

on Private Members' Bills and Resolutions.

open for that. It is not for me to declare its validity or otherwise.

*12.18½ hrs.

COMMITTEE ON ABSENCE OF MEMBERS FROM THE SITTINGS OF THE HOUSE

TWENTY-FIRST REPORT

SHRI CHANDRIKA PRASAD (Ballia): I beg to present the twenty-first Report of the Committee on Absence of Members from the Sittings of the House.

12.19 hrs.

MAINTENANCE OF INTERNAL SECURITY (AMENDMENT) BILL*

MR. SPEAKER: Shri Brahma-nanda Reddy.

SOME HON. Members rose—

MR. SPEAKER: Please allow him.

SOME HON. Members: No, no.

THE MINISTER OF HOME AFFAIRS (SHRI K. BRAHMANANDA REDDY): I beg to move for leave to introduce a Bill further to amend the Maintenance of Internal Security Act, 1971.

MR. SPEAKER: Shri Madhu Limaye, Shri Somnath Chatterjee, Shri S. M. Banerjee, Shri Janeshwar Misra, Shri Samar Guha and Shri Jyotirmoy Bosu have sent me intimation that they want to oppose the introduction of this Bill. I will call them in that order before I put this motion to vote.

SHRI JYOTIRMOY BOSU (Diamond Harbour): No, no. It is unconstitutional.

MR. SPEAKER: Whether it is constitutional or not, the doors are

भी मधु लिमये (बाँका) : इन में दो बातें हैं। एक तो विधेयक का विरोध और दूसरे जो बुनियादी मुद्दा है कि इनको इसको इट्रोड्यूस करने की इजाजत नहीं देनी चाहिये और वह क्यों नहीं देनी चाहिये। इन दोनों पर मैं बात कहूँगा।

अध्यक्ष महाशय, हर विधेयक के साथ स्टेटमेंट आफ प्रावजनैक्ट्स एंड रीजंस देने पड़ते हैं, कारणों और उद्देश्यों का ज्ञापन देना प्रावश्यक होता है। प्रापको यहाँ तक भी अधिकार दिया गया है कि प्रावश्यकता पड़ने पर आप इस ज्ञापन को दुरुस्त भी कर सकते हैं, बदल भी सकते हैं। मेरा यह कहना है कि इन्होंने जो उद्देश्य और कारणों का वक्तव्य दिया है वह अपूर्ण है और सदन को गमराह करने वाला है। अपूर्ण किस है? इन्होंने यह जो नया 15 ए सैकशन जोड़ने की बात कही है उसका बी प्राप देख लीजिये। क्लॉज 215ए 1 बी में पढ़ रहा हूँ

"(b) the detaining authority is satisfied, having regard to all or any of the facts constituting all or any of the grounds on which the order has been made, that such person is likely to commit or attempt to commit, or abet the commission of, any prejudicial acts within the meaning of sub-section (2) of this section in an area which is for the time being declared to be a disturbed area by notification under section 3 of the Armed Forces (Special Powers) Act, 1958 and makes a declaration to that effect within five weeks of the detention of such person."

इसका कोई स्पष्टीकरण स्टेटमेंट आफ प्रावजनैक्ट्स एंड रीजंस में नहीं है। यह जो यह जो बी क्लॉज जोड़ दिया गया है इसका

एक बात उद्देश्य है कि एक घरे के मजरबन्दी के बारे में, प्रिवेंटिव डिटेन्शन के बारे में जो सुप्रीम कोर्ट के निर्णय हैं... इन्का दुकके निर्णय नहीं—दरनों निर्णय हैं इनको मनीफ़ाई करने के लिए, इनको समाप्त करने के लिए यह काम किया गया है और इस बात को स्टेटमेंट आफ़ आबजैक्ट्स एंड रीजंस में स्पष्ट नहीं किया गया है। मैं सुप्रीम कोर्ट का एक ताजा निर्णय जो है वह आपके सामने रखना चाहता हूँ।

I am reading out from page 138, paragraph 6, AIR, Vol. 62, 1975 January (Part 733). It says:

"If there is one principle more firmly established than any other in this field of jurisprudence, it is that even if one of the grounds or reasons which led to the subjective satisfaction of the detaining authority is non-existent or misconceived or irrelevant, the order of detention would be invalid and it would not avail the detaining authority to contend that the other grounds or reasons are good and do not suffer from any such infirmity, because it can never be predicated to what extent the bad grounds or reasons operated on the mind of the detaining authority or whether the detention order would have been made at all if the bad ground or reason were excluded and the good grounds or reasons alone were before the detaining authority. See the decisions of this Court in *Shibban Lal Saxena v. The State of Uttar Pradesh, 1954.*"

ये इन्का दुकका निर्णय नहीं है। 1954 के सुप्रीम कोर्ट कह रही है। मैं इन बातों पर जोर दे रहा हूँ।

"If there is one principle more firmly established than any other in this field of jurisprudence."

ये केस उन्होंने साइट किए हैं

"See the decisions of this Court in *Shibban Lal Saxena v. The*

State of Uttar Pradesh, 1954; (2) *Dr. Ram Manohar Lohia v. State*

सबन के सदस्य और हमारे नेत।

of Bihar; (3) *Pushkar Mukherjee v. The State of West Bengal 1970.* Even as recently as this year, a Division Bench of this Court pointed out in *Biram Chand v. State of U.P., AIR 1974* that it is well settled that in an order under the present Act the decision of the authority is a subjective one and if one of the grounds is non-existent or irrelevant or is not available under the law, the entire detention order will fall since it is not possible to predicate as to whether the detaining authority would have made an order for detention even in the absence of non-existent or irrelevant ground.

The conclusion is, therefore, inescapable that since ground No. 5 was wholly misconceived, non-existent and "not available under the law"; the order of detention must be held to be invalid"

आगे जहाँ ने चिन्ता व्यक्त की है। उन्होंने कहा है कि हम किसी को छोड़ना नहीं चाहते हैं। लेकिन सरकारी अधिकारी ठीक तरह काम नहीं करते हैं और इसलिये उन्होंने कहा है :

"This circumstance also is indicative of the rather casual manner in which the District Magistrate proceeded to make the order of detention without proper application of mind and it could have an invalidating consequence on the order of detention. We hope and trust that the District Magistrate will be more careful in the future when he has occasion to exercise the enormous powers of preventive detention entrusted to him by the Parliament."

इसलिए मेरा कहना यह है कि यह जो आपन है यह अपूर्ण है, यह सब क्लाइब क्यों रखा गया है उसका कोई स्पष्टीकरण इस में नहीं किया गया है। इसकी कानून इन्का यही

है कि प्रथी प्रथी सुकर नारायण बखिया का केस हुआ है और उसको सुप्रीम कोर्ट के निर्णय के आधार पर छोड़ने का हाई कोर्ट ने फैसला किया है। एक तो लापरवाही बरती जाती है और कभी कभी यह जान बूझ कर भी किया जाता है। मुझे जानकारी मिली है कि विगत सितम्बर महीने में इनके लिए प्री फस तैयार किए गए गरपतारी के। लेकिन प्रमुख लोगों के बीपस को बदला गया और इस तरह के प्रेजुडिसल प्राउडज जान-बूझ कर दिए गए हैं। मूल जो फाइने है, बीपस की उसको हासिल करने की प्राप कोशिश करें। अगर उस फाइल का प्रापको पता चलेगा तो मेरी बात की पुष्टि हो जाएगी। इसलिए इस में उन्होंने इसी फैसले का हवाला देते हुए कहा है :

"In view of what we have held above, the inclusion of non-existent facts in the grounds vitiates the entire detention order. It is then argued that the totality of the grounds must be seen and not individual grounds...."

इसी के ऊपर यह आधारित है। इनका प्लो यह है :

"There is no force in this contention. In *Dwarka Parshad v State of Bihar* (AIR 1975 SC 134), it has been clearly held that even if one of the grounds or reasons which led to the subjective satisfaction of the detaining authority is non-existent or misconceived or irrelevant, the order of detention would be invalid and it would not avail the detaining authority to content that the other grounds or reasons are good and do not suffer from any such infirmity...."

यह हाई कोर्ट का निर्णय है। इसलिए मेरा यह कहना है कि प्राप इनको इस बिना पर अनुमति न दें कि इन्होंने स्टेटमेंट प्राक प्राक्केन्दता एंड रीज का ईमानदारी के और झारी बातों को सचन के सामने रखने

के लिए तैयार नहीं किया है। बाकी जो मेरे ब्राह्मण है वे इस प्रकार है। पहले तो यह नजरबन्दी का कानून ऐसा है कि लोकतंत्र की मान्यताओं के खिलाफ है। इंग्लैंड जैसे देश में युद्धकाल को छोड़ कर एमरजेंसी—हमारी तरह की झूठी एमरजेंसी नहीं बल्कि असली एमरजेंसी—अगर चलती है तो जैसे ही वह समाप्त हो जाते हैं, नजरबन्दी कानून भी समाप्त हो जाता है। लेकिन हमारे सविधान के निर्माताओं ने साधारण कानून में ही नजरबन्दी कानून का प्रावधान सविधान को दफा 22 के अन्तर्गत किया है। बेलिए उस में भी कुछ उन्होंने शर्तें लगाई हैं, कुछ प्रतिबन्ध रोके लगाई हैं, निर्बन्ध लगाए हैं। लेकिन एक एक निर्बन्ध को गृह मंत्री और सरकार अब समाप्त करना चाहती है। इसका मतलब यह है कि अगर यह कानून हम लोग इस संसद में पास होने देंगे तो किसी भी व्यक्ति को गिरफ्तार किया जा सकेगा और अब झूठ भी अगर कारण दिए जायेंगे और एक कारण भी अगर अदालत को ठीक मानूँ होगा तो बाकी सारे कारण झूठ होते हुए भी इस नजरबन्दी के आर्डर को बध उसको करना पड़ेगा—आपने जो धर्म, भी लगा दिया है उसकी बजह से। आपने यह प्रावधान किया है कि एडवाइजरी बोर्ड के पास दो साल तक उनके मामले नहीं भेजे जायेंगे यह लोकतंत्र के ऊपर कुठाराघात है, इससे अधिनायकवाद का रास्ता खड़ा हो जाएगा। प्राप कह रहे हैं कि किसी भी राजनीतिक नेता या कार्यकर्ता के खिलाफ इसको इस्तेमाल नहीं किया जाएगा। लेकिन बार बार हम देख चुके हैं कि इस सबन के सदस्यों तक के ऊपर भी मिसा का इस्तेमाल किया गया है और हजारों हजार नौजवानों, माधुस नौजवानों निष्पाप नौजवानों को आपने नजरबन्दी कानून के तहत जेलों में डाल रखा है और वहाँ बंद रख रहे हैं। अगर प्राप इनको यह छूट देंगे कि दो साल तक एडवाइजरी बोर्ड के पास नहीं आयेंगी

को भजा जाएगा और मामला अगर रिट पेटिशन में, हेबिस कोस कारपस में बंधे जाते हैं तो ध्राप कहते हैं कि अगर एक कारण भी ठीक होगा और बाकी नौ दस जितने भी कारण हैं वे झूठे हों तो नजरबन्दी वैध होगी। ग्राउंड टैक्नीकली ठीक है, यह सही है या नहीं, इसके डूब धार धरवाइज में बर्दासत नहीं जा सकती। टैक्नीकली एक कारण भी ठीक होगा तो ध्राप चाहते हैं कि नजरबन्दी के आदेश को वैध घोषित कराया जाए अदालत के जरिए। हमारे जितने मौलिक और बुनियादी अधिकार हैं उनको ध्राप समाप्त करना चाहते हैं। यह प्रेजुडिशियल एक्ट की जो ब्याख्या की गई है उसका भी नतीजा यही निकलेगा कि प्रेजिडिशियल एक्ट के नाम पर किसी तरह के कार्य को भी ध्राप धाधार बना कर उनको दो साल के लिए नजरबन्दी कानून के तहत जेल में दूख सकते हैं। मेरा बुनियादी ध्रांशेप पहला क्लज के तहत है कि जब तक स्टेटमेंट आफ प्राबजेक्ट्स एंड रीजिज ठीक नहीं होगा तब तक यह बिल इंट्रोड्यूस भी नहीं हो सकता है। अगर इसके बावजूद भी ध्राप इनको छूट देते हैं तो मैंने जो कारण बताए हैं कि एडवाइजरी बोर्ड को दो साल तक नजरबन्दी के कारण नहीं दिए जायेंगे, दो साल तक एडवाइजरी बोर्ड के सामने नहीं जाया जाएगा, एक कारण भी वैध होगा तो भी नजरबन्दी को वैध घोषित किया जाएगा, इस तरह के जो प्रावधान हैं प्रेजिडिशियल एक्ट की जो परिभाषा है इन सब का मैं बुनियादी तौर पर विरोध करता हूँ और ध्राप से प्रार्थना करता हूँ कि ध्राप इनको इस बिल को पेश करने का इजाजत न दे कर सदन के सदस्यों तथा दूसरे बाहर के लोगों का धन्यवाद प्राप्त कीजिए और लोकतंत्र की रक्षा कीजिए।

SHRI SOMNATH CHATTERJEE
 (Burdwan) Sir, this is another piece of the most obnoxious legislation which is sought to be introduced with a view to taking away even the very minimum right of civil liberty

which exists, if at all, in this country. In the garb of emergency, the MISA has been amended under which, excepting the smugglers and foreign exchange racketeers in this country, every MISA detenu is liable to remain in jail indefinitely until the Government chooses to lift the Emergency. This is an amazing piece of legislation which is prevailing in the country in the name of democracy. It is not only a rape of democracy, but it is a rape of the Constitution. If means you don't believe in the fundamental rights of the people and the civil liberties of the people. Kindly see what sort of obnoxious and atrocious legislation is sought to be introduced.

Mr Madhu Limaye has referred to clause 15A(1) (b). Kindly see what will happen. On one of the grounds under the existing law a person may be detained and, if the detaining authorities are satisfied that in a particular area some prejudicial act has been committed, the detenu need not be put before the Advisory Board for two years. But when will the declaration be made? That declaration that it is a vulnerable area may be made within five weeks of the detention of such a person. Kindly see what is the law. Today I am detained under MISA and five weeks later a declaration may be made by the detaining authority that it is a vulnerable area and, therefore, I need not be put before the Advisory Board for two years. Therefore, at the time the alleged act is supposed to be committed, on what grounds am I detained? They would probably be fabricated and false, I have little doubt about it. But kindly see the position. I allegedly commit an act for which they detain me under MISA, but after my detention, they declare the area in which I was arrested to be an area within the meaning of sub-section (b) and then I need not be produced for two years before the Advisory Board. Therefore, at the time I allegedly commit the act, I don't know whether it is an area declared under this Act to be vulnerable or not. This would make somebody liable for doing

something which was at that time not an offence at all.

Kindly see Clause 2(1) (b):

"the detaining authority is satisfied, having regard to all or any of the facts constituting all or any of the grounds on which the order has been made, that such person is likely to commit or attempt to commit, or abet the commission of, any prejudicial acts within the meaning of sub-section (2) of this section in an area which is for the time being declared to be a disturbed area by notification under section 3 of the Armed Forces (Special Powers) Act, 1958 and makes a declaration to that effect within five week of the detention of such person."

Therefore, the declaration that it is an area within this Act can be made within five weeks of detention. At the time when the detention order is made, there might not be a declaration at all. So, the position is like this. They want to hold of some person. Under the existing law within three months they have to present the case before the Advisory Board, but now after detaining him, they will make a declaration and make it an area within (b) and continue the detention without placing his case before the Advisory Board. There is not even a *prima facie* basis of legislative competence. This is an atrocious piece of legislation.

Kindly see article 22(7) (b) of the Constitution:

"the maximum period for which any person may in a class or classes of cases be detained under any law providing for preventive detention,"

Article 22(7) (a) reads as follows:—

"the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without

obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4)."

Therefore, Parliament may, by law, prescribe the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months without the case being placed before the Advisory Board. At the time the detention is ordered, no class of case will be indicated at all. The declaration will be made later. It will become a new class of case if a declaration is made after the detention is ordered. Therefore, under article 22(7), the essential requirement is that Parliament, by law, must classify at the time of detention that he comes under a particular class of people. Unless that is specified at that stage, no law can be made by Parliament; Parliament will have no legislative competence because it will immediately attract article 22(7) of the Constitution. This is my first submission; that a new type of provision is being made which will make the detaining authority the complete master to decide which persons would be brought before the Advisory Board and which persons will not be brought before the Advisory Board.

Kindly see the Statement of Objects and Reasons. The object with which this Bill is being brought forward is to prevent certain supposed activities in the North-Eastern region of the country. This is the justifying ground for this Bill. But in the main body of the Bill there is no indication that this will be restricted only to the North-Eastern Region. It is applicable now, in the garb of tackling such a situation in one part of the country which is their own creation, to all parts of the country. This is an extraordinary law which they want to have. In the body of the Bill there is no indication that it will be restricted only the North-Eastern region of this country. West Bengal is their happy hunting ground so far as MISA de-

tanus are concerned; 5,000 detenus are there rotting in the jail without any trial for more than one year or two years and in some cases even three years. Where is the restriction that it will be applicable only to the North-Eastern region? Our rules require that a Statement of Objects and Reasons should be given. But they are giving a misleading Statement of Objects and Reasons. The Bill does not justify the reasons which are given in the Statement of Objects and Reasons accompanying this Bill. This is also in violation of the Rules of Procedure of the Lok Sabha.

There is violation of another rule also, rule 70. Rule 70 of the Rules of Procedure requires that, if there is any delegation of legislative power, there has to be a memorandum. It says

'A Bill involving proposals for the delegation of legislative power shall further be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character.'

What is being done with the Explanation at page 2? A great honour is being conferred on the Members of Parliament and of the Legislative Assemblies by making them public servant for the purpose of this Act? Kindly see how they want to extend the powers of this Government. This Government cannot rule under the normal laws of the land and the constitutional provisions. Explanation says

'In this sub-section, 'public servant' means any public servant as defined in the Indian Penal Code, and includes any Member of Parliament or of the Legislature of a State or of a Union territory or any member of any district council or other local authority constituted under any law for the time being in force or any employee engaged in such employment or class of employment.'

This is very important, Sir,

"as may be declared by the Central or a State Government to be essential for securing the defence of India and civil defence, the public safety, the maintenance supplies and services essential to the life of the community under any law for the time being in force."

This is the extension of the concept of public servant.

Now, this declaration, Sir, by the Central Government or a State Government, has to be made under some law. Which law is that? It is not indicated. It cannot be done sitting in the South-Block or in the Writers' Building, Calcutta. It will be purported to be done by the Central Government or the State Government in pretended exercise of the powers under the Explanation which is given in this Bill. That will be a delegation of legislative power. You have to do that. Without a legislative provision, you cannot make a declaration. Where is the provision for that and where is the Memorandum under Rule 70 which is a mandatory provision under our Rules? Therefore, I submit that this also purports to confer legislative power on the Government without any provision in the Bill and without complying with Rule 70 of our Rules.

Now I come to the last point. Sir, I submit, that a grave impropriety has been committed the way this annexure has been prepared. Kindly see the annexure to the Bill. A deliberate attempt has been made to mislead the Members of this House. This Bill is being introduced today and it has been circulated two or three days back in May, 1975. Kindly see clause 13 in this Annexure. It says:

"The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 12 shall be twelve months from the date of detention."

By reason of Emergency and by reason of Defence of India Act, this provision stands altered. Now it reads:

"Twelve months from the date of detention or until the expiry of Defence of India Act, 1971 whichever is later."

Therefore, so long as the Defence of India Act remains, and which will remain till the emergency is withdrawn, this portion now stands inserted in the Maintenance of Internal Security (Amendment) Bill, 1971. This is part of MISA now-a-days. They do not mention that and are trying to give an impression to the people and the Members of Parliament that it is the maximum period of detention. This is a gross impropriety which has been committed. I do not know, what is the convention, or whether there is a rule or not. But I think, there is a convention at least that this annexure shall be correctly prepared so that the Members will know which are the provisions of the law and Sections of the particular Act which are intended to be amended. It gives a misleading picture. This is a gross impropriety which has been committed apart from the question of legislative competence. I submit that this Bill should be thrown out in limine. This is an affront on the people of this country and we shall resist it.

SHRI S. M. BANERJEE (Kanpur): When this Bill was circulated 40-48 hours before, I was surprised to see that Shrimati Indira Gandhi, the Prime Minister of this country...

SHRI JYOTIRMOY BOSU: That is our misfortune.

SHRI S. M. BANERJEE:and the leader of the House who talks so much of having consultations with the Opposition leaders, perhaps, did not get any time to consult on this particular Bill also. It is surprising that they took the House for granted because they have the majority in the House...

SHRI JYOTIRMOY BOSU: But they had consultations with the Coca-cola party.

SHRI S. M. BANERJEE: I do not know because I do not drink coca-cola. My leaders did not go.

The question is this. I am not going to read the same passages my hon. friend, Shri Madhu Limaye and Shri Somnath Chatterjee read but I can never imagine that a certain legislation could be brought before this House without the least consultation. It is intended and I am sure that as long as the Defence of India Rules and the emergency are there, this is going to last, as very correctly said by my friends. Now, the 12 months has been changed to what? Either 12 months or the period of detention or the Defence of India Rules or the Emergency or this ruling Party, whichever is longer! I do not know. It follows '12 months or that period or the emergency' and they have clearly stated that even without any external aggression or internal disturbance or even without any economic crisis, the emergency is going to continue in this country. I feel so sorry, Sir, that whenever the Home Minister comes to this House, he comes with such a legislation, it is my misfortune and I also feel very sad to see this confrontation.

In this particular Bill, what do you see? I will just read what is said here:

"The types of some of the activities, indulge in and the resultant situations in the disturbed areas of the North-Eastern region of the country are of such a nature and consequence as require their detention for periods longer than three months without the intercession of an Advisory Board. In these cases the intervention of an Advisory Board within three months of detention would render necessary disclosure of vital information at an inopportune time. For dealing effectively with such insurgent elements and for preventing them from continuing their insurgent activities and also to pursue security operations against the remaining insur-

gent elements effectively, it is necessary to amend the Maintenance of Internal Security Act, 1971...

SHRI JYOTIRMOY BOSU: Naya
Ghost Tayar Kiya Hai

SHRI S. M. BANERJEE: so as to provide for detention of any person for a period of two years without reference to an Advisory Board where such detention is considered necessary with a view to prevent such person from committing any of the following acts. "

What are the 'following acts'?

"(a) any unlawful activity as defined in section 2(f) of the Unlawful Activities (Prevention) Act, 1967; or

(b) assisting in any way any such unlawful activity of any association, or"

We know what unlawful activities can be there. They can declare anything unlawful and this is exactly what they are going to do.

Then,

"(c) use of criminal force against public servants generally or any class of public servants, or..."

Now, Sir, in that particular area—forget for the moment the entire country—we had heard of cases of the security forces raping young women. The CRP and the border security forces running amuck and looting and raping young women. The hon. Minister knows about it, how they have beaten the villagers to death and how they have raped young women.

SHRI JYOTIRMOY BOSU: Looted.

SHRI S. M. BANERJEE: Sir, even to-day in West Bengal daily people are being murdered and the properties looted. You know, Sir, in Andhra Pradesh thousands of people have been detained without any trial and

till this day the number has gone up to 11000 throughout the country. They are being chased by the Police and killed in the name of combating Naxalites and they say 'use of criminal force against public servants generally or any class of public servants'. Supposing a public servant comes and tries to molest my daughter, should I keep quiet? I will take a lathi and kill him. I say it thousand times that I will kill him. What is the meaning of this wording, 'use of criminal force against public servants generally or any class of public servants'? The public servants have no obligation? Have they no sense of morality? I am really ashamed of this Congress Government. I was expecting the Prime Minister to come here and justify it. She has sent the Home Minister who cannot possibly justify this.

I have very correctly pointed out, if it is only necessary to check the unlawful activities of the people in the North Eastern Region of the country, why it is being made applicable to the entire country. We do not know. This has been brought specially to strangulate the voice of the opposition parties and the leaders.

Whether this be in Assam, whether it be any other area, M.Ps have been arrested. My hon. friend Shri Sharad Yadav was elected while he was in jail. He was detained for two years. He was released after the High Court judgement but was again detained.

If the Bill is passed with the help of the brute majority it will be another nail in the coffin of the ruling party. In all fairness this should be withdrawn. Heavens are not going to fall within the shortest possible period. Let them consult the opposition members if they want to strengthen their hands against the so-called unlawful activities. If it is to be passed to-day, they may pass it with the brute majority. But I can tell you with all honesty the entire opposition is united on this and my party here and outside, with whatever strength we have got,

will fight against this and see that this is rejected lock, stock and barrel.

We should help the cause of the starving millions and champion the cause of the workers.

Some of the leaders are detained under MISA and now they will not be brought before the Advisory Committee. Once they take part in the so-called illegal strike, it will be regarded as unlawful and illegal. After independence, not a single strike has been declared legal except that of INTUC strike threat which ultimately they withdrew. The moment they go on strike, it is called illegal. We are championing the cause of the starving millions and we shall continue to do so despite MISA.

I would oppose this Bill lock, stock and barrel and we shall not allow it to be passed.

श्री जनेश्वर मिश्र (इलाहाबाद) : अध्यक्ष महोदय, मंत्री जी ने इस बिल के मकसद में लिखा है कि वे अनलाफुल एक्टिविटीज को बैक करने के लिए इस बिल को यहां पेश कर रहे हैं। अनलाफुल एक्टिविटीज को बैक करने के लिए अगर अनलाफुल एक्ट मंत्री जी पेश करेंगे तो इस सदन के सदस्यों का यह फर्ज हो जाता है कि उन को रोकें और पेश करने के स्टेज पर ही उन को रोकना चाहिए। जिस समय वे मीसा कानून को यहां लाये थे, उस समय भी उन्होंने यही तर्क दिया था कि सामान्य कानून में इतना दम नहीं है कि उसमें मुलजिम को फंसा सकें, वह प्रदालत से निकल जाता है। मैं चाहता हूँ कि मंत्री जी इस बात के धाँकड़े इफ्टा करें कि सामान्य कानून में जो मुलजिम फंसे हैं और मीसा में जो फंसे हैं—इन दोनों में किस में ज्यादा छेद था, जिसके कारण प्रदालत से निकल कर गए हैं। तब आप पायेंगे कि आप का मीसा कानून बिलकुल बलत है, काले कानून की तरह से था और अब आपने इस कानून को पेश करके एक जहरीला कदम उठाया है, जो हम समझते हैं कि इस

मुल्क के नागरिकों को भ्राजादी के लिए खतरा है।

प्रधान मंत्री जी ने मोरारजी भाई की भूख हड़ताल के समय कहा था, जा देश भर के भ्रखबारों में छपा था,—भ्राम तीर से स.माजिक कार्यकर्ता और राजनीतिक नेताओं के खिलाफ मीसा कानून का इस्तेमाल नहीं किया जायगा। लेकिन उसके बाद भी भ्राज बहुत से राजनीतिक कार्यकर्ता मीसा कानून के अन्तर्गत बन्द हैं। भिलाई कारखानों के श्री चन्द्र कान्त देसाई, जिन के बारे में होम मिनिस्टर को जानकारी है, उनका पहले 107 में बंद किया गया और जब वे अमानत पर बाहर निकल कर आये तो उन्हें आप ने मीसा में बन्द करवाया। आखिर आप क्या करते हैं—हम समझ नहीं पा रहे हैं। इन्होंने मीजोराम के भाई० जी० के कत्ल की चर्चा की है। घमण्डी सिंह धार्य का कत्ल होने के बाद तो श्री ब्रह्मानन्द रेड्डी को इस कुर्सी पर बैठने का हक नहीं रह जाता है, यह तो उनका निकम्मेपन की निशानी है, अपने निकम्मेपन को छिपाने के लिए इस तरह के गलन कानून ला रहे हैं। जब कभी भी कोई भ्रादमी जो मीसा में बन्द था, सुप्रीम कोर्ट से छूट जाता है तो इन की तरफ से चर्चा होने लगती है कि यह सुप्रीम कोर्ट इस समय जो समाज में प्रगतिशील भ्रकांशायें पैदा हो रही हैं, उनके अनुकूल नहीं हैं, बल्कि प्रति-क्रियावादी प्रदालत बनती जा रही है। एक तरह से इस सदन में जानबूझ कर सर्वोच्च न्यायालय से टकराव की स्थिति लाने की साजिश कर रहे हैं। इसलिए मेरा निवेदन है कि किसी भी कीमत पर इनको इस बिल को पेश करने की इजाजत नहीं मिलनी चाहिए।

इन्होंने इसमें दो साल के लिए समय मांगा है—एबवाइजरी कमेटी के लिए। मैं इसके बारे में यह कहना चाहूंगा—अभी तक यह समय तीन महीने का था, तीन महीने में कहीं-कहीं जो भ्रादमी नजरबन्द हो जाया करते थे, जिन पर का१५ अमें नहीं हुआ

बा, वे अपनी बात कहने की छूट रखते थे। लेकिन अब लगातार 2 साल की भाग की गई है—इन्होंने अपने मकसद में कहा है— फ्रांज़ेक्ट्स एण्ड रीजन्स में कहा है— 3 महीने इसके लिए कम पड़ते हैं, भाज कल जिस तरह की धण्डरप्राउण्ड एक्टिविटीज हो रही हैं, उनको रोक पाने के लिए एडवाइजरी कमेटी के लिए 2 साल का समय बढ़ाना जरूरी हो गया है। हम जानना चाहते हैं कि श्री बहमानन्द रेड्डी ने मूलजिम्मे के बारे में जानकारी रखने के लिए क्या कार्यवाही की है, अगर 3 महीने कम पड़ते हैं तो दो साल भी कम पड़ेगे और फिर 100 साल भी कम पड़ेंगे। एडवाइजरी कमेटी के सामने 100 साल भी कैसे न जाय तो क्या बिगड़ जायगा। इसलिए हम समझते हैं कि उन्होंने दो साल का समय एडवाइजरी कमेटी के सामने पेश करने के लिए जो रखा है, वह गलत है—दो साल का समय बीस साल का समय हो जायगा, जब आप की सरकार के पाबे हिलने हुए नजर आयेंगे।

इन्होंने इस बिल के दूसरे पृष्ठ पर कहा है— पब्लिक सर्वेयर्स, जिनमें एम० एल० ए० और एम० पी० को भी शामिल किया गया है। आम जनता चुनाव में अपनी प्रतिनिधि चुन कर भेजती है, लेकिन यदि उसको अपने प्रतिनिधि से असंतोष हो जाता है और वह महसूस करती है कि उसके चुनाव के समय गलती की है तथा जगह-जगह वह उस के खिलाफ, प्रदर्शन करती है, काले झण्डे दिखनाती है उसके विरुद्ध प्रान्दोलन करती है— तो इस कानून के बाद उस को यह हक नहीं रह जायेगा कि वह अपने चुने हुए प्रतिनिधि के खिलाफ सड़क पर हल्ला कर सके। मैं जानता हूँ भाज कई सूबों में ऐसे चुने हुए प्रतिनिधियों के खिलाफ जनता प्रान्दोलन कर रही हैं, उनको आपस बुलाया जाय, वे जनता के कामों को नहीं कर पा रहे हैं। अगर ऐसा प्रतिनिधि जनता में जाय और जनता उसके खिलाफ कोई कार्यवाही करे,

झण्डा दिखाये, तो इस कानून के अन्तर्गत उस को भी बन्द कर दिया जायगा।

इसलिए हम यह समझते हैं कि हिन्दुस्तान के अन्दर इस समय जो राजनीतिक अस्थिरता चल रही है, उन में नागरिक अधिकारों को खत्म करने के लिए उन्होंने यह कदम उठाया है।

13 00 hrs

इसलिए मैं आपसे निवेदन करना चाहूंगा कि आप खुद जज बने। यदि पूरे के पूरे बिल को आप पढ़ेंगे तो उसके बाद आप खुद देखेंगे कि श्री बहमानन्द रेड्डी ने जो बिल मूव किया है वह एक खतरनाक बिल है। किसी भी कीमत पर आप इसको इजाजत मत दीजिएगा। इनके पास बहुमत है, सूबे मालूम है यह इस बिल को पास रा लेंगे लेकिन हम इतना ही कह देना चाहते हैं कि इनके बहुमत के बावजूद भाज विरोध पक्ष की तरफ से हम इस बात की कोशिश करेंगे कि यहाँ पर यह बिल पास न करने पाये चाहे हमको जो भी कुछ करना पड़े।

SHRI SAMAR GUHA (Contd.) Mr Speaker Sir I totally oppose the introduction of this Bill. I not only oppose this Bill but even the Opposition Combined would try to see that this Bill is not introduced in this House. First of all, this Bill is an atrocious violation of an assurance that has been given by the Prime Minister herself just a few days before in her letter to Shri Morarjibhai Desai and also in a statement made on the floor of this House.

Sir Shri Morarjibhai undertook his fast on three demands—first over Gujarat election, second regarding justification of continued emergency and the third on application of MISA. The Prime Minister conceded his first demand. Second was not conceded. About the third demand, she told categorically on the floor of this House that before application of the MISA, the Central Government would have

consultations with state Government and see that MISA is not applied to political workers, trade union workers or against any legitimate activities.

Therefore, I say that it tantamounts to a breach of the privilege of the House because the Prime Minister, as leader of the House and also the Government made a solemn assurance on the floor of the House that MISA will not be used indiscriminately. On the contrary, violating this assurance given on the floor of the House, to-day the Home Minister on approval of the Cabinet under her leadership has brought forward this Bill. To call this Bill as draconian and monstrous, would be too inapt to characterise its basic nature.

Already we are under constitutional dictatorship. Day in and day out, Government is saying that we are facing a threat—the country is facing not only an external threat but internal threat even. And to justify that, this Bill is being brought forward for continuation of emergency. If this Bill is passed, it will be a dangerous step towards imposing direct dictatorship in the country. This Bill proposes to curtailing the fundamental rights and it goes against the fundamental principles of our Constitution

What does the statement of objects and reasons of the Bill say It says:

..It is necessary to amend the MISA, 1971 so as to provide for detention of any person for a period of two years without reference to an Advisory Board whether such detention is considered necessary"

What does it say in the body of the Bill? It says:

"(b) assisting, in any way, any such unlawful activity of any association;"

How can you declare activities of an association as unlawful unless it is made out that the association has

indulged in unlawful activity with the intention of subverting our Constitution? When the Government declare an activity as unlawful, there is a normal law of the country and on the basis of which, they can deal with such activity.

Sir, there is another dangerous point in it. Although in the statement of objects and reasons, as an illustration, it is said that the situation in the North Eastern region calls for such a step, yet when the Prime Minister and other Congressmen day in and day out are talking about external and internal threat, this Bill when enacted will apply to every part of the country and, as I have said, this will be a first step towards a direct dictatorship scuttling the fundamental principles of our Constitution.

This Bill immediately makes the four existing laws infructuous. I will quote from page 2 of the Bill:

"(d) any act punishable under section 302, section 341, section 342, section 352, section 363, section 384, section 505 or section 506 of the Indian Penal Code or under the Indian Explosives Act, 1884 or the Explosive Substances Act, 1908 or the Arms Act, 1959 "

This means if we allow this Bill to be passed either we abandon all these Bills or they become infructuous. These four existing Bills will become meaningless when this Bill is passed superseding the provisions of these existing laws. They will be rendered completely ineffective.

Now, Sir, what is the existing condition in our country? Just three to four days ago five youngmen were brutally shot down in West Bengal inside Howrah jail. What was the charge against them? The charge was that they had collected arms and explosives inside the jail. How could they do so Sir, thousands have been arrested in West Bengal under MISA. I may here mention the case of one leader of the Coal Labour Trade Union, Shri Jayanta Poddar, Secretary,

Colliery Mazdoor Congress He is the member of the State executive of the Socialist Party He is the leader of the biggest coal miners' union in the Asansol area. You will be astonished to know the reason for which he has been arrested He has been arrested because he has been accused to have tried to persuade by forcible means a member of the Congress ruling party, who has a rival union, to join his union It is an absolutely fabricated charge Because there was a rival union and my friend, Mr Jayanta Poddar, controlled the biggest coal union, on the basis of a tendentious report of a few Congressmen holding rival unions the District Magistrate obliged them to issue order of his arrest under MISA All the district magistrates are under the thumbs of Youth Congress or Chhatra Parishad of the ruling party They exert pressure on the district magistrates, and can bring about any fictitious charge against any person belonging to opposition parties and the District Magistrates oblige them by issuing arrest orders of such persons under MISA

I may give another instance of a youngman of my constituency Shri Nikhul Nanda, whose only fault is that he is known to be a potential candidate to challenge the present Municipal Chairman of Contai and for that reason he was arrested He is known as Banga Shree because of his good physique Sir, I wrote a ten-page memorandum for him When the matter was taken to the Advisory Committee, the charges were scuttled and termed as fictitious charges

The Municipal Chairman, a leader of a Congress faction prevailed upon the District Magistrate, and therefore that young man was arrested

SHRI B. K. DASCHOWDHURY (Cooch-Behar) Sir, I rise on a point of order

SHRI SAMAR GUHA I am not yielding

SHRI B. K. DASCHOWDHURY Sir, the simple thing is this Some hon.

Members expressed a desire to make some points in regard to the introduction of the Bill While raising objections in the matter of introduction, they have transgressed all forms and norms laid down by the rules and procedures They are going into the merits of the actual provisions Under the rules, there is ample scope for them to make their points at the time of consideration of the Bill. He is mentioning about the Yuva Congress and the Chhatra Parishad and so on It is there in the Bill? When we discuss here, we should not cross the limits

SHRI SAMAR GUHA Sir, I would like to draw the attention of the hon. Minister that in West Bengal, three members of the Congress Party were killed in Cooch-Behar by the agents of a Minister brutally and mercilessly. This was raised on the floor of the West Bengal Assembly by a Congress Member himself No enquiry was held although that allegation has been made on the floor of the West Bengal Assembly and that allegation has not been yet replied to by the Government A charge was made against a former Minister there but without any effect

What I mean to say is that if this Bill is allowed to be introduced and if it is allowed to be passed, as I said earlier it will not only be a draconian Bill, it will not only be a monstrous Bill—it will be more than that It will tantamount to scuttling the whole basis of our Constitution and it will be a step or a trap, I should say, to the setting up of a direct dictatorship in the country. Therefore this Bill should be opposed lock stock and barrel We will utilise every occasion and opportunity to see that this Bill is not allowed to be passed

SHRI JYOTIRMOY BOSU Sir, this Bill can neither be introduced nor can it be enacted in this House, because this offends the Constitution. I would like to understand, what sort of fraud is committed on us. In the Statement of Objects and Reasons, they say

"The types of some of the activities they indulge in and the resultant situations in the disturbed areas of the North Eastern Region of the country are of such a nature and consequence as require their detention for periods longer than three months...."

Where is the reflex of that in the Bill? Is it not a fraud? You write something in the Statement of Objects and Reasons and in the Bill, you see no mention of them. Sir, we would resent the same because what they are doing in Nagaland and Mizoram really makes our heads hang in shame. In Mizoram, they are putting people in one room and they are setting fire to it. I have got 400 cases of atrocities. They are also Indian citizens. This is how they are treating the people.

Sir, I would like to know, why the Objects and Reasons have not been reflected in the Bill? Why is it not mentioned in the Bill? Why do you go against the Objects and Reasons? This is a trickery, this is fraud and this is uncivilised. What reaction it will create among the international jurists and international democratic organisations? They may enact this Bill because of the massive mandate that they have received already and because of the brute majority they have here. But, the mask and the brand that we shall wear on our forehead when we go to international forums, would certainly be a changed one. Now, Sir, this assuming of summary powers, the most stringent of its type, only reveals, only shows the face of fascism in the garb of democracy.

What did they do? The PD Act lapsed. Shrimati Indira Gandhi's minority government needed hefty support. So they allowed that Act to lapse. Then they brought in this MISA which is much more stringent than the PD Act.

Now see what has happened? By invoking art. 359, they have robbed the Indian citizen of his fundamental

rights as guaranteed in the Constitution. By making art. 14 invalid, a citizen of the country loses his equality before the law or the equal protection from the laws and will now become liable to be discriminated. By making art. 21 redundant, a person could be deprived even of his life without going through the procedure established by law. By bringing in paras 4, 5, 6 and 7 of art. 22, they have robbed a man of the opportunity of making any representation against the order and the authority will not be under obligation to indicate the grounds and nothing will be disclosed to any authority. Parliament has been deprived of this right. Courts have become redundant. Parliament's right to prescribe by law the circumstances under which the clause or clauses of cases in which a person may be detained has now become completely ineffective. It is not working at all.

During the discussion of the MISA Bill this is what Shri K. C. Pant said on 18th June 1971—according to them, they have marched towards socialism.

"SHRI K. C. PANT: I can assure him—meaning a friend in the Opposition—and my friend, Shri Shashi Bhushan—your name is here—that this Bill is not being put forward to suppress any legitimate movement of workers or farmers or students.

"SHRI BHOGENDRA JHA: You are not saying it seriously. Bring in amendment if you are serious."

"SHRI K. C. PANT: I am very serious. I am saying it in all seriousness. It is a matter of record what I have said is said in all sincerity and seriousness. Now, my hon. friend, Shri Manoharan, asked me a direct question. He asked: 'Will you use it sparingly and not use it on political purposes?' Again I would like to say that certainly it shall be our endeavour to use this very sparingly and not for political purposes. I have made this point earlier also."

[Shri Jyotirmoy Bosu]

Recently, you know 6 Tripura MLAs were detained under MISA. There are thousands and thousands of cases. Till June 1974, the number of MISA detainees almost exceeded 16,823. In West Bengal, the only State where Shrimati Indira Gandhi was defeated in the 1971 Lok Sabha elections though it has 9 per cent of the population of the country, as far as MISA detainees are concerned, the figure touched as high as 72 per cent. You can categorise them artificially in any way you like. We all know that these laws are not meant for the welfare of the country, they are only meant to further the interests of the ruling party.

The number of detainees who were in detention as on 30th June 1973 is

Tripura 885

West Bengal 4075

Then the details of the number of cases in which detention orders were made during the period from 1st July 1972 to 30th June 1973 for reasons connected with Section 3(1)(a)(ii) are as follows:

According to Government list, out of branded politicals total 518, 386 are CPI (M) (all from West Bengal).

Then the number of persons who were in detention as on 30th June 1973

Tripura 25

West Bengal 3060 etc.

There is a long list.

Then the Supreme Court has condemned it outright many a time. This Government and the State Governments have many a time committed contempt of court. Persons who had been released were immediately re-arrested and put behind bars.

They want to suppress the Naga movement. What is happening there? There is a most interesting article

which has come out under the heading 'Murder in Rangapahar' in a journal. It says:

MR SPEAKER: The scope is very limited. Please do not go beyond it.

SHR JYOTIRMOY BOSU: I will finish in two minutes.

It came out in the papers, the security forces murdered a very important person, it came in the paper Urdu Mail under the heading 'Murder in Rangapahar'. It says that Dozhu Angami of Chedama village in Nagaland.

SHRI DINEN BHATTACHARYA (Serampore): The Member from the Nagaland mentioned that in the House

SHRI JYOTIRMOY BOSU: It was mentioned in the House earlier. I now come to a very important part, how it is not within our competence. Kindly refer to clause 15A, sub-clause 2(c) in line 10 on page 2 of the Bill "use of criminal force against public servants generally or any class of public servants, or". Please refer to the Explanation under this clause: 'In this sub-section public servant' means any public servant as defined in the Indian Penal Code, and includes any Member of Parliament or of the Legislature of a State or of a Union territory. Now, who gives you competence to legislature in that manner? Kindly refer to the Constitution, Seventh Schedule, List II—State List, Entry 39, 'Powers, privileges and immunities of the Legislative Assembly and of the members and the Committee, thereof and, if there is a Legislative Council, of that Council and of the members and the committees thereof, enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State'.

You will thus see that it is purely a State matter according to our Constitution. Under what authority has Mr Brahmananda Reddy chosen to come before this House in ringing the

clear provisions of the Constitution to enact this Bill? This Bill cannot be enacted in this House, unless you want to violate a clear provision of the Constitution. We are functioning under an oath that we shall abide by the Constitution. Whatever may be one's partyline, as long as we are Members of this House, we are all under an obligation to stand by the Constitution and the Constitution clearly lays down that this is exclusively a State matter and it is a matter for the State Legislature to enact a Bill which involves the privileges and immunities for the MLAs. Therefore, you cannot enact this Bill without offending the provisions of the Constitution that we are under an obligation to abide by.

MR. SPEAKER The list of Members who gave their names before that time is over.

SHRI SHYAMNANDAN MISHRA (Begusarai): In this matter my submission would be, that since it does not require any deep consideration on your part, whether the reasons for which the Member wants to oppose the introduction of the Bill should be gone into, even if the request is late by a few minutes, you should show your indulgence.

It has been rightly stated by some hon. Members that it is a defective statement of objects and reasons. May I go a step further and say that it is not only defective, but also a deceptive statement of objects and reasons. In fact, it would be more appropriate to call it a 'mis-statement of objects and reasons' rather than 'a statement of objects and reasons' because it deliberately suppresses the fact that it is an attempt to nullify some Supreme Court judgements and some High Court judgements which are based upon the fundamental or basic rights of the citizens. Therefore, it is an attempt at suppression rather than an attempt to give expression to the real objectives and intentions behind the Bill.

Further, all the reasons that have been given in the 'Statement' are of a political nature; not a single object or

reason is of a legal nature.

That is my basic objection to this measure. If you go through the Statement of Objects and Reasons, you will find that a political case has been made out; no legal compulsion has been stated in the Statement of Objects and Reasons. Therefore, there is no legal justification for bringing a measure of this kind and if there was any justification there for the edification of the lay men that we are, it should have been given here.

Secondly, it is against Article 22 of the Constitution. But before I proceed to that, I would draw your attention to one very important point to which the hon. Member, Mr. Madhu Limaye, had made a reference. He had said that on the basis of the present judgements, even if one ground out of a number of grounds, is found to be spurious, then the detainee will be released. Now, what was the underlying principle behind it? We all know that our elections are affected if there is one wrong acceptance or one wrong rejection of a nomination paper. Now, it may well be that a nomination paper has been accepted of a person who had secured only five votes and that does not in the totality make any difference. And yet the wrong acceptance of a nomination paper makes the entire election invalid. It is on that particular basis that even if there is one spurious reason, the entire detention would be invalidated. So, it was on that basis that the Supreme Court and the High Courts' judgements were passed.

Then we do not know what exactly we are passing. Are we not entitled to know what exactly are we passing? If we are directing our attention to a particular class of offences, then what is that particular class of offences? The very nature of the offence can be changed by an executive order. At the moment the nature of the offence is of 'X' type but later *ex-post facto*, the nature of the offence could be changed. So, we really do

[Shri Shyamnandan Mishra]

not know what exactly are we asked to pass.

Further, by introducing 'continued detention', by introducing the concept of 'continued detention', it is being made a case of indefinite detention and this point has to seep into the consciousness of the people here and outside. What we are lending ourselves to support is the indefinite detention of the citizen. Therefore, it is in clear contravention of Article 22 of the Constitution where it is laid down that Parliament will prescribe the maximum period for which any person can be detained. So, it is against the Constitution also.

Now, my further submission is that in Section 13 it is now sought to be introduced that it would extend upto a period of three years. The qualifying clause is "until the expiry of the Defence of India Act, 1971". And further it is said 'whichever is later'. Now, the period is extended upto three years. So again it does appear to me that it is going to be almost a kind of indefinite detention and nobody can hope for any relief within a foreseeable time.

Then in Section 11, it has to be noted, it is said 'from the point of time when reference is made'. Now, may I ask, Mr Speaker, what would be the point of time and who would determine the point of time if the reference is made? And if no reference is made, what happens? Where is the obligation that the reference shall be made. and, secondly, if the reference is inordinately delayed, then what happens? So, in both the cases it is completely a vague picture that the Parliament is confronted with. Can Parliament be asked to pass a measure of this vague and indefinite nature? Therefore, this point of reference is again a very serious thing, the concept of point of reference is a very serious thing, if it is introduced.

So, finally, at the very point of the introduction of this measure—I am not going into the merits of the measure just now, I will confine myself to the objection that could be raised in regard to the introduction of this measure—I would say that we are opposing this because we are opposed to this measure root and branch. We now find that this is not only a creeping and crawling kind of authoritarianism but almost a surging absolutism.

This is double emergency. The country has been agitating for the lifting of the emergency, but what we are now confronted with is almost a kind of double emergency.

This is a retrograde measure, a reactionary measure, a fascist measure and we cannot support it. We will go on opposing it at every stage. Let there be no doubt that so far as we are concerned, we feel that this measure should not be passed and we will see to it that this is not passed.

SHRI INDRAJIT GUPTA (Aizpore):
Sir, on a point of order, Rule 69(1) says

"A Bill involving expenditure shall be accompanied by a financial memorandum which shall invite particular attention to the clauses involving expenditure and shall also give an estimate of the recurring and non-recurring expenditure involved in case the Bill is passed into law."

My short point is, if this Bill is enacted, it will entail additional expenditure on the continued detention of persons beyond the period which is specified in the parent Act, within which their cases have to be referred to the Advisory Board. Under the parent Act, it is provided:

"In every case where a detention order has been made under this Act, the appropriate Government shall, within thirty days from the date of detention under the order, place

before the Advisory Board constituted by it under section 9 the grounds on which the order has been made and the representation, if any, made by the person affected by the order.

The Advisory Board shall, after considering the materials placed before it... submit its report to the appropriate Government within ten weeks from the date of detention.

In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit."

Section 12(2) of the parent Act says:

"In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith."

So, the parent Act provides for the intercession of the Advisory Board within stipulated time-limit which will not exceed 30 days plus 10 weeks. It is, therefore, obvious to anybody that the Advisory Board's intercession can and still does in many cases enable an unspecified number of detenus to be released at the end of the period of this process on the ground that the Advisory Board feels that there is no sufficient cause for continued detention. In the amending Bill before us, the access to the Advisory Board is being barred for a period which may extend up to 2 years. So, it will not be necessary to place either the grounds of detention or the detenu's application before the Advisory Board for giving its opinion on it, for a period of two years. Therefore, I submit that the impact of this amendment, if accepted, will mean that a number of detenus—of course, the number—is

unspecifiable—for whom the remedy was open and who could have been released from detention at the end of the period of 30 days plus 10 weeks by virtue of the Advisory Board's findings, will now continue to be held in detention up to a period of two years. To that extent that unspecified number of detenus has to be kept in detention and Government has to incur additional expenditure on them, whatever it may be. Even if it is 5 paise, it has to be incurred because you are preventing these people from having access to the Advisory Board. Since this additional expenditure is being introduced into the Bill by virtue of the provision for continued detention upto two years without reference to an Advisory Board, I submit that a financial memorandum must accompany this Bill. There is no financial memorandum and therefore, the Bill is not in order. I want your ruling on this.

MR. SPEAKER: I am not talking to you, I am talking to others.

श्री राम रतन शर्मा (बांदा) : मैंने सूचना दी है—

अध्यक्ष महोदय : दस बजे से पहले घान्ति चाहिए थी। मैंने मान लिया कि जिसकगन से पहले ही आए। लेकिन यहाँ बैठे-बैठे सूचना देने तो इसका क्या फायदा है। मैं स्टैंड कर दिया था कि जिसकगन से पहले जि को भाई है उनको मौका दिया जाए।

SHRI P. K. DEO (Kalahandi): I am (1) a point of order. (Interruptions)

MR. SPEAKER: The list of speakers is already over.

SHRI INDRAJIT GUPTA: Upto two years they will not be allowed to appear before any court... (Interruptions) Where is the financial memorandum? (Interruptions)

MR. SPEAKER: The list of speakers is already over.

SHRI DINEN BHATTACHARYYA: Why don't you ask the Law Minister to come here and clarify the position? Many times he comes over here and dumps the bills. (Interruptions)

MR. SPEAKER: I have allowed maximum number of speakers. If this is going to be the way of doing things, then I am sorry, there is no time for that.

SHRI P. K. DEO: Point of order.

MR. SPEAKER: Point of order on what?

श्री मधु लिसये : इन से पूछ लें कि बापिम ले रहे हैं या नहीं ? अगर बापिम ले लें तो कोई सवाल नहीं है ।

श्री शरद यादव (जबलपुर) : मुझे दो साल तक झूठे केस में बन्द करके रखा है । यह पास नहीं होगा ।

MR. SPEAKER: You have raised some points. Now, he has to reply to them.

श्री शरद यादव : हमको दो साल तक जेल में बन्द रखा गया । (व्यवधान) . . .

श्री मधु लिसये : तानाशाही नहीं चलेगी ।

SHRI SAMAR GUHA: What answer have you got? Why did you keep this young man in Jail for two years? (Interruptions)

SHRI SHYAMNANDAN MISHRA: There should be a clear and unequivocal declaration why. . . . (Interruptions)

MR. SPEAKER: Members have raised some points. The Minister will have to reply to them.

SHRI P. G. MAVALANKAR (Ahmedabad): I rise on a point of order.

MR. SPEAKER: No point of order until the Minister is heard.

श्री जनेश्वर सिन्घ : हम लोगों के रहते हुए यह बिल पेश नहीं कर सकते हैं । आप एडजार्न कीजिए हाउस को ।

(Interruptions)

MR. SPEAKER: When points have been raised, the Minister has to reply to them. Why do you not hear him?

(Interruptions)

MR. SPEAKER: Order, order. I would request you to please resume your seats.

(Interruptions)

MR. SPEAKER: You are all old and mature Members of Parliament, all of you. May I request you to please resume your seats?

(Interruptions)

सध्यक्ष महोदय : आखिर इस हाउस में कुछ तरीका है । आप लोगों ने बोल लिया, उनको जवाब देने का मौका देना चाहिए ।

(व्यवधान)

सध्यक्ष महोदय : आप पुराने सेम्बर हैं, भले प्रादमी हैं और ममजदार हैं । आप बैठिए ।

अगर आप एडजार्नमेंट चाहते हैं तो वह तो मेरे बस की बात है, लेकिन जो विद्वांस की बात है वह मेरे बस की बात नहीं है ।

If you want, I can adjourn the House for one hour.

We adjourn for lunch to meet at 5 O'Clock.

The Lok Sabha adjourns for Lunch till Fifteen of the Clock.

273 Maintenance of VAISAKHA 17, 1897 (SAKA) Maintenance of 274
Internal Security (Amtd.) Bill Internal Security (Amtd.) Bill

The Lok Sabha re-assembled after
Lunch at Fifteen of the Clock

[MR. DEPUTY-SPEAKER in the Chair]

MAINTENANCE OF INTERNAL
SECURITY (AMENDMENT) BILL—
contd.

SOME HON. MEMBERS rose—

(Interruptions)

MR. DEPUTY SPEAKER: Order please; kindly hear me. I am not shutting out anybody. I know the mood of the House. But let us understand at least what is going on. Now, as far as I could gather, a number of hon. Members had made their submissions against the introduction of this particular Bill in the House. I understand one or two more Members would like to make their submissions

SHRI JYOTIRMOY BOSU (Diamond Harbour): I want to raise a point of order, Sir.

SHRI S. M. BANERJEE (Kanpur): have given a motion.

MR. DEPUTY SPEAKER I have not seen it.

In a situation like this, I do not think it is proper for anybody to be rigid. Therefore, I will allow one or two or three more Members who have not already made submissions.

SHRI S. M. BANERJEE: What about my motion?

MR. DEPUTY SPEAKER: I have not even finished. Let me also find my feet, my moorings.

SHRI DINEN BHATTACHARYYA (Serampore): First see the Bill, what it is.

MR. DEPUTY SPEAKER: I have gone through the Bill.

SHRI DINEN BHATTACHARYYA: Without going through the Bill, you

are allowing that man to introduce it'. (Interruptions).

MR. DEPUTY SPEAKER: There is no question of allowing or not allowing at this stage. It is not correct Mr. Dinan Bhattacharyya to say that I have not read the Bill.

SHRI DINEN BHATTACHARYYA: How can you allow that Bill? (Interruptions).

MR. DEPUTY SPEAKER: Let me tell you that whenever I come to this Chair, I go through the business and also try to go through the Bill. Don't go under an impression that I know nothing about this Bill.

SHRI JYOTIRMOY BOSU: We concede that. You are an unusual person.

MR. DEPUTY SPEAKER: I will allow a few more Members to speak.

SHRI S. M. BANERJEE: What about my motion?

MR. DEPUTY SPEAKER: What motion? I am not aware of it just now. There is no question of a motion at this stage.

From the welter of noise and confusion and indignation and protests, and a certain amount of reasoning, I think some very legitimate questions have arisen; and, in all fairness, after I hear them, I will summarise and put questions to the Minister. I would request him to kindly note them down very carefully because they are in connection with the procedure and with this very question as to whether this Bill should be introduced or not I would expect him to satisfy the House and to satisfy me that no irregularity even in putting this question is there.

As for Hon'ble Members, it would be in their own interest if they will allow me to do this instead of just protesting and showing their indignation.

Now, Mr. Mavalankar

SHRI P. G. MAVALANKAR (Ahmedabad): Mr. Deputy Speaker, Sir, this Bill should under no circumstances be allowed to be introduced—much less, be passed—in this House. Sir, you will see that the very manner in which the Bill has been brought forward in the House is itself indicative of the Government's arbitrary and cavalier fashion in which they went about the whole situation. First of all, you will see that the Statement of Objects and Reasons, although it conveys the fact that the Government enjoys for this purpose, such wide and extensive powers, it is incomplete and inadequate. If you will read it again, you will find that it is deliberately kept so. It is deliberately kept inadequate and incomplete so that, for whatever is not there, Government can say that this is what was meant and therefore we have to use these extraordinary powers

So, as I started by saying, the arbitrary element and cavalier manner in which Government has been functioning is succinctly illustrated by the deliberate inadequacy of the Statement Objects and Reasons.

And, as Hon'ble Members pointed out before the Lunch Hour, there is no Financial Memorandum. Does the Minister want to convey by this that this Bill involves no further charge on the financial account of the Government? If the Government's argument is that there is no financial charge at all, then of course, there should be no objection. But my serious and strong objection is that there is a financial charge attached to it. So how is it that this Bill contains no Financial Memorandum?

Now thirdly, when the Government came up with the Maintenance of Internal Security Act—the MISA—as far back as 1971, they skilfully introduced elements of preventive detention. It is, really speaking, nothing but preventive detention. Now, this House or rather the Parliament, has been, from the very beginning of our Constitu-

tion, against the whole business of preventive detention because it is a very negation of the fundamental rights enshrined in the Constitution. For the main reason that it was hated, they later on brought this Maintenance of Internal Security Act. One after another, you will see that, under the excuse of holding the smugglers, they have brought in the Ordinance and, after the Ordinance, the Act

(Interruptions)

SHRI P. G. MAVALANKAR: I am not limiting myself only to the contents of the Bill but to the Constitutional aspect of the matter—whether the Bill should be introduced or not. Now, what I say is that the latest Bill which has been brought up today for permission to be introduced, goes not only one step but several steps ahead for making dictatorship possible and realisable

I want to ask this. Can this Parliament or any Parliament in any democratic country in the world be asked to pass democratically or legally or technically something which is in the nature of arbitrary power of the Government? From three months to two years.

MR. DEPUTY SPEAKER: At this stage I am concerned only with the question of introduction.

SHRI P. G. MAVALANKAR: I want to take you generally to the field of Constitutional rights of the citizens of this country. I want to ask you whether this Government or, for that matter any Government have a right to come under the pretext of a legislative measure and change any part of the fundamental law of the State? Can the fundamental law of the State be subordinated to an Act of Parliament?

MR. DEPUTY-SPEAKER: This question will come later on.

SHRI P. G. MAVALANKAR: If it is an ordinary law, they have the majority. But for Constitutional law, we re-

quire a special majority. Unfortunately, they have got even that special majority. But I want to ask this. Can this Parliament be compelled to pass something which goes contrary to the letter and spirit of the Constitution and allow this Government to have arbitrary and absolute power? That will complete the process of dictatorship. We will not allow this to happen, come what may!

MR. DEPUTY-SPEAKER: I wonder whether anybody from this side of the House can help me.

SHRI B. R. SHUKLA (Bahraich) rose—

MR. DEPUTY-SPEAKER: Mr. B. R. Shukla.

SHRI B. R. SHUKLA: At the introduction stage of the Bill, the only relevant point which could be raised is the competence of Parliament to entertain such a Bill. The founding fathers of the Constitution themselves have, in so many words, put in the Constitution article 22 which provides for enactment of legislation of a preventive nature. The Fundamental Rights themselves are subject to article 22 which imposes a reasonable restriction on the Fundamental Rights of the citizens. So far as the Maintenance of the Internal Security Act is concerned, it has been upheld to be a valid piece of legislation within the competence of Parliament...

MR. DEPUTY-SPEAKER: You have made your point.

SHRI B. R. SHUKLA: The question is whether the Fundamental Rights are somehow or other curtailed or abridged by the express provision of this amending Bill. That would relate to the merits of the Bill and this can be determined only by moving the Supreme Court.

So far as inadequacy of the objects and reasons is concerned, my submission is that the reasons are given

and the objects are given. Whether they have been adequately described or not is a different question.

श्री राम रतन शर्मा (बादा) :
उपाध्यक्ष जी, मुझे जात हो रहा है कि अब यह सरकार प्रजातन्त्र में डिक्टेटोरशिप की ओर जा रही है...

MR. DEPUTY-SPEAKER: Let me clarify the point. We are not discussing the merits of the Bill. We are not discussing the motives of the Government. I am concerned only with this, namely, whether this Bill can be introduced or not as it is. You may speak on that point.

SOME HON. MEMBERS: No.

MR. DEPUTY-SPEAKER: 'No' or 'Yes' does not matter. Give me reasons.

श्री राम रतन शर्मा : मैं आप को रीजन्स बताने रहा हूँ। ज्यादा रहने में न जा कर, श्रीमान्, मैं इस के तीन कारण दे रहा हूँ, जिन्हें को बताने में मैं कहता हूँ कि इनको इंग्लैंड का इम स्ट्रेज में नहीं हो सकती है।

पहली बात तो यह है कि मविधान की आत्मा के प्रतिकूल है। मविधान की आत्मा के प्रतिकूल जब मैं कहता हूँ तो आप आर्टिकल 22 के सब-क्लाज 4 और 5 को देखिये—जिन्हें मैं पढ़ कर सुनाना चाहता हूँ—

Clause:

"No law providing for preventive detention shall authorise the detention of a person for a longer period than three months..."

इस के बाद सब-क्लाज 5 को देखिये—

"When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, com-

[श्री राम रतन शर्मा]

municate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order'

अब आप यह देखिये कि इन्होंने अपने स्टेटमेंट आफ फ़ाइनैक्ट्स एण्ड रीजन्स में क्या लिखा है। ये कहते हैं—

" In these cases, the intervention of an advisory Board within three months of detention would render necessary disclosure of vital information at an inopportune time'

इस का मतलब यही है कि माँघधान की आत्मा जो कहती है, ये उस के प्रतिकूल जा रहे हैं—यह मेरा पक्ष आगेप दे।

दूसरी बात में यह कहना चाहता हूँ कि बिहार, मध्य प्रदेश और गुजरात में राजनीतिक कार्यकर्ताओं को उसी मॉन्टनेन्स आफ़ इन्टरनल सिक्योरिटी एक्ट के अन्दर बन्द किया गया है।

श्री बिलेन अट्टरबाल वेंस्ट-वगाल में भी बन्द किया है।

श्री राम रतन शर्मा जिम समय यह कानून यहाँ पेश हुआ था उस समय श्री महीदय न आश्वासन दिया था कि राजनीतिक कार्यकर्ताओं के खिलाफ इस का प्रयोग नहीं किया जायेगा, लेकिन उस के बाद उस का प्रयोग राजनीतिक कार्यकर्ताओं के खिलाफ किया गया।

MR DEPUTY-SPEAKER Only the first point is relevant

श्री राम रतन शर्मा अब मेरी तीसरी बात भी सुन लें—इस में एक बड़ी ही फैंटेस्टिक चीज दी हुई है—इन्होंने लिखा है—आप जरा (डी) को देखिये—स्टेटमेंट आफ़ फ़ाइनैक्ट्स एण्ड रीजन्स में—

'any act punishable under section 302, 341, 342, 352, 384, 505 and 506 "

श्रीमन्, 505 और 506 में अगर मैं यूँ ही किसी को घूसा दिखला दूँ या आप की तरफ़ आख़ दिखला कर खांस दूँ और यह कहूँ कि मैं यह कर दूँगा, वह कर दूँगा—तो इन दफ़ाओं के अन्तर्गत मेरे खिलाफ़ कार्यवाही की जा सकती है। उस छोटे में ऑफ़न्स के लिये भी इस कानून के अन्तर्गत कार्यवाही की जा सकती है।

मैं एक कोर्टवन आप को सुनाना चाहता हूँ—श्री चौवन ने 1943 में कहा था—

The power of the executive to cast a man into prison without formulating any charge known to the law and particularly to deny him judgement by his peer for an indefinite period is in the highest degree odious and is the foundation of all totalitarian government"

उस लिये मैं उस का पूरा जोर में बराबर करना हूँ।

SHRI MOHAN DHARIA (Poona) I am standing here to speak only on the technical and academic aspects whether at this stage the introduction should be allowed or not I would like to draw your attention to the Statement of Objects and Reasons where it has been said

The underground insurgent elements in the North-Eastern region of the country have been indulging in activities which are gravely prejudicial to the defence of India, India's relations with foreign powers, security of the State, public order and maintenance of services and supplies essential to the life of the community"

If you go through the whole of it, you will find that this Bill is limited to check and control insurgent activity in the North-eastern region.

Now, when the Statement of Objects and Reasons is very clear and when it limits the objective to the North-eastern region, it is highly objectionable to have a Bill for the whole of the country. So, on this ground, I feel that the hon. Minister should kindly go through it and if he feels that this sort of a danger is there for the whole of the country, naturally, he can come before the House with that statement. That is my point No. 1.

My second point is—

DR. KAILAS (Bombay South). Is it for the whole country? Are you sure?

SHRI MOHAN DHARIA: Yes, the Bill is for the whole country.

THE MINISTER OF HOME AFFAIRS (SHRI K. BRAHMANANDA REDDY): No, no.

DR. KAILAS: It is only for the North-eastern region.

SHRI MOHAN DHARIA. Here, it is nowhere mentioned that it is only for this area. It is nowhere mentioned as the Bill is in my hand now. If that be so, let the hon. Minister clarify it. So, I have placed before you my first objection...

SHRI SHYAMNANDAN MISHRA: May I, with the permission of the hon. Member, draw your attention to the fact that we have dealt with more serious problems of insurgency in that area in the past without this draconian measure. Are we now announcing to the world that we have not been able to deal effectively with these problems in the past? The area is on a much better shape now and when we could cope with a worse situation the past without such a measure, there is no reason why we cannot do it now.

SHRI S. M. BANERJEE: With the permission of Mr. Mishra, may I say... (Interruptions).

SHRI MOHAN DHARIA: I was coming to my second reason. The hon. Member, Shri Mishra, felt it proper to intervene and also felt that he should be allowed to interfere and so, yielded.

My second objection is this. There is no doubt whatsoever that our Constitution allows us to have enactments where there are reasonable restrictions. Now, it is for you—because you are the custodian of democracy—to see whether the restrictions are reasonable or not. *Prima facie* it appears...

MR. DEPUTY-SPEAKER: No, no. I am not concerned.

SHRI MOHAN DHARIA: Before this Bill is allowed, as objections are taken and other criticisms are also made, it is necessary for the Lok Sabha Secretariat also to examine it from these aspects and call for clarifications whether it is according to the Constitution or not. This is my plea. You may differ. But you cannot prevent me from talking. So, my submission is that it is true that the Constitution allows introduction of such Bills and to have enactments where there could be reasonable restrictions put on the individual. But, here, unfortunately, these are not restrictions which could be considered to be reasonable—to detain a person from three months to two years without consulting the Advisory Board which will not be a reasonable restriction on these grounds.

I would, therefore, request the hon. Home Minister to get these aspects examined.

SHRI JYOTIRMOY BOSU: To add to what Mr. Mohan Dharia has just now stated that it is not confined to the North-eastern region only but it applies to the whole of the country—I will only take two minutes to just read out to the House what a Minister

[Shri Jyotirmoy Bosu]

of Mizoram has said. The Development Minister of Mizoram, Mr. R. Thangliana said that the security forces there had turned the people against the government and they had joined the ranks of the underground with a view to wreak vengeance for these atrocities.

"Citing some instances of these atrocities, the minister said that in a village called 'Lungchen' in the Lungleh district consisting of only seven huts, all the menfolk were chased out and herded into a hut which was then set on fire. Some of them who broke open the doors and walls and tried to escape by running were fired at from a distance .. (Interruptions).

Then the report goes on to say

"One of the victims of the outrage was Sri Lianmawal who was under treatment in the Serkawan Mission Hospital and was waiting an amputation. He was tied to a dried plaintain tree, soaked in kerosene, which was later set on fire, was badly burnt."

On March 13 and 14, one villager was shot dead by the Order Security Forces and four others were tortured. This is what they are doing in Nagaland and Mizoram and to cloak or to hide that, they are bringing this Bill.

This Bill is un constitutional.

MR. DEPUTY SPEAKER: Order please Mr. Bosu, order please. I have allowed you because .

SHRI JYOTIRMOY BOSU: I am only saying that it is outside the competency of the House.

MR. DEPUTY-SPEAKER. We will see about that.

SHRI H. K. L. BHAGAT (East Delhi): The question before the House is whether there is any constitutional or procedural objection in regard to this Bill being introduced at this stage in this House.

I invite your attention to sub-section 7 of Article 22.

"(7) Parliament may by law prescribe—

- (a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4)"

I may respectfully submit that the Bill which has been placed before this House and which is being introduced in this House is in accordance with the provisions of sub section 7 of Article 22 of the Constitution. There is absolutely nothing unconstitutional about it. The Constitution gives the power to this Parliament to enact a law without obtaining the opinion of the Advisory Board and it can be passed.

With respect I may say that I do not agree with Mr. Mohan Dharma. He wants you to sit here and decide whether this restriction would be reasonable or not, whether the matter should go to the Advisory Board or not. When the Constitution makes a provision, the question of this restriction being reasonable or unreasonable does not arise.

Then again it is the function of the court.

Thirdly, the law which Mr. Madhu Limaya quoted, the Supreme Court judgement of 1957, applied as it existed then and that was a technical matter—if out of 8 grounds 7 are

proved correct and one is irrelevant, therefore, the whole thing goes I am saying that the judgement quoted is not relevant. In this case, there is neither constitution nor procedural objection. This Bill may, therefore, be introduced in this House.

SHRI SURENDRA MOHANTY (Kendrapara): It is a black day in the history of our Parliament . . .

MR. DEPUTY SPEAKER: Whether it is black or bright day I am not concerned with it. I am concerned at the moments whether this Bill should be or can be introduced.

SHRI SURENDRA MOHANTY: I am submitting only with the preface that it is a black day that the Home Minister enters this Chamber as the hangman of the remnant of freedom and liberty in this country.

My first objection to this Bill is as has been pointed out earlier, its object is to curtail insurgent element in the North Eastern region of our country; while I am at one with the Government that insurgency should be curtailed, I am of the opinion that the draconian measure which is being proposed in this legislation is not commensurate with the extent of insurgency that is prevailing in the north eastern region area. If the hon. Home Minister applies his mind dispassionately, he will find the Statement of objects and Reasons has no relevancy whatsoever with the provisions of the Law. May I know better. You will be able to contain the insurgents, if you extend the period of detention without reference to the Advisory Body, from three months to two years? This is my question. I maintain this.

This is my submission. The hon. Minister should convince us how it is going to enhance his power by extending the period of detention without scrutiny by the Advisory Committee from a period of three months to two years..

MR. DEPUTY-SPEAKER: We are not at all concerned with those points. What I am concerned with here is whether the Bill can or cannot be introduced. That is all.

SHRI SURENDRA MOHANTY: It is not a constitutional objection, it is a moral objection. I say, it is a moral objection; we are moral dissenters. Since you have been so very charitable, kindly allow me to conclude, just after saying one sentence. That is all. There is no moral compulsion for this Bill, although there may be some legal justification for it, but we are completely opposed to it and we are opposed, tooth and nail, to the introduction of this Bill.

श. मधु लिखिय (बांका) : उपाध्यक्ष महोदय, मेरा पॉइंट ऑरु ऑर्डर है । यह चर्चा भटक रही है । मैं आप से प्रार्थना करना चाहता हूँ कि इस को मूल मुद्दे पर ले आइये । इस वक्त चर्चा का विषय क्या है ? चर्चा का विषय यह है कि यह जो ऑर्डर पेपर पर ऑक्टोबर 14 है क्या यह ऑर्डर पेपर पर रह सकता है ? उपाध्यक्ष महोदय, आप स्टेज बाई स्टेज जाइये । पहले इस का फैसला कीजिये कि क्या यह ऑर्डर पेपर पर आ सकता है ?

आप जरा मुझे समय दीजियेगा । इस के बारे में जो नियम है वह देखिये ।

MR. DEPUTY-SPEAKER: Will you kindly sit down? I will hear you. What is the order in the House? The order is, whether this Bill can be introduced or not. The Bill has excited a lot of indignation and excitement and all that and I thought the least the Chair could do was to listen to various points of view. So many suggestions have been made from this side and in all fairness I feel I must listen to that side also. Your point I know; I can sense what you are going to say.

SHRI MADHU LIMAYE: You are very intelligent, I don't dispute it

MR. DEPUTY-SPEAKER: I have said at the very beginning, I will listen to all these things. Certain questions have come up in my mind and in all fairness I must put these questions to the Minister. It is for the House to listen to him and it is at that time, if you have any point of order, that I shall listen to you; but at the moment I am listening to the various Members to help me. So kindly don't interrupt. I am not shutting you out.

SHRI MADHU LIMAYE: I am not under 72; I am drawing a distinction between 31 and 72.

MR. DEPUTY-SPEAKER: We will come to that at that time.

SHRI MADHU LIMAYE: This must be settled first.

MR. DEPUTY-SPEAKER: When the Minister replies you may raise your point of order

SHRI MADHU LIMAYE: The Minister has nothing to do with this. I am addressing my point of order to you, Sir. This is addressed to you and not to the Minister. You said you wanted to find your moorings! I am helping you in that

MR. DEPUTY-SPEAKER: I have found already.

SHRI MADHU LIMAYE: Now, please see rule 72. It says as follows:

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question:

Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legis-

lative competence of the House, the Speaker may permit a full discussion thereon."

Under this rule, if I may submit, it is mandatory on your part to put the question. I am not under 72. If I were to raise a point of order under 72, it is mandatory on your part after listening to us all to put the question.

MR. DEPUTY-SPEAKER: No, it is not mandatory

SHRI MADHU LIMAYE: You can permit a discussion. But, you have to put the question.

MR. DEPUTY-SPEAKER: After fully satisfying myself. What is the point of order?

SHRI MADHU LIMAYE: My point of order relates to Order of Business. Under Rule 31(1), a list of business for the day shall be prepared by the Secretary, and a copy thereof shall be made available for the use of every member.

यह जो लिस्ट तैयार की जाती है सब नियमों को पूरा करने के बाद। यह मॅन्डेटरी का काम है, प्राप का काम यह देखना है कि प्राडर पेपर पर जो सबाल रूके जाते हैं क्या नियमों के अनुसार हैं। क्या वह नियम की रिक्वायरमेंट्स को फलफिल करते हैं, यह प्राप का देखना है। अब मैं प्राप से पूछना चाहता हूँ कि प्राप पहले दस्ता निर्यात दीजिए। फिर डिबेट लैजिस्लेटिव कमीटेंस का सबाल बाद में प्रायेगा। पहले मैं यह कहना चाहता हूँ कि जो प्री-कंडीशन है उसी को पूरा नहीं किया गया है। कैसे वह में बताता हूँ।

MR. DEPUTY-SPEAKER: What is the pre-condition?

श्री मधु लिमये: मैं बताता हूँ। एक एक कर के लीजिए। प्राप सरकार की क्विशन का पृष्ठ 471 देखिये। प्राप बहुत नाउज हो रहे हैं, उपाध्यक्ष महोदय।

289 Maintenance of VAISAKHA 17, 1887 (SAKA) Maintenance of 290
Internal Sec. (Amdt.) Bill Internal Sec. (Amdt.) Bill

MR. DEPUTY-SPEAKER: I am asking for the Book.

श्री मधु सिन्घे : मैं सोच रहा हूँ कि प्राप मेरे ऊपर नाराज हो रहे हैं। प्राप 470 और 471 देखिये। पेज 470 में कहा गया है :

"It has been the uniform practice since 1862 to append to every Bill a Statement of Objects and Reasons, briefly explaining the purpose of the proposed legislation. The Statement is explanatory of the contents and objects of a Bill and helps in understanding the necessity and scope of the Bill. . ."

क्या गृह मंत्री महोदय ने जो बिल प्राप के पास भेजा है और उस का यह जो स्टेटमेंट है क्या इस रिक्कारमेंट को वह फुलफिल करता है ? क्या इस मर्त के अनुसार है ? यह मेरा पहला पीछे है। इन्होंने स्टेटमेंट आफ् श्रीबजेट्स और रीजन्स में कहा है कि यह नार्थ ईस्टर्न इलाके के लिये है। प्राप बहुत ही गहराई में जाकर देखिये। इसमें कहा गया है कि :

In these cases 'for dealing effectively with such insurgent elements'

मतलब यह नार्थ ईस्टर्न इलाके के बारे में। लेकिन नियम दूसरा यह है, 471 में प्रनेक्शन बहुत ही काबिले गौर है :

"Where certain sections of the parent Act are sought to be amended—the Maintenance of Internal Security Act of 1971—, the text thereof is generally appended to every amending Bill in the form of an annexure. In case the number of sections involved is large, the sections are not reproduced as an annexure, but copies of the original Act are supplied by the Minister concerned for distribution to, or use of, members.

Before 1950, the text of sections of an Act sought to be amended by

an amending Bill was not printed along with the Bill."

On August 14, 1950, when the Bill further to amend the Essential Supplies (Temporary Powers) Act, came up for consideration before the House, a point was raised that along with an amending Bill the relevant sections of the original Act which are sought to be amended should also be printed for the purpose of facilitating the work of Members.

On this the Speaker directed:

"In future whenever amending Bills are presented to amend original Acts, a schedule of the relevant sections from the original Acts should be given with the Bill.

Such an annexure is, however, not added to a secret Bill."

यह तो सीक्रेट है ही नहीं।

प्रव उपाध्यक्ष महोदय प्राप एनेक्जर देख लीजिये। कोई कारेस्पोंडेंस स्टेट आफ् श्रीबजेट एण्ड रीजन्स और एनेक्जर में नहीं है। एनेक्जर में केवल सेक्शनस दिये हैं, 10, 11, 12 और 13। अगर यह नार्थ ईस्टर्न रीजन के बारे में था, ता परेन्ट एक्ट का सेक्शन 1 और 2 देना चाहिए। मैं उस का सेक्शन 1 पढ़ रहा हूँ।

This Act may be called the Maintenance of Internal Security Act, 1971.

(2) It extends to the whole of India;

Provided that every person in respect of whom an order of detention made under the Jammu and Kashmir Preventive Detention Act . . .

जम्मू कश्मीर का है। यानि नार्थ ईस्टर्न रीजन के बारे में नहीं है। अगर यह नार्थ ईस्टर्न रीजन के बारे में था, ता सेक्शन 1 रीपी-इयूम करना चाहिए था। यह बताना चाहिए था कि यह पूरे देश के लिए नहीं है बल्कि नार्थ ईस्टर्न रीजन के लिए है। इसलिए मेरा पहला कहना यह है कि स्टेटमेंट आफ्

श्रीबलरामदास एण्ड रोजन्स उद्देश्यों का ज्ञापन प्रपूर्ण, वंचना करने वाला, सदन को गुमराह करने वाला है, इनकम्प्लैट, डिसेम्बल और मिस्लीडिंग है और एनेक्सर में और स्टेटमेंट आफ प्रोजेक्ट एण्ड रोजन्स में कोई परस्पर संबंध नहीं है। यह मेरा पहला प्वाइंट है।

अब, उपाध्यक्ष महोदय, हम लोगों के लिए क्या नियम है? मैं यह जानना चाहता हूँ कि स्टेटमेंट आफ प्रोजेक्ट एण्ड रोजन्स देना मेनडेटरी है या नहीं? मैंने अभी कहा कि 1862 से यानी जब पहली बार नेजिमलेचर बना, जिस समय कोई अधिकार नहीं था, उसी समय से यह परिपाटी है कि इस तरह का स्टेटमेंट होना चाहिए। अब रूल 65 देखिये, जो हम लोगों के लिए है।

"65(1) Any Member, other than a Minister, desiring to move for leave to introduce a Bill, shall give notice of his intention, and shall, together with the notice, submit a copy of the Bill and an explanatory Statement of Objects and Reasons which shall not contain arguments."

(3) The period of notice of a motion for leave to introduce a Bill under this rule shall be one month unless the Speaker allows the motion to be made at shorter notice."

लेकिन मिनिस्टर के लिए क्या है, इसके लिए स्पेकिंग्स डाइरेक्शन्स देखिये। 19 (ए) में हम लोगों को एक महीने का नोटिस देना पड़ता है और इन लोगों के लिए क्या है। मैं 19ए (1) पढ़ रहा हूँ

"19A(1) A Minister desiring to move for leave to introduce a Bill shall give notice in writing of his intention to do so.

(2) The period of notice of a motion for leave to introduce a Bill under this direction shall be seven days unless the Speaker allows the motion to be made at shorter notice,"

फरक इतना ही है कि हम लोगों के लिए एक महीने का है और इन लोगों के लिए 7 दिन का है, लेकिन जहाँ तक स्टेटमेंट आफ प्रोजेक्ट एण्ड रोजन्स देने का सवाल है वह मेनडेटरी है। इसलिए इसमें आप मंत्री जी से कह सकते हैं कि क्योंकि आपका स्टेटमेंट आफ प्रोजेक्ट एण्ड रोजन्स नियमों के अनुसार नहीं है, सारी बातों का स्पष्टीकरण नहीं है और कई बातों के बारे में गुमराह करने का प्रयास किया गया है, इसलिए यह डिफिकल्ट है और प्राइंडर पेपर पर यह नहीं आ सकता है। यह मेरा एक प्रोजेक्शन हुआ।

अब दूसरा प्रोजेक्शन मेरा यह है। आप रूल 70 देखिये, जिस को मेरे मित्र ने आप के सामने रखा है। यह भी मेनडेटरी है और 69 और 70 की आप तुलना कीजिए, तो आप को पता चलेगा कि इसमें से कोई भागने का रास्ता ही नहीं है। रूल 70 इस प्रकार है—

"A Bill involving proposals for the delegation of legislative power shall further be accompanied by a memorandum explaining such proposals and drawing attention to their scope and stating also whether they are of normal or exceptional character."

इस में शब्द 'जॉल' का प्रयोग किया गया है। इसलिए इनमें ऐसा नहीं है कि इन के मन में जो प्रायास, नहीं विय। यह आप के ऊपर भी नहीं है कि आप उन के लिए कुछ रिलेक्शन कर सकते हैं क्योंकि आप रूल 69 देखिए। रूल 69 का ब्रक्लाज (2) जो है, उा का जो प्रवाइजो है, उस में आप को पावर दी गई है :—

"Provided that where a clause in a Bill involving expenditure is not printed in thick type or in italics, the Speaker may permit the member in charge of the Bill to bring such clauses to the notice of the House."

इसलिए मेरा दूसरा प्रोजेक्शन यह है कि इन सब बातों को देख कर आप को अपनी क्लिग देनी है। डेलीगेटिड लेजिस्लेशन का मेमोरेंडम भी नहीं है। इसलिए यह प्रार्डर पेपर पर नहीं आ सकता। मैं इसके प्रोज करने की बात अभी नहीं कह रहा हूँ। मेरा अभी तो यही कहना है कि यह प्रार्डर पेपर पर नहीं आ सकता और इस पर आप अपनी क्लिग दीजिए।

MR. DEPUTY-SPEAKER: Have you finished? You have made many points.

श्री मधु लिमये : अगर आप चाहते हैं तो मैं बैठ जाता हूँ। मेरा एक ही प्रोजेक्शन काफी है।

(Interruptions).

MR. DEPUTY-SPEAKER: Order please. He has raised a point of order. I have to deal with his point of order. (Interruptions).

SHRI JYOTIRMOY BOSU: Sir, a full-fledged discussion should be held.

MR. DEPUTY-SPEAKER: Let us go step by step. Let me deal with Mr. Madhu Limaye's point of order. He has raised.... (Interruptions). Why don't you allow me? You speak at the same time when I speak. How is it possible? He has asked a number of questions. Most of those questions, the Minister should reply. Before I make up my mind, the Minister should reply. The only point that he has put to me is, whether this item should be included in the order paper at all because of certain reasons he has given. Now, Rule 31 says:

"A list of business for the day shall be prepared by the Secretary, and a copy thereof shall be made available for the use of every member."

श्री मधु लिमये : इसके लिए जब वे जा रहे होते थे तो हम लोगों ने कहे ही नहीं दिया कि 'मैं मौन मांग रहा हूँ'।

MR. DEPUTY-SPEAKER: This is exactly what was done. The List of Business was prepared and the List of Business was made available to the Members. Now, whether this particular item should have been included or not, is a much bigger question. Now, we should not forget the basic question. Who grants leave for the introduction of a Bill? It is the House and not the Speaker. It is the House that grants leave.

SHRI MADHU LIMAYE. If I were to give notice of a Bill, which does not contain any memorandum, you will not put it on the order paper.

MR. DEPUTY-SPEAKER: I am coming to your point. You have made the point.

Now, the question arises whether the Speaker should scrutinise every Bill and scrutinise every...

SHRI INDRAJIT GUPTA (Allpore): It was pointed out to the Chair. There have been many precedents in this House where Bills were defectively prepared and they had no financial memoranda. It was the Chair which asked the Minister to take back the Bill. You know that very well.

MR. DEPUTY-SPEAKER: That is a different question. We have not come to that stage. That is why, I say again and again that questions have been raised and those questions will be put to the Minister. We are going to see to all that. His point is that he is finding fault with the Chair, finding fault with the Speaker.

SHRI MADHU LIMAYE: No, with the Secretariat.

MR. DEPUTY-SPEAKER: Please do not bring in the office.

The Speaker takes the full responsibility. This is a very bad practice to say....

SHRI MADHU LIMAYE: You mean 'the Chair'. You are not concerned with the Speaker at the moment. Then, I accept the proposition.

MR. DEPUTY-SPEAKER: This is a bad practice. You may heckle the Minister, take him to task, but, never bring in the officers.

I am talking about Ministers. Never drag in the officers. It is his duty to take care of his officers. If he cannot take care of his officers, then he has to pay the price in this House. We should not try to elevate the officers to such an extent that they become more important than the Minister and they become the subject of our discussion.

In the same way, I do not want a mention made of the Secretariat or the Secretary. They work under the direction of the Speaker.

SHRI MADHU LIMAYE: Chair.

MR. DEPUTY-SPEAKER: Of the Chair. Therefore, do not bring them in.

You have raised a larger question because of what you consider to be certain shortcomings and defects, because certain things have not been included; according to you, there should be a memorandum of delegated legislation, as it now turns out from the discussion. Therefore, this Bill should not have been put on the order paper at all.

SHRI MADHU LIMAYE: Because this is not a Bill at all. This is rubbish. This is not a Bill.

MR. DEPUTY-SPEAKER: Now the Minister sends a notice to the Speaker, and *prima facie*, on the face of it, he has complied with certain requirements.

SHRI SOMNATH CHATTERJEE: No, no.

MR. DEPUTY-SPEAKER: That is why it is put on the agenda. And because it is put on the agenda, you have this opportunity to point out these things. Therefore, I do not see any point of order in this.

About the other questions, we shall come to them later on.

SHRI MADHU LIMAYE: Why later on? What is a Bill? Within the meaning of the Rules and the Constitution, this is not a Bill. This is something like a rubbish put on the order paper. A Bill should comply with all the conditions.

MR. DEPUTY-SPEAKER: I shall deal with that after giving the Minister the right to reply to these questions.

SHRI INDRAJIT GUPTA: Who will ultimately dispose of these points of order?

MR. DEPUTY-SPEAKER: After the Minister's reply, we shall see.

SHRI INDRAJIT GUPTA: No, no.

SHRI MADHU LIMAYE: First rule on the points of order about Delegated Legislation, etc. Then debate will follow under 72.

SHRI INDRAJIT GUPTA: After hearing the Minister, you would put it to the House without disposing of the points of order?

MR. DEPUTY-SPEAKER: I shall decide at that time. You have raised the question that a memorandum of delegated legislation should have been there.

SHRI INDRAJIT GUPTA: There should be a financial memorandum.

MR. DEPUTY-SPEAKER: Your point is that there should have been a financial memorandum.

SHRI MADHU LIMAYE: The statement of objects and reasons is incomplete, defective and misleading.

MR. DEPUTY-SPEAKER: How am I to come to any conclusion even about that without giving the Minister the right to reply to these points?

Mr. Stephen.

SHRI SHYAMNANDAN MISHRA: My submission is that at the moment we are simultaneously grappling with lapses both on the part of the Minister and on the part of the Chair. Now should you not get out of the way first so far as the complaint about lapses on the part of the Chair is concerned?

MR. DEPUTY-SPEAKER: What lapses?

SHRI SHYAMNANDAN MISHRA: That the Bill suffers from the original sin so far as the inscription of it on the agenda is concerned. Certain conditions have not been fulfilled. If certain conditions have not been fulfilled, then it cannot be considered to be a Bill in the proper form. You should deal with that matter first.

MR. DEPUTY-SPEAKER: I think I have already dealt with that. Certain formalities have been complied with. It is only now that these things are pointed out by the members and, therefore, the question is before the House. I do not think there has been any lapse on the part of the Chair.

SHRI SHYAMNANDAN MISHRA: Because it has been inscribed in the wrong way.

MR. DEPUTY-SPEAKER: This has yet to be decided.

SHRI SHYAMNANDAN MISHRA: Get it out of the way first.

SHRI SAMAR GUHA: Have you noticed how immoral the progressives on the other side are? They are off their seats.

MR. DEPUTY-SPEAKER: I have called Mr. Stephen.

SHRI SOMNATH CHATTERJEE: On a point of order. He will get one more point to meet. Under rule 64, it is incumbent that the Bill at the time

of its publication should be accompanied by a statement of objects and reasons. The necessity of having the Statement of Objects and Reasons, if I may quote Kaul and Shakdhar, page 470....

SHRI C. M. STEPHEN (Mubattupuzha): Mr. Limaye had already read it.

SHRI SOMNATH CHATTERJEE: This is another portion. It says: "the statement is explanatory of the contents and objects of the Bill and helps in understanding the necessity and scope of the Bill." Necessity and scope—that is important.

MR. DEPUTY-SPEAKER: It is the same point

SHRI SOMNATH CHATTERJEE: No. One main point which has been indicated here is the intervention of the advisory board within three months of detention would render necessary disclosure or vital information at an inopportune time. Therefore they are providing for extending the time for presenting the case before the advisory board for two years from three months. This is misleading the House deliberately, if I may say so because the Constitution itself provides under article 22(6) "Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority...."

MR. DEPUTY-SPEAKER: This is no point of order. You are making a submission.

SHRI SOMNATH CHATTERJEE: Can a Bill be introduced with a statement of objects and reasons, which is incorrect, misleading deliberately so... (Interruptions).

MR. DEPUTY-SPEAKER: Kindly sit down.

SHRI SHYAMNANDAN MISHRA: What happens if there is a misstatement instead of a 'statement'?

MR. DEPUTY-SPEAKER: These are submissions they are not points of order.

SHRI C. M. STEPHEN: You have already given a ruling on the point raised by Mr. Madhu Limaye.

MR. DEPUTY-SPEAKER: Only about inscription of the item in the agenda.

SHRI C. M. STEPHEN: You have given a ruling on that the only condition prescribed for this House to consider the introduction of a Bill is to see whether it is in the list of business. If it is in the list of business, the requirement is satisfied. Admittedly it is on the list of business.

MR. DEPUTY-SPEAKER: Do not go into that question; I have given a ruling on that.

SHRI C. M. STEPHEN: That is the main thing. Under rule 31, this House is under an obligation to consider whatever is in the list of business in the order in which they are stated. Rule 31 says:

"(1) A list of business for the day shall be prepared by the Secretary, and a copy thereof shall be made available for the use of every member.

(2) Save as otherwise provided in these rules, no business not included in the list of business for the day shall be transacted at any sitting without the permission of the Speaker.

(3) Save as otherwise provided in these rules, no business requiring notice shall be set down for a day earlier than the day...."

SHRI C. M. STEPHEN: You have already ruled on that about inscription.

SHRI C. M. STEPHEN: You have ruled on that. Now they say that it should not have been put on the list of business because the statement of

objects and reasons is not clear and is irrelevant and does not reflect the purpose of the Bill. My first submission is that there is no rule in the Rules of Procedure which says that the statement of objects and reasons must be in such and such manner. Let us see rule 64. 65 relates to private Members' Bills; 64 deals with general Bills, 65 has no relevance here; this is not a private Members' Bill.

16.00 hrs.

Rule 64 is about 'Introduction and publication of Bills' with which we are concerned. It says:

"The Speaker may, on request being made to him, order the publication of any Bill (together with the Statement of Objects and Reasons, the memorandum regarding delegation of legislative power and the financial memorandum accompanying it) in the Gazette..."

Barring this rule, to my knowledge there is no rule at all which says that every bill must have such and such thing appended to it. According to the rules there should be a Statement of Objects and Reasons. Here there are two things. One is convention and the other is the presumption from the rules that this may also be published. Therefore, a so-called defect in the Statement of Objects and Reasons cannot be a bar to the publication of the Bill and for the introduction of the Bill here. It must be presumed that the Speaker considered this matter and considered that this was perfectly okay. This is also presumed from Rule 65 which says:

"Provided that the Speaker may, if he thinks fit, revise the Statement of Objects and Reasons."

Therefore, the Speaker must have certain powers. If you go through this Statement of Objects and Reasons, you will find that it is reflective of the character of the Bill. What is

stated is not that the Speaker may reject the Bill, but that he may revise the Statement of Objects and Reasons. Therefore it has got to be assumed that the Statement of Objects and Reasons as spelt out here has been scrutinised by the Speaker and has been adjudged as reflective of the contents of the Bill and therefore, there is nothing irregular at all. It is perfectly okay.

Now, Rule 19B of the Direction by the Speaker, says:

"19B. No Bill shall be included for introduction in the list of business for a day until after copies thereof have been made available for the use of the members for at least two days before the day on which the Bill is proposed to be introduced:

Provided that Appropriation Bills, Finance Bills and such secret Bills as are not put down in the list of business may be introduced without prior circulation of copies to Members:

Provided further that in other cases, where the Minister desires that the Bill may be introduced earlier than two days after the circulation of copies or even without prior circulation, he shall give full reasons in a memorandum for the consideration of the Speaker explaining as to why the Bill is sought to be introduced without making available to members copies thereof."

Everything has been complied with and it has been properly put on the list of business. Once it has come up for the sanction of the Speaker, we have got to proceed on the basis of the consideration thereof.

MR. DEPUTY-SPEAKER: You are making the job of the Speaker very easy and simple.

SHRI C. M. STEPHEN: Now, Sir, once it comes to the question of introduction, here at the stage of introduction the Members can raise two

objections. One is the general objection which they can raise. In this case no debate is permissible. The other objection is whether it has legislative competence of this House. To my understanding, an objection has not been raised.

MR. DEPUTY-SPEAKER: It has been raised. That is exactly what has taken place

SHRI C. M. STEPHEN: Now Article 22 sub-clause 7(a) of the Constitution says:

"(a) the circumstances under which, and the clause or clauses of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention"

So, under this article, Parliament has got the competence to pass a law which may provide for not referring the matter to an Advisory Board for a period of more than 3 months; the only condition is, it must prescribe a time-limit within which no reference may be made. This Bill provides for a time-limit of 2 years. Beyond that reference must be made. This article specifically provides for the legislative competence of this House to consider such a Bill. When the Constitution provides for a contingency in which detention may be permitted without reference to an Advisory Board for a period of more than 3 months it must be assumed that the contingency can arise and if it arises, Parliament must consider such a Bill if the Government considers it necessary.

I do not really understand how the point made by Shri Mohan Dharla

arises. The Bill mentions two contingencies in which this provision may be invoked. They are:

"(a) where the order of detention has been made against such person with a view to preventing him from acting in any manner prejudicial to any of the matters specified in sub-clauses (i), (ii) and (iii) of clause (a) of sub-section (1) of section 3 of this Act, and

(b) the detaining authority is satisfied, having regard to all or any of the facts constituting all or any of the grounds on which the order has been made, that such person is likely to commit or attempt to commit, or abet the commission of, any prejudicial acts within the meaning of sub-section (2) of this section in an area which is for the time being declared to be a disturbed area by notification under section 3 of the Armed Forces (Special Powers) Act, 1958 and makes a declaration to that effect within five weeks of the detention of such person."

Therefore, it is not that the Government can detain anybody anywhere. Government can resort to it only with respect to a particular area which is notified under the Armed Forces (Special Powers) Act as a disturbed area.

SHRI MOHAN DHARIA: That is for the whole country, not the north-eastern region alone.

SHRI C. M. STEPHEN: At the moment, it is the north-eastern region which has raised the problem and therefore, Government highlights the reasons why it is coming out with this Bill.

श्री मधु लिखते : इस में जम्मू-काश्मीर के लिये हो सकता है, तो उसमें हैं क्यों नहीं हो सकता ?

SHRI C. M. STEPHEN: The north-eastern area has become a disturbed area under this particular Act. It is in this area that special circumstances have arisen. Therefore, it is said in the statement of objects and reasons that this Bill is being brought because such a situation has already arisen in an area already notified under the Armed Forces (Special Powers) Act. If there is any other area where a similar situation arises, Government will have to consider it. Nobody need grudge granting that jurisdiction at all. The discussion at this stage is extremely limited, whether it is within the legislative competence of this House to consider this Bill. Kindly see, Sir, that the discussion is limited to this one aspect.

MR. DEPUTY-SPEAKER: I think there is a relation between the length of a person and the length of his speech!

SHRI C. M. STEPHEN: You acknowledge I am long. My submission is, in the light of sub-clause (7) of article 22, this House has got the legislative competence and Government must be allowed to introduce this Bill, merits of the matter apart.

SHRI DINESH CHANDRA GOSWAMI (Gauhati): Mr. Deputy-Speaker, Sir, we are at the present moment, discussing the question of introduction of the Bill and obviously, we will not go to the question of political propriety, which we will discuss at a later stage.

Now, two points have been raised. Firstly, that it is beyond the legislative competence of this Parliament; Mr. Stephen and Mr. Bhagat have dealt with it and, therefore, I will not repeat. The other point mentioned by Mr. Madhu Limaye and Mr. Somnath Chatterjee is that the Statement of Objects and Reasons of this Bill—if I understood Mr. Limaye correctly—has no relation with the Bill itself and, therefore, the Bill is defective. The second objection is that the annexure which is enclosed

with this Bill does not contain all the sections which the Government directly or indirectly want to amend. Mr. Somnath Chatterjee has raised the third objection that the Statement of Objects and Reasons says that the grounds should not be given and the Government has power under article 222, sub-article (6) not to give grounds and, therefore, this Bill is not necessary. Now, I will reply to these arguments

Mr. Madhu Limaye's first objection is that the Statement of Objects and Reasons says that it has been brought to curb the insurgency in North-East area of the country but the Bill does not say so and, therefore, the Bill is defective. Obviously, if the Statement of Objects and Reasons says that it is for North-Eastern Region and if it is not confined to the North-Eastern Region, that may be a valid objection. Now, the question is: should this Bill itself say in specific terms the word 'North-Eastern Region' or that area be defined in another way? You please see Armed Forces (Special Power) Act, 1958, section 15(a) and (b). It says:

"This Act will be applicable only to the area in which section 3 of the Armed Forces (Special Power) Act, 1958....."

SHRI MADHU LIMAYE: What about (a)? (Interruptions).

SHRI DINESH CHANDRA GOSWAMI: My submission will be that section 15(A) is guided by clauses (a) and (b) and, therefore, the Act has limited application only to the area which is declared to be a disturbed area under Section 3 of the Armed Forces (Special Power) Act. Mr. Dharis was contending that it had application all over the country, but I say, it is not. The Armed Forces (Special Power) Act, 1958 says:

"It extends to the whole of Assam, Manipur, Meghalaya, Tripura, Union territories of Arunachal Pradesh and Mizoram."
(Interruptions).

SHRI MOHAN DHARIA: The Government has the power to extend it; why don't you read that?

SHRI DINESH CHANDRA GOSWAMI: Therefore, it is not correct to say that the Armed Forces (Special Power) Act, 1958, has an operation throughout the whole country; it has the operation only in the North-Eastern Region. Obviously, of course, as a Member from Assam, whether we like this Act to be operated in Assam with the blanket power will be a matter which we shall debate at the consideration stage. But at this stage, objection cannot reasonably be taken that the Statement of Objects and Reasons has no relationship with the main contents of the Bill because it speaks about the North-Eastern Region. The Act limits the application only to the areas in which the Armed Forces (Special Power) Act, 1958 is in operation. The Armed Forces (Special Powers) Act, 1958 had operation only in the north-east region. Therefore, in my respectful submission, the first objection which Shri Limaye has taken has no basis.

SHRI MOHAN DHARIA: What happens to (a)?

SHRI DINESH CHANDRA GOSWAMI: As I have submitted, section 15(a) will have operation only if the conditions specified in sub-clauses (a) and (b) are satisfied. That is a matter on which we shall have to have a debate at the consideration stage. If there is any defect in the wording, we shall have to correct it. Therefore, the first objection which Shri Limaye has taken that while the Statement of Objects and Reasons has only indicated the north-east region, the Act does not say so, is not tenable because, instead of saying the north-east region, it has said that it will have effect in those places where the Armed Forces (Special Powers) Act has application, and it has application only in the north-east region.

The second argument of my learned friend was that the annexure does not

say about the amendment of article 1. Obviously, if the Act had been applicable to the entire region, his argument would have been a valid one. But the Act has application only to the limited area of the north-east region, to which the Armed Forces (Special Powers) Act, 1958 is applicable. So, there is no need to amend section 1, because this Act has application only in a limited area.

SHRI SOMNATH CHATTERJEE: So far as the 1958 Act is concerned, it may be in effect only in the north east region. But an order of detention can be made anywhere in the whole of India for committing an allegedly prejudicial act in that area. I can be detained in West Bengal, saying that I have committed an act, a supposedly prejudicial act, in Mizoram, and I can be detained in Delhi, West Bengal or Kanpur. Of course, Shri Goswami is very much within the ambit and he need not worry. I need not even go to Mizoram, not to speak of committing any act which is prejudicial. Yet I will be, like any other citizen, under the mercy of this Minister and the Government, and can be detained for committing an allegedly prejudicial act in Mizoram or Arunachal Pradesh and so on and so forth. Therefore, to give the impression that it is applicable only in the north east region is not correct.

SHRI DINESH CHANDRA GOSWAMI: Shri Somnath Chatterjee's contention is that a person can be arrested in West Bengal, or any other State in India, on the ground that he has committed such an offence in the north east region.

SHRI SOMNATH CHATTERJEE: I need not even go there.

SHRI DINESH CHANDRA GOSWAMI: That is a ground of political propriety.

SHRI SOMNATH CHATTERJEE: It is a question of man's liberty.

SHRI DINESH CHANDRA GOSWAMI: That is not a ground on which

you can say that the Statement of Objects and Reasons and the contents of the Bill do not tally. That is a ground on which you can say that such a Bill should not be passed on the ground of political propriety... (Interruptions). I am replying to Shri Limaye's argument that there is no relationship between the Statement of Objects and Reasons and the contents of the Bill.

Therefore, my respectful submission is that Shri Limaye's contentions on these two grounds are untenable. Obviously, the grounds, which he has raised on political propriety of passing such a Bill the House should go into and there should be a very serious debate as to whether such a Bill should be passed or not. Even though I come from the ruling party, I do feel concerned when it is a question of our tailing the civil liberties of the people. The House should go very deeply into that. I want this point to be discussed with all seriousness. Of course, members of the different parties will have their own views on this subject. But this debate can take place only at the consideration stage.

The other objections were regarding financial memorandum and delegated legislation under rules 69 and 70. Under rule 69 it is not as if every Bill should be accompanied by a financial memorandum. Only in those cases where a Bill involves expenditure from the Consolidated Fund that Bill should be accompanied by a financial memorandum. Under this Bill, when we have done away to a certain extent with the advisory committee for two years, there cannot be any more financial expenditure in that context. In this *prima facie* nothing has come out from which we can say that the Financial Memorandum is a must.

Secondly, only where delegation of legislative powers is proposed is rule 770 attracted. There is no such proposal here. Therefore, there is no violation of rules 69 and 70 also.

SHRI JAGANNATH RAO (Chattrapur): At the introduction stage, the only objection that is available to the House is about the legislative competence of Parliament to make a law. We are all agreed that Parliament has power to make a law regarding preventive detention.

This is an amending Bill. If you go through the Bill, section 15 of the original Act is sought to be amended by the introduction of a new section 15A. (*Interruptions*).

MISA applies to every Indian and also foreigners, who are also liable to be detained under MISA. So also under the amending law, a certain area can be notified as a disturbed area. If any of the offences enumerated in the new section 15A are likely to be committed by any person, certainly he is liable to be detained.

SHRI INDRAJIT GUPTA: On a point of order. You are deliberately misinterpreting the Bill.

SHRI JAGANNATH RAO: No, not all.

SHRI INDRAJIT GUPTA: I can be detained and the area need not have been declared a disturbed area at the time of my detention. Even then it will be valid under this law.

SHRI JAGANNATH RAO: Under clause (b) the area has to be declared a disturbed area. (*Interruptions*).

The Statement of Objects and Reasons appended to the Bill has explained this. Therefore, if any one goes there and is likely to commit an offence, he can be detained. The scope of the Bill is therefore limited. My friends need not be unnecessarily perturbed.

SHRI S. M. BANERJEE: I have a motion.

MR. DEPUTY-SPEAKER: There is no question of any motion. I cannot admit motions like this.

SHRI INDRAJIT GUPTA: You were not in the Chair when I raised a point of order about the Financial Memorandum. That is essential.

MR. DEPUTY-SPEAKER: I am seized of everything.

SHRI S. M. BANERJEE: Please reserve your judgement for tomorrow.

MR. DEPUTY-SPEAKER: First listen to me. Don't pressurise. I have said so many times before. You can give me reasons and convince me, but do not try to pressurise me, saying, do this and do that. I will never do anything under that.

I had said that in all fairness we must hear the Minister also, but we would like also a full reply.

SHRI SAMAR GUHA: Do not allow him to use the words "Let leave be granted".

MR. DEPUTY-SPEAKER: Again you are pressurising me.

श्री समर गुह : यह गला काटने का बिल है प्रेशररूज नहीं होगा तो क्या होगा ?

MR. DEPUTY-SPEAKER: It is what the Americans say "jumping the gun"

SHRI JYOTIRMOY BOSU: My only submission to the hon. Minister is that he should reply to all the objections that have been raised to keep the House in order.

MR. DEPUTY-SPEAKER: Now, the least that the Chair can do is to regulate the proceedings of the House and to regulate them in a manner to make the discussion responsible and meaningful so that whatever we do, we do with the full knowledge of the thing.

SHRI SOMNATH CHATTERJEE: Those principles do not apply in such cases.

MR. DEPUTY-SPEAKER: I do not know.

Therefore, in order to help the Minister.....

SHRI DINEN BHATTACHARYYA (Serampore): To arrest us.

MR. DEPUTY-SPEAKER: If necessary, I do not know.

Therefore, in order to help the Minister, to help me to come to some kind of a decision and to help the House also to come to some kind of a decision, I think, in all fairness, certain objections which the Members have raised and which also have raised some doubts in my own mind, as the person sitting in the Chair.....

SHRI INDRAJIT GUPTA: Why don't you express those doubts before he replies?

MR. DEPUTY-SPEAKER: Yes, I must. But allow me to do so. The Chair cannot just discharge its duty unless it is clear in its mind that it is doing the correct thing. Therefore, I would try to summarise some of the questions raised and put them across to the Minister in as simple a language as I can, in a slow and deliberate manner as I can. I would earnestly request him to kindly note them down and answer them, not to just give an omnibus answer which only will arouse passions—I do not want *dharma* or anything like that.

Let me clarify what is the question before us. Let me repeat it. The question is, whether this Bill can and should be introduced as it is, as it has been circulated to the Members, as it is before the House. There are two aspects of this Question, as far as I can see from what the objections the Members have raised. One is, whether the Bill has complied fully with the formalities which the contents of the Bill require. The other is, whether this Bill, as it is, is within the legislative competence of this House. These are the two broad questions.

In regard to the first aspect, there are a number of objections raised. One is that the Statement of Objects

and Reasons does not truly and fully explain the scope of the Bill as set out in the body of the Bill itself. In other words, the Statement of Objects and Reasons is misleading.

SHRI SHYAMNANDAN MISHRA: It is a 'mis-statement'.

MR. DEPUTY SPEAKER: Now, our rules in this regard provide that the Speaker may revise the Statement of Objects and Reasons, and Mr. Stephen has pointed out that since the Speaker has allowed this Bill to come before the House it is presumed that he himself is satisfied with the Statement of Objects and Reasons. That is what you have said?

SHRI C. M. STEPHEN: Yes.

MR. DEPUTY SPEAKER: But, the Speaker is a human being.

AN HON'BLE MEMBER: That is a discovery!

(Interruptions).

MR. DEPUTY SPEAKER: You have to make a distinction between the Speaker and the Deputy Speaker—at what time the Speaker sits in the Chair and at what time the Deputy Speaker sits in the Chair.

Now, I say that he is a human being; he is not superman, he is not a robot, but a human being. Therefore, with all sincerity, he might have overlooked certain things; he may not have seen the aspects from other angles. But it is a common practice in this House that the Speaker even comes here and says "I would like the Members to help me". He has done it, and nothing has prevented him from changing his decision after he has heard the Members.

In this regard, a submission has been made that although the Statement of Objects and Reasons says that the Bill will be confined only to certain areas in North Eastern India, from the body of the Bill itself, it does not appear that the Bill is con-

Asid only to these areas and so, the Statement of Objects and Reasons has got to be revised. That was the point.

Now, in this regard, I would like the Minister to have a close look at the Bill because, after reading and re-reading the Bill and after hearing the Members, I am not clear in my own mind. If you look at this Section 15A in the Bill, it reads as follows:

"15A. (1) Notwithstanding anything contained in this Act, 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 for a period longer than three months but not exceeding two years from the date of his detention,—

(a) where the order of detention has been made against such person with a view to preventing him from acting in any manner prejudicial to any of the matters specified in sub-clauses (i), (ii) and (iii) of clause (a) of sub-section (1) of Section 3 of this Act."

Now, if you read only that portion, would this not apply to anybody in the country? That is the first question. You may kindly look into that.

SHRI C. M. STEPHEN: Can you read it in isolation?

MR. DEPUTY SPEAKER: I am not reading it in isolation; I am only posing a question because I feel personally that even if this is not the intention, there is a lot to be desired in the drafting. It is so confusing—full of loopholes and full of all kinds of possible interpretations. If you agree with him, perhaps the whole thing has to be re-drafted.

Now, you may argue about 'and—' and perhaps the whole thing hinges round that little word 'and'. It has really no meaning of its own, except to join two meetings.

SHRI JYOTIRMOY BOSU: In so many cases 'and' has been read as 'or'.

SHRI INDRAJIT GUPTA: Is it a conjunctive or a disjunctive?

MR. DEPUTY SPEAKER: So, this little, innocent word, which has no substantive meaning by itself other than joining two meanings and so on, seems to be the fulcrum, the turning-point.

MR. STEPHEN: I would request your attention. Let us say 'and'—it should not be read in isolation; it should be read along with that; that is your point.

"and (b) the detaining authority is satisfied, having regard to all or any of the facts constituting all or any of the grounds on which the order has been made, that such person is likely to commit or attempt to commit, or abet the commission of, any prejudicial acts within the meaning of sub-section (2) of this section in an area which is for the time being declared to be a disturbed area by notification under section 3 of the Armed Forces (Special Powers) Act, 1958 and makes a declaration to that effect within five weeks of the detention of such person."

Now I would like the Minister to clarify this...

SHRI MADHU LIMAYE: (b) should be split up into two.

MR. DEPUTY-SPEAKER: If the meaning is that this is confined only to those areas mentioned in the Armed Forces (Special Powers) Act, and this Act, I see, is confined only to the areas in the North Eastern Region...

SHRI MADHU LIMAYE: It can be changed by an Ordinance. (Interruptions).

MR. DEPUTY-SPEAKER: If that is the meaning—I must congratulate Mr. Goswami that occasionally he really

makes some new points—if that is really the meaning, then I should say that the whole thing has to be drafted as to make the meaning very very clear... (Interruptions)

SHRI MADHU LIMAYE: If you change it by Ordinance, what happens?

MR. DEPUTY-SPEAKER: The question that arises is what special virtue is there in splitting up the whole thing into (a) and (b). This is the point.

SHRI MADHU LIMAYE: (b) should be split up into b(i) and b(ii).

MR. DEPUTY-SPEAKER: The next question which has been pointed out by Mr. Somnath Chatterjee is this. If a person of Bengal or Delhi or Madras is alleged to have committed or to be likely to commit an offence in North-Eastern India or if I sitting here in Delhi and because I come from Meghalaya...

SHRI S. A. SHAMIM (Srinagar): You are likely to commit also.

MR. DEPUTY-SPEAKER: If my friend, Mr. Brahmananda Reddy, at a certain moment decides that this man is likely to commit an offence and, therefore, he should be detained here, is this possible, permissible or quite fully within the meaning of this? This is the point. That is one question which arises and I would like him to satisfy us on that...

SHRI MADHU LIMAYE: There is another aspect. Let me make it clear. I beg to draw your attention to this: "...having regard to all or any of the facts constituting all or any of the grounds on which the order has been made...." seeks to nullify all the decisions of the Supreme Court, which fact has not been brought out in the statement of Objects and Reasons.

MR. DEPUTY-SPEAKER: There is another phrase in this very section which intrigues me. Here it is said:

"...an area which is for the time being declared to be a disturbed area..."

That is it has been already declared. And then towards the end it says:

"...and makes a declaration to that effect within five weeks of the detention of such person."

Will the meaning of this be that a man is anticipated to have committed something there, he is detained and then you declare that area as a disturbed area within this particular Act—after detaining him?

SHRI SHYAMNANDAN MISHRA: The only thing that the Government has to do after passing this Act is to amend the Arms Act, Section 2, by an ordinance. They can add any area to those areas which are already enumerated in the Arms Act.

SHRI SAMAR GUHA: This is a most dangerous aspect.

MR. DEPUTY-SPEAKER: On account of these doubts which arise from the body of the Bill itself, from certain words in the Bill itself, could we say that the Statement of Objects and Reasons has given a clear indication of the full scope of the Bill? If it has not, then there is a ground for revising the Statement of Objects and Reasons. This is number one.

SHRI SOMNATH CHATTERJEE: They want power to extend the period of detention without bringing the detenu for two years before the Board because according to them they cannot pass on the information, but the Constitution itself says that it can be done. Why do they want this power?

MR. DEPUTY-SPEAKER: Let me make it clear that at the moment, I am not concerned with the constitutionality of the Bill. I am concerned with the procedure whether it can be introduced or not.

There is another aspect which Shri Madhu Limaye has raised and I think, in all fairness to him, I must put it

to the Minister. He has contended that this Bill—I do not know, I am not a lawyer—will have the effect of nullifying certain judgements.

SHRI MADHU LIMAYE: Twenty-one.

MR. DEPUTY-SPEAKER: The number may not matter.

SHRI MADHU LIMAYE: I will read from All India Reporter Vol. 62, January 1975, page 138:

"If there is one principle more firmly established than any other in this field of jurisprudence, it is that even if one of the grounds or reasons which lead to the subjective satisfaction of the detaining authority is non-existent, or misconceived or irrelevant, the order of detention would be invalid.

The decisions relate to 21 years.

SHRI A. K. SEN Calcutta—North-East): I would like to point out one thing for the clarification of my esteemed friend, the Home Minister. It is true that sub-clause (b) of Clause 15A(1) is a very important clause, because it gives the detaining authority the power to detain a person on his satisfaction that somebody is likely to commit an act in the future in this so-called area. One need not be a resident there, or an accused having committed that act. This is a very serious thing, which I want the Home Minister to remember. It is rather Draconian.

MR. DEPUTY-SPEAKER: At the moment, I am concerned with the Statement of Objects and Reasons and I have pointed that out and have posed certain questions.

Mr. Madhu Limaye had also made a submission that this Bill, if passed into a law, will have the effect of nullifying certain pronouncements of the Supreme Court. I would re-

quest the Home Minister to satisfy the House. He can say 'yes', or 'no' to this, with reasons, of course.

SHRI SHYAMNANDAN MISHRA: A submission had been made by me earlier in the morning that if the object is to grapple with the problems created by certain judgments of the court, then it should have been clearly stated in the Statement of Objects and Reasons. Technically speaking, one may not have much objection to their nullifying all the judgments of the Courts. Although I have all the reasons to oppose such a move, but, technically, one may not take any objection to that. But the whole point is that they have to state it clearly that it is only with a view to grappling with the problems which they are encountering because of certain judgments delivered by the Courts. But that point is not made here in this Statement of Objects and Reasons. In other cases, where the judgments and so on had come in the way, this fact was made clear in the Statement of Objects and Reasons. Why has this not been done here?

MR. DEPUTY SPEAKER: That is what I was putting to the Minister after hearing Mr. Madhu Limeye. He can satisfy us with his reason. If his contention is that it would have no effect of nullifying these pronouncements of the Supreme Court, let him give us reasons and satisfy us. If it has not, it does not arise. If it has, then perhaps this should be explained very clearly and I put it to him whether this should have been a part of the Statement of Objects and Reasons.

Then, there is another submission...

SHRI JYOTIRMOY BOSU: What about mine?

MR. DEPUTY SPEAKER: I am coming to that, I am dealing with it step by step.

Now, another objection raised is that the Bill should have contained a Memorandum on delegation of legislation. Now, in this connection, I would request the Minister also to kindly look to the Bill and the explanation...

SHRI JYOTIRMOY BOSU: He is not noting down anything. How will he then reply to us?

MR. DEPUTY-SPEAKER: In this sub-section, a public servant means:

'any public servant as defined in the Indian Penal Code, and includes any member of Parliament...Of course, you can declare us as Members of Parliament. All of us are protected....(Interruptions) Order please, I am dealing with the Memorandum of delegation of legislation...(Interruptions) Please, don't interrupt me. In this sub-section, a 'public servant' is defined

A 'public servant' means:

"any public servant as defined in the Indian Penal Code and includes any Member of Parliament or of the Legislature of a State...(Interruptions) I shall come to that later.

"...or of a Union Territory or any member of any Districts or Local Council."

SHRI S. A. SHAMIM: ...or even peon of the place

MR. DEPUTY SPEAKER:

"...constituted under any law for the time being in force any employee engaged in such employment or class of employment as may be declared by the Central or the State Government to be essential for securing the defence of India, the civil defence, the public safety, the maintenance of public order...."

So, this would give power to the Central or the State Government to declare that certain categories of people are public servants.

Now, the question arises: how are you going to do that? Will you have some guidelines, some direction, some kind of Rules or regulation which will lay down as to how a person should be declared a 'public servant'? Or you just do it like that? This is the question.

...(Interruptions) If you are going to have some guidelines, some rules and regulations in order to do this, then I think honestly it seems to me that it attracts a certain delegation of legislation...

SHRI MADHU LIMAYA: Will the candidates standing for elections be public servants?

MR DEPUTY SPEAKER: That is what I am saying.

AN HON. MEMBER: They may do that.

AN HON. MEMBER: Let them define who is not a public servant.

SHRI MADHU LIMAYE: Do they propose to do that in Gujarat?

MR. DEPUTY-SPEAKER: Obviously, it cannot be the rule of the thumb or anybody's sweet will. There has to be some guideline and if it attracts this, then those guidelines should be framed and placed on the Table of the House and we should satisfy ourselves. He should satisfy us on this too.

SHRI S. A. SHAMIM: Provided he is satisfied himself.

MR. DEPUTY SPEAKER: Now, with regard to the third point Mr. Indrajit Gupta has raised, it is for him to answer. First, you were empowered to detain people only for three months and then release

them if it was found that it was not necessary. Now, you can detain them for two years and more. If you have more people to be detained for two years, that means you have to spent more on them.

SHRI SHYAMNANDAN MISHRA:
The bill is not to be paid them, it would be paid by the State Governments.

MR. DEPUTY-SPEAKER: What about the Union Territories? If you say that the State Government will do it, we do not come in. But there are union territories. If they are detained in Tihar Jail, who will bear the expenses—obviously, the Central Government. If this is passed into law, would it involve additional expenditure, more than what is provided? That is the question. If it involves more expenditure then, I think, a Financial Memorandum seems to be called for.

The third point is about the legislative competence.

SHRI MADHU LIMAYE: We shall take it up later.

MR. DEPUTY-SPEAKER: This point has been raised and, therefore, let me put it to him. I am only summarising all the points. I will put the question. I must satisfy myself at least on a point that has been made. My good friend Shri Jyotirmoy Bosu.....

SHRI S. A. SHAMIM: He is a bad friend of Mr. Speaker but a good friend of your's.

MR. DEPUTY-SPEAKER: My good friend Mr. Jyotirmoy Bosu drew my attention to entry No. 39 of the State List given in the Seventh Schedule. This is within the jurisdiction of the State Legislature—

738 L.S.—13.

"Powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof, and, if there is a Legislative Council, of that Council and of the members and the committees thereof; enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of the State".

Here, I would request the Minister to kindly look to the explanation given at page 2. Here, we are proposing to give certain categories of people, Members of Parliament, protection of this Bill, or the Act, if it is passed, Members of the Territorial Council, or even, I am not quite sure, the M.L.As, or members of the Union Territories Legislative Assemblies. May be, I do not know.

SHRI MADHU LIMAYE: You are from that area.

MR. DEPUTY-SPEAKER: I am a full State. I am not a Union Territory.

SHRI MADHU LIMAYE: But you are covered by this. I want to know whether you have asked for protection?

MR. DEPUTY-SPEAKER: I have not.

SHRI MADHU LIMAYE: Because we have not.

MR. DEPUTY-SPEAKER: That is a different question.

Order, please.

But here by this Bill, we are proposing also to extend the same facility to the Members of the legislature of a State. Are we competent to legislate about the members of the Legislative of a State? For Members of Parliament we can, Parliament is competent.

[Mr. Deputy-Speaker]

I am talking about this. Can we do that for the state legislature? If it is an amendment of the Constitution, of course, we can amend it. But this is an ordinary law. Can we legislate something which effects the Members of the legislature of a State? Is it within your competence? This is where the question of legislative competence comes in.

Now I would request the Minister to kindly.....

SHRI MADHU LIMAYE: It is violation of Article 105.

हम लोगों को डिगनिटी, इम्पूनिटी और प्रिविलेज का यह ममान है।

MR. DEPUTY-SPEAKER: Let him answer.

श्री मधु लिमये : प्राप इसको ब्रलग कर दीजिए । कास्टीडियूननेलिटी पर बाद में सुनिये ।

MR. DEPUTY-SPEAKER: I have tried to summarise and put all these questions.

SHRI MADHU LIMAYE: This is subject to my right to argue about Article 105

SHRI SHYAMNANDAN MISHRA: With all respect to you, the points with regard to legislative competence have not been summarised by you. They should come later and you may kindly separate them; they have not been summarised by you. This is my point.

SHRI S. M. BANERJEE: Most of the points raised by us here have been clearly put by you in a nutshell.

SHRI JYOTIRMOY BOSU: Most brilliantly, I should say.

SHRI S. M. BANERJEE: You in your wisdom have raised these points and what I feel is that the Home Minister may consider and study these points and then come prepared tomorrow.

MR. DEPUTY-SPEAKER: Let us hear him.

SHRI S. M. BANERJEE: It is not only a constitutional question. It is a political and a constitutional question.

MR. DEPUTY-SPEAKER: It is your opinion.

SHRI S. M. BANERJEE: I have given two motions.

MR. DEPUTY-SPEAKER: Motion will not come in here.

SHRI S. M. BANERJEE: Kindly hear me for a minute. I have given two motions.

MR. DEPUTY-SPEAKER: Order please. There is no debate.

SHRI S. M. BANERJEE: The Attorney-General must be called

श्री मधु लिमये : मेरा मुद्दाब है कि सालिमिटर जनरल और एडवान्स मार्लिसिटर जनरल को भी बनावया जाण ।
 (स्वबधान).....

THE MINISTER OF HOME AFFAIRS (SHRI K. BRAHMANANDA REDDY): Mr. Deputy Speaker, Sir, it is unfortunate that a lot of noise has been unnecessarily made...

(Interruptions)

SHRI K. LAKKAPPA (Tumkur): Are you permitting him to reply to the points raised or not?

MR. DEPUTY-SPEAKER: Let us hear him.

SHRI K. LAKKAPPA: He is making a submission. He has not finished one sentence. (Interruptions)

MR. DEPUTY-SPEAKER: Order please; why are you getting excited?

SHRI P. G. MAVALANKAR (Ahmednagar): After the whole discussion which has taken place so far, and when you were good enough to formulate the points at issue, is it right or is it open for the Home Minister to say that there was so much noise?

MR. DEPUTY-SPEAKER: All that I heard the Minister say was that it is unfortunate that so much noise had been made. He has only said that,—may be that is his opinion. Many of us say many things here; we should not take too much objection to these things. I see nothing unparliamentary or anything of this sort; let us hear him.

17.00 hrs.

SHRI K. BRAHMANANDA REDDY: Sir, the pity is they do not listen to the completion of the sentence. That is the whole trouble. I have been submitting that a lot of unnecessary noise has been made in the morning. (Interruptions)

SHRI C. M. STEPHEN: Why is this running commentary? We were patiently listening to them. Why don't they allow him to speak? (Interruptions)

DR. KAILAS (Bombay South): Shouting does not help at all.

SHRI K. BRAHMANANDA REDDY: If the hon. Members Opposite had cared to understand or appreciate the limited scope of this Bill, probably there would not have been these questions raised and absolutely politically-motivated speeches would not have been made. (Interruptions)

SHRI MADHU LIMAYE: Sir, I rise on a point of order. (Interruptions)

Why don't you answer the questions?

SHRI MOHAN DHARIA: Mr. Deputy-Speaker, Sir, I have participated here. There was no political motivation whatsoever. If the noise is unfortunate, the remarks made by the Home Minister are a calamity. (Interruptions)

SHRI K. BRAHMANANDA REDDY: If all of you are depending upon the support of Mr. Dharia, you can do so. I have no objection. But, I have got to make my points.

SHRI MOHAN DHARIA: What is the political motivation? (Interruptions)

SHRI JYOTIRMOY BOSU: The Chair has posed questions to the Home Minister. He is casting aspersions on the Chair. (Interruptions)

SHRI SAMAR GUHA: Sir, I rise on a point of order.

MR. DEPUTY-SPEAKER: Just a minute. Will you kindly sit down? (Interruptions)

SHRI K. LAKKAPPA: Ultimately they have political motivations... (Interruptions)

SHRI C. M. STEPHEN: Is he not free to state it? (Interruptions)

SHRI K. LAKKAPPA: Everytime they are disturbing him.

SHRI KRISHNA CHANDRA HALDER (Ausgram): Mr. Lakkappa, you better sit down. (Interruptions)

MR. DEPUTY-SPEAKER: All of us here from certain opinion of each other and we react to each other in the course of the debate. I think it is quite parliamentary if anybody says that you are politically motivated, I do not see any objection in that but what I would like.

SHRI K. LAKKAPPA: He is within his right to make his speech but they should not prevent. Do you allow them to prevent his speech?

MR. DEPUTY-SPEAKER: I say they have taken exception to certain words which the Home Minister has said and I have upheld that it is within his right to use those words. But the point here is we have had enough heat throughout the day. Let us have some light. If the Home Minister agrees with me and if he were to deal with only those questions which have been raised and satisfy the House, then the House will listen to him because everybody is excited and a little innocent word gives rise to objections and it is difficult to get anywhere.

AN HON. MEMBER: It is not a matter of 'question' and 'answer'. He will reply in the manner he likes.

MR. DEPUTY-SPEAKER: Excitement is contagious, it is mutual

SHRI SAMAR GUHA: Sir, as you have rightly said the words 'politically motivated' are not wrong words provided they are in the proper context. If it was a general debate then the Home Minister has right—as any other member—to say that it is politically motivated. Now, what is the context? The context here is not general debate but certain rules and procedures which have been quoted verbatim.

Secondly, not only the Opposition Members have formulated certain points, but, you have also added certain points.

MR. DEPUTY-SPEAKER: I have not added. (Interruptions)

SHRI SAMAR GUHA: I would like to know whether the Home Minister has the right to use the words 'politically motivated' in this context? What I say is, in a debate, he can use the words 'politically motivated'. But, he cannot use the words 'politically moti-

vated' when procedures and rules are brought in and when the Speaker is also involved. He should withdraw these words 'politically motivated'. He should not have used these words. This is not a general debate. Here, procedural issues have been raised. How can he use the words 'politically motivated'? He can use it in the context of a debate. This is not in the context of a debate, it is only a procedural matter. The Deputy-Speaker is also involved in this. You have yourself formulated certain points. You were involved in this. That means, you have made politically motivated formulations.

MR. DEPUTY-SPEAKER: Even if anybody tells me that I am politically motivated, I do not take any objection. I have come. . .

SHRI SAMAR GUHA: It is not a question of the Chair, The whole House will take objection.

श्री सच्चिदानंद: उनको गाली देनी है तो गाली दे दे, लेकिन किलहाल आपके प्रश्नों का उत्तर दे और बाद में गाली देनी है तो गाली दें।

MR. DEPUTY-SPEAKER: I do not take any objection because I have come to this House through a political process. I am very much a political being although certain sections of the people raise objections to my politics in my home State. I am very much a political being. I do not take any objection.

SHRI S. A. SHAMIM: Mr. Deputy-Speaker, Sir, may I make a submission?

MR. DEPUTY-SPEAKER: The discussion is about the objection to a statement that people are more politically motivated. We are all here politically motivated. Who is not politically motivated?

SHRI S. A. SHAMIM: May I make a submission?

MR. DEPUTY-SPEAKER: No. Let me hear him. (Interruptions)

SHRI K. BRAHMANANDA REDDY: Sir, I only said that ordinarily, whatever may be the provocation, I am not easily provoked. But, all the same, if you kindly peruse what has been said in the morning you will know what sorts of statements have been made. That is all my reference. Now, I would request hon. Members to speculate calmly without going into other matters, the absolutely limited scope of this Bill. This Bill only seeks to provide that in certain cases, where a prejudicial act has been done in a disturbed area,...

SHRI JYOTIRMOY BOSU: To be declared.

SHRI K. BRAHMANANDA REDDY: The reference to the advisory Board becomes unnecessary. This is the limited scope of this Bill.

SHRI JYOTIRMOY BOSU: No. not at all.

SHRI K. BRAHMANANDA REDDY: You have rightly pointed out whether the Bill complies with the formalities and the Statement of Objects and Reasons fully reflects the intention of the Bill. You have yourself read from 15A(1) and the entire section. It clearly restricts it to a prejudicial act in a disturbed area.

SHRI JYOTIRMOY BOSU: Committed or likely to commit.

SHRI K. BRAHMANANDA REDDY: Of course, what is the doubt about that?

I need not again read the section and trouble you. Now, 15A(1) (a) says :

"where the order of detention has been made against such person with a view to preventing him from acting in any manner prejudicial to any of the matters specified in sub-clauses (i), (ii) and (iii) of clause

(a) of sub-section (1) of section 3 of this Act, and ...

Unless the second one is also there, the mischief of the Bill does not come in. It is very clear. If you think that this section needs a re-wording, if you so want as to convey the intention of the Bill, I will have no objection.

MR. DEPUTY-SPEAKER: Then think the matter is simple.

SHRI K. BRAHMANANDA REDDY: I have no objection. After all, the intention is that in the north-eastern region there is insurgent activity and there is likelihood of its continuance and you must give sufficient opportunity to the security forces to apprehend those insurgent activities,...

SHRI JYOTIRMOY BOSU: More atrocities.

SHRI K. BRAHMANANDA REDDY: It is limited to that.

MR. DEPUTY-SPEAKER: I think we must be thankful to the Home Minister for being very straightforward and very generous. We must appreciate it. He has stated and accepted that perhaps this particular clause should be re-drafted to make the intention clear.

SHRI K. BRAHMANANDA REDDY: If you think necessary.

MR. DEPUTY-SPEAKER: Well, if that is the intention, I think we must appreciate this gesture. The consequence of it is that perhaps we must postpone consideration of this Bill until it is re-drafted. /

SHRI K. BRAHMANANDA REDDY: This is only introduction. The Bill will come later.

SHRI K. LAKKAPPA: How can we postpone it?

AN HON. MEMBER: Why not?

SHRI K. BRAHMANANDA REDDY: This is only introduction. The Bill will come later, in the next session.

Then if it becomes necessary, certain... (Interruptions).

MR. DEPUTY-SPEAKER: Just a minute, Order please. Now, the point is that we are expected to do things with the utmost responsibility. If the members have a doubt, if the House has a doubt, and in this case, even Government also seems to have some doubt—otherwise they would not volunteer to say this...

SHRI DINEN BHATTACHARYYA: H.

MR. DEPUTY-SPEAKER: It seems there is something in it. Then I think in all responsibility, even the introduction is an important stage. If they would respond, I would appeal to them. There is no hurry about it. They can come again. When you have some doubt, why not come with a fresh Bill? (Interruptions).

SHRI INDRAJIT GUPTA: Would you not also hear him question of the two memoranda.

MR. DEPUTY-SPEAKER: All that becomes infructuous. If this is accepted, that the wording has not been quite happy, than everything else becomes academic.

SHRI JYOTIRMOY BOSU: On a point of order. I want an assurance that they will not show contempt to the House by promulgating an Ordinance during the inter-session period. I want your good offices to be used to get the assurance that they will not promulgate an Ordinance.

SHRI K. LAKKAPPA: How can you give an assurance?

SHRI DINEN BHATTACHARYYA: What is the value of that assurance? It is like so many other assurances.

SHRI MADHU LIMAYE: This is an attempt to circumvent Parliament. Let them not try to bypass Parliament.

SHRI JYOTIRMOY BOSU: I require your good offices and your help. We want an assurance that they will not promulgate an Ordinance...

MR. DEPUTY-SPEAKER: That is a different question. I am not concerned with that.

SHRI JYOTIRMOY BOSU: I want this assurance because they might do it to defeat the very purpose of Parliament.

MR. DEPUTY-SPEAKER: Promulgation of Ordinance is within the purview of the President. If he thinks it necessary, he can do it.

SHRI SHYAMNANDAN MISHRA: The brief submission that I want to make with your permission is this. If the hon. Home Minister, by saying that it is restricted to a limited area, wants to win the support of the entire House, let me say on behalf of many of the elements in the opposition here that we would not be in favour of having it even for that limited area.

श्री मधु लिमये : इस को फिलहाल गार्ड दीजिए, दफना दीजिए। घ्रागे देखा जाएगा।

SHRI SHYAMNANDAN MISHRA: We are Members for the entire country and we stand for the freedom and liberties of the people in all parts of the country. And the question is. Have we not dealt with the serious problem of insurgency in that area without this draconian measure? We have done so in the past and we can do it now.

MR. DEPUTY-SPEAKER: It has nothing to do with procedure.

SHRI MADHU LIMAYE: We are opposed to all such repressive measures. There are other question like that.

SHRI SHYAMNANDAN MISHRA: He made only a political point. He has not made any other point so far. Even if it is limited to only Assam, Manipur, Nagaland, Meghalaya, Tripura and Mizoram, the list is formidable. Let it be made quite clear that we want insurgency to be dealt with effectively. But if this worthless Government cannot deal with it with the existing laws, let them thank themselves. What point has he made—it is restricted to a limited area? What we want to tell him again and again here is that we have been dealing with this problem of insurgency in the past very effectively, even without such a draconian measure.

MR. DEPUTY-SPEAKER: Order please. All these are arguments. You may take a certain attitude; they can take a certain attitude, you can always discuss this point when it is taken up.

SHRI S. M. BANERJEE: I want to say one thing.

MR. DEPUTY-SPEAKER: Please resume your seat. You have always the habit of interrupting me when I am speaking. I am saying that all those points. You can make when the Bill is taken into consideration.

SHRI SHYAMNANDAN MISHRA: No. We had raised objections about introduction on certain other grounds also; it is not only on the basis of the statement of objects and reasons.

MR. DEPUTY-SPEAKER: I am concerned with the procedure about introduction.... (Interruptions).

SHRI SHYAMNANDAN MISHRA: Let me make it absolutely clear that what could have been a uniting factor for the entire House, they have made it a disuniting factor because they do not take into account the basic freedoms of the people.

SHRI S. M. BANERJEE: After what the hon. Home Minister has said, I take it that the same Bill is not going to be introduced.

MR. DEPUTY-SPEAKER: I do not know anything; do not anticipate anything; I do not want to anticipate anything.

SHRI MOHAN DHARIA: If the Bill is not to be considered in this session, we should like to know what is the haste for introducing the Bill? Why should we be charged that the whole Government is dealing in an authoritarian way?

SHRI K. BRAHMANANDA REDDY: As you all know this is only introducing the Bill. That obviously comes during the next session of the House. My submission is; let this be introduced.

SOME HON. MEMBERS: No.

SHRI K. BRAHMANANDA REDDY: Why not....? (Interruptions)

MR. DEPUTY-SPEAKER: Order, please. What I say is this.

SHRI S. M. BANERJEE: I rise on a point of order.

MR. DEPUTY-SPEAKER: I am on my legs. Please sit down. There is something that arises from what the Home Minister has said. (Interruptions) Kindly sit down. I am concerned with the more fundamental question whether this Bill as it is drafted can or should be introduced. This is the question. Other points of pleading are: let it be introduced; we can change it later on. What difference does it make—it is not—even if you introduce now? Suppose we act in a little irresponsible manner and say: Well, it does not matter, let us overlook it, let it be introduced; you will pass it only at the next session; it is not going to become a law in this session, and you introduced it. What do you gain by it? On the other hand when it is brought to the attention of the Chair and the Government itself has some doubts about the drafting of the Bill, why not do so?... (Interruptions)

SHRI K. BRAHMANANDA REDDY: So far as we are concerned, we have no doubt, Sir.

MR. DEPUTY-SPEAKER: I think this is rather an unfortunate position where the Chair is placed. When I formulated certain questions which the Members have raised, I have only pointed them out. I had only raised the question. I have not expressed my opinion. But those questions have provoked the Minister to say that "if you have some doubts about the drafting, we are prepared to recast the draft." That is to say—this is voluntary—that it has raised some doubts even in their minds and that is what I say that if you had some doubts because the full meaning is not brought out. In view of those questions raised, there is some doubt about the draft, then why not bring a draft which is so clear that there is no dispute. What do you gain by saying 'introduce it now'. We can take it up later, because it is not going to become a law at all, because it is not going to be taken up for consideration in this Session.

(Interruptions)

MR. DEPUTY-SPEAKER: If the matter is so urgent that the Bill must be passed tomorrow, then I can see that but when you have stated that it will be taken up in the next session, what do you gain now. Why not come with a Bill in which you are satisfied about the drafting yourself.

SHRI C. M. STEPHEN: Sir, I am on a point of order.

(Interruptions)

SHRI C. M. STEPHEN: Sir, by raising this point of order, I am seeking some clarifications. There are two aspects to this question. The question of expediency or the propriety of not pressing for introducing the Bill is one thing. I think that is a matter which could be considered. The question of the right of the Government or the right of this House to

permit the Government to introduce the Bill is a different thing.

Now, coming to the other question, here is a Bill which has been placed on the order paper which has been sought to be introduced, to which objection is being raised. Now, who is the authority to decide the objection? My submission is that now all the aspects have been heard and according to me, going through the rule I find that it is this House which must decide whether this Bill must be introduced or not. Nobody else could question its legislative competency. It is for the House to decide whether the Bill framed with the Objects and Reasons thereto is in conformity and in absolute propriety and it is this House has got to decide it. *(Interruptions)*. Particularly after Speaker has decided in his judgment, that the Bill, along with the statement of objects and reasons, has been framed in a manner which is appropriate enough to entitle it to be put on the Order Paper, after the matter has come before the House and after the minister has moved for leave to introduce the Bill, the Chair has no alternative but to put the question to the House. *(Interruptions)*.

MR. DEPUTY-SPEAKER: Order, please. I am dealing with the point of order raised by Mr. Stephen. Let me explain the procedure, because you have raised the point that once a motion has been moved, the Chair has no alternative but to put the question to the House. I say that the House will decide, not the Chair. But if the Chair has doubts that certain requirements have not been complied with, after discussion, the Chair may refuse to put the question.

SHRI C. M. STEPHEN: I take it that you have not finally decided. *(Interruptions)*. I cannot be cowed down by shouting.

SHRI K. LAKKAPPA: Mr. Deputy-Speaker, when the Chair refuses to put the question, the House has got a remedy also. The House has

got a remedy. The remedy is open. You know it. The will of the House will prevail. The Chair cannot refuse to put the question. The House will decide. The majority of the Members will decide. You must also know the consequences. The Chair will also know the consequences. (*Interruptions*). We are guided by the rules of procedure. You cannot hold a threat. You cannot pressurise the Speaker to come to a wrong or erroneous conclusion.

SHRI KARTIK ORAON (Lohardaga): On a point of order, Sir. With all the humility at my command, I would like to submit the following points. The point is, this is not a new thing that a Bill is introduced and after the bill is introduced, amendment is brought. The next point is, when there is no opposition, it does not go with it that there shall be no amendment. Third point is that when the Bill is introduced, there is nothing to suggest that there will be no amendment. Therefore, I personally feel that there is no difficulty in introducing the Bill.

There is no reason behind what they are trying to say, namely, that the Bill cannot be introduced. My submission is that if the Bill is introduced, they can come forward with the amendments later on. Therefore, this Bill can be introduced in the House without any difficulty.

SHRI S. M. BANERJEE: My point of order arises out of the observations made by my hon. friend, Shri Stephen. If I heard you correctly, you said that the introduction of the Bill should be postponed.

MR. DEPUTY-SPEAKER: I have not given ruling or postponement.

SHRI S. M. BANERJEE: He says that it should be postponed.

MR. DEPUTY-SPEAKER: I do not know. I only put a question to them whether it should be postponed? I did not say that it should be postponed.

SHRI S. M. BANERJEE: After that the question ended there and there was no question to re-start the discussion on this. When the Ruling Party has lost in argument, in logic and reasoning, they now want to take advantage of their majority to defeat the valid argument of the Opposition. This Bill is no more on the Order Paper and no discussion should take place. I hope, my friends will accept this postponement. Moreover, according to the Home Minister, it contains certain faulty sections and, therefore, it cannot be introduced. Heavens are not going to fall if this is considered in the next session.

SHRI C. M. STEPHEN: To me it is a very academic question. Now, the point is, once a Bill has been brought before the House and the leave has been sought, whether this House has or has not exclusive jurisdiction to decide whether the leave should be granted or not. It is a vital question on which a very considered decision is necessary. I take it that your ruling is not final in the matter. Now, may I refer to Rule 72 and certain passages from May's Parliamentary Practice? Rule 72 says:

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question:

Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House. The Speaker may permit a full discussion thereon."

Along with this, I would read a passage from *May Parliamentary Practice*:

"At the Stage of Leave to introduce a Bill, Motions for leave to bring any Bills and for the nomination of Select Committees may be set down at the commencement

[Shri C. M. Stephen]

of public business...when such motions are opposed, the Speaker, after permitting if he thinks fit a brief explanatory statement from the member who moves and from the member who opposes the motion, puts the question thereon without further debate, or else the question that 'the debate be now adjourned.'

My submission is that there are two or three stages. The first stage is a notice by the Government that they want to introduce a Bill. The second stage is when the Speaker considers whether it should be put on the order paper or not. He puts it on the Order Paper. In the third stage the Minister seeks the leave of the House. You permit him to seek leave and, after your permission, he seeks leave. On the basis of the entry in the Order Paper, once he seeks the leave of the House, the House is seized of the matter. Then an objection is raised and debate takes place. How is it to end is the question. My submission is that it can only and under rule 72, according to May's Parliamentary Practice and according to Kaul and Shakdher. You have got two alternatives—either you can put the question as to whether leave must be granted, or you can put the question as to whether a consideration of the debate must be adjourned.

These different stages have to be gone through. If the Speaker, after considering the whole matter, deemed it fit to feel that the Bill as drafted duly complied with all the requirements and was entitled to be put on the Order Paper, and after he permitted him to seek the leave of the House, when an opposition takes place and a debate takes place, the question is whether you can take back the matter and say "I will not grant you leave". I submit that it is entirely wrong to take the matter away from the House and you have no authority to decide whether the House should be permitted to decide it.

MR. DEPUTY-SPEAKER: Since he has put this question, let me make the point very clear to my friend, whose legal acumen, whose command of language, whose poise and energy we all admire. Now what you are saying amounts to reopening of my ruling. Even so, since he feels strongly about it, I am prepared to listen to him again. What was his first point?

SHRI MADHU LIMAYE: Sir, I want to raise a point of order.

MR. DEPUTY-SPEAKER: Let me deal with this point first.

SHRI MADHU LIMAYE: Sir, I want to demolish his argument.

MR. DEPUTY-SPEAKER: I do not want any champion in this. I can take care of myself.

In the first point of order on which I had ruled you had said the moment leave is sought, the Chair has no other alternative but to put the question, and I had said if certain doubts had arisen ..

AN. HON. MEMBER: Rubber stamp

MR. DEPUTY-SPEAKER: This word has become too common now-a-days. I for one will never be a rubber stamp. I will be a comrade, I will stand by the side of everybody, I will never betray anybody, but I will not be a rubber stamp. You can depend more on me that way.

I have said it is true that the Speaker had allowed this to be put on the Order Paper, and to that objection was raised by Mr. Madhu Limaye. I had over-ruled that. I had said the Speaker is a human being, he is not a super star, a super man. Neither is he a robot who must do certain things mechanically. He might have considered this is all right, but when certain points are raised by Members, the least the Speaker can do is to be responsive, to go along with the mood of the House. You want that from me.

SHRI C. M. STEPHEN: The question is whether the Chair can overrule the Speaker. He made a distinction between the Chair and the Speaker.

MR. DEPUTY-SPEAKER: At the moment it is the Chair. All right, leave that out.

I had said when Members raise certain points and certain doubts arise in the House and also in the mind of the Chair, then the Chair must respond to that. And in that connection I had told you that the Chair has the right to put or not to put the question. Now you are re-opening this question.

SHRI N. K. P. SALVE (Betul): Under which rule?

MR. DEPUTY-SPEAKER: I will come to that. Don't be in a hurry. My brain waves do not travel at a satellite speed like yours. I am coming to that. Let me give this as a final ruling and the question need not be raised again.

SHRI C. M. STEPHEN: It is a very vital matter.

MR. DEPUTY-SPEAKER: Mr. Stephen, this concerns the procedure of the House and the functioning of the Chair. It has nothing to do with this Bill. You are raising a more fundamental question about the functioning of the Chair. Therefore, I will give a ruling, but as my hon. friends want to make submission—Mr. Bhagat is one of them—before I give a ruling, I must hear them and I must hear Mr. Madhu Limaye also since he thinks it is important.

श्री मधु लिमये (बाका) : उपाध्यक्ष महोदय, आप ने जो निर्णय दिया है वह अंतिम निर्णय है और इस को कोई चुनौती नहीं दे सकता है। इस लिए अब यह बिल गया, अब इसका सवाल नहीं है। एक एकाधिक साधक इन्होंने उठाया है और खुद कहा कि मेरा इन-ट्रस्ट एकेडेमिक है, इस लिए अब एकेडेमिक

बात चल रही है। जहां तक इस बिल का सवाल है उसका निर्णय हो चुका है... (व्यवधान)। बिलकुल हो चुका है।

आप अपना निर्णय देने से पहले अपने सचिवालय में इस बात की जानकारी स्वयं इकट्ठा कीजिए और हम लोगों को यह जानकारी दीजिए कि कितनी बार जो बिल लोग इंट्रोड्यूस करना चाहते थे, मिनिस्टर या दूसरे लोग, बुकि नियम और कन्डीशन को वे बिल पूरा नहीं करते थे, इस लिए कितनी बार लौटा दिए गये। पहले हमें इसकी जानकारी मिलनी चाहिए। मैं आपसे कहना चाहता हूं कि यह पहरा उदाहरण नहीं है।

कई बार हुआ है इस लिए। . . .

SHRI C. M. STEPHEN: That is a matter of accommodation and expediency.

श्री मधु लिमये : उपाध्यक्ष महोदय, यह क्यों गरम हो रहे हैं। इन को मेने सुना। इन्होंने कहा मैं एकेडेमिक बहम उठाना चाहता हूं। इसका फैसला होना चाहिए। मैं भी इस राय का हू कि एकेडेमिक सवाल है, इसका फैसला होना चाहिए। इस लिए आप सचिवालय की मदद से रात भर गहनत करके, ओवर-टाइम प्रलाउन्स दिया गए स्टाफ को और कल हमको एक स्टेटमेंट मिले और कल इसका एक बयान, एक प्रापन 24 लोगों के सामने प्राप 13 कितनी बार इस तरह के विधेयक वापस भेजे गए हैं।

MR. DEPUTY-SPEAKER: The question is, whether the Chair can refuse to put the question.

श्री मधु लिमये : शुरू में आप नहीं सुनना चाहते हैं जरा धीरे धीरे मुझे बलने दीजिए। इस लिए इसकी पहले जानकारी होगी चाहिए। यह बिल वापस किया गया इसका मतलब है कि रवरेचन प्ट नहीं हुआ।

(व्यवधान)

श्री मधु लिमये : मैं बिल कुल ठीक बोल रहा हूँ। विधेयक वापस किया उसका मतलब है कि चेयर द्वारा क्वेश्चन पुट नहीं हुआ।

पेंडिंग क्वेश्चन और रजिस्टर नं. (श्री. के. ०
 डॉ. ० मासकीय) : किसने कहा ?
 (Interruptions).

श्री मधु लिमये :
 If the Bill does not comply with the rules, it is sent back.

हम लोगों का कहना है। प्रव स्टेटमेंट आफ प्रोजेक्ट्स और रजिस्टर के बारे में नहीं बोल रहा हूँ, क्योंकि उसका निर्णय आपने दे दिया है।

(स्वबचान)

श्री मधु लिमये : क्या निर्णय दिया है आप उ. से पूछ लीजिए। और आप बहरे हैं तो मैं क्या करूँ।

MR. DEPUTY-SPEAKER: The limited question is, whether the Chair can refuse to put the question.

SHRI MADHU LIMAYE: Before the question is put, you have to satisfy yourself whether all the conditions and requirements of the rules have been fulfilled. If you are satisfied, then only you can put the question.

मेरा पीइंट था कि 72 का स्टेज कब आता है ?

After the Chair has satisfied itself that all the requirements of the rules have been fulfilled, then only the question can be put.

अब इसमें हुआ क्या है ? मैं स्टेटमेंट आफ प्रोजेक्ट्स और रजिस्टर पर अभी नहीं हूँ। एक और रिक्वायरमेंट फुलफिल नहीं हुई है।

MR. DEPUTY-SPEAKER: Why go into all those things again?

श्री मधु लिमये : उसका निर्णय नहीं हुआ है। मैं उस पर आपका डिर्जन चाहता हूँ।

MR. DEPUTY-SPEAKER: I am concerned now with the point of order raised by Mr. Stephen. Don't go into all these things now about the Bill.

श्री मधु लिमये : इसका निर्णय होने के बाद ही क्वेश्चन पुट करने का सवाल आता है।

MR. DEPUTY-SPEAKER: You have already made your submissions about many things relating to the Bill. I had already posed these questions to the Minister.

श्री मधु लिमये : मैं मैरिट्स पर नहीं बोल रहा हूँ, कॉस्टीद्म्यूशनलिटी पर नहीं बोल रहा हूँ, कमपीटिन्स पर नहीं बोल रहा हूँ। मैं इस पर हूँ कि क्वेश्चन कब पुट किया जाता है। इन्होंने कहा कि आप को करना ही पड़ेगा, आर्डर पेपर पर आया तो आप को करना पड़ेगा। इन का यह कहना है कि आप आर्डर पेपर पर आ गया बिल आ गया तो आप को परमिशन देनी ही है और क्वेश्चन पुट करना ही है।

MR. DEPUTY-SPEAKER: You have made your point.

SHRI C. M. STEPHEN: It is not a question of merely on the Order Paper. It is after he permitted him to ask for the leave of the House.
 (Interruptions).

श्री मधु लिमये : आप इनपेजेंट क्यों हो रहे हैं।

(स्वबचान)

SHRI MADHU LIMAYE: Please issue a supplementary direction to the Minister that he complies with the requirements of rule 70. Please issue another direction to him that he comply with the requirements of rule 69.

श्री इतके का बिल आयेगा, उसके पहले नहीं आयेगा।

MR. DEPUTY-SPEAKER: Mr. Bhagat.

SHRI N. K. P. SALVE: Before Mr. Bhagat makes his submission, I want to seek one clarification.

I believe that whatever ruling you are giving, you are giving that ruling as the custodian of the rights of all of us, whether sitting on this side or on that side....

MR. DEPUTY-SPEAKER: Definitely.

SHRI N. K. P. SALVE: Such custody can only be maintained if the rules are considered so sacred. Therefore, I fervently beg of you to tell us what is the rationale of your ruling...

MR. DEPUTY-SPEAKER: That was the stage at which I was interrupted. You will get my rationale (Interruptions). Order, please I was going to say that when I was prevented by Mr. Bhagat. I shall give the rationale.

SHRI N. K. P. SALVE: Rationale vis-a-vis rule 72. Let me complete it, Sir. I heard you with rapt attention. If I was able to understand you correctly, your ruling was that, at the introduction stage, if a Bill is opposed, it is not only the House, but it is also the Speaker who is entitled to exercise his discretion...

MR. DEPUTY-SPEAKER: No. You have misunderstood me completely. I had said—I am not very good in English, but kindly listen to me; do not argue from what I have not said—I had said, the right to decide to grant leave or not is the right of the House. I think, it is very clear. I have repeated it and I repeat again. But before the House decides, it is the Chair that puts the question. The right to put the question is the right of the Chair. Am I clear? And I have also said that, where the Chair feels that there are certain doubts

that the Bill is not in order, the Chair has the right to refuse to put the question.

SHRI N. K. P. SALVE: This is what I was submitting. I am grateful to you. You have ruled that it is the right of the House to decide, but before the House decides it is the right of the Chair to decide...

SHRI JYOTIRMOY BOSU: On a point of order, Sir. It is past 6 O' Clock. The House should be adjourned.

MR. DEPUTY-SPEAKER: It may be 6 O' Clock, it may be 7 O' Clock. The House adjourns only when the Chair adjourns it.

SHRI N. K. P. SALVE: You have ruled that it is the right of the Chair to decide under certain circumstances whether or not to put the motion or the question to the House. This power has been spelt out by you today. It is for that purpose I was submitting. I have not been able to find out any rule, and this does not fall under the residuary power because residuary power is exercisable only if there is no specific provision. If you read rule 72, from which the power can be spelt out for the Chair, I am sure you will take a decision which will be in consonance with the rules. It is in that light I am making this preliminary point. In the light of rule 72, how is it possible to spell out this power for the Chair?

MR. DEPUTY-SPEAKER: I will come to that, Mr. Bhagat.

SHRI H. K. L. BHAGAT: I have the greatest respect for the Chair and for you, Sir. I wish to bring to your kind notice one or two aspects of the question because they are important.

If you read Rule 72 along with its proviso, as also Rule 109... (Interruptions).

12.00 hrs.

MR. DEPUTY-SPEAKER: Let me hear him. I am hearing him.

SHRI H. K. L. BHAGAT: Rule 72 says:

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question:

Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon."

In this case, you have permitted the Members to speak at this stage. This could be on the ground that this is outside the legislative competence of this House. This was one of the ground raised. You permitted a discussion and a number of Members have participated. When you earlier gave your ruling, Sir, you said that you are suggesting that this matter and discussion on the Bill may be postponed. Once a discussion starts on a Bill, kindly see what Rule 109 says. You have allowed a discussion before introduction because the legislative competence of this House has been challenged. Rule 109 says:

"At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned may be moved with the consent of the Speaker."

There are two things, Sir. Supposing you have a doubt and a certain ruling is wanted from you, whether this Bill is outside the competence of this House or there are certain other fundamental procedural defects, it is open to you to give a ruling right now

and not to postpone it, or you can reserve your ruling. It is open to the Speaker. It is for you to decide, whether you agree with these objections or you do not agree. The Minister has already said that he has no doubt. If it were a question of drafting, the drafting can be corrected at the stage of amendments also. But whether you agree with the fundamental question, it is for you to give a ruling now or reserve it and give it later.

But the discussion as such can be postponed only by a motion of the House. That is what the Rule says. You can say, 'I reserve my ruling'. There is absolutely clear distinction between the two things. One is that you do not find yourself in a position to give a ruling on the fundamental point raised and you say, 'I will consider it and give a ruling'. Then the discussion will be automatically postponed, but to say that the discussion should be postponed, my submission is that the right of postponement in these circumstances is only with the House. This is my submission.

MR. DEPUTY-SPEAKER: There is some point in what Mr. Bhagat says, but I am afraid he has misunderstood certain things. I had at no stage said that the discussion should be postponed. I have never said that; I have never given a ruling. I did not say that this question should be postponed or the Bill should be redrafted. I have never said that.

(Interruptions)

MR. DEPUTY-SPEAKER: Please understand me. Certain questions and certain doubts arose and I had formulated those questions and had requested the Minister to satisfy me and the House on those questions which were raised. In the questions that I had framed, I had referred to certain provisions of the Bill. In the course of his reply, the Minister went on record and had said, that if there is a doubt....

SHRI SHYAMNANDAN MISHRA: That is the most important thing.

MR. DEPUTY-SPEAKER: ... then, 'we are prepared to redraft this.' That is what he said. 'This is not the intention, but if it is not clear, we are prepared to redraft this Bill.' It is the Minister who said it. I did not say that. At that stage, I intervened that 'before you go further...' (*Interruptions*). Why don't you allow me? I said, 'Before you go further with the other questions that were made, even at this preliminary stage, when you yourself say that you are prepared to redraft and recast the whole thing, then why not do it in a more responsible way and come with another Bill? I had also appreciated his gesture. I said, 'Why now?' I am only putting the suggestion to him. I have not said that the Bill should be postponed. I never said that. That was a misunderstanding

Now, there is a wonderful thing because the language in which Mr. Stephen tried to put it to me I did not like. But, whether I like it or not, if it is correct, I will accept it. The question of liking or disliking does not arise. He seems to suggest that the man sitting in this Chair must be a robot and that if something is done, he must just do a certain thing even when there is a doubt. It is there that I said...

AN HON. MEMBER: He is himself a rubber stamp.

MR. DEPUTY-SPEAKER: That when certain doubts arise in the mind of the Chair after submissions—it is there that I said that, when certain doubts arise in the mind of the Chair after submissions, he posed this question: who should decide whether this Bill should be introduced or not I said, 'The House will decide it...'

SHRI N. K. P. SALVE: Rule 72.

MR. DEPUTY-SPEAKER: I said, 'The House will decide it...' (*Interruptions*). He raised this question as to who will decide and I said, 'The

House will decide', but the House will decide on a question put by the Chair...

SHRI S. M. BANERJEE: Exactly.

MR. DEPUTY-SPEAKER: If the question is not put by the Chair...

(*Interruptions*)

MR. DEPUTY-SPEAKER: Order please....

SHRI MADHU LIMAYE: It is now 6 O'clock. You adjourn the House.

(*Interruptions*)

MR. DEPUTY-SPEAKER: Order, please. I said, 'The House will decide'. The Chair does not decide but the House will decide only on a question put by the Chair....

SHRI VASANT SATHE (Akola): But, as long as you are in doubt, you will not put it to the House.

MR. DEPUTY-SPEAKER: Therefore, I said... (*Interruptions*). Order, please. Let me finish. I am dealing with this now... (*Interruptions*). Mr. Lakkappa, kindly listen I said that the right to put or not to put the question is a right of the Chair....

(*Interruptions*)

SHRI C. M. STEPHEN: Under what rule?

MR. DEPUTY-SPEAKER: Now, I will come to your point—whether the Chair has or has not got this discretionary power to put or not to put the question. That is the question....

SHRI C. M. STEPHEN: Once you have allowed him to physically...

(*Interruptions*)

MR. DEPUTY-SPEAKER: Order please. My good friend, Mr. Stephen...

AN HON. MEMBER: Mr. Salve also.

MR. DEPUTY-SPEAKER: Yes, Mr. Salve and Mr. Stephen also as also Mr. H. K. L. Bhagat—I will come to Mr. Bhagat a little later—relied on Rule 72. That is what you rely on? I will read the rule....

SHRI N. K. P. SALVE: I thought the debate has taken place under Rule 72.

MR. DEPUTY-SPEAKER: The difficulty is that it seems you have not followed the discussion right through the day and that you have come only towards the end

SHRI INDRAJIT GUPTA: He was not here most of the time... (Interruptions).

MR. DEPUTY-SPEAKER: Will you allow me? I will read Rule 72...

AN HON. MEMBER: Rule 372.

MR. DEPUTY-SPEAKER: I am dealing with this point of order, whether the Chair has the discretion to put or not to put the question. This is the point.

Now I will read Rule 72, kindly read with me:

"If a motion for leave to introduce a Bill is opposed, the Speaker, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question:"

'may, without further debate put the question'.

You catch hold of the word 'may'.

(Interruptions)

MR. DEPUTY-SPEAKER: I would like you to catch hold of that word 'may' very strongly.

(Interruptions)

AN HON. MEMBER: You put the question.

MR. DEPUTY-SPEAKER: I am reading the whole rule—

"Provided that where a motion is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon."

Then read 'on'.

Provided further that the Speaker shall forthwith put to vote the motion for leave to the introduction of the Finance Bill and the Appropriation Bill.

If there is no difference between 'may' and 'shall' in this very rule, why these two words have been used. In the case of Finance Bill he has to put there is no option. In the case of Appropriation Bill, there is no option, he has to put. But in the case of other Bills, it is 'may' and, therefore, it is his option. (Interruptions). No more discussion.

O'clock. Now, adjourn the House.

SHRI MADHU LIMAYE: It is six
MR. DEPUTY-SPEAKER: No more discussion.

(Interruptions)

MR. DEPUTY-SPEAKER: I have given the ruling.

SHRI N. K. P. SALVE: Whether he may allow further debate or may not allow the debate we may qualify 'may'.

MR. DEPUTY-SPEAKER: I have given the ruling. Let us go on with the business (Interruptions).

I am not concerned with that.

What does the House want to do? Where we are. We are on the point when the Minister was giving a reply. He was giving a reply, now it is up to them.

Now, I concede what Mr. Bhagat has said. I may refuse to put the question and the matter ends there. It does not end there. Then one way out is, I refuse and we discuss it tomorrow again, or a motion is brought that discussion on this may be adjourned. Whatever it is, a way out has to be found.

The motion is that the Bill is to be introduced or not.

SHRI MADHU LIMAYE: It is dead. It is dead and gone.

MR. DEPUTY-SPEAKER: It is there. These are only procedures. (Interruptions).

These are only procedures, and unless I am satisfied that no irregularity is committed, we cannot put this question. On this I must be very clear.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): Minister wants to reply.

SHRI K. BRAHMANANDA REDDY: Mr. Deputy-Speaker, Sir,....

SHRI MADHU LIMAYE: We do not want to listen. He cannot continue.

SHRI INDRAJIT GUPTA: The House has not decided yet how long it is going to sit.

SHRI JYOTIRMOY BOSU: We can wait till tomorrow.

श्री मधु लिमये : यह बिल बन्द हो गया है। हम सुना नहीं चाहते हैं। हाउस एडजोर्न होना चाहिए।

(Interruptions)

SHRI SAMAR GUHA: This is a very bad precedent. (Interruptions)

SHRI VASANT SATHE: Let the Members go to their seats; we want your decision whether we should adjourn or not.

SHRI K. LAKKAPPA: Can the Members walk up to the dais?

SHRI VASANT SATHE: Are you allowing these Members to walk up to the dais?

श्री जनेश्वर निख (इलाहाबाद) : यहाँ घाना जूम नहीं है। हम यहाँ कई बार बाँके हैं एकघान ले लो हमारे खिलाफ। यहाँ से भीत चालू कर दो।

SHRI K. LAKKAPPA: You should protect the rights of the House and the rules of procedure. You cannot allow them to prevent the functioning of the House. Please see the rule. How do you allow them? They are preventing the functioning of the House; they are physically preventing you now. Do you allow this, Sir?

(Interruptions)

MR. DEPUTY-SPEAKER: Order, please. What is the position? I had not given any ruling on the Bill. I had given a ruling on the right of the Chair to put or not to put the question. On the Bill itself, I had not said anything. I had only posed a question.

SHRI MADHU LIMAYE: No, no.

(अवधान)

श्री जनेश्वर निख : हम लोग टेप सुनेंगे।

MR. DEPUTY-SPEAKER: You hear the tape. Earlier I had said it. I had only posed the question to the Minister. In view of this. (Interruptions) Let me finish. There was no ruling.

SHRI JYOTIRMOY BOSU: You congratulated the Minister!

MR. DEPUTY-SPEAKER: I have congratulated the Minister, yes, because, I thought that perhaps... (Interruptions) All right, you shout; I will sit.

SHRI K. LAKKAPPA: You should take action against the Member.

MR. DEPUTY-SPEAKER: Order, please. Give me two minutes. You may do anything. (Interruptions) I had congratulated, (Interruptions) Order Please. Give me two minutes I cannot do. (Interruptions).

SHRI NOORUL HUDA (Cachar): Please adjourn the House (Interruptions).

MR. DEPUTY-SPEAKER: Order please. I had said, I had congratulated the Minister, if he, on his own, in view of the re-drafting withdraws the Bill and comes with another Bill—but that is not my ruling—(Interruptions) Order please. There is no ruling. I also go on record that even if the Minister has given his full reply, if he cannot satisfy me on those questions that I have put to him, I reserve the right whether to put or not to put the question (Interruptions).

SHRI JYOTIRMOY BOSU: Mr. Deputy-Speaker, Sir, you must hear the tape. What you have said is surely wrong. You gave the ruling at once and you hear the tape to-night (Interruptions).

SHRI NOORUL HUDA: You please adjourn the House. You can adjourn the House.

MR. DEPUTY-SPEAKER: That can be done only with the consent of the House.

SHRI VASANT SATHE: At least let us listen to him. What is this bullying going on? This is an unworthy thing that the Members are doing. And don't allow these things to be done. This is unbecoming

and undignified of a Member of any House. Please go back to your seat

SHRI JYOTIRMOY BOSU: Bring C.R.P. here inside or anybody you like.

SHRI VASANT SATHE: Even after that, they do not want to cooperate with you. They must go back to their seats.

SHRI MADHU LIMAYE: You try to browbeat him; you try to get a ruling from him.

SHRI K. LAKKAPPA: Mr. Deputy-Speaker, Sir, they are defying the Chair; they are physically preventing the House .. (Interruptions).

SHRI JYOTIRMOY BOSU: They are challenging your ruling

MR. DEPUTY-SPEAKER: I have not given my ruling.

SHRI NOORUL HUDA: You please adjourn the House to-day.

SHRI JYOTIRMOY BOSU: At Six of the clock, what is the business?

SHRI VASANT SATHE: If they browbeat like this, it is impossible to conduct the business. This is the second time that Shri Limaye is standing like this. They have no business to go there.

SHRI C. M. STEPHEN: Unless they go back there would be no reply from him. It is shameless; this is downright goondalism in this House. (Interruptions).

SHRI JYOTIRMOY BOSU: You are bringing in a detention Bill and talking about democracy! (Interruptions).

SHRI K. LAKKAPPA: They are subverting democracy. Please apply your rule. They are defying your authority. These are the symptoms of the total revolution. Kindly apply rules.

357 Maintenance of VAISAKHA 17, 1897 (S.A.K.) Maintenance of 358
Internal Sec. (Amdt.) Bill Internal Sec. (Amdt.) Bill

SHRI K. BRAHMANANDA REDDY: Sir, I was submitting....

SOME HON. MEMBERS: No, no.

(Interruptions)

MR. DEPUTY-SPEAKER: Let me go on record. In maintaining and upholding the rights of this House, if I am cut out of this Office, no greater honour will be done to me because I will go on upholding the rights of this House.

(Interruptions)

SHRI SHYAMNANDAN MISHRA: How long are we going to be here?

AN HON. MEMBER: Who wants you here? You get out.

SHRI SHYAMNANDAN MISHRA: Why don't you adjourn the House?

(Interruptions)

SHRI C. M. STEPHEN: No. Let them hold the House to ransom. We have been listening to you and you would not listen to the reply.

(Interruptions)

SHRI SHYAMNANDAN MISHRA: Under what Rule are you continuing the House?

MR. DEPUTY-SPEAKER: I will give you the Rule. He has asked me under what Rule.... (Interruptions). Order please.

Shri Shyamnandan Mishra has asked me the question, under what Rule, I am continuing to sit. I will read out the Rule. Rule 15 says:

"The Speaker shall determine the time when a sitting of the House shall be adjourned *sine die* or to a particular day, or to an hour or part of the same day."

I will determine when the House should be adjourned. (Interruptions)

SHRI SHYAMNANDAN MISHRA: The Speaker had already determined that the House should go up to 6 O'clock. That is covered by that.

SHRI MADHU LIMAYE: Rule 14 says:

"Unless the Speaker otherwise directs, sitting of the House on any day shall ordinarily conclude at 17.00 hours."

दन्ध घवर को मिला कर 6 बजे तक हो जाता है ।

(Interruptions)

MR. DEPUTY-SPEAKER: Order, please. I accept what Mr. Madhu Limaye has said under Rule 14. But, I also say, having regard to the happenings in the House, I direct that the House shall sit until this matter is decided.

(Interruptions)

SHRI SHYAMNANDAN MISHRA: You want the Members to be called goondas? (Interruptions).

यह मसल मे बात नही घा रही है कि घाप हाउस को क्यो बना रहे है । when you are not able to control the House ... (Interruptions).

MR. DEPUTY-SPEAKER: I am thankful to Shri Shyamnandan Mishra for asking me to control the House. I can control if you all, gentlemen, go to your seats. Secondly, when the Minister was on his legs giving a reply, I must hear him to the very end.

SHRI MADHU LIMAYE: Hear him tomorrow.

MR. DEPUTY-SPEAKER: Just a minute. I have also said that after I hear him, if I am not satisfied on these questions. (Interruptions).

SHRI MADHU LIMAYE: You allowed Mr. Stephen to reopen it after six (Interruptions). This was irregular.

MR. DEPUTY-SPEAKER: Do not barrack me in this way.

SHRI SHYAMNANDAN MISHRA: The question now is not of your subjective satisfaction. The question is whether your ruling that had been given earlier is being observed.

SOME HON MEMBERS: No, no

MR. DEPUTY-SPEAKER: No ruling.

SHRI C. M STEPHEN: No ruling was given.

SHRI SHYAMNANDAN MISHRA: It is not for them to say that.

MR. DEPUTY-SPEAKER: Which ruling are you referring to?

SHRI JYOTIRMOY BOSU: We want to hear the tape.

MR. DEPUTY-SPEAKER: You may hear later. Let me clarify your doubt.

SHRI SHYAMNANDAN MISHRA: There is no more this item on the agenda on which the hon. Minister can speak.

MR. DEPUTY-SPEAKER: Kindly listen to me. This amounts to...

✓ श्री मधु लिमये : एनी बे, आप को चेन्नै करनी है सलिय तो करिए । अभी एडजोर्न कीजिए । 6 बजे गये हैं . (शब्दबन्धन) . . . आप ने लाइव दफा सलिय बदली है । . . . (शब्दबन्धन) . . .

MR. DEPUTY-SPEAKER: There is no question of changing. Let me go on record....

SHRI NOORUL HUDA: You cannot sit after six.

MR. DEPUTY-SPEAKER: Let me go on record....

श्री मधु लिमये : आप रेकार्ड पर बार बार जा रहे हैं ।

MR. DEPUTY-SPEAKER: You may object.

SHRI MADHU LIMAYE: We do not want to hear you.

MR. DEPUTY-SPEAKER: Order, please

SHRI MADHU LIMAYE: No 'Order' This is all illegal.

आप को जितना बोलना हो वह रेकार्ड पर रखिये । सब रेकार्ड पर लाइए । यह भी रेकार्ड पर लाइए कि 6 के पहले मोशन पास हुआ कि रात को 12 बजे तक हाउस बंदेगा ।

MR. DEPUTY-SPEAKER: Please

SHRI MADHU LIMAYE: No, no

MR. DEPUTY-SPEAKER: If you do not want to hear me, I will sit down. I am not going to adjourn the House (Interruptions).

SHRI NOORUL HUDA: After six, it is irregular and illegal to sit.

✓ **SHRI SHYAMNANDAN MISHRA:** Is the Chair to be pressurised by them?

SHRI MADHU LIMAYE: The House cannot sit after six unless there is a prior motion.

SHRI JYOTIRMOY BOSU: Kindly enlighten us. Did you give a prior directive before six? Was there a motion before six?

MR. DEPUTY-SPEAKER: Yes, I did.

SHRI JYOTIRMOY BOSU: You are not telling the truth.

MR. DEPUTY-SPEAKER: Mr. Bosu has refreshed my memory. At the dot of six....

SHRI MADHU LIMAYE: He is creating a new record.

नया रेकार्ड तैयार कर रहे हैं ।

Change the record.

MR. DEPUTY-SPEAKER: This only shows your weakness.

SHRI MADHU LIMAYE: What is the weakness? (Interruptions).

MR. DEPUTY-SPEAKER: Order, please.

SHRI SOMNATH CHATTERJEE: Your ruling is being challenged. They want to get away with their majority on this. When they cannot answer a point, they want to rely on their majority and they have brow-beaten you.

SHRI SHYAMNANDAN MISHRA: Mr. Lakkappa has given an open threat that you will lose your job (Interruptions).

SHRI K. LAKKAPPA: I never said that. What are you talking?

(Interruptions)

SHRI MADHU LIMAYE: Let the world know

कि लकप्पा की धमकी की वजह से यह सब हो रहा है ।

SHRI VASANT SATHE: He never said that.

SHRI K. LAKKAPPA: He is subverting democracy from inside.

SHRI VASANT SATHE: Senior Members like Shyam Babu should prevail on the Members to go back to their seats.... (Interruptions).

SHRI C. M. STEPHEN: Do you approve of this?

श्री इंदरिनन्दन मिश्र : क्यों कह दिया।
गुण्डा (व्यवधान)

SHRI C. M. STEPHEN: This is goondaism.

श्री जनेश्वर मिश्र : हम गुण्डे हैं तो तुम चोर हो ।

SHRI K. LAKKAPPA: Are they conducting themselves with dignity? They are derogating the Chair. It is against rules, against principles, against the decency of this House..

AN HON. MEMBER: There was no direction from the Chair and the House should have adjourned at 6.

SHRI K. LAKKAPPA: You please go to your seats and then you talk.

SHRI VASANT SATHE: I think this cheap stunt only with an eye on the Press and for tomorrow and last two days, some stunt they want to do. Otherwise what is the rationale? The Chair is willing to listen to you. Go back to your seats and say what you want to. Why do you stand there? Go back to your Chairs. All this you can say from the seats. What is the idea of gheraoing the Deputy-Speaker.... (Interruptions). Under what rule are they standing there? This is the first question.

SHRI SHYAMNANDAN MISHRA: Because the House does not exist.

श्री वधु लिपये : क्या माझे पांच बजे प्रायने डायरेक्शन दे दी थी कि हाउस लम्बा चले—कोई मॅकिटरी रिकार्ड की नहीं रह गई है ।

MR. DEPUTY-SPEAKER: Will you kindly allow me also, sometimes? A question has been raised that I had not given a direction that the House should sit after 6. What happened? Right at 6 O'clock, when the Minister was rising, Mr. Jyotirmoy Bosu did rise and said it is six O'clock, we must rise now. I dismissed him and said no.... (Interruptions)

श्री मधु लिमये : काल कोरम का सवाल उठाया जायवा और घाय बिस्विस कर देगे . . .
(अव्यवधान)

MR. DEPUTY-SPEAKER: Order, order. I said, no; I must hear the Minister today. I said it. After that the whole thing goes on....

SHRI MADHU LIMAYE: No, no; nothing goes on.

MR. DEPUTY-SPEAKER: The whole thing goes on; many Members raised points of order and they participated in the debate. If they were so final about 6 O'clock, they should have got up and walked out at 6 O'clock but they participated in the debate and therefore they have given their consent that the House should continue and it has continued (Interruptions).

SHRI JYOTIRMOY BOSU: No.

SHRI SHYAMNANDAN MISHRA. The moment you said that the Bill had to be redrafted, the Bill did not exist any more. We cannot put up with this kind of thing. What are you continuing the House for? Are you going to conduct the proceeding in these circumstances? Do you expect that you would be able to conduct the proceedings? What are you continuing the House for? Let it come in the modified form.

SOME HON. MEMBERS: No, Sir.

MR. DEPUTY-SPEAKER: I have already directed the House will continue to sit....

SHRI SHYAMNANDAN MISHRA: No, Sir

(Interruptions)

MR. DEPUTY-SPEAKER: That the House will continue to sit until the House decides otherwise. I am sorry, on this matter the House does not decide but I take the pleasure of the House. The right to adjourn the House is the exclusive right of the

Chair. Even the House cannot decide on this. But I can only take the pleasure of the House.

(Interruptions)

SHRI SAMAR GUHA: Sir, you can start a new business of the House but the Home Minister cannot utter a single word after you have given your ruling.

MR. DEPUTY-SPEAKER: No, no. I have not given my ruling.

(Interruptions)

SHRI P. G. MAVALANKAR: Sir, may I make a submission? Sir, you had formulated, at the end of various points of order submitted by Members from both the sides, certain questions specifically to be replied to your satisfaction by the Home Minister. Now, Sir, when the Home Minister got up to reply, as soon as he made one point, you interrupted him from the Chair by saying that that point is sufficient for you, the Chair to say that no further discussion is necessary at all.

MR. DEPUTY-SPEAKER: I did not say that. You are putting things wrong. When he was replying and he said that they were prepared to recast the Bill, then I said: In that case the matter has become very simple, if the Government itself feels that the Bill needs to be recast in order to bring the meaning fully, would it not be better to stop the discussion here and take back the Bill for recasting?

(Interruptions)

MR. DEPUTY-SPEAKER: I want putting a question, not a ruling. I have never said that I gave a ruling.

(Interruptions)

SHRI P. G. MAVALANKAR: Sir, I have not completed my submission. I was saying that when the Minister was making a speech....

(Interruptions)

SHRI INDRAJIT GUPTA: Sir, this was not all that you said with all due

respect to you. After the hon. Minister suggested that the changes in the draft and all that can be made in due course, he said 'Allow the Bill to be introduced. Now it won't be passed. It will be taken in the next Session.' That suggestion made by him was also rejected by you. You said: "What is the point? Since this is not going to be passed, would it not be much better to redraft the whole thing." There is no point in introducing it. (Interruptions)

MR. DEPUTY-SPEAKER: I accept what Mr. Indrajit Gupta has said, but this is an opinion and not a ruling.

(Interruptions)

SHRI SHYAMNANDAN MISHRA: The Home Minister had said that, if necessary it can be modified. Then we got wind from that side that they were going to make change here and now. But we took objection to that. We said, if changes have to be made, they have to be formally circulated to us and a fresh Bill has to be brought.

MR. DEPUTY-SPEAKER: The point is, I never gave any ruling. I gave my opinion.

SHRI P. G. MAVALANKAR: Sir, as I was saying, when the Home Minister himself said in reply to your point that this is not their intention and if there are any reservation in the minds of some hon. members, there could be certain changes made or a redraft made making it amply clear that the scope of the Bill is for limited area and not for the whole country, at that point of time, you said "Come again. I cannot allow the introduction of a defective Bill and then leave it to the next session." That means you have already completed hearing the Home Minister. If you wanted to hear the Home Minister fully, you could have done it, but you interrupted him and made this observation. You do not call it a ruling. But we thought it was your ruling. The point at issue is that the observations from the Chair came at the end of the first point of the

Home Minister wherein he gave in to the point of view of the opposition. So, where is the need for the Chair to spend more time in listening to the Home Minister? You have already heard him and come to a decision. So, we request you to adjourn the House.

MR. DEPUTY-SPEAKER: I have not come to any decision.

SHRI K. GOPAL (Karur): If my memory serves me right, the Home Minister did say that we can make certain changes. But it is not necessary that we have to make the changes now. It can be done through amendments later. So, he can introduce the Bill.

SHRI SOMNATH CHATTERJEE: Will you change your decision to hear the Home Minister's remarks for another half an hour or one hour or not?

श्री मधु लियये ईलीगेटड मेजिस्लेशन का इन्होंने कोई जबाब नहीं दिया, फाइनेन्शियल मैमोरैंडम का इन्होंने कोई जबाब नहीं दिया। ईलीगेटड मेजिस्लेशन पर हम जीन सकते थे, फाइनेन्शियल मैमोरैंडम पर हम जीन सकते थे।

MR. DEPUTY-SPEAKER: He was never allowed to speak.

SHRI SHYAMNANDAN MISHRA: Would you kindly enlighten us in how many categories are we to divide your observations—in the category of advice, in the category of opinion, in the category of observation, in the category of direction and in the category of ruling? (Interruptions)

MR. DEPUTY-SPEAKER: You may say 'opinion', you may say 'observation', you may say anything but not direction and ruling.

SHRI SHYAMNANDAN MISHRA: Making this distinction between ruling and opinion, you are undermining the authority of the Chair (Interruptions)

SHRI VASANT SATHE: You should give due respect to the Chair

(Interruptions)

SHRI SHYAMNANDAN MISHRA: Why do you want us to starve? For what purpose are you asking us to continue?

MR DEPUTY-SPEAKER: I have been here since 3 O'clock. I am rather more starved. I can't leave the Chair; you can go and have a cup of tea and then refresh yourself.

SHRI SHYAMNANDAN MISHRA: This is highly irregular. The Chair must give second thought to it (Interruptions)

10 00 hrs.

SHRI NOORUL HUDA: Adjourn the House (Interruptions)

SHRI C. M. STEPHEN: Not under threats; under persuasion, may be.

(Interruptions)

SHRI K. RAGHU RAMAIAH: If they listen to me, I want to tell them one thing. They are so particular of respecting the ruling of the Chair, as we are. When the Chair has said "it shall go on", should we not abide by it? (Interruptions) He has said it.

SHRI VASANT SATHE: You are not showing respect to the Chair. You are resorting to coercion. This is physical coercion. You must go back to your seats. . . . (Interruptions).

MR. DEPUTY-SPEAKER: In order to decide whether to put the question or not to put the question, I must hear the Minister. The Minister was already on his legs. He was in the

middle of his speech. Until he finishes, I have got to hear him, before I make up my mind.

SHRI TRIDIB CHAUDHURI (Bengal): May I make a submission?

MR. DEPUTY-SPEAKER: Will you all go to your seats? We will hear the senior and respected Member. Let me hear him.

SHRI TRIDIB CHAUDHURI: I want to make a humble appeal to the whole House and also to you. If I heard you right, you want to hear the Minister before deciding whether you should put the question or not. That means that you want to hear and you want the House also to hear him. We may agree with you, we may not agree with you. Some of us think that you have already ruled, and there is no point in hearing the Minister, but that is a separate question. But at least you want that the House should hear the Minister, and if that is the purpose, to enable you to make up your mind after hearing the Minister, then can't we do it tomorrow?

MR. DEPUTY-SPEAKER: With the pleasure of the House.

श्री ११२ संघीय पार्टी (राजनयवांग) :
उपाध्यक्ष जी, माननीय सिविल चौधरी की बात को आप ने सुना। वह इस सदन के एक सम्मानित सदस्य हैं, उन्होंने आप का ध्यान आकर्षित किया और आप से जी बात कही, मैं एक बात कहना चाहता हूँ कि वह विरोधी दलों की तरफ से राष्ट्रपति एवं के लिए उच्चोच्च-वार थे, वह यह क्यों नहीं प्रतीत करते हैं कि यह लोग अपने स्वाम पर आकर बैठें और सदन की कार्यवाही चलने दें। माननीय चौधरी की बात को इन लोगों को मान लेना चाहिए।

(शुद्धवाचन)

SHRI SHYAMNANDAN MISHRA: The hon. Member, Shri Chaudhuri had appealed to you to reconsider your position. May I add my voice to his.

In view of the fact that you have always the right to hear any Member, you can call upon the Minister tomorrow to speak on this. That authority of the Chair does not end. You can draw upon that authority tomorrow. But today you should be pleased to adjourn the House. Since all the Members are now in their seats, I think, it would be your pleasure to adjourn the House and to listen to the Home Minister tomorrow if you so like.

श्री एस० एम० बनर्जी : मैं तमाम सदस्यों से नम्र निवेदन करना चाहता हूँ और श्री—
रघुरमैया जी का ध्यान भी घाकूट करना चाह । हूँ कि जब उन को जरूरत हुई, हम ने रात के 12 बजे तक बैठ कर और काम रख कर जिस बिना को उन्होंने कहा कि इस का पास करना जरूरी है, हम लोगों ने पास करवाया है, लेकिन आज कौन सी मुसीबत आ गई जो इ-विल को पास करने की इतनी जल्दी है जबकि गृह मंत्रों जो खुद कहते हैं कि इस बिल में जो खामियां हैं, उन को ठीक करने के लिए वे तैयार हैं । इसलिए मेरा कहना यह है कि आज हाउस को एजॉर्न किया जाए ।

I hope they will gracefully agree to that. You take the pleasure of the House.

SHRI SHYAMNANDAN MISHRA:
It entirely rests with you.

MR. DEPUTY-SPEAKER: I had said that adjourning the House is the sole prerogative and responsibility of the Chair. But the Chair must take note of the mood of the House. There is one section of the House whom I respect who want that the House should be adjourned. I would like to hear the other side of the House and their spokesman is the Minister of Parliamentary Affairs. What has he got to say?

GMGIPND—M NS—736 LS—978.

SHRI K. RAGHU RAMAIAH: Normally, all this would not have happened. But certain abnormal situation has arisen today because the hon. Members from the other side moved towards the Chair, moved towards your side, Sir. They always talk of brute majority. What has happened now? The vast majority of the Members have to keep quiet. Therefore, it is in the setting that we have to decide it. If it were a question of adjustment, I would have willingly done something. If it is coercing the Chair and not allowing the Home Minister to speak.. (Interruptions) Let me complete the sentence. I would have cooperated. But now let it go on record that the Home Minister has only begun to speak and not concluded the speech. Let it also go on record that the Chair has given no ruling whatsoever on this matter. Subject to these two consideration, I have no objection to the House being adjourned.

MR. DEPUTY-SPEAKER: I think, it is very good. I am thankful to Mr. Raghu Ramaiah for that. I fully uphold what he said, that the Minister is in the midst of his reply and that he has not completed his reply. Then, whatever I had said by way of intervention was to pose certain questions to him and there has been no ruling on this matter.

Now, if it is the pleasure of the House, I can adjourn the House.

HON. MEMBERS: Yes.

MR. DEPUTY-SPEAKER: The House stands adjourned to meet again tomorrow at 11 A.M.

19.15 hrs.

The Lok Sabha then adjourned at Eleven of the Clock on Thursday, May 3, 1975|Vaisakha 18, 1897 (Saka)