

Before, I conclude, I would like to support what my esteemed friend, Shri Krishan Menon, has said that Parliament must not be off. The Parliament should continue to function in this hour of trial so that it keeps up the image of confidence and cool courage of our country.

SHRI S. M. BANERJEE (Kanpur)
Mr. Speaker, Sir, as the President of the All-India Defence Employees Federation, I assure my full support to the Prime Minister and to the Defence Minister and I also assure that, as in 1962 and 1965, the Defence employees will rise like one man today and will sacrifice even more to see that the naked aggression of Pakistan is repelled with all force. They will help the army both in the front and also preparing everything in the rear and help this Government in this hour of trial.

MR. SPEAKER The question is

"That the House approves the Proclamation of Emergency issued under article 352 of the Constitution by the President on the 3rd December, 1971"

The motion was adopted

MR. SPEAKER This Resolution is carried unanimously. I am very proud to be the Speaker of this House which has shown so much unity and demonstrated so much determination at this grave hour. We all pray that the nation stands all united as one man with one determination and with one leader. May God be with us.

12 21 HRS

DEFENCE OF INDIA BILL*

THE PRIME MINISTER, MINISTER OF ATOMIC ENERGY, MINISTER OF ELECTRONICS, MINISTER OF HOME AFFAIRS AND MINISTER OF INFORMATION AND BROADCASTING (SHRIMATI INDIRA GANDHI) Sir, I beg to move for leave to introduce a Bill

to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith.

MR. SPEAKER : The question is :

"That leave be granted to introduce a Bill to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith"

The motion was adopted.

SHRIMATI INDIRA GANDHI
introduce the Bill.

I beg to move.

"That the Bill to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith, be taken into consideration"

Mr. Speaker, I have said a little while ago that we shall be bringing before this House the Defence of India Bill. This Bill seeks only to provide necessary legal sanction as a consequence of the proclamation of emergency made by the President. We have tried to interfere as little as possible with the normal avocations of our citizens. But the country as a whole will have to make great efforts and undergo all sacrifices necessary for our defence.

The provisions of the Bill are somewhat similar to legislation undertaken on the last occasion. However, some changes in the light of our earlier experience and judicial decisions have been made. Full advantage has been taken of the laws enacted in the recent years by Parliament. Thus, the Bill does not make any separate provisions for detention. The Maintenance of Internal Security Act has been utilised with some modifications. In order that prompt

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action may be taken against activities prejudicial to the defence effort, district magistrates and other specified officers are proposed to be given the power to detain such persons. The maximum period for which a person could be detained in the interest of defence of India or security of India without consulting the Advisory Board has been extended to two years. These provisions, however, will be in force only so long as the Proclamation made by the President under Article 352 is in force.

So far as the modifications in other laws go, our objective has only been to provide more deterrent punishment for offences which in the context our defence efforts would be regarded as serious.

Now, I move that the Defence of India Bill, 1971, be taken into consideration.

MR. SPEAKER : Motion moved.

"That the Bill to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith, be taken into consideration."

SHRI A. K. GOPALAN (Palghat) : May we know how much time is allotted for this?

MR. SPEAKER : About an hour.

SHRI A. K. GOPALAN : This is a very important Bill. One hour is not enough. We have also tabled some amendments.

THE MINISTER OF PARLIAMENTARY AFFAIRS AND SHIPPING AND TRANSPORT (SHRI RAJ BAHADUR) : This has to be passed by the other House also.

MR. SPEAKER : There will be no lunch hour to-day.

Mr. Pant will pilot the Bill in the absence of the Prime Minister.

SHRI A. K. GOPALAN : How many hours are allotted for this?

MR. SPEAKER : Two hours, because we have to do other business also.

Because of this Emergency we have to push it through.

SHRI JYOTIRMOY BOSU (Diamond Harbour) : I want to know whether the provisions of Rule 65, sub-clause 2 have been suspended by you.

SHRI RAJ BAHADUR : That has been done.

MR. SPEAKER : Everything was done before this came. All the formalities were gone into.

SHRI JYOTIRMOY BOSU : We are not aware of it.

MR. SPEAKER : Because of the Emergency, everything has to be done at a very short notice.

SHRI JYOTIRMOY BOSU : If the Speaker has done it, we have nothing to say.

MR. SPEAKER : No, it has to be done.

SHRI A. K. GOPALAN : Mr. Speaker, Sir, as far as this Bill is concerned, we have given some important amendments for the Bill. Now that the Declaration of Emergency is passed and also as there are other provisions already existing, we think that as far as the Defence of India Act is concerned, it is not necessary because this Defence of India Act had been passed before.

There is a difference between the present Bill and the Defence of India Act that had been passed on the last occasion, because now there are so many provisions in other Acts, such as the Unlawful Assembly (Prevention) Act, the Preventive Detention Act, Maintenance of Internal Security Act etc. under which whatever is required to be

done under the Defence of India Act could be done. Besides, there is also the Criminal Procedure Code, and there has also been a declaration of emergency.

As such, we feel that the Defence of India Bill now is not necessary at all and all the powers that are sought to be taken under this Bill are already available with Government and they can have recourse to those powers. That is the first thing that I would like to say.

Secondly, we have got the experience of the earlier Defence of India Act and how it had been used and abused. On the last occasion, the Defence of India Act had been used in such a way that it did not help in the mobilisation of the people. It did not help in the war efforts. On the contrary, it was used by the bureaucrats in such a way that there was discontentment among the people, and the objective which Government had in view did not succeed at all.

As far as the minorities are concerned, we had got certain experiences in regard to the way they were treated.

In spite of the fact that the minorities and their spokesmen here had stated unequivocally that they were with the Government, there were certain instances where the minorities had been arrested. I had brought up those cases in the House, and I had pointed out the cases of certain women who had come back from Pakistan to Kerala after visiting their husbands, and they had been detained. They had done nothing, they had only returned from Pakistan after seeing their husbands. Under the Defence of India Act, they had been detained. I had written to the Prime Minister and I had also raised this matter here, and it was only after some time that they were released.

As far as the provisions of this Bill are concerned, they are drastic provisions, and judging from past experience, we are afraid

that they will be used against the workers and other sections of the people, and especially against the minorities, and anyone belonging to the minorities may be arrested and detained under this measure. I would submit that if it becomes necessary to detain any person, then he can be detained under the existing laws in the country. At least in the other Acts there is provision to the effect that the person concerned can give a written statement that he is innocent, but here there is no such provision.

But under this measure, since the Emergency is also there, the provisions of this measure will be used against the minorities by the bureaucrats according to their sweet wishes and they can be detained. That was our experience last time, and I am afraid that the same experience might be repeated this time also, if this weapon is given in the hands of Government.

We have just passed a resolution to the effect that the whole country is behind the Government. As far as the front is concerned, the front is doing its duty properly, but in a war, it is not only the front which matters, but it is the rear also which is important. What about the people? Will the Government explain whether what is now happening in West Bengal and other States will continue and those repressions will continue? If we are to mobilise the people, then they must understand that the attitude of the Government has changed because a new situation has come. As far as West Bengal is concerned, there is killing going on every day. Will that also continue? When we have to fight the enemy in a united manner, what will the Government do about those things which are happening in West Bengal and other parts of the country?

Now, I would like to point out certain drastic and draconian provisions in the Bill. For instance, in one of the clauses

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Government has sought power to ban any paper which criticises the Government.

As far as the rule-making powers are concerned, I shall take a few clauses. Power is given to seize newspapers and forfeit them. They can prohibit the printing or publishing of any newspaper, news-sheet, book or other document containing matters prejudicial to the defence of India. Then there is a provision about mines, oil fields, factories or industrial and commercial undertakings. There is another clause prohibiting or regulating meetings and assemblies. Suppose we want to mobilise the people for war. For that, there must be processions, there must be meetings, there must be mobilisation. But under item 39 that is now allowed. So there is no question of mobilising the people.

I have already referred to the prohibition of the printing or publishing of any newspaper, news-sheet, book or other document containing matters prejudicial to the defence of India and civil defence. For mobilising civil defence, there must be meetings. But even the holding of such meetings can be termed as prejudicial to the defence of the country. Any paper which publishes that can be seized. Then there are provisions for closing down of any press used for the purpose of printing or publishing any newspaper, news-sheet, book etc. This is in addition to forfeiture of its security.

I say that that the Defence of India rules have in the past been used in such a way that nobody could say anything to criticise Government that the mobilisation for defence should be done in a particular way.

Then about collection of defence fund. We know how defence fund was collected last time. We had appointed officers for the purpose. We have seen that this could

be forcibly collected. Defence fund collection comes out of the patriotism of the people; it is out of the love of the people and their determination to strengthen the defence of the country. There is no question of any compulsion in this. But there had been cases of forcible collections brought to notice last time. Such a procedure will not evoke the sympathy and support of the people.

How are we going to mobilise the support of the people for making sacrifices in the interest of the country? What about prices in the country today? Prices will go up. Immediately the emergency is declared, the prices will shoot up. Even the Finance Minister has openly said in this House even before the emergency that as far as the rise in prices is concerned, we are not able to control it. Government will not be able to control the price rise.

As far as taxes are concerned, even before the emergency, as a consequence of the Bangla Desh refugee influx, taxes were collected, these taxes have of course been collected from the common man who is already suffering. Government have already said that there would be a wage freeze. But will there be a profit freeze? What about those millioners and monopolists who have earned crores and crore? Government have till now not touched them. If you look to the figures of direct and indirect taxation, you will find that direct taxation has come down from 1950-51 (50 per cent) to 1970-71 (19 per cent). Indirect taxation has gone up from Rs. 49.1 crores to Rs. 90 crores now. What is the policy now? In mobilising the people, what will be the policy of the Government? According to this Bill, if this power is also given to the Government, in spite of so many powers that are there and which can be used for whatever purposes the Government thinks, it will be burdening the people;

the enthusiasm of the people will not be there, and the mobilisation of the people will be very difficult.

So, I say that as far as the Defence of India Bill is concerned, according to our previous experience also, when such a measure was passed, it was used against the minorities. Anybody whom the officers and others belonging to the Government think that he should be arrested, will be arrested. They have been arrested. This had been used very badly against the minorities and this time it will be more.

Also, as far as the people are concerned, more burdens will be placed on the people; the people can never be enthused and if the people can never be enthused, mobilisation of the people to stand behind the Government in their war efforts will not be there. That is the reason why I say that the Defence of India Bill is not necessary. We oppose it.

Also, there are certain sections or clauses in this Bill which have to be taken out. Even today, as far as the ordinance for taking over the closed mills is concerned, it has not come. The legislative measures or benefits that had been there for the last five years for the workers are now not there. In this measure, all the democratic rights of the people are curtailed. You cannot have a procession; you cannot have a meeting; you cannot print a leaflet. How can you mobilise the people without leaflets, without meetings and without permitting any procession if they want to defend our country? I think that as far as this Bill is concerned, whatever has been said by all the parties here—that the whole country is behind the Government in this crisis—it will be difficult of achievement, and therefore, in order to see that the whole country is mobilised behind the Government, it is quite necessary that all the repressive measures that continue today in West Bengal and other States in India

are withdrawn. Instead of this Defence of India Bill, the Government will have to say how, in view of this grave situation, this measure is in the interests of the country and in the interests of the working people and how therefore it is our duty to support it.

We have seen and have understood before that this measure will be a hindrance to the people, a hindrance to the mobilisation of the people, and the passing of this Bill will not in anyway help them at all. Instead, it will be used as a weapon against the Opposition, against the minorities and other sections.

So, I say I oppose this Bill.

SHRI INDRAJIT GUPTA (Alipore) : Mr. Speaker, Sir, at 12.30 last night, immediately after the declaration of emergency but before the Defence of India Bill has been passed, a leading member of our party in Delhi, a member of the Delhi State Council of the Communist Party of India, Mr. Ved Prakash, was arrested from his house at 12.30 last night. Mr. Ved Prakash, I admit, is a thorn in the flesh of the local police for a long time, not only today. He has always been the champion of the locality's people against all types of police harassment, extortion, etc. And no sooner had the emergency been declared, while the Capital city was still lying under a black-out, while Pakistani planes were still raiding our air-fields, the first thing that the Delhi police could think of doing in this Kotla Mubarakpur area, was to go at 12.30 at night and arrest our comrade, Mr. Ved Prakash. Later on they will say that he was some anti-social element or something like that; we know the ways of the police.

I am constrained to mention this case because I along with lakhs of people in this country had shared the serious misgivings about the way in which the Defence of

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India Act and the rules are likely to be implemented, because this is not something that we are talking about vaguely. We have concrete experience of it.

Last time Emergency was declared in 1962; it was not withdrawn till 1968. For six years it remained in force as well as the Defence of India Act and the rules. We cannot forget that. There was no war after 1965; but the emergency was not withdrawn. Between 1963 and 1965 also there was no war but the emergency was not revoked and during that period there were serious misuses and abuses of those powers by the administration, particularly by the police administration.

What is written here can be argued to be very necessary as emergency powers. But the thing we want to bring to the notice of the Government is that we are not at all reassured by anything that has happened so far that similar misuses and abuses will not take place. Mr. Pant may give here all sorts of assurances but Mr. Pant is not personally responsible for administering this Act and rules in various parts of the country. We know very well what the administration at the lower levels is like and how they use this to pay off old scores against people whom they do not like and how unscrupulous elements at the level of villages and towns and so on deliberately try to get certain innocent people framed. Such things have happened on a big scale last time. I would warn the Government that if they allow similar things to happen again it will be very bad for the morale and the unity of our people which should be the paramount consideration at this time.

There are explicit provisions here for the punishment of people who indulge in profiteering, hoarding, black-marketing and adulteration or in other unfair practices in relation to goods procured by or supplied to the Government and so on. But our

experience is that these powers were hardly ever used or used in a very fractional, marginal and superficial way sometimes when there was some public outcry in some particular place. Otherwise these provisions were never used. But the provisions were used in the name of suppressing people who are supposed to be anti-social or pro-Pakistanis and so on against hundreds and thousands of people who were perfectly innocent.

We have referred on previous occasions in this House to the persecution which took place particularly of the minority community. I can speak from first hand experience, of at least West Bengal where several thousands of ordinary people belonging to the Muslim community were indiscriminately arrested and detained without any chance of proving anything or disproving anything because that provision is not there. Later on when hostilities with Pakistan were over they had to be released and they were taken by everybody to have been perfectly innocent. People in various localities who were communal elements went and gave false reports to the police saying that somebody was sitting in his house and listening to the Pakistan radio and therefore he should be arrested or that somebody else was flashing a torch in the night which was to say that he was signalling with an ever-ready torch to the Pakistani Sabre jets! Therefore, he should be locked up. On such false and flimsy grounds a lot of people were persecuted unnecessarily.

I do not say for a minute that any person who is actually engaged in anti-national work and who is acting as a spy or Pakistani agent and indulges in sabotage or leaks out secrets should not be proceeded against. He must be proceeded against, and he will not necessarily always be a member of the minority community. Such people are found in other communities also including the majority community, we know it.

What is going to be the safeguard? Or, is it the Government's contention that at a time of crisis like this many innocent people must necessarily suffer. I do not subscribe to this philosophy. Other countries have also fought wars, and we do not find this kind of thing taking place there.

Secondly, because an emergency sometimes becomes in the hands of the Government a sort of permanent feature which they would like to keep in force indefinitely, a lot of evils flow from that. For example, we have told you in this House today, other colleagues have also stated, categorically and unconditionally that the workers manning our factories and production units are prepared to day in this hour of crisis to give their utmost to the cause of national defence and they will make sacrifices for that, but what happened last time? Working hours were increased, holidays were reduced. That was all right so long as hostilities were going on, but in the name of the emergency, for years after that, when there was no hostility, these extra hours, reduction of holidays and compulsory deductions in the name of the war fund went on continuing for months and years. They have left a very bad taste in the mouth of many people. So, I am pleading for safeguards against misuse and abuse of these powers. There are no safeguards here.

As a matter of fact, the new section 17A which provides that a person may be detained without obtaining the opinion of the Advisory Board for a period longer than three months, but not exceeding two years from the date of his detention, has been made even more stringent than before. He can be kept in detention for a period of two years without his case being put up for review by the Advisory Board. This is an abnoxious thing. Nobody is saying he should be released if he has done some thing, but when he is detained without

trial, without any charge, without any proceedings, without any chance to prove or disprove anything, should not his case be put up before the Advisory Board which the Government constitutes? It is a monstrous thing, innocent people can be put to such suffering and victimisation that it cannot be tolerated.

As I have said earlier, nothing was done, or very little was done, about these black-marketeers and profiteers and speculators who I think are the best allies of Pakistan today; the people who help disrupt the rear while our front is attacked by armour and planes, are the profiteers, speculators and blackmarketeers. Will the Minister give us a firm assurance that the powers under this Bill will be unhesitatingly and energetically used against such people who are disrupting the economy today and putting our people to unnecessary privation? Nothing was done last time.

We are all anxious that the total material resources of our country should be harnessed today for the single cause of national defence. Every Member in this House who is connected in any way with the labour movement knows very well what has been going in the last few years when certain employers, for purposes of their own, have been recklessly closing down units without adequate cause, trying to put the blame on somebody else. Some of them have genuine causes that they did not get adequate orders or raw materials and so, but a large number of the bigger units have been closed down for other purposes. While units are allowed to be closed, only workers are asked to increase production. Workers will, of course, increase production. But what about those gentlemen who are keeping the units deliberately closed? The first thing by which Government's sincerity will be tested is this : They can certainly use these powers to see that these factories are opened. They are mainly

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in the engineering, textile and chemical industries, all of which have got some direct or indirect bearing on the war effort. They cannot be allowed to be closed at the whim of the employer. So, Government should take early steps to see through some sort of discussions which can be arranged that in future no employer will arbitrarily close down any unit or unilaterally retrench any worker during this period of crisis. Otherwise, it is all moonshine to talk about harnessing production for the war effort. A large number of people have been victimised. Victimisation cases are pending. If you want to harness the enthusiasm of the working class, it is necessary to review all these cases, whether in the private sector or public sector, withdraw them and allow everybody to work.

I would suggest for Mr. Pant's consideration that this time at least, for the implementation of the Defence of India Act and the rules to be framed thereunder, a sort of supervisory committee should be set up, consisting of non-officials—representatives of various parties at least which are represented in this House. It should be called from time to time or when any member or members of that committee have got any grievances regarding the way this is operated in any particular place or sector, the committee should meet and review the actual progress of the implementation. When concrete instances of misuse or abuse are brought to the notice of Government, that committee must be permitted to look into them. Otherwise, this business of taking everybody into confidence and wanting all of us to become partners in this effort does not have much meaning, because everything now comes under the umbrella of the Defence of India Act. Therefore, this is a thing which affects the life, liberty and properties of all the citizens and their organisations. The least that can be done is to see that that non-official committee is given a proper status, with supervisory powers and

allowed to review how this thing is actually implemented. We know how the magistrates, SDOs, and other police officers run amuck. I have an instance. Mr. Ved Prakash was arrested last night in Delhi even before the Defence of India Act was promulgated because the police did not like him. He fights for the people's interests in that locality of Kotla Mobarakpur. I want Mr. Pant to see that he is released. If this sort of thing goes on, you will be killing the enthusiasm and morale of the people. We do not want to fight on two fronts—one against Pakistan and another against corrupt and oppressive officials, and employers who want to retrench workers and close down factories. So, it is the responsibility of the Government not only to harness the national effort against the aggressor but also to defend the people against aggression by blackmarketers, profiteers and corrupt officials.

There is not much time. I wanted to voice these serious misgivings we have got. On the face of it, one cannot oppose these powers as they are laid down on paper. But the whole trouble is with their implementation, with their misuse and abuse. Government must give us more specific and concrete assurances this time that they will see to it that these things are not done.

श्री अटल बिहारी वाजपेयी (ग्वालियर) यह विधेयक सरकार को असाधारण अधिकार देता है। लेकिन देश के सामन जो परिस्थिति है वह भी असाधारण है। इस परिस्थिति का सामना करने के लिए शासन को जो भी अधिकार चाहिये, यह मदन उन्हें देने में सकोच नहीं करेगा। प्रश्न इतना ही है कि जो अधिकार दिये जा रहे हैं उनका दुरुपयोग नहीं होना चाहिये। इस मामले में पहले का अनुभव अच्छा नहीं है। अधिकार ऊँचे स्तर पर काम में नहीं लाए जाते, उनका उपयोग नीचे का शासन तब करता है। कहीं कहीं ज्यादासी होने का डर है। आवश्यक है कि इसका पूरा प्रबन्ध किया जाय।

मेरे सिद्ध भी इंग्लैंड गूफ ने 17 ए का हवाला दिया है। मैं इसी धारा का जो भी भाष है, उसकी स्प्रोर मवन का ध्यान खीचना चाहता हू।

“(b) where such person had been detained with a view to preventing him from acting in any manner prejudicial to the security of the State or the maintenance of public order”

सिक्थोरिटी आफ़ दी स्टेट तो ठीक है। काई व्यक्ति जो राष्ट्र की सुरक्षा के विरुद्ध कार्य करे, फिर किसी भी फ़रके का हा, किसी भी दल का हो उसके विरुद्ध कड़ाई से काम करना होगा। लेकिन पब्लिक आर्डर का हम में समावेश करने की क्या आवश्यकता है। कहीं अगर जन सभा की गई, यद्ध प्रयत्नों में सरकार का योगदान देने के लिए जनता का आह्वान किया गया और आवश्यकता पड़ने पर सरकार की आलोचना भी की गई और आलोचना करम का अधिकार छीना नहीं जा सकता है—यह ठीक है कि आलोचना रचनात्मक हानी चाहिये ऐसी होनी चाहिये जो जनता के मनोबल को कम न करे, ना ऐसा करने वाला की क्या दशा होगी? यह तो कोई दावा नहीं कर सकता कि जिनके हाथों में युद्ध का गचान बनने का दायित्व है वे सब ठीक ही काम करेग। उनका जा अन्व्याज है उम में गलती हो सकती है। किम समय कौन सा कदम उठाना चाहिये हमारे बारे में भूल हो सकती है, यद्ध प्रयत्नों में जनता का सहयोग किस ढंग से लिया जाए, इसके बारे में अलग-अलग रायें हो सकती हैं और ये रायें लोकतन्त्र में प्रकट करने का पूरा अधिकार होना चाहिये। अंग्रेजी में कहावत है कि शम्शो की शकार में भी विवेक का स्वर रुद्ध नहीं होना चाहिये। शम्शो की शकार में भी कानून की आवाज दबनी नहीं चाहिये।

अध्यक्ष महोदय, इस समय देश में जो वातावरण बना है उसको दृष्टिगत रख कर शासन यह आश्वासन दे कि जो अधिकार लिये जा रहे हैं, उनका कुप्रयोग नहीं होगा। थोड़ा बहुत विवेक का उपयोग करने में तबती कहीं-कहीं हो सकती

है लेकिन उसके लिए यह सुझाव अस्वीकार है कि ससद की एक कमेटी रहे जिसे पार्लियमेंट की स्टैंडिंग कमेटी भी कहा जा सकता है जो इस कानून पर किम तरह के प्रमल किया जा रहा है, इस पर दृष्टि रख सकती है और अगर कोई सच-मुच में शिकायत होती है, तो उसको देख सकती है।

13 hrs.

यह भी आवश्यक है कि सरकार इस बात पर अपना दिमाग बनाये कि इस समय देश में जो उपचुनाव हो रहे हैं, वे बन्द कर दिये जायें। मोर्चों पर लड़ाई और इन उपचुनावों की लड़ाई साथ-साथ नहीं चल सकती। केवल उत्तर प्रदेश में नौ उपचुनाव होने वाले हैं। उनमें अलग-अलग उम्मीदवार खड़े हैं। इस समय इन उपचुनावों में पार्टियों की सड़ाई आगे बढ़ाई जाये, मैं इसकी कोई तुक नहीं देखता हू। हमें सारी शक्ति युद्ध-प्रयत्न में लगानी चाहिए, बीटो को जीतने में नहीं। हम ने देश को जीताना है। किसी एक-आध सीट पर किसी पार्टी के उम्मीदवार की विजय का प्रश्न नहीं है।

जनता का सहयोग प्राप्त करने के लिए और बिरोधी दला को साथ लेने के लिए उचित पथ उठाये जाने चाहिए। उदाहरण के लिए सेंट्रल सिटिजन्स कौंसिल की शाखाओं का राज्यो में निर्माण किया जा रहा है। उन सब में बिरोधी दला का पूरी तरह साथ ले कर चलना चाहिए। एक पार्टी का सबध नहीं है। अगर अभी तक सेंट्रल सिटिजन्स कौंसिल का जो टाचा है, वह बिरोधी दलों में तो क्या, जनता में भी बिश्वास पैदा नहीं करता है। मैं किसी का नाम लेकर नहीं कहना चाहता हू। लेकिन ऐसी व्यवस्था होनी चाहिए कि सब का सहयोग लिया जाये। यह समय छोटी-छोटी बातों पर विचार करने का नहीं है। मुझे यह जान कर कुछ दुःखा कि दिल्ली में सेंट्रल सिटिजन्स कौंसिल की जो शाखा बनाई गई है, उसमें दिल्ली के मेयर नहीं हैं। क्या दिल्ली के मेयर के बिना दिल्ली के नागरिकों की कोई शक्ति बन सकती है?

श्री सतिश मुखर्जी (राजिप दिल्ही) : दो समितियाँ हैं—एक मेयर की और एक सेक्रेटिनेन्ट-गवर्नर की।

श्री अटल बिहारी वाजपेयी : श्रीर राज्यों में मुख्य मंत्रियों की समितियाँ बन रही हैं। दिल्ली में भी लोकतंत्र है। दिल्ली का शासन है। क्या यहाँ सेक्रेटिनेन्ट-गवर्नर की समिति बनेगी? यहाँ सीज़ एक्जीक्यूटिव कौंसिलर की समिति क्यों नहीं बन सकती है? और प्रवेक्षों में मुख्य मंत्रियों की समितियाँ बन रही हैं। हम उन के साथ हैं। हम ने कोई झट नहीं लगाई है। हमें समिति में लिया जाये या नहीं, देश के प्रति अपने कर्तव्य को हम पूरा करेंगे। लेकिन जनता तो इस बात को जानना चाहेगी कि सब लोग युद्ध-प्रयत्नों में भाग ले सकें, इसके लिए कौन से तंत्र की रचना की जा रही है, सब का सहयोग लेने के लिए क्या किया जा रहा है। मेरा निवेदन है कि इस तरह की समितियाँ केन्द्र और सब प्रदेशों में हों। सब दलों को साथ लेकर आगे बढ़ने की आवश्यकता है।

श्री० मधु बंडोपत (राजापुर) : मेयर तो है, लेकिन उस की स्पेलिंग अलग है—एम ए आर ई।

श्री अटल बिहारी वाजपेयी : स्पेलिंग तो एक ही है, लेकिन भावना ज़रा अलग है। वह भावना हम समय अलग कर देनी चाहिए।

इस बिल में कहा गया है कि जो जमाखोरी करेंगे, भाव बढ़ावेंगे, उन के खिलाफ कार्यवाही की जायेगी। लेकिन कार्यवाही तभी हो सकती है, जब किसी चीज़ पर कंट्रोल लगा हो और वह चीज़ कंट्रोल भाव से अधिक पर बेची जाये। मेरा निवेदन है कि इस बात को ध्यान में रखते हुए कि लड़ाई सम्भी चलने वाली है, बुनियादी आवश्यकता की चीज़ें नागरिकों को उचित दर पर मिल सकें, इसका प्रबंध सरकार अपने हाथ में ले। अगर जरूरत हो, तो युद्ध के काल में कंट्रोल भी लगाये जा सकते हैं, लेकिन इस बात का धरोसा होना चाहिए कि उन पर असल ईमानदारी से होगा; वे जनता को राहत पहुंचावेंगे, परेशान नहीं करेंगे। अगर बुनियादी आवश्यकता की चीज़ें हर एक नागरिक को उचित दाम पर और पंक्ति

मात्रा में मुहैया कराने की जिम्मेदारी शासन की है और शासन इस जिम्मेदारी को ठीक तरह निभाहने के लिए आगे बढ़े। तब अगर कोई अनुचित मुनाफ़ाखोरी और जमाखोरी करता है तो उस की निन्दा करनी चाहिए, उसके विरुद्ध कठोर कार्यवाही करनी चाहिए।

लेकिन इन सब बातों के लिए देश में एक वातावरण बनाने की आवश्यकता है और मुझे विश्वास है कि जब वह वातावरण ठीक तरह से बनेगा, तब हम विचारधायों से अपील कर सकते हैं कि इस समय वे कानून हाथ में न लें, हम पंजी-पतियों से अपील कर सकते हैं कि वे अनुचित मुनाफ़ाखोरी न करें, परिस्थिति का फायदा न उठावें और मजदूरों से भी अपील की जा सकती है कि वे देश के लिए पूरा परिश्रम करें। इसके साथ जहाँ कानून आवश्यक है, वहाँ कानून का भी सहारा लिया जाना चाहिए। मैं चाहता हूँ कि सभी महोदय यह आश्वासन दें कि जो कानून पास किया जा रहा है, उस का ठीक तरह से कार्यान्वयन किया जायेगा।

अध्यक्ष महोदय, समय कम है। आप भी लम्बा विवाद नहीं चाहते हैं। लेकिन आप इस मुद्दा पर विचार करें कि क्या दोनों सदनों की कोई कमेटी बनाई जा सकती है, जो इस कानून को अमल में लाने पर नज़र रखे।

SHRI SHYAMNANDAN MISHRA : (Begusarai) : Mr. Speaker, Sir, our Party was of the opinion that this could have been passed without a discussion. But since the ritual is being gone through, I am also doing my part in it.

This measure, as everybody agrees, has been brought under conditions of grave Emergency and we all have completely agreed with the Government that such conditions do exist and, therefore, we have supported the Proclamation of Emergency by the President. As a corollary to this, it was quite necessary to come out with a measure of this kind. Therefore, although one may have misgivings about th

misuse of powers under this measure, my Party would like to support it without any reservations. We do not want to presume at this stage that these powers would be necessarily misused.

We are giving these powers to the Government to deal with the enemy. I hope that the Government will also be conscious of the fact that these powers are not given to them to deal with the members of the Indian community who are going to be solidly behind them. If there is any misuse, we have a firm belief that it will have its own retribution. We will expose such misuse at proper time and we have every faith in the people of India that the executive will be heavily punished for it.

As far as the question of the duration of its operation is concerned, I would like to emphasize that it should not be continued for a moment longer than it would be strictly necessary. Last time, no doubt, a great deal of agitation had to be mounted for the termination of the state of Emergency by people in various walks of life. Ultimately, a large number of lawyers led by Shri Setalvad had to come out strongly against the continuance of Emergency and it had to be ended. So, I hope, it would not be continued longer than it would be strictly necessary. But the point that I would like to emphasize is that as such an Act is necessary, corollary to the Proclamation of Emergency, it should also be a necessary corollary that there should be a National Defence Council and should not be a very large or prolific body. It must be a business-like body which should also be concerned, along with other things, with the proper use of powers given under this measure.

I would also like to emphasize that since these powers are not only going to be used for punitive purposes but have also got a constructive potentiality in the sense

that the largest mobilisation of the country's efforts in various fields of our activities is going to be brought about, the example will have to be set by the Government, by the members of the Government. I am reminded here of what Hugh Dalton said during the course of the Second World War when he was the Minister of Trade. He told an audience during the course of the war, "Look here, I have got only two coats and I promise you that I will not have a third one during the duration of the War." And at the end of the War, Mr. Dalton was in a position to say, 'I have kept my promise'. Now, this is the example they the members of the Government, will have to place before the country, because the country will have to undergo a period of austerity in every sense of the term.

Mr. Speaker, it was found in England that under democratic conditions the mobilisation of people's effort could be more total than under Stalinist Russia. That is how the sociologists and others have concluded so far as the war effort in England during the Second World War was concerned.

So, with these words I hope that the Government will go ahead with the efforts that the country expects that they will put in for meeting this challenge and they will have no occasion to say that we have come in their way for the prosecution of the necessary efforts in the required direction.

DR. KARNI SINGH (Bikaner) : Mr. Speaker, Sir, if I heard it correctly, this morning the Prime Minister said that the Defence of India Act will be co-terminous with the Emergency. Now, the views expressed by hon. Members here are shared by me as well because the powers given under this Act are so wide and deal with individual freedoms and virtually suspend all civil liberties.

If you remember, Sir, as the hon. Member, Mr. Indrajit Gupta, rightly pointed out

[Dr. Karai Singh]

in 1962 following the Chinese war, an emergency was declared that went on well past the Indo-Pak war. Now, I would request that we should try and evolve some method whereby immediately when the war is over, within a period of two months the emergency should be terminated and the Defence of India Act repealed.

I do not want to go into the corruption of officials. This is hardly the time to mention anything. Whether they are officials or politicians or anybody else, a certain amount of danger of misuse of power exists and I do feel that at this period while we are passing through this grave Emergency, such misuse of power may perhaps not take place but, after a year or so, a certain amount of complacency will develop and this power will be misused. I can tell you from my own experience and these matters have been brought by me to the attention of hon. Ministers and I have to say this now because these powers are now being sought, that even a Member of Parliament has experienced in my own State the misuse of power against us. I do feel that as soon as the Emergency is over the Government should come out with a categorical statement now laying down the span of time by which the Emergency will be withdrawn.

I would also suggest that the Members of Parliament here should be taken into confidence by the Prime Minister in whom we have all reposed our confidence to-day, so that, in case of any misuse of power or injustice these matters are brought quickly to the attention of the Prime Minister and perhaps if a parliamentary advisory committee could be created so that wherever any cases of injustice or misuse of power are seen or noticed, the same could be taken up quickly and expeditiously dealt with.

Sir, I come from a border State like you do and we are rightly proud of the fighting

material and our brave soldiers that our States have given to our Armed Forces. It is a pride that we share with our brothers all over the country and you know, Sir, that Punjab, Haryana, Rajasthan, Maharashtra and many and many parts of India have given very good fighting manpower. I must place before the House the unity that has been felt in many areas by people, and in Rajasthan State people coming from every religion and community have stood solidly like a rock to fight this great threat. We produced men like Shantan Singh and Pooran Singh who during the Indo-Pak war made a great name for bravery and sacrificed their lives and can be ranked with great warriors like Maharana Pratap.

I would like to assure the House, although I am a very small man myself, that the State of Rajasthan and the people of Rajasthan would not be wanting in their support to the Prime Minister and to the Government and to our countrymen in discharging their duties as brave citizens to repel the attacks by the aggressor.

I would however, say, before I conclude my remarks, that we have twice had a scrap with Pakistan or call it whatever you will, in 1947, in Kashmir, we could have driven Pakistan out of occupied Kashmir, but at the last minute, Prime Minister Nehru relented. Almost the same sort of thing happened in Tashkent in 1965 when we could have driven the Pakistanis out of occupied Kashmir, and what is more, we could have taught Pakistan a jolly good lesson. We do not want to have any more Tashkents, we want to be quite sure that Pakistan which has been bothering India, a peaceful country, and which has started this wanton aggression should be taught a lesson by our countrymen and by our Government and we would like to be assured

and convinced that in another ten days or fifteen days under pressure from the so-called friendly powers we do not once again succumb ourselves to "a Tashkent". This time, Pakistan must be punished properly.

I would like to appeal to our Russian friends that they should try and find ways and means of trying to help India. They must prove to us and to the world that the Indo-Soviet treaty is something which is strong and on which not only the Government but the people of India also can depend in this dire hour of emergency that our country is passing through.

SHRI EBRAHIM SULAIMAN SATT (Kozhikode) : I feel that such measures as the Defence of India Bill become important and necessary at the time of the Emergency. But I also have a feeling that if we could have avoided such a measure it would have been better in view of the solidarity that we have at the time of this emergency throughout the country. I say this because of the lurking fear that I have in my mind about the misuse and abuse of such a measure as had been our experience in the past. In the past, the authorities had misused this measure in 1965 on grounds of personal grudge, political enmity etc. Particularly the minorities were very much harassed under such an Act in 1965, during the Indo-Pak war. You know, Sir, and the Prime Minister and the Government also knows that thousands and thousands of Mussalmans were arrested without any charges against them in 1965. After the 1965 war, the then President of the country, Dr. Radhakrishnan and the then Prime Minister of this country, Shri Lal Bahadur Shastri had expressed their appreciation of the stand taken by the Muslim minority during the Indo-Pak war, and yet thousands and thousands of Mussalmans had been arrested, innocent Mussalmans, petty businessmen,

ordinary servants and leaders of educational and cultural organisations had been arrested throughout the length and breadth of the country. I remember that Janab M. Muhammad Ismail Sahib, the President of the Indian Union Muslim League and myself had at that time approached Shri Nanda who was the Home Minister then and we told him about the whole matter and we told him 'In case there was anything against the Muslims of this country or against the Muslim League you can arrest both of us now and here' but Shri Nanda said that there was nothing against the Muslims of this country or the India Union Muslim League, and yet thousands of Mussalmans were arrested throughout the length and breadth of the country. This harassment led to panic and a feeling among the members of the minority community that they were being suspected. Such a feeling in an emergency is really detrimental to the interest of the country. I can say very clearly that nobody has got any right to doubt the sincerity and loyalty of the Muslims of this country. We are not prepared to tolerate anybody questioning our loyalty. Therefore, I only wish that the minorities should be taken into confidence in every region and in every sphere of activity. This is a time of emergency and all the potentialities and abilities of the crores and crores of people of the country must be effectively utilised for the sacred purpose of defending the integrity and security of the country.

I once again appeal to the Government that no harassment should be caused to any section of the population by such a legislation. No panic should be created. They must act in a spirit of confidence in every section of the population and try to get as much co-operation from as many people as possible in this state of emergency. There should be no misuse or abuse of the Act. I would also desire that the Act should be withdrawn immediately after we succeed in the present war.

SHRI P. K. DEO (Kalahandi) : While supporting the Bill, I will be failing in my duty if I do not point out the various lapses and lacunae whereby there is a possibility of the Bill being misused for partisan ends. Cl 1(3) says that it shall come into force at once and shall remain in force during the period of operation of the Proclamation of Emergency and for a period of six months thereafter. The duration of the emergency will be decided by the President who will act on the advice of the Council of Ministers. Our demand is that this emergency should be co-terminus with the hostilities. As soon as normalcy prevails, the emergency should go and as soon as the emergency goes, the Defence of India Act should also go. I want a categorical assurance from the Treasury Benches on this.

We do not know how long the war is going to last because Pakistan is trying to internationalise it. There is likelihood of the big powers being sucked into it and the sub-continent becoming the theatre of the third world war. These aspects are there. I would request Government to be very tactful. Dr Karni Singh spoke about the Indo-Soviet treaty. We can use this to get arms and ammunition from the Russians, we might get these from other friendly countries too. That does not mean that the Russians should be sucked into this war, because that will create an opportunity for China and America to intervene. We do not want that. Immediately Pakistan Radio started blaring out the news, Peking Radio is echoing the theme that India is the aggressor. There has been a massive aggression on the western front.

Government should take courage in both hands, insulate this war against any kind of national or international pressure and this question should once and for all be settled.

Sir, the mischief that has been done by partition should, we sincerely hope, be

settled once and for all and peace should prevail in this sub-continent, and we hope that there would be no occasion for any friction in the future.

I would like to point out in this regard that our experience in the past has been that the Defence of India Act had been utilised for partisan ends. It should not be an occasion for political victimisation as the apprehension has rightly been voiced by some of our friends. There should be an all-party committee—you may call it by whatever name you like—a national defence committee or a parliamentary committee, which should go into each and every case where a complaint arises.

Coming to the various controls the Government are going to impose, I may say that the second world war brought the worst famine of the century and that was in West Bengal. This Defence of India Act was utilised to create an artificial famine in West Bengal. I had seen people dying in the streets in Chowringhee and in the arcades of the Grand Hotel in thousands because of the licence-permit-quota raj. Mr Isphani was given the entire power in relation to the procurement and distribution system in West Bengal, such patronage should not be shown. This power should be utilised for the benefit of the community so that there will be equal distribution of the wealth according to the needs of the people.

Regarding the press, I would like to point out that there is every hope that the press will play its patriotic role which it has been playing all through.

AN HON MEMBER : Not all.

SHRI P. K. DEO : On the plea of the Defence of India Act, no undue restriction should be put on the freedom of the press.

I was very sorry that some remarks were made from those Benches regarding the

reactionary and communal elements in this country. This is not the time to quarrel. We all stand united for a common purpose. At the same time, I caution the Government that there are saboteurs in this country. The other day, the accident in respect of the Puri express near Bhubaneswar railway station occurred due to sabotage. So, strong action has to be taken against saboteurs and against such elements who owe extraterritorial loyalties and get inspiration from foreign countries.

Lastly, I would like to point out that there are very good friends, and I make a personal request in this regard to the Home Minister regarding a very dear friend; though he is a Muslim he is a nationalist. I refer to Shri Badrudduja. Shri Badrudduja has been a nationalist, he worked with Shyam Prasad Mukerji and he was a mao who left the Muslim League because he did not agree with the proposal for partition. He is a born leader and a man of the masses, and this Government should release him and should utilise his services for the defence of this country.

With these remarks, I close my speech.

MR. SPEAKER : Mr. Dhandapani. Now, someone from the party of Shri Madhu Dandavate wanted to speak, but you must show me the courtesy of informing me previously.

PROF. MADHU DANDAVATE : I had sent it long before the discussion began.

MR. SPEAKER : That must have been for the previous item; not for this.

PROF. MADHU DANDAVATE : I had sent my request that I wanted to participate in this discussion on the Defence of India Bill even before the discussion began. I sent it in time.

MR. SPEAKER : Oh, it is there—I am sorry. Now, Shri Dhandapani.

SHRI C. T. DHANDAPANI (Dharampuram) : Sir, on behalf of the DMK party, I wholeheartedly support this Bill. We understand and we are fully aware of the importance of national defence of this country. As far as the DMK is concerned, we sometime ago gave up our vital issue in the crucial period of national security. That was in 1962 when the Chinese waged war against us. The DMK leader Arignar Annadurai declared that their vital demand, though it was culturally and socially and economically just, had been abandoned in the interest of national security. We gave up that idea and stood up for national security. Similarly our party supported measures taken by the Central Government, especially Shrimati Indira Gandhi. Such a Bill is essential at this crucial juncture but there is wide apprehension in the minds of the Opposition that the ruling party might misuse this power... (Interruptions). There is scope for misunderstanding and I should request the Government to look into the matter.

I fully endorse the views expressed by some of the Members here, such as Shri A. K. Gopalan and Shri Indrajit Gupta in regard to the publication of newspapers, effective check on black-marketeers and anti-social elements. As soon a war situation arises, profit-minded merchants exploit people. On such previous occasions the Government has not taken any effective measures in this regard. I request the Government to take energetic measures in this regard. Government should use this power to check such people and put them behind the bars. Local committees should be formed where necessary in the State level, district and taluk levels also.

I want to say one thing. There is provision conferring power upon the Central Government or officers and authorities of the Central Government as respects any matter, notwithstanding that the matter is one in respect of which the State Legislature

[Shri C. T. Dhandapani]

has power to make laws. I suggest that the State Government should also be taken into confidence.

Special funds can be raised to meet the expenses on the Army. Why I am saying this is after the war is over our Government may come forward and say we have no funds for development work now, this is an undeveloped country and we are not in a position to provide the basic needs of the people. That is why I say that we must provide a special fund which we can raise from the big people, big businesshouses who hoard their properties and have black money. These things should be confiscated immediately by using those powers.

In the name of war and emergency all kinds of developments have in the past been postponed or rejected. Even after the end of the war the Government was not in a position to meet the vital demands of the people.

13 33 hrs.

[MR. DEPUTY SPEAKER in the Chair]

I request the Government that as soon as the war is over, the emergency should be lifted. I request the Government to look into these matters. With these words, I support the Bill.

PROF. MADHU DANDAVAT (Rajapur). While expressing my party's views on the Defence of India Bill, I would take cognisance of the fact that there is a qualitative difference between normal times and a state of emergency, which the political and economic norms are different. Democrats always know how to fight for their rights and opportunities in normal times, but let Yahya Khan also know that in a state of emergency, the democrats and progressives in this country also know how to surrender voluntarily certain rights at the altar of India's freedom and sovereignty. It is in this spirit that my party endorses the Bill that has been moved.

I would draw attention to the fact that certain provisions of the Bill can be misused. However, after carefully going through the Bill I feel that there are a number of built-in safety valves which can be used to see that if there are any elements which are likely to disrupt the defence efforts of the country, their activities can be effectively curbed. I only hope that the new sublime atmosphere which has been created in the House will encourage the Treasury Benches and the Government not to misuse the provisions of this Bill and to utilise them to see that the enemies of the people and the country are dealt with.

In this connection I would like to quote a very significant experience of mine which is very relevant to the implementation of the Bill before this House. I had the opportunity of meeting an ex-army officer who was fighting the Chinese aggression on our borders and was actually imprisoned by the Chinese. He happened to come from a Harijan family. When he was in the Chinese camp, the worst hardship to which he was subjected was brainwashing. The Chinese asked him why was he fighting and sacrificing his life. He replied he was sacrificing for his country. He was asked by the Chinese, which country? He said my motherland. They asked him which motherland? Is it the same country in which your mother cannot go to a well in her village and take drinking water because she is a Harijan? He said to me that he had tenacity of will and so he was not brainwashed but a man of lesser calibre and determination would have found it difficult to maintain his loyalty to the country in the face of social injustice. I would like the Government to take very strong steps today for bringing about the spirit of equality in the country. Only then there will be equality of sacrifice for defence. This is a very important aspect to be borne in mind. Therefore, the defence of the country needs more egalitarianism and not

less, more socialism and not less of it I feel that the provisions of the Bill, if they are properly utilised, can be harnessed to freeze the prices and curb the hoarders and profiteers. I hope it will be utilised for that purpose.

There have been closures of a number of engineering concerns and this is a matter of great concern to me not only because workers are rendered unemployed. In Bombay and Calcutta there are certain engineering concerns like Alcock Ashdon and Mackenzies, which are vitally linked up with the defence requirements of the country and I would appeal to the Government to see that they are not allowed to be closed down. Some are likely to go into liquidation. If the Government takes note of the difficulties of the workers put forward by the trade unions, I think the proper atmosphere can be created.

During the Indo-Pakistan war in 1965, I happened to be the Secretary of the Citizens Defence Committee in Maharashtra and I can tell you very authentically about the proportion of donations received from the industrial workers and those from mill owners and industrialists. The major quantum of contribution for defence efforts came not from the profiteers and industrial magnates, but from the industrial workers and agriculturists. This is the manner in which defence efforts are mobilised. Very often, industrialists are shirking their responsibility and this should be curbed.

A little reference to the impending bye-elections in UP. My own party is involved in these elections. All said and done, let us take note of the fact that in such a situation of emergency, elections can never be a unifying force. They tend to become divisive force. Therefore, I appeal to Government to see that these bye-elections are postponed in the present state of emergency.

A word about the National Defence Council. I feel the defence preparedness should be stepped up at a popular level. Something will be done on the military plane, something on the governmental plane and a lot will have to be done on the people's plane. Only recently, I happened to visit the office of the UN Security Council. I found an inscription on the wall "Since war begins in the minds of men, it is in the minds of men that the defences of peace are to be constituted". Therefore, the task of building up the defence preparedness of the country needs to be undertaken not only at the military and governmental levels but also at the people's level. I hope the clauses of the Bill will not be misused but will be properly utilised to see that a new climate of defence is created, so that once and for all, we drive out the aggressor. Once that is done, we can have any new political pattern in the country. In England, for the requirements of war, they had one set of politicians and for post-war problems, another set of politicians were introduced. So, let us not mix up the requirements of war with the requirements of peace.

SHRI SURENDRA MOHANTY (Kendrapara) : Sir, I rise to support this Bill with only one reservation that it should not extend for a period of six months beyond the termination of emergency, as provided for in the Bill. The Government is assuming draconian powers and authority under this Bill. It is futile and academic to ask whether it will be used properly or its powers misused. There are chances that it may be misused. Therefore, I only join my voice to the proposal that has already been made to form a kind of National Council, which can from time to time review the operation of the Defence of India Act, 1971.

My charge is that the existing powers available with Government are not being

[Shri Surendra Mohanty]

used to curb the activities of those who are disloyal to the country. The Home Minister will kindly forgive me if I invite his attention to a news item which appeared in the *Hindustan Times* dated 25-11-71 under the caption "Minister in league with saboteurs." The report says:

"Officers of the Central Bureau of Investigation have submitted a report to the centre on the involvement of two Congress leaders in the sabotage attempts by Pakistani agents in Kishanganj in Ferozepur district bordering West Bengal and Nepal."

My submission is, the powers he is asking today should not be misused against some trade union workers here or some communal leader there, but they must look to their own ranks and get rid of the disloyal elements about whom even the CBI has to make such kind of a report.

There is another thing to which I would like to draw the pointed attention of the hon. Minister. It is not as if we have joined the fray to safeguard our territorial interest. We have joined the fray to uphold certain principles, those principles which we have held sacred. What are those? The principle of freedom of expression, freedom of association and freedom of activity. If in the process we lose these freedoms, these fundamental freedoms, whether we win or lose in other directions will have no meaning and no significance to a person who believes in democracy and humanism.

It has been said that chauvinistic appeals should be eschewed, freedom of expression should be curbed etc. Here I would invite the attention of the House to what Churchill had written to Cordell Hull, the Secretary of State of USA when bombs were being showered on London:

"Under our present Constitution and war-time procedure we have been cease-

lessly exposed to emotional views of little men on political matters and to check this undoubtedly would involve His Majesty's Government in a direct attack on the freedom of Parliament and the press."

In order to maintain that freedom, I would beg to implore that no curb should be placed on the freedom of the press. There should be free expression of opinion by the press so long as it does not attract the security of the State.

I did not want to divide the House and, therefore, I have not given notice of a formal amendment. But I would plead that the life of this Bill should be co-terminus not with six months after the period of emergency but with the duration of the emergency and this power should not be utilized by the government after the termination of the war, at which point the emergency also will terminate.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI K. C. PANT) : Mr. Deputy-Speaker, Sir, this Bill is a logical consequence of the declaration of emergency by the President. I am grateful to the various members from different sections of the House who have supported it. No one spoke from this side of the House in order to save time, but I am sure I am voicing the opinion of the entire section on this side of the House when I say that we all support this Bill fully, not merely because we are the government party but because this is a matter which is above parties, as what is involved is the survival of this nation.

This morning we heard many speeches from different sections of the House which underlined the historical nature of this moment which in a way expressed the sentiments of the people of this country more effectively than in any other way because this morning the voice of Parliament became the voice of the millions of India. It has

been our experience that whenever the country is threatened this Parliament and nation always rise to great heights and it was one such moment which we witnessed this morning. Parliament unmistakably expressed the collective will and determination of this country to preserve this country's freedom and integrity and the values that we cherish.

Therefore, this matter, as Shri Vajpayee said, is not a party matter. It is not a question about which there is any division of opinion in the country. It is not a matter in which any differences, in respect of language or religion or province, come into play. Those are all irrelevant because all of them survive if the country survives. And nothing survives if the country does not. Therefore, this is a moment in which the right emphasis was placed by Parliament this morning on one country, one nation with one leader and that in this crisis we shall all remain one to face the common danger.

This Bill has now been brought before the House because the wanton attack and aggression by Pakistan has created a situation in which it has become necessary. We have exercised a great deal of restraint for the past so many months. That restraint has been favourably commented upon in this country and outside. But restraint has its limits and in no case can peace be defended if restraint and love of peace is capable of being misconstrued as weakness. Therefore, the time has come when we must show unmistakably that we will not be cowed down by the aggression of a military dictator.

At this moment, to a man the whole country is behind our soldiers who are fighting on the front and behind the people living on the border areas. I have been to several of our borders and it is a matter of pride to see the extremely high morale both of our soldiers and of our people on the borders. I know, I shall be reflecting the sentiments

of this House if I congratulate our brave pilots who have shot down the Sabre jets and the brave soldiers who have made scrapheaps out of tanks and cannons of the Pakistan army.

It is against this background that this measure has come before this House. The situation is extraordinary and it calls for extraordinary measures for the defence of India. That is its name and that is all that is involved in this measure. While support came from almost all sections of the House certain points were raised in the course of discussion. One of these was that this measure should not extend beyond the period of the emergency. In a democratic country this sentiment is natural and I respect it. I can say that our intention is that this should not extend beyond the requirements of the emergency.

Some fear is expressed about the possible misuse of this measure.

SHRI SURENDRA MOHANTY :
Also of not being used

SHRI K C PANT : There was also a reference by Professor Dandavate to the fact that there are certain built-in safety valves—I think, he used that expression—in this measure.

One hon. Member referred to 1965 and said that a number of persons belonging to the minority community were arrested at that time. He seemed to imply that the minorities were not trusted. I would like to take this opportunity to state categorically that there is no question of distrust of the minorities in this country. We know it for a fact that the minorities are behind the Government on this matter—as a matter of fact, not behind the Government but behind the country. We have every confidence, and that a doubt should be raised is to me a matter of some sorrow at this juncture. Even in 1965, there was no question of any doubt being raised about

{ Shri K. C. Pant }

minorities. If 1965 proved anything and, if such proof was at all required, it was that when the country was threatened by Pakistan, the minorities in this country, the Muslims in particular, whose loyalty Pakistan sought to subvert through broadcasts, newspaper articles, etc., to a man were behind India in that war with Pakistan. Therefore, there is no occasion at all to doubt the loyalty of any citizen of this country.

Having said that, one must admit however that there are a few people who act as spies, saboteurs, agents, etc. One hon. Member said that many of them belong to the majority community. I have seen many cases in which the majority community is involved. When a spy acts as a spy, it is not a question of any community. A spy is a spy. A man who acts for a hostile country in a situation like this certainly deserves to be handled with all the powers that the State has, and handled with severity so that the interests of the country can be protected. Therefore, any attempt to mix up this question, a certain kind of person who acts as a spy or a saboteur with any community or caste or religion, is doing disservice to the country. I would like this House to repudiate this idea completely.

There was some fear that no meetings would be allowed to be held or that no papers would come out or nothing in print would be allowed. That is not correct. It is an enabling clause. But this does not mean that all these things will stop. It only means that when the necessity arises that action can be taken. But, ordinarily, and normally, all these things will continue. I do not think that anyone can say that such powers would not be needed under any circumstances.

Then, my hon. friend, Shri Indrajit Gupta referred to the arrest of a worker, Shri Ved, Prakash. I have just made enquiries as to

why he was arrested. I entirely agree that this is not a moment when any political differences should allow any clouding of the main effort that the country has to make. I have just made enquiries to see as to why he was arrested. . .

SHRI JYOTIRMOY BOSU (Diamond Harbour) : What are the facts?

14 hrs

SHRI K. C. PANT I do not know. He just spoke in the House. I just enquired, and I would request you to appreciate. (Interruptions) I am speaking because I know and I realise that patriotic elements in the whole country and the parties concerned, they are all wanting unity at this moment and I would be the last person to do anything or say anything which would impair that sense of unity. The point that I was making is that one incident, may be a few other incidents that my hon friends know, should, I beg of them, not colour their judgment on the very question of the need of this measure at a time like this. When will an extra-ordinary measure be required if not to-day? What greater danger the country will face that it is not facing to-day? If to-day this measure is not required, at what other time will it be required? All these extraordinary measures are required and even my friend, Mr Indrajit Gupta, said that it can be argued that these are necessary emergency powers and this is precisely my case also. He said that these powers should be used energetically against those indulging in hoarding and so on and against black-marketeers. I need hardly assure him that this would be done and when I came to the House with the Maintenance of Internal Security Bill, at that time also, when I said that we would use that law against black-marketeers, some scepticism was noticeable. I saw some friends doubting this sentiment or doubting

that statement but we did use that Maintenance of Internal Security Act against black-marketeers and against those indulging in the distribution of stolen goods in Calcutta and in the Eastern Region alone there have been, I think, hundreds of arrests for economic offences of this kind. So this goes without saying and I would like to assure Shri Gupta that this would be used with severity. I agree with him that in the conditions of to-day if anybody indulges in hoarding, black-marketing or pushing up the prices, that is an anti-national act and it spells destruction behind the lines where our soldiers are fighting the enemy. Therefore, no quarter can be given to such persons or such elements.

One question was raised. What is the safeguard against misuse? I cannot rule it out. In individual cases there may be some misuse. No one can give that assurance because such a large number of persons are handling it. But, the possibility of some misuse has to be balanced against the risk to the country if these powers are not there when the stake is that of survival of the country and the best safeguard is this Parliament. This Parliament is the best safeguard of all. Quite apart from this, it is necessary, that hon. friends think it is necessary, that Government should look into these things. If they come to me and give me instances, I am certainly prepared to look into those things.

A suggestion has been made that there should be some kind of a supervisory committee and some hon. friends have supported that idea. Now, as I said, I am prepared to look into these cases. The general question of how the leaders of various parties are to be associated with the Government in close consultation in this crisis is a general matter which is under consideration and I believe the Prime Minister has had talks with some of the party leaders also and I do not know exactly what form

that will take. Whether it will be a Committee or some Council or it will be some body which will meet and perhaps under the chairmanship of the Prime Minister—I cannot say. For those discussions have not concluded. But that would provide a forum where individual cases could be taken up, I suppose, and where the Members feel strongly, then that feeling and certainly be aired at those meetings. So, I hope that we would be given some more time to finalise our ideas on the best method of associating friends opposite with the Government at this juncture. I do not say 'No', and I cannot say 'Yes'. I cannot commit the Government at this stage to this. But as I say, the general question of the best form of associating friends opposite is under consideration.

All energies must be bent at this juncture on the war effort or to prepare the country, and I think, if I may say so with all humility, the Government must be trusted at this juncture, and the Government's responsibility increases to the extent that it receives trust from Opposition Members. It is a moment when the Government has to take various decisions. It will take those decisions, keeping in mind the sentiments of the House, keeping in mind the requirements of the situation.

There was a question why maintenance of public order had been included. Shri Atal Bihari Vajpayee had asked me that question. Maintenance of public order has been included because at this moment public order cannot be allowed to be disrupted; when there is a live situation on the border, we cannot have disturbance of public order behind.

He referred to the Delhi Citizens Committee. He said that the Mayor was not a member of it. As I have said just now, it is farthest from our intent that anything should be said or done which would impair the unity of the country at this moment.

[Shri K.C. Pant]

There cannot be a political approach to this question, and I find that even in respect of the Delhi State Citizens Council, where there are three bodies, namely the apex body, the executive committee and the citizens council, the mayor is a member of two of these three bodies, namely the apex body and the citizens council. I find that he is not a member of the executive committee, but there is no question of deliberately omitting him. He is a member of two of the three committees.

I believe that I have already dealt with the main points that have been raised. As my hon. friend Shri Madhu Dandavate has said, we should not mix the requirements of peace with the requirements of war, and it is in that spirit that I would like to request the House to give its wholehearted support to this measure.

Before I conclude, may I pay a tribute to Shri Annadurai whom I think many of us heard in 1965, and many leaders were present there at the time when he spoke in the hall upstairs? It was a memorable speech; it was a speech memorable for its sense of patriotism, for its sense of solidarity with the rest of the country and particularly with the border region which was facing danger at that stage. Again, we are facing a similar danger and this is a moment for the whole country to remember the sentiments of Shri Annadurai uttered in 1965.

MR. DEPUTY-SPEAKER : The question is:

"That the Bill to provide for special measures to ensure the public safety and interest, the defence of India and civil defence and for the trial of certain offences and for matters connected therewith, be taken into consideration".

The motion was adopted.

MR. DEPUTY-SPEAKER : We shall take up clause by clause consideration. The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Power to make rules.)

SHRI JYOTIRMOY BOSU : I beg to move :

Page 4,—
omit lines 15 to 30 (2)

Page 7,—
omit lines 22 and 23 (3)

SHRI JHARKHANDE RAI (Ghosi) : I beg to move :

Page 7, line 1,—
before "the prevention of hoarding"
insert "very severely" (10)

SHRI RAMAVATAR SHASTRI (Patna) : I beg to move :

Page 6, line 12,—
after "products" insert—
"at prices fixed by the Government" (12)

Page 8,—
After line 10, insert—
"(49) prohibiting hoarding, black-marketing and high prices and punishing such traders or hoarders who may indulge in such anti-social acts" (13)

DR. RANEN SEN (Barasat) : I beg to move :

Page 6, line 2,—
after "community" insert—
"and fix fair price for all essential commodities" (19)

Page 7, line 4,—
after "community" insert—
"and lacking physical control of hoards and stocks of commodities essential for the daily use of the public at large" (20)

SHRI JYOTIRMOY BOSU : Sub-clause 7(a), (b), (c), (d) should be deleted. We have seen from experience of the performance of this Government in the past, that the same set of people have been grossly misusing these provisions particularly against those who are opposing them politically. I am saying this with regard to what was done to my party. I would like this clause to be removed so that our apprehension is allowed.

श्री रामावतार शास्त्री अध्यक्ष महोदय, मेरा सन्तोष इस प्रकार है कि क्लॉज 7 पर "आर्कटर आइडेंट", यह जोड़ा जाय—“एट प्राइसेज फिक्स्ड बाइ दी गवर्नमेंट” क्योंकि उसमें प्राइस की बात नहीं कही गई है और अगर आप प्राइस फिक्स नहीं करेंगे तो मनमाने मूल्य वसूल बिना जाएंगे इसलिए ऐसी स्थिति में जब कि कीमती को नियंत्रित रखने की सब से ज्यादा आवश्यकता है नाकि हमारी जो खरीददार जनता है उस को कीर्त जोड़ा नहीं मान्य पड़े, उसे तकलीफ नहीं हो और वह दिल से पूरी ताकत और देशभक्ति के साथ, लगन के साथ अपने दुश्मनों के खिलाफ लड़ाई में मददगार साबित हो सकें, इसके लिये यह जरूरी है कि उन्हें हम ज्यादा से ज्यादा विश्वास में रखें। अगर कीमती आप तब नहीं करेंगे, ऐसे ही छोड़ देंगे तो ब्लैक मार्केटिंग, हाईडें और बाजारों करने वाले जो भी मन में आपणा करेंगे। इस का अनुभव पिछले दिनों का हमारे सामने है। इसलिये हम चाहते हैं कि यह अमेन्डमेंट जोड़ कर के यह साध, कह दीजिये कि गवर्नमेंट ने जो कीमतें तब की हैं उस कीमत पर ही इस तरह की नमाम चीजें ऐंटीकम्पन प्रोडक्ट्स बनैरज बिकेगी। इससे ज्यादा पर कोई नहीं बेच सकेगा।

हमारा पेज 8 पर सब-क्लाज 45 के बाद हम चाहते हैं कि एक नया सब-क्लाज 49 कर के जोड़ा जाय।

SHRI JYOTIRMOY BOSU : I thought he was speaking only on sub-cl. 7. I have also to say on other sub-clauses of the same clause which I have not done so far.

श्री रामावतार शास्त्री इन दिनों में रास्ता चोरी और खुलाखोरी के बारे में बात कर रही हैं, लेकिन

वह इतना स्पष्ट नहीं है। इसलिये मैं चाहता हूँ कि वह चीज स्पष्ट कर दी जाय और इसीलिए मैंने एक नया सब-क्लाज 49 करके यह अमेन्डमेंट जोड़ने का प्रस्ताव किया है—

“prohibiting hoarding, black-marketing and high prices and punishing such traders or hoarders who may indulge in such anti-social acts.”

यह बहुत स्पष्ट के साथ कहने की जरूरत है कि जो लोग होर्डिंग करने, ब्लैक-मार्केटिंग करने, प्राइसिडियरिंग करने या जो ऊंची कीमतें लेंगे जो सरकार ने कीमत तय कर दी उसमें ज्यादा कीमत लेने तो ऐसे लोगों के खिलाफ सब से सख्त कार्यवाही की जायगी और ऐसे लोगों के खिलाफ हम एलाय कर देंगे कि इस तरह के लोग समाजविरोधी मत्व हैं, हमारे युद्ध के प्रायसों में कमबलट डालना चाहते हैं, दुश्मन को मदद कर रहे हैं, इसीलिये यह जरूरी है कि इस तरह की धारा रखकर के स्पष्ट जनता के सामने यह कहें कि इस प्रकार से जो गोलमाल करेंगे गल्ला और या धानबाजारी करने वाले उनको यह सजा दी जायगी। इस बात की आवश्यकता स्पष्ट रूप से हम धारा के जरिये हम करना चाहते हैं। यही मेरा संशोधन है। मुझे विश्वास है देश के प्रत्येक जो पुराने अनुभव रखे हैं उन को विमर्श में रखते हुए सरकार इस संशोधन को स्वीकार करेगी नाकि हमारा युद्ध या जो वह प्रयास है पाकिस्तानी मुद्दों को सजा बचाने के लिये उसमें हम पूरी तरह से समर्थ हो सकेंगे और पूरे देश की 55 करोड़ जनता का पूरा पूरा सहयोग हमें मिल सके, इसी उद्देश्य से यह मेरा संशोधन है।

MR. DEPUTY-SPEAKER : Mr. Jyotirmoy Bosu, as a special case.

SHRI JYOTIRMOY BOSU : Thank you, Sir. You have always been kind to us. Now, my amendment is regarding the omission of lines 22 and 23 at page 7, which say, “prohibiting or regulating meetings, assemblies, fairs and processions.” What more powers one requires to curb its political opponents? We have seen in the past that these powers also have been misused, and misused to curb the rights of political parties opposed to the ruling

[Shri Jyotirmoy Bosu]

party. I say that mobilisation of public opinion, and the mobilisation of the working people is the most essential item to fight a war because the armed forces, when fighting on one front, must naturally have the mobilisation of the people behind. So, I have put in this amendment for omission of clause 3(2)(39), at page 7. Through you, I would request the Government to be considerate enough and delete this particular sub-clause from the Bill.

DR. RANEN SEN : On clause 3, on all the amendments, we would like to make a composite speech.

MR. DEPUTY-SPEAKER : You want to speak on amendments to clause 3?

DR. RANEN SEN : I have two amendments to this clause. My first amendment is that at page 6, in line 2, after "community" insert "and fix a fair-price for all essential commodities."

My point is, in this Bill, it is stated that there will be control of trade or industry for the purpose of regulating so many things, for maintaining the supplies and services essential to the life of the community. As we see today, and during the Indo-Pakistan war of 1965 also, there was a sudden rise in prices of all essential commodities. The Government did not or could not control profiteering. Even today, when there has been normalcy, it was known to everybody that there was a lack of essential commodities such as baby foods which were not available in Calcutta and in fact in the whole of the eastern regions of India. Medicines were not available. Whatever was available was selling at a high price. So, if the Government is taking such a wide power, which was not necessary in all cases as has been pointed out by Mr. Jyotirmoy Bosu—he has given that amendment which I have not, but which I support—and since the Government have taken such wide powers

in their hands, I think more control would not do. The Government must here and now fix fair prices for all essential commodities. That is the most essential thing. Every Member who spoke in this house today has said that in order to strengthen the front, the rear has to be strengthened. Everybody has said it and there are no two opinions on it. Mr. Pant will also admit that. If that is so, and when it is known that war profiteers are of a special category, and the profiteers who today are thriving on our soil will become war profiteers, if the Government will simply 'control', what about the prices? It is the duty of the Government to fix the prices of all essential commodities, giving a fair price.

So, without making any big speech on this amendment, I come to the next amendment in my name in respect of clause 3. I refer to page 7, line 4, sub-clause 33, where it is said, "the prevention of hoarding, profiteering, black marketing..." etc. Prevention will mean necessarily taking physical control of the stocks. Otherwise no hoarding or profiteering can be stopped. This has been proved throughout the world in the capitalist world. Therefore my amendment is to insert after the word 'community'

"and taking physical control of hoards and stocks of commodities essential for the daily use of the public at large".

The Government should take physical control of hoards and stocks and fix up a fair price and then distribute through a proper mechanism. I have not gone into the mechanism. The main thing is that the hoards must be seized and physically controlled.

My two amendments run in tune with the Defence of India Bill and the Government should have no difficulty in accepting them. With reference to Mr. Jyotirmoy

Bosu's amendment, I have to say that the provision regarding prohibiting, regulating, meetings, fairs, processions, etc, is very unfair and I support his amendment to that provision. It is such a blanket power which can be used to penalise people who differ from authority. So, while supporting his amendments, I have also moved my to amendments for the acceptance of the hon Minister.

SHRI K C PANT Mr Bosu has referred to 7(a) and (d) which is about prohibiting the printing or publishing of any newspaper, etc prejudicial to the defence of India I need not read the whole of it

It is necessary because of the extraordinary situation in which we find ourselves, I do not think that we need to be apologetic about it The freedom that the Press in this country enjoys is something which has been recognised throughout the world There is in this country an extent of freedom of speech and writing, freedom of the Press which we all cherish as a necessary value When we talk of democratic values, it is one In this particular situation it is necessary to put in this particular provision because they are necessary in the interest of the larger objective which we have been discussing

As for the general question of taking action against hoarders and the power to seize stocks and fixation of prices, sub-clause 33 refers to the prevention of hoarding, profiteering, blackmarketing or adulteration of, or any other unfair practices in relation to any goods procured by or supplied to the Government or notified by or under the rules as essential to the life of the community These are wide powers In 32 also you will find "the prevention of any corrupt practice or abuse of authority or other *mala fide* action in relation to the production, storage, purchase, sale, supply or transport of goods for any purpose connected with the defence of India "

DR. RANEN SEN : You have not spoken about taking physical control and fair prices. During the second world War prices were fixed and fair price shops were opened on a large scale

SHRI K C PANT I was referring to sub-clause 32 which gives power for the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community. General power is taken, many things come in If there are suggestions as to which particular rule should be framed in which manner, we shall take them into account

On the question of fixing prices for essential commodities, there is the Essential Commodities Act already in operation under which the States are authorised to fix the prices of essential commodities.

SHRI INDRAJIT GUPTA . You fix prices when the stocks are held by somebody else

SHRI K C PANT : Then the question arises suppose somebody hoards, what happens? Action has to be taken against him The Maintenance of Internal Security Act also provides for it and we have been taking action under that Act whenever we find it necessary

SHRI H N MUKERJEE (Calcutta—North-East) He might remember that since 1962 the Government had given repeated assurances on comparable occasions that the price line would be held and profiteering would be stopped etc , and every time they have failed Therefore, this time there is a specific suggestion about a concrete remedy, and not merely an abstract statement about the desirability of preventing hoarding and profiteering, and he fights shy of it That is a very dangerous thing.

SHRI K C PANT . I am sorry that Prof. Mukerjee is not approving of whatever we have brought forward, I think what I have just now read out to the House

[Shri H. N. Mukerjee]

is very wide and it is directed only against hoarders, profiteers and blackmarketeers. If he reads that, he will be satisfied that we are including this specifically in the Bill. What more does he want?

As regards the general question of raising prices, there are various causes. That is a separate matter and there can be a general discussion on it. So far as this Act is concerned, if we do not provide for it I can understand his anger, but we have specifically provided

DR. RANEN SEN: In my amendment, the *modus operandi* has been suggested.

SHRI K. C. PANT: That can be taken into account while the rules are framed.

SHRI JYOTIRMOY BOSU: The Finance Minister has repeatedly said that the scope of the Essential Commodities Act will be sufficiently enlarged to arrest the rise in prices. Why is it that you have not given coverage to that in this Bill?

SHRI K. C. PANT: That is a separate Act and it relates to a separate Ministry. This is a separate matter.

MR. DEPUTY-SPEAKER: I put all the amendments to Clause 3 to the House.

Amendments Nos. 2, 3, 10, 12, 13, 19 and 20 were put and negatived.

MR. DEPUTY-SPEAKER: The question is

"That Clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

MR. DEPUTY-SPEAKER: The question is

"That Clauses 4 and 5 stand part of the Bill."

The motion was adopted.

Clauses 4 and 5 were added to the Bill.

Clause 6—(Temporary amendments to Acts)

SHRI A. K. GOPALAN: I beg to move Page 10,—

omit lines 30 to 39 (4)

SHRI INDRAJIT GUPTA: I beg to move

Page 13, line 15,—

for "two years" substitute—

"six months" (5)

SHRI BHOGENDRA JHA (Jainagar): I beg to move

Page 13, lines 14 and 15,—

for "longer than three months, but not exceeding two years from the date of his detention.

substitute—

"not longer than three months from the date of his detention but in no case longer than the period of emergency" (7)

Page 13,—

for lines 27 to 45, substitute—

"applies, sections 10 to 13 shall have effect" (8)

SHRI RAMAVATAR SHASTRI: I beg to move

Page 10,—

omit lines 35 to 37. (14)

SHRI R. V. BADE (Khargone): I beg to move

Page 13, line 13,—

for "without" substitute—"by" (15)

Page 13, lines 24 and 25,—

omit "or the maintenance of public order" (17)

SHRI JHARKHADE RAI : I beg to move :

Page 13,—

for lines 14 to 25, substitute—

“the Advisory Board for three months.” (16)

SHRI JYOTIRMOY BOSU : My amendment No. 4 seeks to omit lines 30 to 39 on page 10. The sub-clause I want to be omitted is sub-clause (3) which reads thus :

“(3) The Payment of Wages Act, 1936, shall have effect as if after clause (i) of sub-section (2) of section 7, the following clause had been inserted, namely :—

“(ii) deductions made with the written authorisation of—

(i) the employed person; or

(ii) the president or secretary of the registered trade union of which the employed person is a member on such conditions as may be prescribed, for contribution to the National Defence Fund or to any Defence Savings Scheme approved by the State Government.”

This is one thing whereby the poor workers would be subjected to harassment and pressure. They will be forced to sign papers or pay some subscriptions and contributions against their own will under compulsion. I strongly feel that this clause should not remain. I appeal to Government to prevent pressure and extortion from the poor people and the working classes by removing this sub-clause from this Bill.

श्री आर० बी० बड़े : उपाध्यक्ष महोदय, मेरा पहला अमेन्डमेन्ट तो यह है कि पेज 13 पर लाइन 13 में शब्द “विवाद” के स्थान पर शब्द “बाई” रख दिया जाये।

The clause says :

“17A. (1) Notwithstanding anything contained in the foregoing provisions of 14 ISS/71—4

this Act, during the period a of Proclamation of Emergency... any person (including a foreigner) in respect of whom an order of detention has been made under this Act, may be detained without obtaining the opinion of the Advisory Board...”

I do not understand the meaning of Advisory Board. In the Public Safety Protection Act passed in Madhya Pradesh, there is an Advisory Board mentioned. Is it that Advisory Board or what ? I do not know.

मैं चाहूँगा मन्त्री जी बतावेंगे कि यह एडवाइजरी बोर्ड कहां पर किस एक्ट में रखा है ?

SHRI INDRAJIT GUPTA : It is the Advisory Board which is mentioned in the Maintenance of Internal Security Act.

श्री आर० बी० बड़े : अगर ऐसा है तो मेरा अमेन्डमेन्ट है कि एडवाइजरी बोर्ड की ओपीनिशन लेकर ही किसी व्यक्ति को डिटेन किया जाये ताकि किसी प्रकार से कोई अन्याय होने की सम्भावना न रहे।

मेरा दूसरा अमेन्डमेन्ट यह है कि क्लॉज 17 ए(1) (बी) में आए हुए शब्द “आर वि मेन्टीनेन्स आफ पब्लिक आर्डर” निकाल दिए जायें। हमारे लीडर श्री अटल बिहारी वाजपेयी जी ने मेन्टीनेन्स आफ पब्लिक आर्डर पर जो बक्तव्य दिया था और उसका आपने जो खुलासा किया वह संतोषजनक नहीं है। मेरे विचार में सिक्स्योरिटी आफ स्टेट में ला एंड आर्डर भी आ जाता है। क्या आप समझते हैं कि सिक्स्योरिटी आफ स्टेट अलग है और मेन्टीनेन्स आफ पब्लिक आर्डर अलग है ? ऐसा नहीं हो सकता। दूसरे आप यह पावर्स डिस्ट्रिक्ट मैजिस्ट्रेट और क्लबटर्स की दे रहे हैं इसलिए इस अधिकार के दुरुपयोग होने की सम्भावना रहेगी। किसी भी संस्था पर नाराजगी होने पर मेन्टीनेन्स आफ पब्लिक आर्डर में वे उस पर एक्शन ले सकते हैं और इस प्रकार से इसका दुरुपयोग ही किया जायेगा। इसी कारण

[श्री शारंग जी. शर्मा]

मैंने यह संशोधन दिया है कि वेन्टीनेन्स धान नमिक धान के दलों से निकाल दिया जाये।

श्री शारंगजी राय : उपाध्यक्ष जी, मेरी तरफ़ीन का धर्म यह है कि पहली बार किसी को तीन महीने से अधिक डिटेन न किया जाये जबतक कि आप में एग्जाइजरी बोर्ड की सलाह न ले ली जाये। कारण यह है कि प्रधान मन्त्री की राय लेकर जो भी काम होना नहीं बल्कि जो अधिकारी है किन्हीं नौके पर काम करना है वे अनेक प्रकार की बाधाओं से प्रेरित होकर काम करते हैं। निम्नलिखित चीनी हमले और पाकिस्तान की सहाई के समय में मेरा अनुभव बड़ा कटु रहा है। मैं आपको स्वयं अपना अनुभव बताना चाहता हूँ। सन् 1962 में जब चीन का हमला हुआ तो हिन्दुस्तान की सरकार ने यू० पी० में जिन कम्युनिस्टों की लिस्ट गिरफ्तारी करने के लिए भेजी गई थी—उस समय कम्युनिस्ट पार्टी एक थी, जो ज्योतिष्य बहुत हमसे भलग नहीं थे—उस लिस्ट में सबसे पहला मेरा नाम था। उस समय यू० पी० में श्री चन्द्रभानु गुप्त मुख्यमंत्री थे। वहाँ के आई० जी०, डी० आई० जी०, सी० आई० जी०, होम सेक्रेटरी और डिप्टी होम सेक्रेटरी सभी लोग यह चाहते थे कि मुझे गिरफ्तार कर लिया जाये लेकिन श्री चन्द्रभानु गुप्त को इस बात का अनुभव था कि कहीं से यह गलत रिपोर्ट हो गई है इसलिए उनके आखिरी हस्तक्षेप से वो बंटे पहले मैं गिरफ्तार होने से बच गया। तो इस प्रकार के मामले में यह तो गलती हो जाती है या फिर जानबूझ कर ऐसा किया जाता है और नीचे स्तर पर इस प्रकार की गलतियाँ हो सकती हैं। इसीलिए मैं चाहता हूँ कि पहले तीन महीने से अधिक के लिए किसी को गिरफ्तार न किया जाये। जब एग्जाइजरी बोर्ड सलाह दे तो 6 महीने या 12 महीने या जो भी पीरियड हो उसके लिए किया जाये लेकिन बिना उसके पहले ऐसा न हो। यही मेरा सुझाव है।

SHRI S. M. BANERJEE (Kanpur) :
Sir, I want to speak, on my amendment No. 14 to clause 6. It is said there :

"deductions made with the written authorisation of—

(i) the employed person; or

(ii) the president or secretary of the registered trade union of which the employed person is a member on such conditions as may be prescribed."

I do not agree to this clause (ii) relating to the president or secretary of the registered trade union. I also happen to be the President of a registered trade union or federation. But in this matter I feel that the choice should be left entirely with the employee. I am saying this in the light of our experience in 1962 because in 1965 it was a short affair. Sometimes it is reflected in the collection also. When it is a question of national defence there should not be any bickering among the workers or among the trade unions. So, the workers should give authorisation to the management and they should be deducted on the basis of this particular Act. Now that the Payment of Wages Act is being amended, it will come under this clause.

Another point which I would like to refer and on which I want the hon. Minister, Shri K. C. Pant, to say something is this. The National Defence Fund should be utilized really for defence purposes. Our experience in the past was that all the money which was collected was not credited to that fund. Nearly Rs. 7 lakhs or 8 lakhs were collected from the defence employees but only a cheque for Rs. 4 lakhs was presented in Delhi to Pandit Jawaharlal Nehru in the month of November, 1962. Later on, we found that all sorts of people were collecting money. I am not talking of Shri Atulya Ghosh though he was always the treasurer of any memorial or trust funds or committees.

That was the greatness in him. But am not talking of Shri Atulya Ghosh.

Minister of the National Defence Fund was also visible in U.P. Sir, we had many ex-Chief Ministers. One of them was Shri C. B. Gupta who utilised that fund entirely for party purposes in the Uttar Kashi area, in that particular area. Therefore I say that this money should be utilised properly. There should be proper receipts and it should be made known to the employees who contribute as to what, after all, is going to be the use of this particular amount.

I am talking of the Central Government and defence employees. The textile employees are ready to contribute one or two days' wages, whatever it may be, after the authorisation. But when the employees contribute, an equal amount should be paid by the employers also. I request Shri K. C. Pant to declare here and now that if the employees contribute out of their meagre salary of Rs. 100 or Rs. 150 one or two days' wages as the case may be, for the National Defence Fund, the employers should also minimise their profits and pay something to the National Defence Fund. I request the hon. Minister to say something about it.

Then, last time in this House a question was raised that the late Sir Shri Ram, some of whose concerns were also in Pakistan—he was also a millionaire in India—contributed for the defence of both the countries. He paid Pakistan for the defence of Pakistan and he paid India for the defence of India. There should be some sort of patriotism in them. If the worker wants to contribute, the employer should also contribute. Let them show some gesture about national defence.

श्री सोमेश्वर झा : सपाध्यक्ष महोदय, मैं संशोधन संख्या 7 और 8 के बारे में कहना चाहता हूँ। अभी प्रधान मंत्री ने इस विधेयक को पेश करते हुए कहा और उन से पहले बोलने वालों ने कहा, तथा वही कहा है, कि हमारे ऊपर आज नज़ाई लायी गई है। इस नज़ाई में हम सुरक्षा के लिये

बढ़ रहे हैं। इस में अपनी भूमि की रक्षा के साथ साथ कुछ आदमियों की रक्षा का भी सबाल है, कुछ मूल्यों की रक्षा का सबाल है, और वह मूल्य जनतन्त्र के मूल्य हैं। यह सही है कि आपातकालीन स्थिति में इस जनतन्त्र पर कुछ संकुच सगेगा। इस का अन्तर बहने भी छाया है, और वह कानून पहले से भी लागू रहा है। 1962 में और 1965 में वह लागू था और आज तक कोई ऐसा सबूत नहीं मिला कि वह नाकाफी था और जिस के कारण हमारी सुरक्षा पर खतरा आया हो। आज उस में कुछ ऐसे संशोधन किये जा रहे हैं जिन से गम्भीर खतरे हैं उस जनतन्त्र के ऊपर जिस के लिये हम लड़ रहे हैं। इसी लिये मैंने अपने संशोधन संख्या 7 और 8 पेश किये हैं।

मैं कहना चाहता हूँ कि संविधान के 25वें संशोधन विधेयक में अगर हमने अपना विरोध न प्रकट किया होता तो शायद ऐसा विधेयक पारित हो जाता जिस की न तो हमारे सिद्धांत इजाजत देते हैं और न यह देश ही इजाजत देता। हमारे विरोध के कारण उस को बदला गया। इससे मालूम होता है कि सरकार ने भी पूरी तरह समझ बूझ कर इस तरह के संशोधन नहीं किये और उन से विधेयक का उद्देश्य ही खत्म हो रहा था। वही बात आज उस विधेयक के सम्बन्ध में भी हो रही है। इस में यह बात कही गई है कि ऐडवाइजरी बोर्ड की राय बिना ही कोई धावनी दो साल तक के लिये बन्द किया जा सकता है। इस के मतलब तो यह है कि ऐडवाइजरी बोर्ड की राय से तो शायद आप आजन्म कारावास में ही रख देंगे।

जहाँ तक आपातकालीन स्थिति का सबाल है उस में भी बिना मुकदमा चलाये जेल में रखना हो तो ऐडवाइजरी बोर्ड की राय के बिना भी दो साल के लिये रक्खा जा सकेगा इस में इस प्रकार के खब्ब हैं :

Page 13, lines 14 and 15

"longer than three months, but not exceeding two years from the date of his detention"

[श्री मोनेन्द्र झा]

मेरा सुझाव यह है कि उस के बबले यह रक्खा जाये।

"not longer than three months from the date of his detention but in no case longer than the period of emergency"

जब तक आपात्कालीन स्थिति है उस से ज्यादा किसी भी हालत में न रहे। साथ ही यह है कि ऐडवाइजरी बोर्ड की राय के बिना भी तीन महीने से अधिक नहीं रक्खा जाये। अगर ऐडवाइजरी बोर्ड की राय के बाद भी रक्खा जाय तो आपात्कालीन स्थिति तक ही रक्खा जाये। मेरा आग्रह है कि यदि मंत्री महोदय खुद अभी एक दम से स्वीकार नहीं कर सकते तो इस पर विचार कर ले। हम लोग नहीं चाहते हैं कि सदन ने जिस सकट की स्थिति में खड़े होने का निर्णय किया है उस में फिर यहाँ से ही विभाजन शुरू हो जाये। मैं नहीं चाहता कि इस तरह का वातावरण पैदा हो।

हम को निश्चय है कि इस तरह का विधेयक पारित हो जायेगा तो उस का दुरुपयोग होगा ही। अगर यह निश्चय न होता तो शायद मैं अपनी बात न कहता। जो लोग सरकार के किसी मंत्री से कम देशभक्त नहीं हैं, उन पर भी जरूर इस का उपयोग किया जायेगा, इस में मुझे कोई शक नहीं है। पार्लियामेंट के एक मेम्बर हैं उन का 1962 में गिरफ्तार कर के जेल में बन्द कर दिया गया था। कारण यह है कि ऐडवाइजरी बोर्ड में मिल-मालिकों के आदमी बैठे हुए हैं। इसी लिये मैंने कहा है कि ऐडवाइजरी बोर्ड की राय के बिना तीन महीने से अधिक किसी को न रक्खा जाये। इस पर मंत्री महोदय को विचार करना चाहिये और इस को स्वीकार करना चाहिये।

इन के बाद मैं अपने सशोधन सख्या 8 के बारे में कहना चाहता हूँ। जो कुछ पहले से था उस में बहुत सी बातें जोड़ कर उस में परिवर्तन करते का प्रयास किया गया है। उन के जरिये से जो भी सीमित मामला था उस को असीमित बनाया जा रहा है। बिना मुकदमा चलाने नजर-

बन्दी की बात जो भी उस में भर्त्कर सारें जोड़ी जा रही हैं। पहले था :

"Shall within 30 days"

उस के बबले में अब यह जोड़ा जा रहा है।

"may, at any time prior to but in no case later than three months before the expiration of two years"

जहा तीस दिन की अवधि थी वहा हम दो वर्ष कर रहे हैं। हम सम्बन्ध में भी अब तक यह था कि नजरबन्दी के दिन से तीस दिन के अन्दर, उस की जगह यह कहते हैं कि जिस दिन ऐडवाइजरी बोर्ड के पास रिफरेंस भेजा जाय उस दिन से। यह बिल्कुल उचित नहीं है। इस-लिये 13 पृष्ठ पर जोए, वी, सी और डी सशोधन किये जा रहे हैं पुराने कानून में, उन को रद्द कर दिया जाये। उस की कोई आवश्यकता नहीं है। जो कुछ पहले था वह काफी था। मैं आग्रह करूंगा कि अगर मंत्री महोदय अब दम से इस को स्वीकार करने की स्थिति में नहीं हैं तो वह इस पर विचार कर लें तब इस को बबल करे नहीं तो कही ऐसा न हो जाय कि हम लोगो की ही सुरक्षा खतरे में पड़ जाये। आज स्थिति यह है कि मैं अपने चुनाव क्षेत्र में नहीं जा सकता हूँ। वहा पर 144 लगी हुई है। लोगो के जमा होने पर ब्लैकट बैन लगा हुआ है अगर आज मैं वहां जाऊं और मच पर पहुँच तो पुलिस का अफसर आयेगा और मुझ को गिरफ्तार कर लेगा क्योंकि वहा पर 144 लगी हुई है। वहा पर ब्लैकट बैन लगा हुआ है और वह भी एक पक्ष के ऊपर। आज वहां पर अफसर जमींदारों के लठैत बन कर काम कर रहे हैं। वह कहेंगे कि हम वहां गडबड पैदा कर रहे हैं। हमारे मधुबनी क्षेत्र में जो धारा 144 लगी हुई है उस में है :

"Government officers on duty and landlords and their men"

उस में "सेटलाई" का शब्द है सेटलाईस और उस के आयुधों को एम्प्लॉय कर दिया गया है। अगर हम उस का विरोध करेंगे तो हम को सुरक्षा के नाम पर नजरबंदी में भेज दिया जायेगा क्योंकि आज भी वह चार्टर मौजूद है। इस लिये मेरा आग्रह है कि सुरक्षा कानून के अन्तर्गत लोगों को नजरबन्द किया जायेगा यह कह कर कि वेक पर बड़ा खतरा है। उस के बाद जांच की गयी जायेगी और साम्यवादी ही उस की लपेट में आयेंगे। मैं जो कुछ कह रहा हूँ वह केवल हवाई बात नहीं है। यह बहुत ही सही बात है। इस लिये मंत्री महोदय को मेरे सलाहकों को स्वीकार कर लेना चाहिये, इस को प्रतिष्ठा का सवाल नहीं बनाना चाहिए।

SHRI K. C. PANT : Sir, the hon. Members, Shri Bade, Shri Bhogendra Jha, Shri Jyotirmoy Bosu and Shri Banerjee have spoken on this.

Coming to Shri Jyotirmoy Bosu and Shri Banerjee's amendment, what it says here is :

"deductions made with the written authorisation of—

(i) the employed person,"

In that, there can be no objection.

"(ii) the president or secretary of the registered trade union of which the employed person is a member on such conditions as may be prescribed."

....(Interruptions) You are a congenital objector. It is entirely voluntary. I would like to make it perfectly clear. The employer cannot ask his employee....

AN HON. MEMBER : Then it does not remain voluntary on the part of the employee to contribute.

SHRI K. C. PANT : If they take any action against the wishes of the workers, they will naturally suffer.

SHRI INDRAJIT GUPTA : Then you may say, 'the president or secretary of the

registered trade union if authorised by the workers'.

SHRI K. C. PANT : They will suffer as a consequence if they take any action which goes against the wishes of the employees. In a matter like this, whether it is contribution to the National Defence Fund or the defence scheme approved by the State Government, should we take any steps which denies...

SHRI INDRAJIT GUPTA : Last time it happened. It was misused like this. Workers did not want anything like that. In their name unauthorised people are going and saying, 'You can deduct'.

SHRI K. C. PANT : I would agree that if it is possible we shall advise the Unions to pass a resolution in a general body before this can be applied. Are you satisfied?

I might examine in what form it can be done. If it is misused, we will consider....

SHRI JYOTIRMOY BOSU : Can you satisfy the House as to why you require this provision in this Bill ? If a man is willing to pay, he pays. He gives an authority. You do not need any provision in a Bill.

SHRI K. C. PANT : It is just an enabling clause. If I have just heard that there have been various misuses, I will try to see if it is possible to insert something. I cannot do more than that at this stage.

SHRI DINEN BHATTACHARYYA (Serampore) : What is the harm in accepting Mr. Indrajit Gupta's suggestion ? If the employee authorises, then the President or the Secretary can deduct.

SHRI K. C. PANT : Or the General Body approves of it. One will have to consider how best it can be done.

Similarly, Shri Bade wanted to know something about the Advisory Board. I think Mr. Indrajit Gupta informed him about that.

[Shri K. C. Pant]

Then Shri Bade Shri Jharkhande Rai and Shri Bhogendra Jha and some others also spoke about the Maintenance of the Internal Security Act. About the maintenance of public order, I have already explained it in my main reply,

SHRI R. V. BADE : That is not satisfactory.

SHRI K. C. PANT : I cannot guarantee satisfaction. I can only....(Interruptions)

SHRI R. V. BADE : There is no question. What is the meaning of public order?

SHRI K. C. PANT : I cannot brush it aside nor am I brushing aside what other hon. friends said with regard to taking away the jurisdiction of the Advisory Committee on this matter.

But in a warlike situation many occasions may arise where one cannot allow this to be submitted to the scrutiny of the Advisory Committee. But, in both these cases, whether it is the use of this Act for purposes of maintenance of public order or where there is misuse of any other kind, I have already said that I am prepared to look into this. I am also prepared in case there is misuse and if it comes to our notice, I am even prepared to consider revising this period of two years. Unless I get all the implications examined, I cannot agree. In fairness to me, the House should not ask it now. If, after examination, an amendment is called for, I will come forward.

SHRI BHOGENDR JHA : If my amendments are accepted, how will the defence efforts be adversely affected?

SHRI K. C. PANT : I have already explained the position.

SHRI INDRAJIT GUPTA : Indirectly, the implication here is that the Government have no faith in the advisory board

That is what it boils down to. If the advisory board examines the papers and is convinced that the continued detention of the person is justified, they will say so, and otherwise, they will say that the person should be set at liberty. It is a matter of personal liberty of a citizen.

SHRI K. C. PANT : I fully understand that. That is why I am saying that if I find it necessary, I shall come forward with an amendment. But I do not want to take any step which in an actual situation of confrontation on the field, may create difficulties. Suppose we come across cases, it may create difficulties. Under the Maintenance of Internal Security Act, not much time is given for the preparation of the documents and the data etc. etc. and they will have to be given to the advisory committee...

SHRI BHOGENDR JHA : For that, three months are sufficient.

SHRI K. C. PANT : All those processes are built into it. At a time like this, whether one can allow the administrative machinery so much time or whether more time would be required etc. are all matters which have to be examined. I cannot off the cuff make a commitment.

MR. DEPUTY-SPEAKER : I shall now put the amendments to clause 6 to vote.

SHRI BHOGENDR JHA : I would like amendments Nos. 7 and 8 to be put to vote separately.

SHRI INDRAJIT GUPTA : Let the hon. Minister restrict it to (a) and leave out (b).

SHRI K. C. PANT : I shall have it examined.

MR. DEPUTY-SPEAKER : Now, I shall put amendments to clause 6, excepting Nos. 7 and 8, to the vote of the House.

• श्री भोगेन्द्र झा •

अन्तर्गत मजदूरी वगैरह की जो कार्यवाही की जायेगी, या सजा दी जायेगी, वह संकट-कालीन स्थिति के समाप्त होने के छ महीने तक जारी रहेगी। इसलिए मेरा प्राथम्य है कि "एन्ड फार ए पीरियड आफ सिक्स मन्थ्स डेयर-आफ्टर" शब्दों की हटा दिया जाये। मेरा क्यान यह है कि संकट-कालीन स्थिति के दौरान इस विधेयक के अन्तर्गत जो कार्यवाही कर ली गई है, वह तो बाढ़े बाद में भी जांच सत्यप्री जाये, लेकिन संकट-कालीन स्थिति के अन्त के छ महीने बाद भी नई कार्यवाहियां होनी रहे, वह मुनासिब नहीं है। यह जनतंत्र के भी खिलाफ है और राष्ट्रीय हित के भी खिलाफ है। इसलिए मुझे प्रार्थना है कि मंत्री महोदय मेरे इस सशोधन को स्वीकार कर लेंगे।

श्री रामावतार शस्त्री उपाध्यक्ष महोदय, हम विधेयक की धारा 1(3) में कहा गया है कि यह विधेयक तुरन्त लागू हो जायेगा और वह संकट-कालीन स्थिति के दौरान और उसके बाद भी छ महीने तक—“फार ए पीरियड आफ सिक्स मन्थ्स डेयर-आफ्टर”—लागू रहेगा। मैं समझता हूँ कि इस विधेयक को संकट कालीन स्थिति के अन्त के बाद भी छ महीने तक लागू रखने की कोई जरूरत नहीं है। जब तक लड़ाई है, जब तक इमर्जेंसी है, तब तक यह कानून लागू रहना चाहिए। जितने दिन लड़ाई खत्म हो गई, उसके दूसरे दिन इमर्जेंसी की, और इमर्जेंसी इस कानून की भी, कोई जरूरत नहीं है। मंत्री महोदय ने यह नहीं बताया है कि संकट-कालीन स्थिति को छ महीने बाद तक कायम रखने की क्या आवश्यकता है। मैं समझता हूँ कि उसकी कोई आवश्यकता नहीं है। ऊर्ध्व कीजिए कि कल लड़ाई खत्म हो जाये और परसों हिन्दुस्तान के किसान, मजदूर या आम जनता किसी बड़े सवाल की लेकर सरकार के खिलाफ कोई प्रान्दोलन करना चाहे, तो उन्हें उसके लिए मीका नहीं दिया जायेगा, उनको छ महीने तक इन्तजार करना पड़ेगा। मान लीजिए कि रेलवे या कारखानों के मजदूर प्रान्दोलन करना चाहते हैं, या किसान अपनी जमीन की लड़ाई लड़ना चाहते हैं, तो उनको छ महीने तक रुकना पड़ेगा। इसलिए मैं इस संशोधन के द्वारा चाहता हूँ कि “एन्ड फार ए पीरियड आफ सिक्स मन्थ्स डेयर-आफ्टर” शब्दों की हटा दिया जाये। जब तक लड़ाई रहे, तब तक तो इस विधेयक को लागू रखने का औचित्य है, लेकिन उसके बाद

इसको छ महीने के लिए जारी रखने की आवश्यकता नहीं है, क्योंकि वह एक जनसत्ता विरोधी स्टेप माना जायेगा

श्री झारखण्ड राज्य उपाध्यक्ष महोदय, अगर मंत्री महोदय इन दो तरकीबों को स्वीकार नहीं करना चाहते हैं, तो मुझे प्रार्थना है कि वह मेरी इस तरकीब को जरूर स्वीकार कर लेंगे। धारा 1(3) में कहा गया है कि यह विधेयक संकट-कालीन स्थिति के समाप्त होने के छ महीने बाद तक लागू रहेगा। मैंने यह संशोधन दिया है कि इस अवधि को “नाट मोर दैन थो मन्थ्स” कर दिया जाये। अगर सरकार उसको तुरन्त समाप्त न करे, तो वह उस को अधिक से अधिक तीन महीने के लिए लागू रखे। इससे उसका मनसब पूरा हो जायेगा और हम लोगों को भी जनता के प्रान्दोलनों को छेड़ने का अवसर मिल जायेगा। वैसे तो संकट-कालीन स्थिति के खत्म होने के बाद इस कानून को दो दिन, एक हफ्ते या एक महीने में भी खत्म किया जा सकता है। इसलिए “नाट मोर दैन थो मन्थ्स” तब इस कानून को जारी रखने की बात का मान लेने में कोई दिक्कत नहीं होनी चाहिए। मुझे प्रार्थना है कि मंत्री महोदय मेरे इस संशोधन को स्वीकार कर लेंगे।

SHRI K. C. PANT : I would have certainly considered accepting Shri Jharkhande's amendment were this not related to the Constitutional provision, article 250, which relates to the power of Parliament to legislate with respect to any matter in the State list if a proclamation of emergency is in operation. Sub-clause (2) of this article says, "A law made by Parliament which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make . . ." etc, and " . . . cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate . . ." So, this is related to this particular provision of the Constitution.

SHRI BHOGENDRA JHA : That is the maximum limit. What is the interpretation?

SHRI K. C. PANT : " . . . cease to have effect on the expiration of a period of six

months after the Proclamation has ceased to operate." May I explain it? I have practical reasons for this also. In the last Defence of India Act, there was a provision for gold control rules. After the Defence of India Act came to an end, when the emergency ended, the Centre had to legislate thereafter to put the Gold Control Act on a permanent footing. Therefore, a certain period is required thereafter. This is the purpose why this is included.

MR. DEPUTY-SPEAKER : Shall I put the amendments to clause 1?

श्री बोलोन्ध झा उपाध्यक्ष महोदय, मेरा कहना यह था कि जो विधेयक है उसके अनुसार ऐसी कार्यवाहियां जो वह इस बीच में किए रहेंगे वह तो आगे भी जायज रहेंगी, उसके बारे में मेरा सशोक नहीं है। मेरा कहना यह है कि घापाल कालीन स्थिति में 6 महीने बाद तक यह कार्यवाही करते रहेंगे, नई कार्यवाहियां करने रहेंगे, उसके लिए मेरा निवेदन है कि वह चीज निकाल देनी चाहिए।

MR. DEPUTY-SPEAKER : Shall I put the amendments to clause 1 to the vote of the House.

Amendments Nos. 6, 11 & 18 were put and negatived.

MR. DEPUTY-SPEAKER : The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill.

The Enacting Formula and the Title were added to the Bill.

SHRI K. C. PANT: Sir, I move:

"That the Bill be passed"

MR. DEPUTY-SPEAKER : Motion moved:

"That the Bill be passed."

SHRI A. K. GOPALAN: Sir, I would not have taken this opportunity at the third

reading stage to oppose this Bill. But I have heard the speech of the hon. Home Minister; and he has not accepted the amendments moved by us. If these amendments were not accepted, it means that the powers will be certainly misused. There was a verbal promise that it would not be misused. But I am myself a victim of that misuse; there are so many others who were also victims. I was detained for four years and I filed a writ petition and the court released me saying that I was detained without any reason. When I left the court premises, I was arrested again. Will there be no such misuse again? I came outside the Madras High Court, to the gate of that building after I was released but I was re-arrested and detained. After the Defence of India Act is passed here, the District Magistrate or somebody else will say: I am convinced that there will not be public order and so this man should be arrested, even when a person is released by the court. The Home Minister may have good intentions. But we have seen how the Act was implemented.

I am in this Parliament since 1952. There are others. What we have seen is that in spite of the fact that so many promises were made that the Act would never be misused, they had been misused; there is a legitimate apprehension that it will be misused again.

As far as the minorities are concerned, a promise was given here. But it is not the Home Minister who is acting; it is the bureaucracy. They say: we are convinced that such and such a person should be detained. He may be an innocent man. But these powers were used against the minorities. They say that they want these strong powers under the Defence of India Act. Having got those powers, anybody who wants to misuse it can do so.

There are the fundamental rights. Some local authority may say that there is no

[Shri A. K. Gopalan]

maintenance of public order. Even today, when there is no declaration of emergency in so many places the elementary right of processions and demonstrations and meetings are banned. Needless to say that even the elementary rights will not be allowed when there is the Emergency and the Defence of India Act comes into operation.

As for workers, an amendment was sought to be moved saying: do not compel them. As for their contribution, you will get it. Even that amendment was not accepted. The phrase: maintenance of public order is very wide indeed; that can be used in each and every case. If two drunken people have a brawl, it can be said there is no public order and they can be detained.

Maintenance of public order has been used before in many cases against those whom they wanted to book, and it will be done again.

As far as prices are concerned, what is the difficulty in the Government saying that hoarders, profiteers and blackmarketeers will be punished under this Act? If Fundamental Rights can be curbed, why not say that these people will be punished?

I oppose this Bill very strongly because some of the Clauses are likely to be misused by the bureaucracy and the officials, and the people, instead of being enthused to fight the enemy, will become discontented. Not only the fighting front, but the rear is also important. People will give money in the interest of the country, and they should not be forced to give. This is not the method of enthusing the people. Even this minor amendment has not been accepted. That means that every opportunity is given to those who are going to implement the Act to misuse it, to take revenge against their enemies. So I hope at least this amendment will be accepted. If it is not accepted, I strongly oppose the Bill.

SHRI FILOO MODY (Godhra) : I sympathise with Mr. Gopalan's liberty although I cannot sympathise with his philosophy. The Home Minister, in fact Parliament itself, the Government, the Prime Minister has received only this morning unanimous support from all sections of the House. All of us, in spite of the acrimony of only this week's debate, have unhesitatingly, unstintingly and wholeheartedly joined our ranks in support of the Prime Minister in the arduous task of keeping the wolves away from the door. In a situation like this I should have thought that the Home Minister himself would have felt a certain sense of humility not only in the confidence that has been placed in him and his Government but also in the nature and manner and the electrifying method by which this tremendous support has been given to this Government.

There are certain points that have been made in the amendments which were patently just. After all, this is not a new Bill that has come into our life, it is a Bill that we have lived with not only since Swaraj but even before, and many of us have witnessed the injustice and misuse of such a Bill. On each occasion the injustice and misuse have been pointed out, and on each occasion the Home Minister, whoever the incumbent, has given assurances of what a good boy he is and each time these assurances have been laid to rest. Only a few months ago a substitute for the P.D. law was also enacted by this Parliament. At that time I said to the Minister that wherever necessary, in order to maintain integrity and even law and order, we would give the Government whatever powers it desired. We will give Government whatever power it needs, just power, but let it not ask for more than it needs, because this is not a need; it is agreed. Therefore, although today on this occasion, I will do nothing to upset the digestion of the Home Minister and the Government, I would only like to advise him to gear his

demands to his needs and to his goods. Let him do something more than just giving assurances. Let him satisfy us that the powers that are being given to him right now will not be subjected to misuse.

SHRI H.N. MUKERJEE (Calcutta-North-East): Sir, I feel it is a great pity that even on this occasion, Government has not had the grace to come forward and accept some of the amendments which were suggested. Earlier today, this House witnessed a rare occasion of a kind of national unanimity, which should have made some genuine impression on the mind of Government. But when I heard my friend, Mr Pant, replying to the discussion on the different clauses, I was beginning to have a suspicion that perhaps this Government, graceless as it appears to be even on this day of days when all our hearts are overflowing with a sense of patriotic endeavour and dedication, seem to be attempting to exploit the euphoria of this morning for petty political purposes. I say so, because as my friend, Mr. Gopalan pointed out, we have been long enough in this House, to have found out how on such very serious occasions, assurances given by the Government were belied and remained merely on paper.

I had no mind earlier today to intervene, but I got up just because I wanted to point out how earlier on many occasions in 1962 and again in 1965, Government promised to hold the price line but egregiously failed. On this occasion, when a concrete measure was suggested, not that Government could actually implement it, but it was to be put on the statute-book, regarding a genuine, material and concrete way of securing the price structure, he refused to concede the point. The ugly word "public order" makes its reappearance and it makes me feel rather apprehensive about certain things.

I remember in 1962, on the day that our party, which was then undivided, extended our unstinted support to the Defence of India

Bill, the General Secretary of our Party, Shri E. M. S. Namboodiripad was arrested and I had to refer to that thing in the course of my speech, in which, of course, I again reiterated the entire and unconditional support of our party, to the Defence of India Bill. On the next day another colleague of ours, who had spoken in support of the Bill, Mr. Nambiar, was stowed away in jail. Many other instances have taken place of which I do not have the time to go into and at this point of time, I also do not want to introduce any acrimony into the debate today at any rate. But this is the sort of experience which we have had.

In regard to the minorities particularly the Muslim minority, I am glad Shri Pant said some very warm-hearted words in regard to them. But there again, I would like to pin them down to a very much more concrete assurance about what is to follow. I recall that in 1965, during the Indo-Pakistani confrontation, the first award of this country of Param Vir Chakra went to Havildar Abdul Hamid Khan of the Indian army.

The first award of Mahavir Chakra in this country has gone to Brigadier Usman during the Kashmir campaign in 1947-48. I remember how Muslims have come forward in this country to say that this country belongs to them. I remember on one occasion a Muslim leader, even before independence, even while supporting the idea of Pakistan had said that when a Hindu dies his body is burnt and the ashes are thrown into the river to be carried. God knows where, but when a Muslim dies he needs six feet by three feet of Indian soil, as he belongs to this country in life as well as in death. This is the attitude with which some of our fellow patriots among the Muslims are enthused. I remember one of our colleagues in the last Parliament, Shri Baddrudju. I cannot to this day conceive of or believe that he is a man with traitorous intentions to this country. Even

[*Shri M. N. Mukerjee*]

though we have been assured in this House that he would be brought to trial, he is rotting in jail without trial month after month. This is the way the assurances given about all kinds of considerations are honoured and this is the human behaviour meted out to the minorities.

I am not going to put a spoke on anybody's wheel and I do not want to sound a discordant note. We are not going to oppose this Bill because this country has got to stand together to fight the menace and win over as soon as ever that is possible. We have been always yearning, hungering and thirsting to find out more news about what is happening to this country, particularly in the Bangladesh debilitation, which is something very near to our heart.

I do not want to waste the time of the House nor do I want to enter into an acrimonious discussion. Even so, I had some expectation that this government would have the grace to accept some of the things suggested. But, somehow or other, that grace seems to be absent. I do not know why we cannot get rid of this habit even on this kind of occasion when everybody's heart is over-flowing and when everyone is behind the nation as one man. We do not see that it is only by extending the ambit of genuine popular freedom, it is only by strengthening and fortifying the rear of our country, the morale of our working people, it is only by seeing to it that they are not put to any kind of avoidable jeopardy, it is only in that way that the glow of freedom can burn in the hearts of our countrymen. But that glow would not come if the government happen to persist in this kind of attitude. I am very sorry to have to bring in something like a note of discord, but we are naturally apprehensive of the intentions of the government because of government's egregious behaviour in not accepting at least some of the amendments which would have placed some control on the executive.

SHRI V. K. KRISHNA MENON (Tiruvandrum): MR. Deputy Speaker, Sir, I am at a stage when whatever I say would not make any changes in the Bill. So, I say this in the hope that the Ministers would think about it in the execution and implementation of these matters.

There are four specific points that I want to raise here. Firstly, this Act will not take away the fundamental rights. It is a mistake to think so. It will only take away the remedy to the denial of fundamental rights; that is to say, after the repeal of this enactment, we could fight for remedies against the government unless they indemnify themselves. Of course, that is a long way off. But that does not take away the fundamental right. That is the main thing. But we cannot get the remedy.

Therefore, certain safeguards have been imported into the much abused judicial interpretation. The first of it is that any imprisonment that takes place, any action that takes place under these laws are violation of natural justice. That will be taken notice of by the courts, and natural justice in our laws, as it has grown, is no longer a nebulous conception. We know what is natural justice. If there is violation of natural justice, then there is a cause of action. I am putting it as briefly as possible. The second aspect of this point is that a charge in natural justice would include for example that the man who is charged against should have an opportunity of repudiating the charge at the earliest possible moment. You cannot have something written behind the back by the same man who has put him under imprisonment, because that is denial of justice.

Secondly, the charges cannot be vague according to the court. That is to say, without giving the date, without saying where he saw, whom he saw, simply stating that he was in such and such place, he talked such and such thing, without giving the

names, without giving the courts any idea of assessing whether it is true or not, if the charges are so vague, then the man would be released.

Equally, if four charges are made and one of them happens to be of a defective character, the whole thing goes. In the case of a large number of offences, which the whole House and the most ordinary people regard as heinous, like smuggling or something of that kind, the courts have definitely laid down that for what is coming under the ordinary penal laws you cannot use the Defence of India Act. There was a case somewhere from Kerala where a man was selling kerosene at a high price and he was put in jail under the Defence of India Act. Justice Gajendragadkar who presided said, "You cannot use a hammer to kill a fly." So, if there are four charges and one of them does not come under public security or public order, all other charges are vitiated.

What happens is that one small trader is disliked by his rival; he gets the help of a policeman and says that he was talking to a Pakistani or that he was smuggling gold, and he is put in prison. It is quite true that he might be smuggling gold. But you cannot put him in prison under the Defence of India Act because there are penal laws for that purpose. So, in a mixture of charges if one of them is defective or questionable, the whole thing goes and he has to be released.

Thirdly, when the advisory committee tells a person what the charges are, there must be an opportunity to the person to explain his own position, not necessarily through lawyers. I am one of those people who think that the fact that you have appointed a man who has been a High Court Judge before, is no guarantee of objectivity. The tribunal must be impartial in the sense that it must apply its mind and adopt quasi-judicial procedures. It must be built into the Judge that he will not take to star

chamber methods. To my mind, if a retired High Court Judge, may be out of patriotism, is prepared to accept procedures whereby you can try people under star chamber methods, taking secret evidence which cannot be shifted, he forfeits his character of judicial independence. So, to me just because a person has been High Court Judge for some years, that is no guarantee at all.

Fourthly, the present state of our law, irrespective of whatever you may say about nonjusticiability, still makes a thing justiciable when it is brought before the courts if it is a fraud on the Constitution. Fraud on the Constitution is what is called *malice* in law; using one law for another purpose. If the law is intended for one purpose and you use it for another purpose, it is a fraud on the Constitution. If it is a fraud on the Constitution or colourable action or *mala fide*, it has to be brought before the courts.

All these things really refer to the Law Minister who is conveniently absent. I hope, the Prime Minister is listening as she always does. It is no use appealing to the Home Minister. With great respect to him, he is the most cynical minister I have met in regard to the liberty of the people. The other day, after beating eleven people to death, he turned round and said, "We are going to have prison reform." That is a little bit too thick.

The last thing I want to say is that in view of the circumstances, the two Home Ministers sitting here, who have the responsibility for this, should give directions to administer whatever treatment is required to their executive officers, particularly the police, in the way they should handle it. After all, other people are being deprived of various things. That set of directions should more or less go as quasi-judicial directions.

I will conclude by saying that I am quite aware that whatever assurance the Minister or the Government gives in Parliament has no validity in law. Any speeches that they

[*Shri V. K. Krishna Menon*]

make have no validity in law. Therefore, merely saying that they will do this or even giving solemn assurances will not do. It must be written down in the statutes or rules of business or directions. If there is anything given in writing, there will be some security for the harassed citizens who in this very large country are under the octopus of a very large administration.

SHRI JYOTIRMOY BOSU : Sir, we have learnt later that the Speaker in his wisdom has suspended two Rules which required the Bill to be circulated a certain time in advance. I do not expect the Government to undermine this House and allow it to function with certain adjustments if it is necessary. If you are not thinking in terms of mobilisation of people, particularly, working people and public opinion, you are making a great blunder here. That I must point out.

Please tell us what was the need of this Bill. You have sufficient powers under the existing Maintenance of Internal Security Act and the Prevention of Violent Activities Act. The whole nation is behind you. Why is it that you want to assume extra powers? Under the Maintenance of Internal Security Act, you have arrested not less than 1500 people in West Bengal and under the Prevention of Violent Activities Act, you have detailed about 4000 people. It is more known for its misapplication than for its proper application.

Comrade H. N. Mukerjee talked about the arrest of Syed Badruduja who was twice offered a Cabinet post here. Because he was not willing to join the Congress, they have now put him behind the bars. The High Court has released him. They have again arrested him and prosecuted him under the Official Secrets Act although he had never held any office of profit under the Government. Although he was arrested on 1st June, till today, he has not been given

a charge-sheet. This is nothing but misapplication.

In 1965, although an assurance was given on the floor of the House, as I read from the proceedings, you had arrested not less than 9000 minority Muslims in this country without trial with one stroke of pen and, after some time, you released them with one stroke of pen without showing any rhyme or reason. As a result, many small people and big people also and their families got themselves completely ruined.

In the whole of the country and specially in West Bengal, the same set of oppressive bureaucratic machinery is functioning and they have become more powerful than they were in 1965. You can very well imagine what will be the fate of those who will not be liked by the bureaucratic machinery and the Government.

Look at this Bangla Desh issue even. I have a paper clipping which says that Rs. 2 crores have been misappropriated by the Rehabilitation Department under the account "purchase of tents". You know your bureaucracy; you know your official machinery. In spite of that, you want to give them more powers, etc. etc.

May I point out that sacrifice has to come from the upper strata. The very word "black money", the very word "black market" came into existence during the Second World War. The Government has failed in checking hoarding, profiteering, all these things, for the last so many years. During the last three years, the rise in prices has amounted to 35 per cent. They have utterly failed. As regards the expansion of the scope of the Essential Commodities Act in this Bill, they have not done it. That goes to show that they will completely surrender themselves in the hands of the profiteers, hoarders, etc.

Comrade Indrajit Gupta mentioned about the arrest of Comrade Ved Prakash.

He has been arrested only 5 or 6 miles away from Delhi. It will take just 15 minutes to give a ring and find out why he has been arrested. You have not done it so far. I suspect there is a skeleton in the cupboard. There are many cases and the present machinery of bureaucracy is basically anti-people and, unless there is strict check on that, everything will be misused.

There will be occasions when this will always be applied against weaker sections of society. We have seen how policemen and jotedars have been joining hands in evicting bargadars in West Bengal. All these powers will be utilised under the blanket powers they have taken. Also, coming to the insecurity of the political opponents (Interruptions)

MR. DEPUTY SPEAKER : Order, order. Kindly be brief.

I am only concerned with the time of the House. This has got to go to the other House also. I am making a request to you to be brief.

SHRI JYOTIRMOY BOSU : There is no indication. The Government has not come out with an austerity programme on the Government itself. The expenses on Ministers, conservation of resources, all these things—there is no mention about that. We want that this should be undone. This Act should have a natural death within fifteen days time the war is over.

Last thing. In many States, Citizens' Councils have been presided over by a non-official. But, in West Bengal, why is it that you have planted an official to head the Citizens' Council?

SHRI K. C. PANT : Many of the points that have been made in the Third Reading have been made in the course of the First and Second Reading as well and I hope my hon. friends will permit me not to refer to them again because it will mean the repetition of the same arguments.

I would only like to put the things again in the perspective. Firstly, this is an extraordinary measure which is required in an extra-ordinary situation. It is not a permanent measure on the statute book. It is there to take care of the emergency that has arisen and for which this whole House and the whole country feel greatly concerned. It is a matter which involves the very survival of the country and, therefore, there can be no occasion of allowing any risk to be taken. Even if the measure appears somewhat stiff, somewhat severe, it has to be viewed in the light of the situation that exists on the borders and in the light of what is going on in Bangla Desh and in the light of the aspirations of the people of India. In regard to what is going on on the borders and inside Bangla Desh it cannot be torn away from the context in which we are discussing it. Once the context is kept in mind, I think much of what has been said would have been said in a different manner.

The second point I want to make is that this is more or less as the Prime Minister said, the same measure that came before the House in 1962 and it is more or less the same.

SHRI DINEN BHATTACHARYYA : No, no.

SHRI K. C. PANT : Largely, I can tell you. I know, it is largely the same.

The third point is that so many friends seem to think that the Maintenance of the Internal Security Act is being brought in through this measure. It is not correct. Some provisions relate to the Maintenance of Internal Security Act and some of those have been taken objection to by some friends. But the Maintenance of Internal Security Act is on the statute book quite apart from this measure. This is also to be kept in mind.

[Shri K. C. Pant]

I am very sorry that I have not been able to win the approval of Mr. Krishna Menon. When I was replying to the question the other day, somebody asked me, 'what have you done about reforms in prisons?' and in relation to that particular incident I answered in that context. If he reads all the questions and my answers, he will get the total picture.

So far as my hon. friend, Mr. Mukerjee is concerned for whom I have the deepest respect, I am sorry he has used the words 'petty political purposes'. 'The Government has brought forward this Bill for petty political purposes.' I don't think that defence of India is a 'petty political purpose'. That is the only purpose which we have in mind in bringing forward this measure. But, I agree with much of what he said about the minorities, about the need to pull together, about the need to take severe and stringent action against hoarders and black-marketeers, about the valour of Abdul Hamid as well as Brig. Usman to which he has referred. I agree with all that. I would appeal to him. I would appeal to other hon. friends opposite that even though they may have certain apprehensions regarding certain measures, it is in a spirit of all of us pulling together in this emergency that we must regard this measure and I have promised and I hold to that promise that I shall, while framing the Rules, consider all the suggestions that have been made and, if necessary, I shall come before the House with an amendment. That I have said. I mean it because I do realise that this is not a motion on which the House should divide and if over some clause or sub-clause we have differences of opinion, we can certainly sit down and iron out the differences which we cannot do on the floor of the House because of the time factor. We can certainly sit down and discuss with the hon. Members and we can come to an agreement. It is in that spirit that I would like you to take this.

MR. DEPUTY SPEAKER : The question is :

"That the Bill be passed."

The motion was adopted.

4.45 h rs.

**JAYANTI SHIPPING COMPANY
(ACQUISITION OF SHARES)**

BILL—contd.

MR. DEPUTY SPEAKER : The House will now take up further consideration of the following motion moved by Shri Raj Bahadur on the 3rd December, 1971, namely:—

"That the Bill to provide for the acquisition of the shares of the Jayanti Shipping Company Limited in order to serve better the shipping needs of the nation and to facilitate the promotion and development, in the interests of the general public, of national shipping and for matters connected therewith or incidental thereto, be taken into consideration."

श्री झारखण्डे राय (भोली) : उपाध्यक्ष महोदय, मैं जयन्ती शिपिंग कम्पनी (ऐक्विजिशन आफ शेयर) बिल के मूलाधार का समर्थन करता हूँ। पिछले मध्याह्न चुनाव के पहले कांग्रेस पार्टी और उसके नेता ने इस बात को स्वीकार कर लिया कि राष्ट्रीयकरण का ही रास्ता है जो समाजवाद की ओर देश को ले जा सकता है। वही उसके मार्ग को प्रशस्त करता है, और उसके आधार पर चौदह बँकों का राष्ट्रीयकरण किया गया था। भारतीय कम्युनिस्ट पार्टी ने उसका हार्दिक समर्थन किया था। लेकिन मुझे यह कहते हुए दुःख हो रहा है कि वहीं पर कदम रुक गया। देश की जितनी बैंकिंग इंडस्ट्री है उनके पास कुल जमा पूँजी मात्र 50 करोड़ रुपये से कम नहीं है। वह सबकी सब कलम की एक ही नोक से ले ली जानी चाहिए थी। लेकिन कदम भी उठा तो सावा उठा। इसी बात की शिकायत हमको रही है और साथ ही है। पीले तीन सौ बँकों को साथ ही सरकार ने अपने