendments.

MR. SPEAKER : What about Shri Viswanatham's point?

SHRI GOVINDA MENON : Under clause 10 the maximum is two years for being a member. Under clause 13 the maximum is 7 years. That is because clause 13 provides for overt activity. In clause 13 the activities are specified. Whatever is contained in clause 13 should be taken to be not contained in clause 10.

MR. SPEAKER : I shall put all amendments to clause 13 to the vote of the House.

Amendments Nos. 29 to 33, 67 to 72 & 109 to 113 were put and negatived.

MR. SPEAKER : The question is :

"That clause 13 stand part of the Bill."

The motion was adopted.

Clause 13 was added to the Bill.

MR. SPEAKER : We have spent already ten hours on this Bill when only 7 hours were allotted. Just now the Business Advisory Committee met and it has been decided that this Bill should be concluded today. According to rules also I can put all the amendments together and all the remaining clauses together. But if hon. Members will co-operate we may be able to finish it in another 25 to 30 minutes. It must be over today, because the financial business and other items have to be taken up from tomorrow. The Business Advisory Committee has met and has fixed up the whole thing. It has decided that the discussion on this Bill should be over by today evening, including the third reading, so that from tomorrow other items of work can be taken up. Otherwise, the discussion on foreign affairs and other items which have been fixed up by the BAC will go and I will be helpless. The rules clearly say that when the BAC has fixed some time and the House has accepted it, the Speaker can put all the clauses to the vote together after that allotted time is over. I can extend the time by half an hour or one hour. I cannot extend it for days together.

SHRI TENNETI VISWANATHAM : But the rules did not ask government to bring such a contentious measure.

MR. SPEAKER : The BAC fixed up the time after seeing the nature of the Bill.

I find that there are no amendments to clause 14. I will put it to the vote of the House.

SHRI P. RAMAMURTI : You may put the rest of the clauses to the vote now and give the rest of the 40 minutes or so for the third reading.

Clauses 14 to 21

MR. SPEAKER : It is a very good suggestion.

All the amendments to clauses 15, 16, 17 and 19 will be treated as moved.

SHRI GEORGE FERNANDES : I beg to move :

Page 9,—

after line 26 insert—

"Provided, however, that such members or associations shall be given an opportunity to prove to the contrary before the Tribunal set up under this Act". (34)

SHRI RAJDEO SINGH (Jaunpur) : I beg to move :

Page 9, line 24,—

after "name" insert—

"or change of complexion" (171)

SHRI NAMBIAR : I beg to move :

Page 9, line 31,—

after "court" insert—

"except a High Court" (73)

SHRI P. RAMAMURTI : I beg to move :

Page 9, line 32—

for "or by way of" substitute "except by way of" (114)

SHRI GEORGE FERNANDES : I beg to move :

Page 10,—

after line 4 insert—

"Provided that on the coming into force of this Act, any citizen of India shall have the right notwithstanding anything contained in any other enactment to take appropriate legal proceedings in an appropriate court of law against any authority on the ground that it has been guilty of some unlawful activity as defined in clause (f) of section 2 of this Act." (35)

SHRI NAMBIAR : I beg to move :

Page 10, line 1,—

after "court" insert—

"except a High Court" (74)

SHRI GEORGE FERNANDES : I beg to move :

Page 10, line 14,—

after "may," insert—

"with the prior approval of Parliament," (36)

SHRI P. RAMAMURTI : I beg to move :

Page 10, line 23,—

add at the end—

"who shall not be less the rank of a Chief Secretary" (115)

SHRI SEQUEIRA : I beg to move :

Page 10, line 22,—

for "person" substitute—

"Gazetted Officer" (172)

MR. SPEAKER : I shall put all these amendments to vote.

Amendments Nos. 34, 171, 73, 114, 35, 74, 36, 115 & 172 were put and negatived.

MR. SPEAKER : I shall now put the remaining clauses to vote.

The question is :

"That clauses 14 to 21 stand part of the Bill"

The motion was adopted.

Clauses 14 to 21 were added to the Bill. Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI Y. B. CHAVAN : I beg to move :

"That the Bill, as amended, be passed".

MR. SPEAKER : Motion moved :

"That the Bill, as amended, be passed".

SHRI SRADHAKAR SUPAKAR (Sambalpur) : According to the agenda, there is to be a discussion on Paradip port today. When will it be taken up ?

MR. SPEAKER : Let this Bill be over. Then we will see whether that can be taken up.

श्री कंबरलाल गुप्त : इस बिल के द्वारा सदन ने मंत्री महोदय को और सरकार को वे अधिकार दिये हैं जो कि अभी तक किसी और बिल में नहीं दिये गये हैं। ये इतने अधिक अधिकार हैं कि अगर एक तरह से देखा जाए तो विधान में जो फंडेमेंटल राइट्स हैं उनको भी किसी मात्रा में छोड़ दिया गया है। ये अधिकार इसलिए उनको दिये गये हैं कि सदन समझता है कि देश की सुरक्षा के लिए, एकता की रक्षा के लिए, प्रभुसत्ता की रक्षा के लिए अगर सरकार को कुछ फंडेमेंटल राइट्स भी दबाने की जरूरत पड़े तो भी उसको ऐसा करने का अधिकार दे देना चाहिये। इतनी आधिकारी पावर्ड

और एक तरह से फ़ैसल्ट पावर्ज देने के बाद भी सवाल आएगा कि क्या सरकार इस बिल को जिस तरीके से इसको अमल में लाया जाना चाहिये लाती है या नहीं लाती है। बिल पास करना एक बात है और उसको इम्प्लेमेंट करना दूसरी बात है।

मैंने आर्विद्रेरी पावर्ज का जिक्र किया है। मैं इस बात को मानता हूँ कि मंत्री महोदय ने हमारे एक संशोधन को जोकि टैरिटरियल इंटरप्रेटी के बारे में था मान लिया है। इस का मैं स्वागत करता हूँ। उससे कुछ बात स्पष्ट भी हो गई है। वह एक अच्छी बात थी।

मुझे दुख है कि ट्रिब्यूनल के जजों के बारे में जो बात हमने कही थी उसको मंत्री महोदय ने नहीं माना है। ओरिजिनल बिल जब यहां इंट्रोड्यूस किया गया था उस में उस वक्त यह था कि तीन आदमियों का वह ट्रिब्यूनल बनेगा। सिलैक्ट कमेटी में जब यह बिल गया तो वहां यह तय किया गया कि एक सदस्यीय यह ट्रिब्यूनल होगा और वह सदस्य हाई कोर्ट का कोई जज होगा। यहां सदन में यह मांग की गई है कि तीन जजिज का एक ट्रिब्यूनल होना चाहिये। मंत्री महोदय ने गुस्से में आ कर कह दिया है कि नहीं जो मैं कहता हूँ वही होगा। मैं इसको नहीं मानता हूँ। उन्होंने इस मांग को न मानने के बारे में कोई तर्क नहीं दिया है।

मैं यह भी समझता हूँ कि बिल को पास करवाने से पहले यह अच्छा होता अगर इसको जनता की राय जानने के लिए भेज दिया जाता यह एक एक्सट्रा-आर्डिनरी लैजिस्लेशन है। धक्केशाही से इसको पास करवा लिया गया है। चूकि इनकी पार्टी की मैजोरिटी है इस वास्ते आप इस तरह से पास करवा लें तो यह गलत चीज होगी, गलत परम्परा होगी। क्यों आप लोगों के फ़ेडरमेंटल राइट्स को कर्ब करने जा रहे हैं यह आपकी लोगों

को बताना चाहिये था, इसके बारे में आपको लोगों को विश्वास में लेना चाहिये था। जिस तरह से दूसरे देशों में होता है सरकार को साफ बताना चाहिये कि हमारे देश में ये एक्टिविटीज हो रही हैं और इसलिये हम यह बिल लाना चाहते हैं। गृह मंत्री ने कोई विशेष बात नहीं कही है। यही कहा है कि मिजोरलैंड में कुछ हो रहा है, इधर उधर कुछ हो रहा है। व्हाइट पेपर निकाल कर उनको बताना चाहिये था कि ये ये चीजें हैं जो डैफीनिटली हो रही हैं देश में और इस वास्ते हम इतना सब्त लैजिस्लेशन लाने जा रहे हैं और इसके बिना हमारा काम नहीं चल सकता है। इस तरह की चीजों को बताये बिना इस बिल को जस्टिफाई नहीं किया जा सकता है और न जनता को विश्वास में लिये बगैर काम चल सकता है। मैजोरिटी के केसिस पर इस तरह का काला कानून पास कर देना उचित नहीं होगा। यह डेमोक्रेसी के भी खिलाफ होगा। अच्छा होता अगर सरकार बताती कि क्यों वह इस कानून को लाना चाहती है और इस चीज को उसे स्पष्ट तौर पर बताना चाहिये।

फिर इस बिल में आपको यह भी चाहिये था कि आप लोगों को अपील करने का राइट देते। तीन आदमियों का ट्रिब्यूनल होता और उसके बाद अपील का राइट दिया जाता ताकि जो मुल्जिम हैं, अगर उसने कुछ गलत काम भी किया है, चाहे वह जनता के सामने न भी कहे कि उसने गलत काम किया है, लेकिन उसकी आत्मा जरूर कहेगी कि उसने गलत काम किया है और सरकार ने उसे पूरा मीका दिया है सेंटस के खिलाफ अपील करने का और इन्साफ पाने का। इस तरह का प्राविजन और इस तरह की मशीनरी इस बिल के अन्दर नहीं बनाई है। मंत्री महोदय को चाहिये कि तीन आदमियों का ट्रिब्यूनल बनायें, अपील की व्यवस्था करें और व्हाइट पेपर के जरिये यह बतायें कि यह लैजिस्लेशन क्यों वह ला रहे हैं। क्लीयर कट इस्टैसिस

[श्री कंवर लाल गुप्त]

भी, दस बारह या पंद्रह दे कर उनको बताना चाहिये था कि ये कारण हैं, देश की यह यह स्थिति है, इसलिए हम फंडेमेंटल राइट्स के ऊपर थोड़ी भी रोक लगाना चाहते हैं।

इम्प्लेमेंटेशन की बात मैंने कही है। यह सरकार अधिकार बहुत इकट्ठे करना चाहती है। इतने अधिक अधिकार इसने ले लिये हैं कि शायद इनकी कमर इन अधिकारों के बोझ से दब गई है। सवाल पैदा होता है कि माओ का फोटो या अयूब का फोटो क्यों लगाया जाता है, माओ का नारा क्यों लगाया जाता है देश में, होस्टाइल कंट्रीज जो हैं उनके समर्थक यहां कैसे हैं और उन पर रोक क्यों नहीं लगाई जाती है? इसका जवाब यह दिया जाता है कि इस तरह की चीजों पर रोक लगाने का हमारे पास कोई कानून नहीं है। यह बड़ी अजीब बात है। इतने कानून हैं आपके पास और आप कहते हैं कि कानून नहीं हैं। कानूनों का इस्तेमाल नहीं होता है और हो भी नहीं सकता क्योंकि इस सरकार की कोई स्पष्ट नीति नहीं है। मैं मानता हूँ कि यहां लायल लोग हैं और देश की रक्षा करना चाहते हैं, जो हमारे देश की प्रभुसत्ता की रक्षा करना चाहते हैं और आप उनको पूरा मौका दें और डेमोक्रेसी की मांग है कि उनको अपनी एक्टिविटीज को जारी रखने का आप मौका दें। लेकिन जो लोग देश के प्रति लायल नहीं हैं, जो एंटी-नेशनल एक्टिविटीज में लगे हुए हैं, उन के साथ बैठकर प्रधान मंत्री एक बार नहीं अनेकों बार बात करें और गवर्नमेंट के गैस्ट हो कर वे यहां आयें और फिर वापिस जा कर हमारे सिपाहियों को मारें, उन पर हमले करें, ट्रेनों को लूटें और फिर भी आप उन से बातचीत का दौर जारी रखें इस तरह से तो देश की एडमिनिस्ट्रेशन मिट्टी में ही मिल जाती है। ऐसी अवस्था में आप कानून भी बना लेते हैं तो भी कोई अन्तर नहीं पड़ता है। कानून बनाने का कोई जस्टिफिकेशन भी नहीं रहता है।

मिजोर की बात मैंने कही है। मिजोर का आज पहले के मुकाबले में सुधार क्यों हुआ है। इसलिए नहीं हुआ है कि यह बिल आ रहा है। इसलिए सुधार हुआ है कि आपने पिछले दो तीन महीने से कुछ सख्त कदम उठाये हैं। जब तक आप सख्त कदम नहीं उठाते आप उन पर काबू नहीं पा सकते थे। वे आपके कंट्रोल से बाहर जा रहे थे यह कानून अगर लगना चाहिये तो नागालैंड में लगना चाहिये, मिजोरलैंड में लगना चाहिये, असम के कुछ हिस्सों में जो लोग गड़बड़ कर रहे हैं उन पर लगना चाहिये, काश्मीर में उन लोगों के खिलाफ लगना चाहिये जिन के बारे में यह ख्याल है कि वे देश के वफादार नहीं हैं और जो परसुएशन से भी देश के वफादार नहीं हो सकते हैं। आपके भाषण देने से वे वफादार नहीं हो सकते हैं। उन पर यह कानून सख्ती से लागू हो।

हमारे यहां डेमोक्रेसी है। डेमोक्रेसी को चलाना बड़ा डैलीकेट मामला है। ऐसा न हो कि आपकी पार्टी का मामला कहीं आ जाए तो आप लालच में आ कर ऐसा कदम उठा दें जिससे मालूम हो कि अपनी पार्टी की स्टैबिलिटी के लिये आप इसका इस्तेमाल कर रहे हैं। इसका मैं विरोध करता हूँ। मैं समझता हूँ कि अभी तक सरकार ने कोई केस इस बिल के बारे में बना कर सदन के सामने नहीं रखा है।

SHRI H. N. MUKERJEE (Calcutta North East): Mr. Speaker, Sir, I oppose this measure because it is all obnoxious from A to Z. The discussion on the clauses has shown that the Government is not even willing to make a few changes which could have made it conceivably slightly less obnoxious.

I am rather deeply disturbed about recent developments which have led to Government trying to push through Parliament this kind of legislation. I am just coming from West Bengal where certain things are happening which show that there is a scheme, a deliberate planned effort, to terrorise sections of the popula-

tion. I am not going into the matter. But I think, at least we should look at a picture which has appeared in today's *Patriot* where Mr. Renu Chakravarty who was in this House for 15 years is shown to be treated in a manner which should bring shame to everybody in this House and in the country. I have noticed the emergence of what is something like the beginnings of fascism when an effort is made to terrorise sections of the population. And here is a measure whose objective can be nothing else than the terrorisation of sections of the population.

I quite appreciate Mr. Chavan's parliamentary manner and I am quite ready to admire the cleverness with which he can manoeuvre many things in Parliament and outside. I appreciate the way in which he smiles at political opponents. But I cannot understand why he is trying to hide the kind of animus against a certain political philosophy about which there is no doubt whatever. I want to know for instance, what exactly is the provocation for this kind of legislation. What has been happening lately except for the fact that the position of the Congress Party is jeopardised in large parts of India? Is there any movement anywhere afoot where the territorial integrity of our country is in danger? Is there any party in this House, and we represent almost the totality of the political life of our country, which does not stand by the integrity of this country? The other day, when Mr. Chavan and Mr. Nambiar had an exchange, was it not clear that a very irrelevant matter was being brought into the picture that no party in this country, no organised opinion in this country, was going to attack the territorial and other integrity and the sovereignty of this country? There is no doubt about it. When there are such people, I want to know, as a Member of Parliament, what is Government doing about it. Why are they not being prosecuted? Why is there even one single case where a man who is allowed to assist certain nefarious designs of hostile neighbours is not being brought to book? Why is it, on the contrary, that espionage cases are put up and then those chaps are allowed to go scot-free? Why one man whose name was mentioned in connection with the name of Mr. Atulya Ghosh, of great reputation, is not prosecuted? He is now wandering

freely in Calcutta and attending the swearing in ceremony of the new Ministry, the puppet Ministry, of Shri P. C. Ghosh in Raj Bhavan, Calcutta. That kind of thing goes on and there is no prosecution of elements which are supposed to be carrying on nefarious activities.

We want to be satisfied as to what exactly is the danger to the country. There is no danger. Mr. Chavan has told us repeatedly in the House that in so far as the demands of such people as the Nagas and the Mizos are concerned, we have to have a political solution of the matter, the exact expression used by my friend, Mr. Ramamurti. If we want to have a political solution of this matter, why keep this Damocles' sword hanging over everybody. Why not give an impression to the country that by persuasion, that by argumentation by justification of whatever proposals Government has to offer, these different claims can and ought to be satisfied. That is the position which we have got to take it.

I was flabbergast a little while ago—I was trying to attend as much of the debate as I could—during the discussion on the clauses, when a very innocent suggestion was made, a suggestion sought to be fortified by my friend, Mr. Tenneti Vishwanatham in particular, in regard to judicial determination of the guilt or lack of guilt of persons or parties or associations involved, Mr. Chavan said—I noted down his words—as follows: "If I have to give the right to appeal, it is better I do not have the Act at all." That shows the mentality. Exactly these were the words which I took down; possibly these gentlemen could verify this later if a reference is made to it. He is not willing and ready to let the man have recourse to appeal. This is the kind of thing which is being done and that is why we feel, in view of what has happened, in view of the Government's present attitudes, in view specially of what is happening in West Bengal today, we have every suspicion that this Bill is utterly nefarious, this is most disgusting piece of legislation. No wonder, he called it a black Act. It is something like lawless law of the old dispensation when we were unfree and it is a matter of shame that, after 20 years of freedom, we have to have this kind of legislation. I have no words to express

[Shri H. N. Mukerjee]

the kind of disgust that the decent people in this country would feel in regard to this legislation, and I totally and unequivocally oppose this Bill.

SHRI P. RAMAMURTI: I do not want to go into the whole gamut of this legislation at this late hour. We have had a discussion. But during the course of the discussion, there was an exchange between Comrade Nambiar and the Home Minister. Some other members also, while interrupting, were bringing in certain things. For example, when I asked Mr. Chavan as to what was his interpretation of the Clause and why does he say, if some members of an organisation, which we call an organisation, have indulged in some such thing, that the whole organisation should be penalised, Mr. Chavan at that time did not answer that. But later on, it became clear as to what exactly they meant. Time and again, this Naxalbari is being brought in. Mr. Chavan is presiding over the Home Department and the Home Department is getting, what they say 'our papers'. For example, as early as June 20, the Political Bureau of our Party passed a Resolution and that Resolution was published in the newspapers. That Resolution stated this. I will read it out for him if he has not gone through it.

"The PB has considered the activities of certain individual Party members, especially in West Bengal and has come to the conclusion that they are no more a political trend in the Party but that they have grouped themselves into an organized anti-Party Group advocating an adventuristic line and actions challenging the Party Programme and resolutions and directives passed by the Central Committee.

"The PB declares that all those belonging to such Groups are outside the pale of the Party. The PB directs the State Secretariates, especially the West Bengal State Secretariat, to immediately expel them from Party membership.

"The PB has decided to launch a political and ideological campaign against this trend in People's Democracy and other organs of the Party."

Mr. Chavan must be reading our People's Democracy from time to time or, at any rate, his officers must be reading,

and they would have seen that right from that time consistently we have been carrying on an ideological campaign against this trend. Secondly, Mr. Chavan also knows this. In spite of our declaring certain people to be outside the pale of the Party, in spite of throwing many people outside the Party—as a matter of fact, certain District Committees have been reorganized because of this—if some people call themselves Communist Marxists and they hold meetings, how are we responsible? There is no law in this country which prevents anybody from calling himself anything and holding a meeting.

SHRI BIBHUTI MISHRA (Motihari): The law is for that.

SHRI P. RAMAMURTI: That is not the point. He did not say that. It was said, "extremists in our Party". This is why I say this. For example, my apprehension is fortified by my own experience. After all, we have to go by what this Government has done in the past. I know, as a matter of fact, in 1965, when this Government detained us in jail—he was not presiding over the Home Department at that time, but Mr. Nanda, a great votary of truth was there—what did he say in that White Paper? In that White Paper, he said this. I will give an instance. He quoted our Resolution. All that the Resolution stated was—I quote the very Resolution—this. It asked the Government of India to take the initiative in order to have negotiations, not for the border settlement, in order to see whether a basis can be laid for discussions on the border question. That was considered to be an anti-national activity and he had quoted that in that White Paper. Asking the Government to take the initiative to find whether a basis exists for negotiations, that itself was considered to be an anti-national activity by the Government then. It is there in the White Paper.

Again, I know the only evidence that White Paper contained was from one of our newspapers, a rag, a paper called 'Chengodi'—Red Flag—whose editor and which paper we have boycotted. By a resolution of the Tamilnad Committee we have warned the Party members publicly that nobody should have anything to do with this gentleman. He is an *agent provocateur*. And in spite of all these things, that was

the evidence that was quoted by Mr. Nanda in the White Paper to show that we have been indulging in certain anti-national activities. This is the evidence he had quoted and on that basis he said, 'These people's detention is perfectly justified'. As a matter of fact we had a hell of trouble with him in jail. That gentleman was in jail throughout. Out of 13 months, for 11 months he was all along on parole. Every one of us had to fight him, and we wanted that he should not be brought into our place. That is the gentleman whose paper was quoted as evidence of our anti-national, unlawful activity. When this is the record of the Government, that they do not even give an opportunity, is there any wonder that Mr. Nambiar suspected you? After all, if you had behaved properly, then things would have been different. Therefore, I say, Sir, I can quite understand why this thing is being brought. I can also quite understand why again and again in this Parliament—Mr. Chavan, I definitely say you inspire, I definitely say that the Home Ministry is inspiring you again and again without any evidence. Somebody says something in some paper, 'The Left Communists are doing this', therefore, a call attention motion must be there. Something must be there. All these things are taking place. What is the purpose of all this? That we understand. Therefore, without knowing facts—no facts will be given, for the Home Minister to come and say, 'We have got reports that they are indulging in this kind of thing' what is this? If you have any facts to show, what is the fun of saying that you have got reports. That only means that you are trying to create propaganda and build up opinion. That is the sort of thing that is happening.

Therefore, I can say, I can quite conceive why all these things are being done. For example, to-day the Government finds our Party to be the bitterest opponent of its policies. It mobilises the people. It struggles. That is the whole trouble and their policies are collapsing, their entire economic policies are collapsing, unemployment is raging like a hell. Under the circumstances, when the bitterest opponent of that political, of that economic policy tries to mobilise the people, you want to dampen them by saying something else.

I want you to know one thing. We are not afraid of these things. We are accustomed to these things. In spite of the fact that you dubbed us, people have judged us properly and will continue to judge us properly. If you want to take action on these flimsiest grounds once again, I warn you, that your attacks against us are not going to weaken us. We will be put to difficulties, but I tell you the Communist Party of India will go forward because we depend upon the masses of people, our ideology is such that we can mobilise the people wherever we are. You cannot to-day prevent these ideas. Ideas cannot be fought by this kind of draconian law. Ideas will have to be fought with ideas, policies will have to be fought with policies. Let us fight on policies.

Therefore, I could only warn you. I can very well understand to-day the fact that the Home Minister is not able to give us a single instance and is only talking. When asked if any Party indulges in this kind of thing, he was not able to say that there are some parties which are indulging in these things. We are not legislating for hypothetical things. Therefore, I could only warn, it is left to him to do what he pleases. I cannot to-day influence him. I can only place the facts before him. I can only place the facts before the people of this country. In spite of that the Government tries to utilise this Bill which is certainly going to be passed in spite of the united opposition by the entire Opposition including the Swatantra Party, if in spite of that they are going to misuse it, then as the country revolted against them in the last General Elections as a result of their misuse of the Defence of India Rules—once again I warn you—the country will also teach you a lesson in the coming days.

Thank you, Sir.

श्री आर्जुन करनेजी : अध्यक्ष महोदय, हमें बड़ा दुख और शर्म लगती है, कि आजादी के बाद इस मामले को ले कर सरकार को इस सदन के सामने आना पड़ता है कि जिनमें देश की एकता को बचाने के लिए कुछ अधिकार सरकार अपने हाथों में लेना चाहती है। इस विषय पर अध्यक्ष महोदय जो दो-दोई दिनों तक बहस चली हममें एक चीज तो

[श्री जार्ज फर्नेन्डीज़]

बिल्कुल साफ हो चली है कि सरकार खुद के दल के बारे में एक राय रखती है और तमाम गैर-कांग्रेसी दलों के बारे में एक और राय रखती है। मुल्क की एकता की ही बात अगर इस विधेयक में होती तो फिर दो दो तरमीमों को सरकार को इस बिल में स्वीकारना आवश्यक था। 13 बलाज के सब-बलाज 3 वाली तरमीम जहां सरकार को इस बिल के अन्दर अपने देश की भूमि दूसरे किसी भी देश को देने से मनाही करने का प्रयास हम लोग कर रहे थे और दूसरी तरमीम 17 नवम्बर के बलाज की जिसमें हम यह अधिकार देना चाहते थे हिन्दुस्तान के किसी भी नागरिक को कि अगर किसी भी सरकार अथवा दूसरी संस्था की ओर से इस मुल्क की जमीन को दूसरे किसी भी मुल्क को देने का प्रयास होता हो तो फिर उस संस्था को, वह सरकार हो या कोई दल हो, अदालत में ले जाने का अधिकार इस मुल्क के किसी भी एक नागरिक को रहना चाहिए। वह अधिकार देने के लिए सरकार तैयार नहीं है।

इस बिल में जब कि दूसरों के ऊपर प्रतिबन्ध लगाने की बात सरकार करती है तब खुद को यह छूट दिलाती है कि जो छूट कि 20 सालों में यह सरकार ले चुकी है। कश्मीर के मामले को ले कर कहिए या चीन के मामले को ले कर कहिए खुद के लिए जो छूट वह ले चुकी है वह हमेशा के लिए खुद के साथ रखने की बात इस बिल के आधार पर सरकार कर रही है। असलियत और है। वह इस बिल के शुरूआत में मैंने कहा है कि विचारों की टक्कर में कांग्रेस पार्टी मुल्क में हार रही है। एक चीज उनको आज साफ दिखाई दे रही है कि 38 प्रतिशत लोगों ने हमारा अब की बार साथ दिया है 1967 के चुनाव में और अगर पांच साल के कहीं एक बार फिर मौका लोगों के सामने जाने का आया तो 15 या 20 प्रतिशत लोग भी उसके साथ नहीं रहेंगे। यह अधिकार आखरी बार जनता के आधार पर वह यहां आ कर

बैठे हैं, यह उन्हें मालूम हो चुका है। मगर सत्ता तो हाथ में रखनी है क्योंकि आखिर किस की ओर से यह लोग यहां आ कर बैठे हैं? मैं यह मानने के लिए बिल्कुल तैयार नहीं हूँ कि जनता की ओर से उसके प्रतिनिधि के रूप में आये हैं। यह तो हिन्दुस्तान के सरमायेदार और पूंजीपति जो हैं उनकी ओर से चलाये जाने वाला दल, उनके हितों के संरक्षण के लिए चलाये जाने वाला दल है कांग्रेस दल। दस साल के पहले भले ही नागपुर में जा कर कोआपरेटिव फार्मिंग का प्रस्ताव पास किया हो या दस महीने पहले प्रिवी पर्स हटाने का प्रस्ताव किया हो, जो प्रस्ताव मंजूर करके कागज के ऊपर लिखे जाते हैं उनकी भी कोई कीमत नहीं रही तो फिर समाजवाद या जनता के हितों की हिफाजत करने का कोई भी मामला इस सरकार के बस का नहीं है

(व्यवधान) में खत्म कर रहा हूँ। मुझे इतना ही कहना है कि जिनका संरक्षण करने के लिए यह सरकार यहां आई है, यह सरमायेदार-दुनिया के किसी भी मुल्क में इन सरमायेदारों ने वोट के जरिये अपने अधिकारों को दूसरे के हाथ में कभी नहीं दिया है और हम तो यह बेवकूफी कभी नहीं करेंगे। हम यह मानने को तैयार हैं कि यह भी सरकार और यह भी दल कभी भी उस जनमत के आधार पर सत्ता दूसरे के हाथ में देने की तैयारी नहीं करेगी और उसी की तैयारी है अध्यक्ष महोदय, यह जो कानून यहां पर लाया गया कि जब और सारी चीजें अपने हाथ से चली जयेंगी तब इन कानूनों का इस्तेमाल कर के दूसरे दलों को गैर-कानूनी करके सत्ता का अधिकार हमेशा के लिए अपने हाथ में रखेंगे। इस प्रकार की जो फासिस्ट मनोवृत्ति हमें दिखाई दे रही है उसका खण्डन करते हुए हम इस कानून का पूर्णतया विरोध करते हैं।

SHRI G. VISWANATHAN (Wandiwash) : Today is a sad day in the history of Indian democracy. The Black Bill is going to be passed by the brutal majority,

by the road-roller majority, consisting of yes-men.

SHRI RANDHIR SINGH : You are an yes-man of your party.

SHRI G. VISWANATHAN : Dictatorship comes to a country through a military junta or by a revolution. But this is a unique occasion where democracy marches towards dictatorship by passing a legislation.

This legislation is going to be a weapon in the hands of the Congress Party to fight other political parties. The enactment of this legislation means that the Congress Party is not prepared to fight other political parties at the political level. They are going to use this Black Act to fight other political parties with a legal weapon. They are not going to fight them with political weapons. Whichever party crosses the path of the Congress or its interests, they are going to declare it unlawful. These drastic powers are being given to the Government and they are going to pass this bill for that purpose.

Yesterday the Home Minister, Shri Chavan, said that this Act is not going to be used against the DMK. I am very thankful to him for that. At the same time, may I request him to explain how is it that the phone calls of our Law Minister, Shri Madhavan, are being tapped and how is it that he is being shadowed by the Central police? Where is a Minister of a State elected by the people, in a State where the Congress has been overthrown, I mean the Madras State, who is being meted out this kind of treatment at the hands of the Central authorities. Because the Central Government is in the hands of the Congress Party, our Ministers, specially our Law Minister, are being shadowed. What is the meaning of all this? If this be the case when the law has not yet been passed, when it is only in the stage of a Bill, what will be the position of other Ministers and other political parties when it is put on the statute-book, when the ruling party here will be armed with these drastic draconian, fascist powers?

This Bill may be passed. But I warn the Government that if the Congress is going to use this against other political

parties, then we will be resorting to other means also. That will be our fate. Because the Congress is not willing to fight other political parties at the political level but is contemplating resorting to other weapons as represented by this Bill, other parties will be forced to resort to other means in pursuance of their aims and objectives.

The Home Minister assured us at one stage—and I hope he will keep it—that this would not be used against political parties and registered trade unions. If trade unions are going to be affected by this Act, the labour community, labourers and the trade unions, will be resorting to other violent methods. Now they have as their weapons peaceful agitations and strikes. But if this is going to be used against them when they are striking or otherwise agitating peacefully, they will be using other violent methods. The Government must ponder over this.

I have already pointed out that these powers are now enjoyed by the Government of India under the Defence of India Act and Rules thereunder. By the enactment of this legislation, Government must at least come forward and withdraw the emergency tomorrow or the day after. That must be the attitude of the Government. Then Government must also assure us that this Act will not be misused or abused at any stage.

श्री नुलसीवास जाधव (बारामती) :
उपाध्यक्ष महोदय, सरकार यह जो अनलाफुल एक्टीविटीज बिल यहां पर लाई है, में समझता हूँ कि यह बहुत खुशी से नहीं लाई है, लेकिन जब कोई ऐसी चीज पैदा होती है, जो देश के लिये घातक हो या देश के लिये खतरा पैदा करनेवाली हों, तो जैसे किसी आदमी को इंजैक्शन दिया जाता है, उसी इंजैक्शन जैसी चीज यहां पर लानी पड़ी है।

पहले जब हम लोग बम्बई असेम्बली में थे और जब कोई ऐसा कानून आना था तो हम लोग ही उस का विरोध करते थे, लेकिन इस वकत देश की जो हालत है, उस को देखते हुए, ऐसा विधेयक लाना जरूरी हो

[श्री तुलसी दास जाधव]

गया था। अभी तक इस देश में डी० आई० आर० लागू था, कई जगहों से उस को हटा दिया गया है, लेकिन कई ऐसी जगहें हैं जहां उस का रखना जरूरी था, वहां उस को रखा गया है। इस कानून के पास होने के बाद मेरी सरकार से विनती है कि बाकी जगहों से भी उस को निकाल दे और मैं ऐसा समझता हूँ कि यह कानून उन सब जगहों की परिस्थितियों को सम्भालने के लिये पूरी मदद करेगा।

दूसरी बात मुझे यह निवेदन करनी है कि डी० आई० आर० के वक्त में हम सुप्रीम कोर्ट में नहीं जा सकते थे, क्योंकि उस के अण्डर फण्डामेंटल राइट्स को निकाल दिया गया था। लेकिन इस कानून के अन्दर हमारे फण्डामेंटल राइट्स को निकाला नहीं गया है। इस के अन्दर तो आप चाहें तो अपील कर सकते हैं, इस दृष्टि से यह कानून पहले से कहीं अच्छा है।

तीसरी बात—कुछ लोगों का कहना है कि यह कानून ब्लैक-ला है। अंग्रेजों के राज्य में जब ऐसे कानून थे, तब उस का विरोध करने में हम लोग शामिल थे, लेकिन उस वक्त एक खास बात यह थी कि हिन्दुतान के रहनेवालों के कोई फण्डामेंटल राइट्स नहीं थे। आज जो हक हमको प्राप्त हैं, उस वक्त वें हक हमारे पास नहीं थे, ऐसी दृष्टि में इस कानून को ब्लैक ला कहना ठीक नहीं है।

चौथी बात—मेरे से पहले जो सम्माननीय सदस्य श्री फरनांडीस ने कहा वह चीज यहां लागू नहीं होती है। उन्होंने कहा कि जो पार्टी सत्ता में है, वह हट न जाये, दूसरे को सत्ता में न आने दिया जाये, इस लिये इस कानून का इस्तेमाल होगा—ऐसा कहना ठीक नहीं है। इस का मुबूत तो इन लोगों ने ही सात-आठ प्रान्तों में बताया है। कभी भी कांग्रेस ने वहां जा कर उन को तोड़ने का प्रयत्न नहीं किया, लेकिन वे लोग आपस में ही जम नहीं पाये, इस लिये आपस के भेद की बजह से टूटे। इस कानून में ऐसा भी

नहीं है कि यह हमेशा के लिये चन्द्र-सूर्य के समान बना रहेगा, जब इस की जरूरत नहीं होगी तब इस को हटाया भी जा सकता है।

मेरे इन साथियों ने कहा कि यहां सब येस-मैन हैं—ऐसा कहना गलत है। उन की पार्टी में भी जो लीडर कहता है, उस के मुताबिक सब चलते हैं, ऐसी ही बात यहां है।

आखिरमें मैं एक ही विनती सरकार से करना चाहता हूँ कि इस कानून का इस्तेमाल जब भी किसी आदमी, जगह या एसोशियेशन पर हो, तो ऐसा ध्यान रखना चाहिये कि किसी के साथ अन्याय न हो।

SHRI SEQUEIRA : This Bill seems to be based on the concept that we can increase the powers of the Government and thereby, in consequence, reduce the troubles of the country. I want to submit that this concept is wrong, that the powers that the Government is seeking are unsuited to the problem that they want to solve, and also that these powers are dangerous for the continuation of democracy in this country.

Does an organisation become a danger to the country merely by virtue of the fact that it preaches secession or cession or whatever else you may call it ?

SHRI Y. B. CHAVAN : Of course.

SHRI SEQUEIRA : Or, does it become dangerous only when sufficient number of people back it ? And if a sufficient number of people back it, then it is a danger, and what are you going to do about it ? If you ban it, you put a nail on its head, if you drive the people underground, you cannot keep track of them; if you convict the people and jail them, you send them in as agitators and they come out as heroes.

Why are the people backing these organisations. They are backing them, if such organisations exist, because there is hunger in this country, because there is frustration, because there is poverty, because there is insecurity. If you want this movement to stop, then you have to solve the problem

politically and not by banning or sending to jail or things like that.

18.00 Hrs.

A bait is being dangled in front of us. We hear that if this law is passed, the emergency would be removed. But this seems to be the worst poison than the other one, because this Government cannot continue with the emergency. Public opinion is against it and you will have to remove it whether this law is passed or not.

I said that the powers were dangerous; they are dangerous because they put in the hands of the executive the power to smash an entire organisation; they also put in the hands of the executive the power to eliminate individuals. I want to submit to this House that the coats of patriots can be tarred and feathered by merely being arrested under clause 13. It will slur their reputation. So I submit that this Bill should be rejected, lock, stock and noose, a noose that can be used to throttle democracy, agonise the opposition and even individual opponents of the ruling clique of a ruling party.

SHRI PILOO MODY (Godhra) : Sir, in the history of human affairs, it has been found that Governments which are about to fall and who are tottering will continue to arm themselves with more and more powers. This is not the first instance in the history of the world and it probably will not be the last. But it is unforgivable that this Government should not have learnt this history. This is not the act of a responsible Government. This is not the act of a popular government. This is not the act of a stable Government. These are powers to fortify a group of incompetent people with whom the country has become disenchanted. This is the act of a disappearing government.

AN HON. MEMBER : Vanishing.

SHRI PILOO MODY : As a matter of fact, they say that those whom the Gods want to destroy, they first turn mad. We have today in this country reached that stage. (Interruption) If I may be permitted to say so, I am really ashamed. I am ashamed of this Government. I am ashamed of this country; I am ashamed because I find that my Government, and it

is mine as well as it is theirs, has to resort to these low means to arm themselves with such sweeping powers without once having defined or justified why they want to arm themselves with these powers.

Sir, I would like to warn this Government that they will be here only for another year or two, at the very most four. Let the ruling party realise that the same Act will be on the statute-books and the same Act may some day be used against them.

MR. DEPUTY-SPEAKER : The hon. Minister.

SHRI NATH PAI : Sir, we have not spoken on the third reading.

SEVERAL HON. MEMBERS rose—

MR. DEPUTY-SPEAKER : It is very difficult for me to accommodate all the Members. I am very sorry. I tried my best to accommodate all those who were persistently following the proceedings. (Interruption)

SHRI SEZHIYAN (Kumbakonam) : Please give a few minutes.

श्री शिव नारायण : अगर बुलाना ही था तो आखिर हम लोगों को आप क्यों नहीं बुलाते ? उपाध्यक्ष महोदय, यह हमारे साथ अन्याय किया जा रहा है ।

MR. DEPUTY-SPEAKER : Please resume your seat.

श्री शिव नारायण : कोई आखिर दल है या नहीं ? आप ने होम मिनिस्टर को रिप्लाई के लिए बुला लिया था : . . .

MR. DEPUTY-SPEAKER : Those who were persistently taking part, I was trying to help them.

SHRI TENNETI VISWANATHAN : Sir, . . .

SHRI SHEO NARAIN : After calling the Home Minister, why are you going back, Sir ? (Interruptions).

MR. DEPUTY-SPEAKER : Will you kindly resume your seat ? You ought to realise that the hon. member was making useful contributions to the debate.

SHRI TENNETI VISWANATHAN : Sir, the hon. Home Minister has admitted that it is a very drastic measure and he said the situation requires it. But he has not told us what the situation is. Secondly, he has taken power either by himself or through delegated authority to declare a whole association as unlawful without disclosing the reasons. Firstly he has not disclosed the dangerous conditions in which we are situated now calling for a legislation of this kind and secondly he does not disclose the reasons. Yesterday during the course of the debate, he said that when the tribunal asks for the reasons, we will certainly disclose the reasons to the tribunal. But the people who are affected are not given the reasons. They have simply got to stand looking at the stars and the moon, when the tribunal is going through the reasons.

We asked for a simple, normal, right of appeal. But the Home Minister was frank enough to say, if that is done, if the right of appeal is to be given, it is much better we do not pass this Act. Sir, this only shows the direction in which the mind of Government is working. That is why strong adjectives have been used by everybody and I have put in concrete words the reasons for those adjectives.

SHRI NATH PAI : Sir, I have been trying very hard to find any virtue in this Bill before I made up my mind to oppose it. I think this is a measure introduced by a group of men who have lost faith in the people of India. I know that things are happening in this country which should cause some concern and even alarm. I know things are said by certain elements, things are tried to be resorted to by certain groups, which should make us sit up and find suitable measures. But I would like to ask Mr. Chavan, will the baton of the police be the final guardian of the liberties, freedom and unity of this country? Can we trust the police to be the only fighter for the delicate fabric of our democracy? If there are dangers in this country, has the Congress made up its mind that it cannot trust the people of India? If they can trust the people of India, there was not an iota of necessity for this Bill.

I disagree with certain philosophies. We do not have double standards. When I disagree, I have the courage to tell those

with whom I disagree that I disagree and I try to get the one sanction that I know of as a democrat—the sanction of the people of India. If the Government of India is worried about certain tendencies and ideologies, what should be the power to combat them and if possible to defeat them? Not the baton of the police, not the Preventive Detention Act; not banning the party, but appeal to the people to combat those things which we regard as against the people. What is the Government of India doing today? What a fall, Mr. Chavan, there is for you and for all of us! Instead of asking the people of India to come into the picture, what have the Government done? I have come back after touring the quake-affected areas of Kayna. What did the Home Minister say about the standard arguments being advanced by us? Firstly, there is ample power for the Government in the armoury of all the Acts beginning from the IPC to the Preventive Detention Act. If they want to use it, if they are capable of using it. . . .

MR. DEPUTY-SPEAKER : He should conclude now.

SHRI NATH PAI : Sir, you should give me some more time. We regard it as a very serious thing.

AN. HON. MEMBER : How long?

SHRI NATH PAI : How long? Till obduracy and obstinacy are won over and I hope to do it.

The danger is, often the danger to the Congress Party is made synonymous with the danger to the country. If we disagree with the Congress immediately it is regarded by the Congress spokesmen and protagonists as danger to the unity of India, to the fabric of freedom. It is not so.

I would like to say this to Shri Chavan, it is not late to ponder about these things. There are enough powers with the Government of India to combat all the dangers that may be either to territorial integrity or freedom or democracy of India. Some of us got very alarmed at how this Party tries to throttle any opposition to the party by pretending that opposition aimed at Congress is to the State of India. State and the Party are totally different things. I

have a thousand quarrels with Shri Chavan, but I have no quarrel with my country. When I attack Congress I do not attack India.

What the Congress time and again tries to do is this. The other day I was in Sangli.

MR. DEPUTY-SPEAKER : He should try to conclude now.

SHRI NATH PAI : Sir, why should the name Sangli make you press the Bell.

MR. DEPUTY-SPEAKER : We are at the final stage now.

SHRI NATH PAI : I am also at the final stage. Sangli is a part of India. What happened when a demonstration against this party was organised? There I found that the entire force of the Congress is brought to make a counter demonstration. The police at once act and the demonstration is beaten down. It is this danger that I see in this country.

Finally, I ask, are you worried about danger to India's unity? It is no use trying to ban. When I disagree, I am not afraid. I am prepared to go to the people of India. I would not like the police to come when I challenge Shri Ramamurti because the police will not fight for the freedom of India, it is the people of India who must fight the battle against those who may challenge the freedom.

Let us try to ban poverty, unemployment and suffering in this country to the extent that we can. Does Shri Chavan and his Government have any policy to put a ban on poverty, on suffering, on misery, on exploitation, on unemployment and all the evils from it? If they can bring a Bill to ban poverty, suffering, unemployment and corruption which are eating the very vitals of this democracy I will support it. This Bill, far from strengthening democracy, will create misgivings in this country, and the misgiving is this that this Government is beginning to lose faith in the ultimate sanction of democracy, the people of India. Let Shri Chavan even at this stage ponder over it and do the needful.

SHRI J. B. KRIPALANI (Guna) : Mr. Deputy-Speaker, Sir, I really do not know

why anybody should get nervous about this Act. I do not think that the Communist Party need get nervous about it because this Government cannot afford to irritate or to do anything that would be unpleasant to our Russian friends. Same is the case with the Marxist Party. The people who would not allow even persons from Formosa to come here, who would not give them visas to come here, who will have nothing to do with people who would advocate the cause of the admission of China into UNO, do you think they are going to use this Act? They cannot do it. They cannot do it against Jan Sangh because many Congress men are Jan Sanghites, Communists etc. All sorts of people are there. There are many who are Swatantrites. All these parties are represented there. There are many crypto-Communists. I do not know why these people are afraid of this legislation. It is not going to be used against any party or against any individual even. It may be used against one or two unwary individuals here and there. There are many unhung murderers going about in India, about which they do nothing. So, I am not disturbed by the Acts that this Government pass. I know their writ do as not run in the country.

SHRI Y. B. CHAVAN : Mr. Deputy-Speaker, Sir, two points of views were expressed here,—that this Act, which is certainly an extraordinary Act, is going to be used against all political parties, that is one line of argument. The other line of argument, as advocated by Shri Kripalani, is that it is not going to be used on anybody.

SHRI PILOO MODY : That is not his line of argument. He has exposed your incompetence.

SHRI Y. B. CHAVAN : I do not want to abuse anybody.

SHRI PILOO MODY : I was only explaining his speech.

SHRI Y. B. CHAVAN : I understand Shri Piloo Mody very well. Certainly, I can also speak in the same language; not that I cannot do that, but I do not want to do that.

SHRI PILOO MODY : In Marathi ?

SHRI Y. B. CHAVAN : He knows Marathi also very well.

Again and again, after hearing the speeches on the third reading, I have a feeling, that we were listening to people who have closed their minds; who feel all virtues are on their side, all people are on their side and they are the only lovers of democracy. I say I can understand people trying to persuade others, but this is arrogance, some sort of intellectual arrogance. If they want to make a demonstration, it is for the people, because they are the people, but if we try to do the same, then we are police—well, I thought Shri Nath Pai was a politician, but he talked like a literary figure. When sometimes he comes to power, he will completely abolish the police and the army. Well; the country be save from such politicians. The police has to be used, because no government can function without police. I am not living in that sort of paradise to believe that government can run its administration without police or the army at all. I believe in police. The police is certainly useful, inevitable, a necessary instrument to be made use of; but, it has to be made use of under the law. It is to be used for the establishment of law. That is why I have come to this House. And I know that when I ask for extraordinary powers, I must plead from the beginning till the end why these powers are necessary in the interest of democracy and in the interest of the sovereignty and integrity of this country.

Some members tried to ask us : why have I not mentioned A and B. I did not mention A and B because, I am sure, that even A and B will change after this Bill becomes an Act. I have faith in the people. I have faith in democracy. But there are also some people, like the hon. Member, Shri Piloo Mody. In anger against government he said that he is ashamed of Government. I can understand that. We will be ashamed if he is not ashamed of us. I am very glad that he has dissociated himself from this government. I am very happy about it. But he has also said—if he has not said it, I am prepared to stand corrected; I heard it—that he is ashamed of this country. It

is a shameful matter that there are people who can say that they are ashamed of this country. There was another young man who was telling us : why should not people secede, people are wanting to secede because this country is poor.

SHRI SEQUEIRA : I am sorry, I did not say that.

SHRI Y. B. CHAVAN : Yes, he said : why people are thinking like that.

SHRI SEQUEIRA : I asked : does secession become a danger to the nation merely by the fact that it is preached ?

SHRI Y. B. CHAVAN : Surely it does. If cession or secession is preached, it is a dangerous matter. That is the very basic principle of the Bill.

SHRI SEQUEIRA : If I stand in the middle . . .

SHRI Y. B. CHAVAN : Well, I cannot convert him. Yesterday, in the course of some argument, some people said "Why people think of cession ? Because, there is poverty." This country has poverty and that is why we struggled for independence. We have to struggle in this country to see that it does not remain poor any more. We must put all our energies to see that we have a new India, a great India of the future. If the sons and daughters of mother India just want to run away from mother India because she is poor, they do not deserve to be the sons and daughters of this country.

The hon. Member, Shri Hiren Mukerjee, for whom I have got all the respect, said that this Government has got some sort of an animus against some political party. Let me assure him that only because we differ from them on certain matters it does not mean that we have got any animus against any political party. I can certainly assure him again and again that there is no political animus against even the Communist Marxists or the Swatantra. These are the two extremes in this country. We have not got any animus. But I was asked again and again.

He made a reference to a certain exchange between me and Shri Nambiar. I was telling him from the very beginning

that I have no political party in my mind but all the time he went on asking whether his political party was in my mind and I said, "No". He wanted me to explain and illustrate. I said, "Do not ask me about illustrations" but he still wanted to know and asked about the illustration of disclaiming, questioning or disrupting the sovereignty and the integrity of the country and I therefore gave the illustration, "Suppose, some group of people invites any neighbouring country, what happens?"

SHRI J. B. KRIPALANI: Then they will repudiate them.

SHRI Y. B. CHAVAN: They may repudiate. I do not want to do that. Therefore it is absolutely wrong to think that we have brought this Bill because we are afraid and we are unstable. We know how stable we are. I would like them to examine their own minds to see how stable they are. But I must say that Shri Piloo Mody is very stable. I am very happy about it.

SHRI PILOO MODY: He is only a short head behind.

SHRI Y. B. CHAVAN: He certainly provides us quite humorous things here when he is present. But we do not want that sort of stability.

SHRI PILOO MODY: Do not use the law against me.

SHRI Y. B. CHAVAN: But even in stability there must be some sort of dynamism. When the world is changing we will have to change and if there are ele-

ments which come in the way of change in a manner which is dangerous to the stability, sovereignty and integrity of this country, certainly the instrument of law will have to be used. This is why I came to this hon. House to have this instrument.

The hon. Member, Shri Kanwar Lal Gupta, asked, "What about implementation?" I have got the greatest sense of responsibility. When I was speaking during the first reading, I said—I admitted—that it is a very extraordinary measure because we are certainly asking for extraordinary powers. I can assure this hon. House that the powers under this extraordinary Act will be used only in extraordinary circumstances and not otherwise.

SHRI P. RAMAMURTI: We are not participating; we do not want to participate.

SHRI H. N. MUKERJEE: We do not want to participate in this stinking Bill.

श्री जार्ज फरनेन्डीज : हम भी विरोध-स्वरूप बाहर जा रहे हैं ।

MR. DEPUTY-SPEAKER: You are free to do whatever you like.

At this stage Shri P. Ramamurti, Shri H. N. Mukerjee, Shri George Fernandes and some other hon. Members left the House.

MR. DEPUTY-SPEAKER: The question is :

"That the Bill, as amended, be passed."
The Lok Sabha divided :

AYES

DIVISION NO. 31]

[18-30 Hrs.

Ankineedu, Shri
Arumugam, Shri R. S.
Azad, Shri Bhagwat Jha
Bajpai, Shri Shashibhushan
Barua, Shri R.
Baswant, Shri
Besra, Shri S. C.
Bhakt Darshan, Shri
Bhanu Prakash Singh, Shri
Bhattacharyya, Shri C. K.

Bhola Nath, Shri
Chanda, Shri Anil K.
Chanda, Shrimati Jyotsna
Chandrika Prasad, Shri
Chatterji, Shri Krishna Kumar
Chaturvedi, Shri R. L.
Chaudhary, Shri Nitiraj Singh
Chavan, Shri Y. B.
Choudhary, Shri Valmiki
Choudhury, Shri J. K.

Bill

Dass, Shri C.
 Desai, Shri Morarji
 Deshmukh, Shri B. D.
 Deshmukh, Shri K. G.
 Dhillon, Shri G. S.
 Dinesh Singh, Shri
 Dixit, Shri G. C.
 Ering, Shri D.
 Gajraj Singh Rao, Shri
 Ganesh, Shri K. R.
 Gavit, Shri Tukaram
 Ghosh, Shri Parimal
 Gupta, Shri Lakhan Lal
 Hem Raj, Shri
 Himatsingka, Shri
 Jadhav, Shri Tulshidas
 Jadhav, Shri V. N.
 Jagjiwan Ram, Shri
 Kasture, Shri A. S.
 Kavade, Shri B. R.
 Kripalani, Shrimati Sucheta
 Kureel, Shri B. N.
 Laxmi Bai, Shrimati
 Mahadeva Prasad, Dr.
 Mandal, Dr. P.
 Mehta, Shri P. M.
 Menon, Shri Govinda
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mondal, Shri J. K.
 Mrityunjay Prasad, Shri
 Mukerjee, Shrimati Sharda
 Nageshwar, Shri
 Nahata, Shri Amrit
 Nayar, Dr. Sushila
 Oraon, Shri Kartik
 Pahadia, Shri Jagannath
 Pandey, Shri K. N.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Parmar, Shri Bhaljibhai
 Partap Singh, Shri
 Parthasarathy, Shri
 Patil, Shri S. D.
 Pramanik, Shri J. N.
 Radhabai, Shrimati B.
 Raghu Ramaiah, Shri
 Raj Deo Singh, Shri
 Rajani Gandha, Kumari

Ram, Shri T.
 Ram Dhan, Shri
 Ram Kishan, Shri
 Ram Sewak, Shri
 Ram Subhag Singh, Dr.
 Ram Swarup, Shri
 Rana, Shri M. B.
 Randhir Singh, Shri
 Rane, Shri
 Rao, Shri J. Ramapathi
 Rao, Shri Thirumala
 Rao, Dr. V. K. R. V.
 Roy, Shrimati Uma
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Sarma, Shri A. T.
 Sayeed, Shri P. M.
 Sen, Shri Deven
 Sen, Shri P. G.
 Shah, Shri Shantilal
 Shambhu Nath, Shri
 Sharma, Shri D. C.
 Sharma, Shri M. R.
 Shastri, Shri B. N.
 Shastri, Shri R.
 Sheo Narain, Shri
 Sher Singh, Shri
 Sheth, Shri T. M.
 Shinde, Shri Annasahib
 Shinkre, Shri
 Shiv Chandika Prasad, Shri
 Shukla, Shri Vidya Charan
 Siddeshwar Prasad, Shri
 Singh, Dr. B. N.
 Singh, Shri D. N.
 Sinha, Shri Mudrika
 Sonar, Dr. A. G.
 Sonavane, Shri
 Sudarsanam, Shri M.
 Supakar, Shri Sradhakar
 Swaran Singh, Shri
 Tarodekar, Shri V. B.
 Tiwary, Shri K. N.
 Uikery, Shri M. G.
 Venkatasubbaiah, Shri P.
 Verma, Shri Prem Chand
 Virbhadra Singh, Shri
 Vyas, Shri Ramesh Chandra

NOES

Amersey, Shri M.
 Ayarwal, Shri Ram Singh
 Berwa, Shri Onkar Lal
 Chauhan, Shri Bharat Singh
 Deo, Shri K. P. Singh
 Goel, Shri Shri Chand
 Gupta, Shri Kanwar Lal

Joshi, Shri Jagannath Rao
 Majhi, Shri M.
 Misra, Shri Srinibas
 Mody, Shri Piloo
 Naik, Shri R. V.
 Sequeira, Shri
 Sharma, Shri Bani Shankar
 Vidyarathi, Shri R. S.

MR. DEPUTY SPEAKER : The result* of the Division is :

Ayes	117
Noes	15

The motion was adopted.

MR. DEPUTY-SPEAKER : The Bill, as amended, is passed.

SOME HON. MEMBERS : Shame, shame !

18.27 hrs.

BUSINESS ADVISORY COMMITTEE

TWELFTH REPORT

THE MINISTER OF PARLIAMEN- TARY AFFAIRS AND COMMUNICA- TIONS (DR. RAM SUBHAG SINGH) : I beg to present the Twelfth Report of the Business Advisory Committee.

MR. DEPUTY SPEAKER : Now, there is a Half-An-Hour Discussion, I am sorry, before that, there is a Motion of Shri Shrinibas Misra. Shri Srinibas Misra.

18.28 hrs.

[SHRI G. S. DHILLON in the Chair]

SHRI S. S. KOTHARI (Mandsaur) : May I make a submission ? I would appeal to the Minister of Parliamentary Affairs to instruct his Members not to raise the question of quorum during the Half-An-Hour discussions. If the Congress Government does not want Half-An-Hour discussions, let them say so. Why make a farce of it ? Everyday, the Half-An-Hour discussion is being scuttled by the Congress Members on the other side because they do not want the Half-An-Hour discussions. I would suggest that either the rule should be changed or a convention established that during the Half-An-Hour discussions, the question of quorum shall not be raised. (Interruptions)

SHRI SHEO NARAIN (Basti) : It is their duty . . . (Interruption)

श्री प्रेम चन्द बर्मा (हमीरपुर) : माननीय सदस्य उधर से अकेले ही बोल रहे हैं। उन

के साथ उन की पार्टी का और मेम्बर नहीं है।

श्री कंबर लाल गुप्त (दिल्ली सदर) : सभापति महोदय, मैं आप के जरिये से मंत्री महोदय, डा० राम सुभग सिंह, से यह पूछना चाहता हूँ कि पार्लियामेंटरी सिस्टम में कोरम रखने की किस की जिम्मेदारी होती है। मेरा कहना यह है कि यहां पर कोरम रखने की जो सरकार की जिम्मेदारी है, उस की ये निभाते नहीं हैं, जिसकी वजह से हाफ-एन-आवर डिस्कशन में पिछली चार दफा से गड़बड़ हो चुकी है। मैं यह चाहता हूँ कि आप मिनिस्टर आफ पार्लियामेन्टी अफेयर्स से कहें कि वे इस चीज को देखें कि यहां पर आखिरी समय तक कोरम रहे। यह जिम्मेदारी सरकार की है, उस को वह पूरा नहीं करती है, इसलिये मैं यह चार्ज लगाता हूँ कि ये जानबूझ कर—एक-दो पट्टे इन्होंने यहां छोड़ रखे हैं—कुछ शोर मचाने वाले इकट्ठे कर रखे हैं—जो जानबूझ कर हमेशा इस को उठाते हैं और यहां पर गड़बड़ करते हैं। इस का नतीजा यह होता है कि जो कोरम यहां पर आखिर तक होना चाहिये, वह नहीं होता है। आप इन को वार्न कीजिये, इनको इंस्ट्रक्शन दीजिये, अगर फिर भी ऐसा नहीं होता है, तो इन को सजा दीजिये।

श्री प्रेम चन्द बर्मा : ये कह रहे हैं कि हमारी जिम्मेदारी है, हमारी जिम्मेदारी नहीं है, इन के खुद के पांच आदमी कहां पर नहीं होते हैं। ये लोग खुद अपनी जिम्मेदारी को यहां पर पूरा नहीं करते हैं और हम से कहते हैं कि हम यहां बैठे रहें।

श्री कंबर लाल गुप्त : अगर नहीं कर सकते तो छोड़ दो सरकार को।

*The following Members also recorded their votes :

AYES .. Shri R. Barua.

NOES .. Shri S. S. Kothari.