

[Shri J. Matha Gowder]

to the State? Did the State Government refuse to accept the arguments of the Centre in favour of this law?

During this interregnum of two years, from the date of enactment of this law and to this day when the provisions of the Act are being extended to the State of Jammu and Kashmir, I would like to know whether the State Government denied its people the right of criminal appeal to the Supreme Court and if not, to which Court they were taking the criminal appeal. What is the reason for the delay of two years in extending this Act to Jammu and Kashmir? I do not know whether the Central Government brought any pressure to bear upon the State Government in the matter of extending this Act to the State, as a result of which the State Legislature passed a resolution asking for the extension of the Act to Jammu and Kashmir.

I would like the hon. Minister to clarify these points in his reply to the Debate.

**SHRI NITIRAJ SINGH CHAUDHARY**: Mr. Deputy-Speaker, I would like to reply to Mr. Gowder first. The Central Government could not do anything. I would like to point out that we brought the whole thing to the notice of the Government of Jammu and Kashmir. Their legislature passed a Resolution and sent it to us and we have taken action and the Bill is before this House after having been passed by the other House. Dr. Pandeya mentioned about Art. 370. There was a discussion in great detail in this House on a motion of his party leader and Government's stand was made clear then. Article 370 is getting eroded from time to time and automatically nothing would be left for being acted upon.

I am thankful to the hon. Members who have generally supported the Government's stand and I commend this Bill for the acceptance of the House.

**MR. DEPUTY-SPEAKER**: The question is:

"That the Bill to amend the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970 as passed by Raja

Sabha, be taken into consideration."

*The motion was adopted.*

**MR. DEPUTY-SPEAKER**: The question is:

"That clause 2, clause 1, the Enacting Formula and the Title stand part of the Bill."

*The motion was adopted.*

*Clause 2, Clause 1, the Enacting Formula and the Title were added to the Bill.*

**SHRI NITIRAJ SINGH CHAUDHARY**: I beg to move:

"That the Bill be passed."

**MR. DEPUTY-SPEAKER**: The question is:

"That the Bill be passed."

*The motion was adopted.*

14.31 hrs.

**INDIAN TELEGRAPH (AMENDMENT) BILL**

**THE MINISTER OF COMMUNICATIONS (SHRI H. N. BAHUGUNA)**: I beg to move:

"That the Bill further to amend the Indian Telegraph Act, 1885, as passed by Raja Sabha, be taken into consideration."

This is a very simple and innocuous Bill by which we are trying to bring the provisions of the parent Act in conformity with the Fundamental Rights conferred by our Constitution, and I hope that the House will accept the amending Bill.

**MR. DEPUTY-SPEAKER**: motion moved:

"That the Bill further to amend the Indian Telegraph Act, 1885, as passed by Raja Sabha, be taken into consideration."

**SHRI DINEN BHATTACHARYYA (Serampore)**: I am very sorry that Shri H. N. Bahuguna has brought forward a Bill which is nothing but an attack on the Fundamental Rights conferred by our Constitution. I would say that this Bill constitutes an attack on the liberty of the individual and on the freedom of the press.

Powers have been given to the executive of the Central or State Government to intercept and stop the delivery of any telegram on the plea of public emergency or public safety. The terms 'public emergency' and 'public safety' have nowhere been defined. Who is to define these things? On the plea of these two things, a district magistrate or an SDO or a petty official can stop an important news item sent by any press reporter to any place. In the same way, they can stop anything for public safety also. Suppose a strike is taking place in some factory and the police authority or the executive authority there decides that this news should not be circulated, they can stop any news that is sent from that place to any other place.

While moving the Bill, the hon. Minister should have explained the circumstances under which a telegram could be withheld by an authority, because these have not been defined anywhere. But now, all of a sudden, he has decided upon two circumstances under which this power to intercept can be exercised. One is emergency, which may be for a short while, while the other is public safety which may continue for a long period. The hon. Minister may be laughing, but my point is that he is curtailing the liberty of the individual and the freedom of the press.

They are talking of democracy, and are celebrating the twenty-fifth anniversary of Independence. I am sure they will do many such things and also give fresh assurances. But what are they doing in practice? They are taking steps to monopolise economic power in the hands of the monopolists and to a certain extent they are also concentrating political power in the hands of the Centre.

So, this Bill cannot be supported by any sensible man in the House. For, what is the sense behind it?

There is already an emergency. You can stop any news from being transmitted anywhere. But why are Government bringing this measure to be put on the statute book as a permanent law? This is an amending Bill amending an Act of 1885. They say it is for bettering it. I say they are doing worse. They are putting obstacles in the way of the func-

tioning of the press. Not only the press. We are the worst sufferers. Post offices from where telegrams are sent sometimes become places where petty police officials enter and demand to be shown the telegrams from this or that place, from this or that man. So the postal staff sometimes feel difficulty in discharging their duty because the police officials say that unless they are shown the telegrams, they would not allow the telegrams to be despatched.

Then telephones are tapped. This is a fact. It has been mentioned in this House that our telephones are always tapped. What to speak of tapping of our telephones, let Shri Bahuguna come with me. I will show him plain-clothes IB men standing in front of our residences and offices. What is the reason for this surveillance? Is there any danger from us? I do not know for what purpose they are posted there. But no explanation can be given by this Minister. That is the task of the Home Minister.

Shri Bahuguna is a man of many qualities. Why is he doing these things? He is doing harm to the right given to the people by the Constitution. He is putting additional barriers in the way of the discharge by the press of their duties.

I can understand that sometimes at the time of communal riots or disturbances or during the time of war Government could take some such powers to be exercised in the interest of the State. But ordinarily, in peace time, what is the necessity for this Bill?

Therefore, I emphatically oppose this Bill. I humbly request other members also to oppose it. There is no necessity to bring such a law now which will curb the fundamental rights of the people, which will vest Government with an additional power thus creating difficulties for the press in the discharge of their functions. Ministers will always give assurances against abuse. But who cares for assurances? Not the petty officials and the executive. They will do things according to their own whims. They will decide that this is an emergency or this is necessary for public safety; so you cannot send this news to any other place. That being so, this is a piece of legislation which cannot be allowed to be passed.

बी हुकम चरु कछ राय (मरैना) : उपर-  
द्वयक महोदय, सदन में गणपूर्ति नहीं है ।

MR. DEPUTY-SPEAKER : The bell is being rung. Now, there is quorum. The hon. Member may continue.

SHRI DINEN BHATTACHARYYA : This will also create difficulties in respect of Centre-State relations. It does not mean that there will always be one party-rule in all the States. If any difference arises, the Centre may create obstacle for the concerned State to send or elicit the news to and from the other parts of the country, because the telegraph department is under the control of the Centre, and the telephone department is also under the control of the Centre. So, from all points of view, this is a law which will not help the ordinary people in respect of the freedom of speech, or freedom of association or freedom of knowing what the situation in other parts of the country is.

Therefore, I oppose this Bill.

\*SHRI C. CHITTIBABU (Chingleput) : Mr. Deputy Speaker, Sir, our hon. Minister of Communications, Shri Bahuguna, has introduced in this House the Indian Telegraph (Amendment) Bill. Though in fact I would not like to oppose this Bill, I would like to seek certain clarifications from the hon. Minister of Communications on the provisions of this Bill.

In the interest of the security of the nation, the President has proclaimed Emergency throughout the country and the Defence of India Rules are in force. I wonder whether at this stage it is necessary to have this enactment passed. Throughout the country we are going to celebrate the Silver Jubilee celebrations of our Independence and unfortunately the Defence of India Rules are in force throughout the country under which the Central Government as also the State Governments can intercept or forfeit any kind of news being passed on from one place to the other. Why should this Bill be brought at this juncture which seeks to achieve the same purpose?

Though this is a small piece of legislation and it looks innocuous, when

the provisions of the Bill come into force, I would emphatically state that the fundamental rights of the people would be jeopardise. When one looks at the phraseology of the Bill, he or she will get the doubt whether there is democracy in our country. The terms used in this Bill are such that when the Act comes into force, the fundamental rights of the people would be affected, if not nullified.

You will see, Sir, phrases like 'public safety' and 'public order' and no definition of these phrase has been given. They are such omnibus terminologies that unless they are clarified, it will have draconian effect on the fundamental rights of the people. I would request the hon. Minister to clarify these two phrases in his reply.

As my hon. friend from the Communist Party (Marxist) pointed out just now, difference of opinion or sometimes even disputes might arise between the Centre and the States in the working this law. As an example to the fact that there cannot be for ever one-party rule in the country, there is the D.M.K. Government in Tamil Nadu, which is the beacon light for the functioning of democracy in our country. The people of Tamil Nadu might like to inform the Central Government about the reported oppression of people of Tamil origin in Ceylon; the Central Government authorities might, in view of some agreement between the two countries, and on account of the fear that the friendly relations between the two countries might be affected if this news gets circulation, prevent the information from being transmitted. This may in consequence lead to an upsurge in Tamil Nadu. Similarly, a political party in a particular State might like to spread its view-points and ideology to other States in the country and the authorities might stop this also on the ground that it might jeopardise public order.

I am not suspecting the good intentions of the hon. Minister of Communications. The hon. Minister is known for his amiable qualities. He is highly capable of putting forth constructive counter-arguments and I have no doubt about his talents in that regard. He might also give convincing clarifications

\*The original speech was delivered in Tamil.

to the points raised. But, I have stated all this just to emphasise the point that unless adequate safeguards are taken in the implementation of this Bill, democracy might perish. I would like the hon. Minister to define the terms 'public order' and 'public safety'.

The hon. Minister of Communications might reply that these phrases have been taken from one of the articles of the Constitution. In fact, as he has stated in the beginning, this Bill has been based on the constitutional guarantees. If that is so, I would like to know whether the freedom of the Press is not curtail under one pretext or the other, however effective the assurances of the Minister might be in this House. The Press antagonistic to the Establishment might become a target of harassment. It must be proved beyond doubt that the freedom of the Press will not get encumbered by the provisions of this Bill and the Press must have faith in the good intentions of the hon. Minister and his Government.

I request the hon. Minister to clarify these points in his reply to the Debate.

श्री विभूति मिश्र (मोतीहारी) : उपाध्यक्ष महोदय, हमारे मी० पी० एम० के माननीय सदस्य ने कहा कि जो हमारे मौलिक अधिकार ह वह इस बिल से जा रहे हैं। मैं कहना चाहता हूँ कि इस बिल से तो मौलिक अधिकारों का बचत हो रहा है, मौलिक अधिकारों की रक्षा हो रही है। अगर आप इस बिल को पढ़ें तो इस में साफ लिखा हुआ है कि :

"On the occurrence of any public emergency, on in the interest of the public safety, the Central Government or a State Government or any officer specially authorised in this behalf by the Central Government or a State Government may, if satisfied that it is necessary or expedient so to do in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of an offence, for reasons to be recorded in writing, by order, direct.....".

कोई हमारे देश के खिलाफ, हमारी सावरेन्टी के खिलाफ, हमारे समाज के खिलाफ कार्रवाई करेगा, हमारा स्टेट के खिलाफ कार्रवाई करेगा तो उस हालत में केन्द्रिय सरकार अपने अफसर को या स्टेट गवर्नमेंट के अफसर को यह अधिकार दे रही है कि वह उचित कार्रवाई करे।

मैं समझता हूँ कि जो भी इस बिल का विरोध करना है उस के मन में यह बात है कि वह इस स्टेट के खिलाफ, हमारी सावरेन्टी के खिलाफ कार्रवाई करने के लिये तैयार है। इस बिल का विरोध करने वाले इस देश के खिलाफ हैं। अगर वह लोग देशभक्त हैं तो उन को इस बिल का समर्थन करना चाहिये। इस बिल में लिखा हुआ है कि अगर किसी आदमी को गिरफ्तार किया जायेगा, अगर कोई चीज पकड़ी जायेगी तो उस का रीजन लिखा जायेगा और राइटिंग में दिया जायेगा। जो भी चाहे कोर्ट में मुकदमा लड़े और छूट जाये। इस बिल का विरोध करने के माने हैं कि जो शपथ इस सदन में ली गई है देश को रक्षा के लिये और संविधान को जो शपथ ली गई है उस के खिलाफ कार्रवाई करना है।

इस लिये मैं कहना चाहता हूँ कि सरकार के लिये इस बिल को लाना बहुत जरूरी था। अमल में वह इस को देर कर के लाई है। यदि इस को जल्दी लाता तो जो कुछ पाकिस्तानी युद्ध के समय हुआ वह न होता। हम लोग नेपाल बार्डर पर रहते हैं और जो कुछ उधर होता है उस को जानते हैं। वहाँ पर इधर की खबरें उधर जाती हैं और उधर की खबरें इधर आती हैं। श्री राज बहादुर भी वहाँ राजदूत रह चुके हैं। उन्हें इस के बारे में पूरी तरह से भाजूम होगा। (व्यवधान) हम आप लोगों को जानते हैं। आप के लोग बंगाल से भाग कर हमारे यहाँ आ गये हैं और गड़बड़ियाँ करते हैं। इस लिये श्री-इस बिल का लाना जरूर था। मैं तो होम मिनिस्टर साहब से कहूँगा कि वह इस से भी अच्छा बिल लाये क्योंकि हमारे यहाँ

### [श्री विभूति जिज]

बारों दिन खून बाराबी हीली रहती है। आप हमारे यहां लीग चोरियां और डकैतियां कर के समाज में आतंक फैला रहे हैं। इस लिये इस तरह का बिल जल्द पास किया जाना चाहिये।

श्री सरजू पांडे (गाजोपुर) : उपाध्यक्ष महोदय, जो विधेयक सदन में आया है उस को देखते हुए मैं नहीं समझ पाता कि मंत्री जी को उस को लाने का क्या आवश्यकता पड़ गई। इतने दिनों के बाद टेलिग्राफ का मसिब में ऐसी कौन सी दिक्कत आ गई है जिस के कारण उन को इसे बनाने का आवश्यकता पड़ी? इसके द्वारा राज्य सरकारों को यह अधिकार दिया जा रहा है कि वह किमा मेसैज को स्टाप कर सकते हैं, टेलिफोन टैप कर सकते हैं। यह तो वह पहले भी करता थी, चाहे एक में हो या न हो, और अब भी करती हैं। फिर इस चाज का फौमला कौन करेगा कि हमारे देश को खतरा है? जब रूलिंग पार्टी को खतरा होता है तब देश पर खतरा मान लिया जाता है। जब तक रूलिंग पार्टी के इंटरेस्ट में कोई बान मही होती तब तक वह उसको नहीं करती। जब कोई बात उसके इंटरेस्ट में होती है तो वह कहती है कि देश पर खतरा है, देश का माबरेटो को खतरा है। मैं समझता हू कि रूलिंग पार्टी केवल अपने इंटरेस्ट के लिए इस बिल को पाम करवा रही है। यह बिल न केवल सविधान को जो स्पिरिट है, उसके खिलाफ है बल्कि स्वयं संविधान के भी यह खिलाफ है और उसको खामू करने के रास्ते में इससे रकावट पैदा होगी।

आप किन अधिकारियों के हाथ मजबूत करेंगे? कैसे ही वे अधिकारी? कौन लोग फैसला करेंगे इसके बारे में? अधिकारों लोग ही तो करेंगे। मैंने अभी पढ़ा कि होर्डेज पर छापे मारे जा रहे हैं, ब्लेकमार्किटर्स पकड़े जा रहे हैं। लेकिन असल में जो बीबी लीग है उनको नहीं पकड़ा जाएगा। पकड़े कौन जाएंगे? पकड़े जाएंगे माफिस बेचने वाले, बीबी बियासलाई बेचने वाले। छोटे छोटे

जो आदमी है उनको पकड़ लिया जाएगा और जो बाकई में होर्डेज है और जिब की पकड़ा जाना चाहिये उनकी पकड़ा नहीं जाएगा। किस बड़े आदमी को आपने गिरफ्तार किया है, इतना ही आप बता दें। यहां इस बिल के पास हो जाने के बाद भी यही होने वाला है। खामख्वाह घूसखोरो और रिश्ततखोरी के लिए आप रास्ता खोल रहे हैं और पहले से ही जो बड़े हुई है उसको आप और बढ़ा रहे हैं। आपके बफ्तरो में बैठे हुए अधिकारी व कर्मचारी पैसे से खरीदे जा सकते हैं। कोई कम में और कोई ज्यादा में। किस। भी अधिकारों को घूस टै कर पत्र मसैर करने से या टैल.फोन टैप करने से रोका जा सकता है। अब वही जाच करने बैठेंगे वह। पता लगाने बैठेंगे कि कौन माहब क्या कर रहा है। हम लंगो के बारे में भी लोग यही कहते हैं कि यं बेचारे कुछ नहीं कर सकते हैं बकवास ये भले ही कर लें। इस वाम्ते आप कम को देखिये। कोई भी टैलीफोन से खबर दे कर या पत्र लिख कर मुल्क का माबरेटो को खतरा में नहीं डाल सकता है। गुंमा इस मुल्क में नहीं हो सकता है। इस वास्ते आपको इस बिल को लाने की आवश्यकता नहीं थी। अपराध कानून से नहीं रुकते। बल्कि उससे ये बढ़ते हैं। इस तरह से एक आदमी के हाथ में अधिकार दे देना कि किमा मेसैज को वह स्टाप कर दे, कोई खबर आने जाने न दे, गलत बात है। मेरी अपील है कि आप इसको वापिस ले लें और देश के लोगों पर आप विश्वास रखें। ऐसी कोई बात आप न करें जिससे आप के प्रति लोगों के दिलों में शुबहे पैदा हों। यह रही बिस् है। इसकी आप सदन में पास न करवायें।

श्री धर प्रसाद सिंह (बाराबंकी) : उपाध्यक्ष महोदय, अपने नुस्ते भारतीय सार (मंशोधन) विधेयक 1972 पर अपने विचार प्रकट करने का जो अवसर प्रदान किया है, उसके लिये मैं आपका आभार। हूँ। मानवीय मंत्री महोदय ने अपने वक्तव्य में कहा है कि यह संशोधन बहुत ही साराधर है और यह बहुत

हो सरल सा विधेयक है, बहुत ही स्पष्ट विधेयक है। इस स्पष्ट विधेयक को मेरे विचार में चाहे लच्छाबुद्ध सब के सदस्य हों या माननीय सदस्य के विरोधी दलों के माननीय नेतागण अबका सदस्य गज हों, सब को इसका समर्थन करना चाहिये और सर्वसम्मति से इसको पास करना चाहिये। जैसा कि इस में बहुत स्पष्ट रूप से लिखा गया है कि ऐसी व्यवस्था तथा की जाएगी जबकि लोकापात् का स्थिति हो या लोक सुरक्षा की स्थिति हो। मैं समझता हूँ कि इस मदन के मस। माननीय सदस्य महामत होंगे कि जब कम। ओ देश में लोकापात् का अथवा लोक सुरक्षा का स्थिति हो तो हमें व्यक्तिगत हितों के ऊपर राष्ट्रहित को रखना होगा और मैं समझता हूँ कि इस में कोई दा राये नहीं हो सकता है।

उम में यह स। स्पष्ट कर दिया गया है कि लोकहित हमारा क्या है? लोकहित है देश का प्रभुमता, देश का अखण्डता, देश का एकता, देश को सुरक्षा और विश्व समुदाय में जो विभिन्न देश हैं उन से हमारे जिस प्रकार के मित्रता के सम्बन्ध हैं, वे किस प्रकार से स्थापित रह सकते हैं और उनके और हमारे बाच जो मंत्रा है और जो मद्भावना है वह और अधिक प्रगाढ़ कैसे हो सकता है, हमारे बाच में और अधिक अडरस्टैंडिंग कैसे पैदा हो सकता है। इसके साथ साथ कोई कार्य अगर अपराध करने के इरादे से किये जा रहे हैं उन पर किस प्रकार से नियंत्रण किया जा सकता है। इन सब चीजों को ध्यान के रखते हुए यह व्यवस्था की जा रही है जो इस बिल में है।

मध्यवर्धि चुननों के बाद श्रीमती इंदिरा गांधी के नेतृत्व में देश एक निश्चित दिशा की ओर बढ़ रहा है। इस देश की जनता को सामाजिक न्याय देना चाहते हैं, सामाजिक विषमताओं को समाप्त करना चाहते हैं। ऐसी परिस्थिति में देश में जो प्रतिक्रियावादी तथा पूंजीवादी शक्तियाँ हैं उन से इस बात का भय हो सकता है कि हमारे लोकतंत्र को लम्बे समय के लिये इनकी शक्तियों की शक्ति को आजात पक्षों, ऐसी

परिस्थिति में यह बहुत आवश्यक है कि इस संघीयन विधेयक को पास किया जाए। मैं आशा करता हूँ कि माननीय सब के सभी माननीय सदस्य सर्वसम्मति से इस बिल का स्वागत करेंगे और इसका समर्थन करेंगे। मैं इस विधेयक को खाने के लिए मंत्री महोदय को बधाई देता हूँ और हृदय से इसका स्वागत करता हूँ।

श्री हुकम चन्द कच्छवाय : मैं इस बिल का विरोध करने के लिए खड़ा हुआ हूँ। मंत्री महोदय जैसे तो स्वभाव से बहुत अच्छे और बहुत भले तथा मज्जन पुरुष हैं। उनका स्वभाव बहुत माठा है। परन्तु मैं समझता हूँ कि इस तरह का बिल लाना उनको शोभा नहीं देता है। यह बिल अच्छा नहीं है। इसको यहाँ लाना आपको शोभा नहीं देता है। आपने कहा है कि राज्यों में जो अधिकार हैं उनको आप पावर दे रहे हैं टैप करने का या सँसर करने का। मान लीजिये कि किस अधिकार का किस व्यक्ति से बनती नहीं है या छोटे समाचारपत्र से जो उस क्षेत्र में चलता है, उसने उम अधिकारों के खिलाफ कोई बान लिखा, जिम्मे के कारण उस अधिकार का उम समाचारपत्र वाले के साथ बनती नहीं है। अब वह अधिकारों जब उसको आप अधिकार दे रहे हैं तो क्या वह इस अधिकार का उस समाचारपत्र के खिलाफ उपयोग नहीं कर सकेगा और उस समाचारपत्र पर प्रतिबन्ध नहीं लगा सकेगा, उस पर रोक नहीं लगा सकता है। आखिर इसकी तय कौन करेगा कि फला आदमी जो कार्रवाई कर रहा है यह आपत्तिजनक है? वास्तव में बीज क्या है इसको तय कौन करेगा? आप क्यों इस पावर को लेना चाहते हैं? आपके पास पहले से बहुत सी पावर हैं। आप उनका उपयोग कर सकते हैं। और अधिक पावरें लेना ठीक नहीं है। आपको इस तरह का बिल लाना शोभा नहीं देता है। जहाँ भी हमारे जो प्रश्न हैं उनकी सँसर किया जाता है, जो टेलीफोन हैं उनको टैप किया जाता है। हर पत्र की जाँच होती है। हर पत्र की तकल रखी जाती है।

[श्री हुकम चन्द कछवाफ]

पत्रों की फोटो कापी रखी जाती है। आज भी इस तरह की कार्रवाई चल रही है। इस पावर को लेने के बाद क्या इसका निजी कामों में उपयोग आप नहीं करेंगे? आप राज्य सरकारों को अधिकार देना चाहते हैं। यह ठीक नहीं है। मैं इनका जम कर विरोध करना हूँ। काफी लोगो ने इसका विरोध किया है। आपका जो मधुर स्वभाव है, जो मोठा मुस्मान है, उनको देखते हुए मैं समझता हूँ कि आप इस बिल को वापिस ले लेंगे।

THE MINISTER OF COMMUNICATIONS (SHRI H. N. BAHUGUNA) : Mr. Deputy-Speaker, Sir, one of the parliamentary techniques of the Opposition is to confuse and confound an issue and, if that is so, I congratulate my friends on the Opposite side who have achieved their aims for a short while. But facts speak for themselves. The conduct of this Government is clearly borne out by the fact that what we are doing by this Bill is shedding power rather than adding more power.

In that context, I would like to draw the attention of my friends opposite to the provisions which are being dropped out from the parent Bill. Under the existing Act of 1885, Section 5(2) lays down that if any doubt arises as to the existence of a public emergency or whether any act done under subsection (1) was in the interest of public safety, a certificate of the Central Government or, as the case may be, of the State Government shall be conclusive proof of that. I am dropping this provision under the 1885 Act which has existed all these 25 years of freedom also. I was looking into my records and to assure my friends opposite, particularly, Shri Sarjoo Pandey who has suddenly developed some doubts about us after the Mid-term poll. I must tell him that this power was never used. Even these absolute powers which the 1885 Act conferred on us have never been used by us while there was the United Front Government in West Bengal, there was the United Front Government in Kerala, there were United Front Governments in a number of States, which were opposed to the Central Government, that is, the Congress Government.

15.00 hrs.

Now, there was no conflict and there has never been a conflict between the DMK Government and the Central Government in spite of the fact that these particular provisions continued to form part of the legislative power which was conferred on the executive by the Act of 1885. The whole thing started like this. The Law Commission suggested that these provisions of the Act as they existed were contrary to the Art. 19(2) of the Constitution, that is, the fundamental rights. Therefore, the Law Commission has recommended that this particular law should be amended so as to bring it in conformity with the fundamental rights.

Now, a plea has been made that perhaps this will attack the fundamental rights like the freedom of speech and freedom of expression. To that, my assurance is that what we have done by this amending sort of Bill is that we are trying to remove any arbitrary power which was made available to the Government by the Act of 1885 and completely bring it in consonance with the constitutional powers. That is, the protection of the whole judiciary will be available to anybody who feels that his particular fundamental rights has been attacked by a particular act done under the powers of this Act. That is what we are trying to see.

Secondly, an hon. friend has said : what do you mean by these words 'public safety', 'sovereignty' or 'emergency'? Who will define them? These words are exactly those that are used in the Constitution and in fact the Act of 1902 had given somewhat a wider sort of meaning to these exemptions. Of course, they are reasonable restrictions on the fundamental rights. We have not taken all of them because certain situations are covered by other laws. In the instant case, only those which have been referred to in Sec. 5 and not covered by other Acts including the DIR have been taken. That was the advice of the Law Ministry and the Home Ministry and the legal opinion is that they needed these powers though the occasion for the use of them in the last five years came only twice.

Once in 1968 in which case the Government of India did the officer down below that he had erred in taking a particular action which he should

not have taken and this House was told by the then Minister of Information and Broadcasting and Communications that the Government regretted the whole incident. So far as the other action was concerned, it was connected with the Indo-Pak war and it arose when one non-accredited correspondent from Agartala was trying to send, if I may say so, an alarming news about troop movement. These two incidents came to my notice from the records that are available. But the Act existed from 1885. It says :

"Nothing in sub-clause (a) shall affect the operation of any existing law or prevent a State from making any law in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of :

"(1) the sovereignty and integrity of India—" exactly the same words used by us here.

"(2) the security of the State.."—exactly the same words used by us here, and

"(3) friendly relations with foreign States .. ." exactly the words used by us.

"(4) public order.."—exactly the words used by us here.

"(5) decency or morality.."—it is covered and taken care of by other legislative acts.

"(6) or in relation to contempt of court.."—again that is covered by other Acts.

"(7) defamation or incitement to an offence.."—the General Clauses Act normally lays down as to what these things are and what they mean. There are judgments of courts which clearly say that the Government, acting within the provisions of this particular proviso of Sec 2.....

**SHRI DINEN BHATTACHARYYA:** For anything you can apply 'public order'.

**SHRI H. N. BAHUGUNA:** We have been here long enough. We have never misused the power.

**SHRI DINEN BHATTACHARYYA:** No question of you. You are delegat-

ing it to the State Governments and they, in turn, are delegating the power to the SDOs.

**SHRI H. N. BAHUGUNA:** The Government of India and those State Governments, whether they are United Front Government or Congress Government have not so far misused these powers.

15.05 hrs.

*At this stage two visitors from the Public Gallery shouted and threw some leaflets on the floor of the House.*

**SHRI H. N. BAHUGUNA:** There has not been a single case so far. If they could point out any case, they would have been justified in what they say, but during the last 25 years, there has not been a single case where the misuse of this particular power took a certain direction either by the State Government or by the Union Government. Nothing of that sort had happened. Therefore, I should like to allay the fears that have been expressed and I would like to say that what is being sought to be achieved through this Bill is to bring the power of the Government within the four corners of the Constitution which guarantees fundamental rights rather than abridge fundamental rights.

The second point raised was this. I was really startled when, I heard my friend talking about the DMK Government trying to send information and we, stopping it in the way, in the name of friendly relations with other countries and so on and so forth. Unfortunately, Sir, one thing is happening. Whereas the relationship between the DMK Government chief and their Cabinet and the Central Cabinet and the Prime Minister has been one which can be called admirable, there are people on the way, who are always trying to talk something, to drive a wedge between the two. I hope my friend will not fall a prey into that trap, to imagine something which we never have in mind. After all, the DMK Government has been in Government for such a long time. My friend Mr. Dinen Dada's Government was in West Bengal and they did some terrible acts which no Government would have done. But we never stopped their publicity; we never stopped anything, because this is not our record. We have never done this for the last 25 years.



[Shri H. N. Bahuguna]

Somebody said that vilence was the language of the ruling party. Again, this is a very wild allegation, not having been borne out by facts at all. We have never declared an emergency except when it was absolutely necessary, in the interest of the sovereignty of India. It is always easy to make a wild charge but it is absolutely impossible to substantiate the same. I do not want to dwell more on this particular point.

Shri Kachawaiji feels that somebody could use his personal vendetta against the party or person in the Government of these particular areas. I can assure him that much wider power was available to us and is available to us, which this House has given to us, but which has never been misused. Mr. Dimen Bhattacharyya's party has not pointed out a single case. They send telegrams even to persons outside, who are not very friendly to this country. Not a single telegram was stopped by us. Even the Communist party (Marxists) send telegrams to China or telegrams to any part of the World. They were never stopped. What he says is not based on facts. I do not want to argue on emotion. My only submission is, I expected, as a reasonable man, he would give us a chit and say, "yes, you have much wider power, thank you very much, you never made use of them". And then he should have said: "What you are trying to do is in conformity with the four corners of the Constitution. Congratulations." But, instead of that, he accuses us of so many things which are not warranted by facts. He just points his accusing finger at us; but what he says is not borne out by facts; what he is doing is something which is misguided and if he has to point out his accusing finger against anybody, it is against those who are mis-informed about the thing, who try to confuse the issue.

With these words I close and I hope the House will understand the position.

MR. DEPUTY-SPEAKER: The question is :

"That the Bill further to amend the Indian Telegraph Act, 1885, as passed by Rajya Sabha, be taken into consideration."

*The motion was adopted.*

MR. DEPUTY-SPEAKER: Now, we take up the clauses. For clause 2, an amendment has been given notice of by Shri B. V. Naik. Is he moving it ?

SHRI B. V. NAIK (Kanara) : No, Sir.

MR. DEPUTY-SPEAKER : Since there are no amendments, I shall put all the clauses etc. together to vote.

The question is :

"That Clause 2, Clause 1, the Enacting Formula and the Title stand part of the Bill."

*The motion was adopted.*

*Clause 2, Clause 1, the Enacting Formula and the Title were added to the Bill.*

SHRI H. N. BAHUGUNA : I beg to move :

"That the Bill be passed."

MR. DEPUTY-SPEAKER : The question is :

"That the Bill be passed."

*The motion was adopted.*

15.12 hrs.

#### DISTURBED AREAS (SPECIAL COURTS) BILL

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PERSONNEL (SHRI RAM NIWAS MIRDHA) : I beg to move :

"That the Bill to provide for the speedy trial of certain offences in certain areas and for matters connected therewith, be taken into consideration."

Government are deeply committed to promote national integration and maintain the secular character of our democratic framework and have indicated on several occasions in clear terms that no effort would be spared for dealing with the problems relating to communalism. The people of this country are deeply conscious of the value of national unity and secularism. They have clearly demonstrated this in unmistakable terms twice within a period of one year by giving their mandate for secularism.