

**PRESS (OBJECTIONABLE MATTER)
AMENDMENT BILL—contd.**

Mr. Speaker: The House will now proceed with the further consideration of the following motion moved by Dr. Katju yesterday:

"That the Bill to amend the Press (Objectionable Matter) Act, 1951, be taken into consideration."

श्री एम० पी० मिश्र (मुंबेर उत्तर-पश्चिम) : अध्यक्ष महोदय, कल में कह रहा था कि इस कानून को दो वर्ष की और नई जिन्दगी दी जा रही है। ऐसी कार्यवाही करने के लिये हमारे गृह मंत्री ने कल जो भाषण दिया उस से मुझे यह संतोष नहीं हुआ कि उन्होंने ने काफ़ी मसाला अथवा सामग्री इस हाउस के सामने रखी है जिस के औचित्य पर यह कहा जा सके कि इस बिल को, इस कानून को, जो कि जनता के मौलिक अधिकारों से, देश के लोगों के बुनियादी हक़ों से सरोकार रखता है, दो वर्ष की और नई अवधि दी जाय। [MR. DEPUTY-SPEAKER in the Chair] मुझे इस बात का दुःख है कि इतने बड़े महत्व के मामले पर एक लोक राज्य के गृह मंत्री, जो राज जनता की मरजी पर खड़ा है और जिस राज्य की बुनियाद ही जनतंत्र है, सदन के सामने आयें, एक ऐसा बिल पेश करे और उस के लिए कोई भी मसाला, सामग्री अथवा कारण सदन के सामने न रखें जिस से उस कानून के औचित्य को सिद्ध कर सकें। यह बात सर्वथा अनुचित और खेदपूर्ण है। गृह मंत्री महोदय ने आखिर जो दो बातें रखीं, वे कलकत्ते के दो अखबारों से दो कटिप्पत्र हैं और उस के साथ साथ उन ने बतलाया कि कलकत्ते में विपक्षों की हड़ताल हुई और उस के चलते उपद्रव हुए, फिर लड़कों ने अपनी परीक्षा को छोड़ कर जो उपद्रव किया, खिड़कियों को तोड़ डाला, प्रदर्शन किये। ये ही दो चार बातें उन्हें ने बतलाईं। मुझे इस बात का दुःख है

कि इन चीज़ों को ले कर गृह मंत्री इस सदन के सामने आते हैं और कहते हैं कि इस प्रेस ऐक्ट को जिस का जनता के बुनियादी हक़ों से सरोकार है—विधान में बोलने, और लिखने की आजादी है, यह उन का बुनियादी अधिकार है, और यह प्रेस ऐक्ट बंधन लगाता है—दो वर्ष की नयी जिन्दगी दी जाय। मेरी राय है कि गृह मंत्री ऐसा कर के लोकराज को कमजोर करेंगे और यह उन की कार्यवाही उन ताकतों को मजबूत करेगी जो ताकतें इस देश में और इस सदन में बंठी हुई हैं और जो इस देश में लोक राज को कमजोर कर के तानाशाही की बुनियाद खड़ी करना चाहती हैं। मैं सोचता था और कल भी कह रहा था कि आखिर वे क्या चीज़ें हैं जिन के कारण सरकार को ऐसा विशेष कानून बनाने की ज़रूरत पड़ती है, जिन के चलते जनता के बुनियादी हक़ों पर रोक लगाई जाती है। मैं समझता था कि सरकार या हमारे गृह मंत्री आकर बतायेंगे कि इस देश में कुछ पार्टियां हैं, और हर कोई जानता है कि इस देश में एक नहीं कई पार्टियां हैं, जिन का विश्वास लोक राज में नहीं है, जिन का विश्वास जनतंत्र में नहीं है। वे पार्टियां, खुले आम इस देश की सरकार को, जो जनता की राय से कायम हुई है, जो २५ वर्षों की आजादी की लड़ाई के बाद, बहुत कुर्बानी के बाद बनी है, उस सरकार को ही नहीं, राज्य को—राज्य और सरकार में अन्तर है—इस राज्य को ही उखाड़ फेंकना चाहती हैं और उस की जगह तानाशाही राज्य कायम करना चाहती हैं। अब आप देखियें, एक तरफ़ कम्युनिस्ट पार्टी हैं, दूसरी तरफ़ जन संघ है, आर० एस० एस० है; राष्ट्रीय स्वयं सेवक संघ से निकली हुई दूसरी चीज़ें हैं।

डा० एन० बी० शार (ग्वालियर) : सब से बड़े मूजी को तो मत भूलिय।

श्री एम० पी० मिश्र : जी हां, मैं आप की नहीं भूलता हूँ।

म कहना चाहता हूँ, उपाध्यक्ष महोदय, कि कल मुझे बड़ी हंसी आई। कम्यूनिस्ट पार्टी के लोग बड़े तैश में आ कर इस सभा से उपाध्यक्ष पर छींटाकशी करते हुए, बाहर चले गये। आखिर वे क्या चाहते हैं? वे देश को बताना चाहते हैं कि नागरिक अधिकारों के हिमायती बही ह। लेकिन वे नागरिक अधिकारों के हिमायती नहीं हैं। वे नागरिक अधिकारों के दुश्मन नम्बर एक हैं। नागरिक अधिकारों की ज़रूरत उन्हें सिर्फ इसलिये है कि इस देश को, इस देश की आजादी को खत्म करने के लिये इस राज्य को खत्म करने के लिये वह इन अधिकारों से अनुचित फायदा उठायें। जब वह फायदा वे ले लेंगे, जब वह अपना राज्य बना लेंगे, तो उस की तस्वीर कुछ दूसरी होगी। उन के जो अपने देश हैं, रूस और चीन जरा वहां के बारे में देखिये जिन की बुनियाद, पर ये लोग यहां सरकार बनायेगे, अगर इन की विजय हुई तो। वहां क्या नागरिक अधिकार हैं? वहां पर सिर्फ एक ही पार्टी बन सकती है, दूसरी नहीं। वह है कम्यूनिस्ट पार्टी। चीन भी कम्यूनिस्टों का देश है।

श्री बी० जी० देशपांडे (गुना) : आप की सरकार ने तो उसे रिकग्नाइज किया है।

श्री एम० पी० मिश्र : वह दूसरी बात है, उस को समझने में मुझे कुछ बक्त लगेगा। रूस और चीन में क्या हुआ? वहां पर कौन सी जनतंत्रात्मक आइडियोलोजी या आदर्श है? [वहाँ कोई लोकराज्य भी है? वहाँ कोई नागरिक अधिकार है? एक ही पार्टी वहाँ कायम हो सकती है, और वह है कम्यूनिस्ट पार्टी। कोई भी आदमी वहाँ स्वाधीन अखबार नहीं रख सकता है, वहाँ पर सब अखबार सरकार के हैं। वहाँ पर बाप बेटे से अपने दिल की बात नहीं कह सकता, पति पत्नी से अपने दिल की बात नहीं कह सकता। उन देशों में बाप को डर रहता है कि कहीं बेटा सरकार

की खुफिया पुलिस से तो नहीं है, या पति से तो है कि उस की पत्नी कहीं सरकार की खुफिया पुलिस में तो नहीं है और कहीं दिल की बात कहने का नतीजा यह न हो कि दूसरे दिन सुबह उसे अपने घर से निकाल कर साइबेरिया की बर्फानी हवा खाने के लिये भेज दिया जाय।

श्री एम० पी० मिश्र : तो फिर बच्चे कैसे पैदा होते हैं?

श्री एम० पी० मिश्र : ये लोग इस सदन में आ कर प्रजा की स्वाधीनता की बात करते हैं और दुनिया को बतलाना चाहते हैं कि वे नागरिक अधिकारों के बड़े भारी समर्थक हैं। उन देशों में कम्यूनिस्ट पार्टी क्या करती है? क्या ये लोग उसी लोकतंत्रात्मक तरीके से इस देश में राज्य करना चाहते हैं और अपने आदर्शों और उद्देश्यों को हासिल करना चाहते हैं?

जो लोग कम्यूनिस्ट विचार धारा से अवगत हैं उन्हें मालूम होगा कि कम्यूनिस्टों को लोकतंत्र में, कम्यूनिस्टों को विधान सभाओं में और पार्लियामेंट में कोई विश्वास नहीं है। वे आये हैं सिर्फ इस का फायदा उठाने के लिये। इस से उन को अपने प्रचार का फायदा होगा। इस प्रकार से वे अपने आदर्शों का इस देश में प्रचार करेंगे। और यहां आ कर वह पार्लियामेंट का मजाक भी उड़ाना चाहते हैं। दो वर्षों से मैं देख रहा हूँ कि कम्यूनिस्ट इस सदन को तमाशा बनाये हुए हैं, इतने बड़े सदन का जो कि ३६ करोड़ हिन्दुस्तानियों की राय से बना है, वे हर दिन मजाक उड़ते हैं। मैं तो चाहता हूँ कि सरकार के लोग इस बात को सोचें और इस सदन के अध्यक्ष और उपाध्यक्ष इस बात को सोचें, सदस्यगण सोचें, कि जो लोग इस सदन की दिन दहाड़े तोहीन कहते हैं उन के खिलाफ कोई कार्रवाई की जाय। कम्यूनिस्ट पार्टी इस देश में कैसे लोकतंत्र में विश्वास करती है, यह इसी से जाहिर है।

(श्री एम० पी० मिश्र)

म सोचता था कि कल हमारे गृह मंत्री जब इतना बड़ा कानून बनाने आये हैं, उसे दो वर्ष की जिन्दगी देने आये हैं, तो वह बतावें कि इस देश की आजादी को, इस देश के लोक राज्य को किन से खतरा है? इन्डीसेन्ट और स्कार्लिस लेख लिखने वालों से, भेदी और बदलील साहित्य रचने वालों से यह खतरा नहीं है। और अगर उन से यह खतरा है तो इस कानून के बनाने की कोई जरूरत नहीं, सरकार के पास इस प्रकार के लेखकों पर रोक लगाने के लिये काफ़ी कानून हैं।

कम्यूनिस्ट पार्टी की अभी मदुरा में एक कान्फरेंस हुई। पार्लियामेंट के कुछ मेम्बरों ने और कुछ मेरे दोस्तों ने मुझे से कहा कि कम्यूनिस्ट पार्टी ने अब अपना तरीका बदल लिया है। वह गांधीवादी हिन्दुस्तान में जीना चाहती है। अभी उस पार्टी के भीतर जो वा छिपे तौर पर हुई है, वह प्रकाश में आई है। देशों के कुछ अखबारों में भी वह छपी है। अभी एक पुस्तिका मेरे हाथ आई है जिसे बम्बई के एक प्रकाशक ने प्रकाशित किया है और वह पुस्तिका "Communist Conspiracy in Madurai" के नाम से छपी है, और उस में बताया है कि कम्यूनिस्ट पार्टी की वास्तिक नीति क्या है।

Shri B. C. Das (Ganjam South):
Who has written it?

Shri M. P. Mishra: The Popular
Book Depot.....

Shri B. C. Das: American publicity.

Shri Sadhan Gupta (Calcutta—
South-East): American stooge.

श्री एम० पी० मिश्र : उस में बताया हुआ है कि कम्यूनिस्ट लोग वैधानिक तरीके में विश्वास करते हैं या और किसी तरीके में। यह कम्यूनिस्टों के डायग्राम से है, उन के ही

अपने गुप्त कागज़ों से है। मैं उस में से कुछ अंश सुनाना चाहता हूँ।

Dr. Rama Rao (Kakinada): Forgery.

Shri M. P. Mishra: Go to a court and
prove it. Here is the printed thing.

Mr. Deputy-Speaker: Hon. Members
will kindly hear the passages and
take action against the book depot.

श्री एम० पी० मिश्र : "Even the most hardened liberal would now feel ashamed to maintain, let alone the Communist Party and other democrats and revolutionaries, that this Government and the classes that keep it in power will ever allow us to carry out a fundamental democratic transformation in the country by parliamentary methods alone. Hence, the road that will lead us to freedom and peace, land and bread, as outlined in the programme of the party, has to be found elsewhere."

यह है १९५१ का उन का घोषणा-पत्र जो कि कम्यूनिस्ट पार्टी ने अपनी नीति का निकाला था और जो इस समय छपा हुआ मिलता है और जिस को श्री रवि नारायण रेड्डी उस दिन झंडे की तरह इस सदन में फहरा रहे थे। उन का रास्ता पार्लियामेंट और विधान सभाओं से और शान्तिमय तरीके से अलग कहीं दूसरी जगह है। और वह कहां है यह भी इसी किताब में लिखा हुआ है और वह उन्हीं के अपने कागज़ात में से है। इस में लिखा हुआ है :

"These objectives cannot be realised by a peaceful, parliamentary way. These objectives can be realised only through a revolution, through the overthrow of the present Indian State and its replacement by a People's Democratic State."

और उन का रेबोल्यूशन क्या है, उन की क्रान्ति क्या है वह भी इस में दिया हुआ है :

"While resorting to all forms of struggle, including the most elementary forms and while utilising all legal possibilities for mobilising the masses and taking them forward in the struggle for freedom and democracy, the Communist Party has always held that in the present colonial set-up in India and in view of the absence of genuine democratic liberties, legal and parliamentary possibilities are restricted and that therefore the replacement of the present State upholding the imperialist feudal order by a People's Democratic State is possible through an armed revolution of the people".

यह कम्युनिस्ट पार्टी का उद्देश्य है। इतना ही नहीं, इस के बाद उन्होंने न उस में लिखा है कि हम को पार्टिजन आर्मी बनाना है जो कि उन्होंने ने पूर्वी योद्धा के देशों में और फिर चीन में बनाया था। वे यहां पर भी एक छोटा-मोटा राज्य बनाना चाहते हैं और सशस्त्र क्रान्ति से साजिश और खूंरेजी से इन चीजों को हासिल करना चाहते हैं और उन रास्तों से इस देश की सरकार को ही नहीं, राज्य को ही नहीं, राष्ट्र को भी उखाड़ फेंकना चाहते हैं।

Shri Nambiar (Mayuram): Is it a lecture on Communism that he is delivering?

Shri Bansal (Jhajjar-Rewari): Why are you panicky about it? Have patience.

श्री एम० पी० मिश्र : और अब देखा जाय कि क्षेत्र उन का क्या होगा ?

"It is of the utmost importance therefore that the Party creates political consciousness in the working class, makes it conscious of its role of hegemony, overcomes the present disunity of the working class, wins over the

majority of the workers in the vital industries and builds a powerful underground movement with factory and workshop committees as its nucleus". (Interruptions)

उन को मालूम है कि कम्युनिस्ट पार्टी ऐसी हालत में है जब कि उस की सारे कानूनी अधिकार काम करने के मिले हुए हैं, लेकिन फिर भी वे अपनी एक अन्दरआउन्द शक्ति रखते हैं। और वह भी यहाँ दिया हुआ है। वह क्या है? वह कहते हैं कि हमारा काम है :

"It is also necessary that while utilising all legal possibilities, the existing illegal apparatus of the Party is strengthened enormously".

बानी उन की अभी भी, मौजूदा वक्त में भी, अब कि उन के लोग पार्लियामेंट में बैठे ह, अब देश में इतने नागरिक अधिकार हैं, जब उन की पार्टी कानूनी है, तब भी उन्होंने ने कबूल किया है कि उनने अपनी पार्टी का एक गैर-कानूनी अंग कायम कर रखा है और उसे और भी मजबूत करना चाहते हैं।

Shri T. B. Vittal Rao (Khammam): Can we know from which Communist Party publication he is reading? He said this is a statement of policy of the Communist Party and he is quoting from a certain book. That is why we want to know which Communist Party publication he is quoting from. We have got a right to know that.

Mr. Deputy-Speaker: Hon Members are entitled to bring in another book. These are published books and advertised for sale. Very often such books are referred to from this side or that side. Hon. Members have got a right to prove that this is wrong, or to quote something else.

Shri H. N. Mukerjee (Calcutta North-East): Certain passages purporting to be extracts from the policy statement of the Communist Party are

[Shri H. N. Mukerjee]

being read. The questioner just wanted to know the source because it is not the Communist Party policy which is being quoted. If he is quoting from some kind of pamphlet which the hon. Home Minister placards in this House from time to time, we ought to know what it is.

Mr. Deputy-Speaker: Mr. Mukerjee did not hear him properly. When the same question was put to him, the hon. Member said that this is a publication issued by one Popular Book Depot. It is one of the books which are available for sale. Any other hon. Member is entitled to say that this is absolutely unreliable.

Shri Bansal: May I suggest to the hon. Deputy Leader of the Opposition to challenge it by saying that that is not the policy of the Communist Party? Why is he turning a deaf ear to it? (Interruptions)

Shri T. B. Vittal Rao: I do not mind if he is quoting from any Communist Party publication, but he is quoting certain passages which are not in the statement of policy of the Communist Party.

Mr. Deputy-Speaker: Hon. Members need not answer each other directly, but they may answer through me. All that I am saying to Shri T. B. Vittal Rao is that if he has got another book or pamphlet wherein this policy does not find a place, it is open to him to read it and place it on the Table of the House.

श्री एम० पी० मिश्र : उपाध्यक्ष महोदय, यह इतनी गम्भीर बात है कि मैं चाहता था कि हमारे गृह मन्त्री, नालियों में फेंकी जाने योग्य जो वस्तु है, उस को यहाँ ले आये हैं, उस के बजाय ऐसी चीजों को देखने की कोशिश करते। मैं चाहता हूँ कि सरकार इन चीजों को देखे कि यह विषय कितना खतरनाक है, जो ३६ करोड़ लोगों की आजादी को और उन के भविष्य को खतरे में डालने वाला है।

मैं कहना चाहता हूँ कि अब समय आ गया है कि इस ओर कदम उठाया जाय, कार्रवाई की जाय। मैं समझता था कि हमारे गृह मंत्री इन चीजों को ले कर हाउस के सामने आवेंगे और कहेंगे कि इस नाजुक समय में जब कि दुनिया एक लड़ाई के आगने सामने खड़ी है, और अपने देश में ऐसे दल हैं कि जो इस खतरनाक तरीके से देश को नुकसान पहुंचाने वाले हैं, हमारे पास यह कारण है कि हम कुछ विरोधाधिकार चाहते हैं। लेकिन गृह मन्त्री ने ऐसा कुछ नहीं बतलाया, इस से हम को बहुत ताज्जुब होता है। शायद हमारे गृह मन्त्री और हमारी सरकार कम्युनिस्टों से भी मोठे मोठे सम्बन्ध रखना चाहती है।

सरदार हुसैन सिंह (कपूरथला-भटिंडा) : आप का भरोसा है।

श्री एम० पी० मिश्र : शायद यह इसलिये हो कि कश्मीर के, जिस से हमारा अपनेपन का सम्बन्ध है, मन्त्रिमंडल में कुछ कम्युनिस्ट हैं और वहाँ उन के साथ हम मिल कर काम करते हैं। हम कहना चाहते हैं कि यह बहुत खतरनाक चीज है। कम्युनिस्टों से हमारा इस चीज में कोई गठबन्धन नहीं हो सकता और समय आ गया है कि इस सरकार को बचाने के लिये, बल्कि देश के भविष्य को सुरक्षित रखने के लिये, इन चीजों को ओर सरकार गम्भीर ध्यान दे।

किन्तु गृह मन्त्री ने ऐसी कुछ चीज हमारे सामने नहीं रखी कि इस कानून को जिन्दगी बढ़ायी जा सके। अगर गृह मन्त्री अपने जवाब में भी ऐसी ही चीजों के लिये कहेंगे जो कि उन्होंने पहले बताईं, तब के लिये कि वह यह प्रेस कानून बनाते हैं, या इस को दो वर्ष की नयी जिन्दगी देना चाहते हैं,

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तो मैं कहूंगा कि यह एक्सटेंशन बिल्कुल जरूरी नहीं है। देश का साधारण कानून इन चीजों का मुकाबला करने के लिये काफी है और मैं उन से कहूंगा कि आप अपने इस बिल को रद्दी की टोकरी में फेंक दोड़िये। लेकिन जिस चीज की तरफ मैंने सदन का ध्यान खींचा है, उस का मुकाबला आप को करना है, कम्युनिज्म का आप को मुकाबला करना है। मैं जानता हूँ कि कम्युनिज्म का मुकाबला सिर्फ कानून से आप नहीं कर सकते। मैं कल्युनिस्ट पार्टी के खिलाफ कानूनी कार्रवाई करने, या उस को गैर कानूनी पार्टी करार देने की भी बात नहीं करता, अगर मैं जानता कि यह एक राष्ट्रीय पार्टी है। वह कितनी भी गुमराह होती लेकिन अगर इस देश को होनी तो मैं कहता कि उस को भी सारे अधिकार दिये जायें। लेकिन हर कोई जानता है और यह बात किसी से छिपी हुई नहीं है कि यह राष्ट्रीय पार्टी नहीं है। इस पार्टी के पीछे दो दो कम्युनिस्ट साम्राज्यों की शक्ति और ताकत हैं; जो दुनिया में शान्ति खत्म कर के दुनिया में एक कम्युनिस्ट साम्राज्य कायम करना चाहती है। तो इतनी खतरनाक चीजों के होते हुए इस देश को सोचना होगा और इस सरकार को सोचना होगा कि इस पार्टी के मुतालिक उसकी क्या नीति होनी चाहिये। इसी सिलसिले में मैं, उगध्वज महोदय, एक राय और रखना चाहता हूँ।

Shri Namblar: Let the hon. Member speak on the subject under discussion today.

Dr. Rama Rao: On a point of order, Sir. If I have not understood the hon. Member correctly, you may correct me. I understood him to say that we, Communists, are not nationalists, but are agents of a foreign organisation. It is defamatory to the Community Party, of which I am a member. Is it right for you to allow this here?

Shri Bhagwat Jha Azad (Purnea cum Santal Parganas): When they were spinning stories from their im-

agination, we were listening to them and never objected to them. Why should they not have the patience to hear us also? (Interruptions)

Mr. Deputy-Speaker: Did the hon. Member say that they are agents of somebody, are not nationalists and do not belong to this country?

श्री एम० पी० मिश्र : मैं ने कहा कि उन के पीछे दो साम्राज्यों की शक्ति है।

I said that behind them is the support of two great States which are Communist States.

Mr. Deputy-Speaker: That is all right. there is no point of order.

Shri H. N. Mukerjee: He said the Communist Party is not a *rashtriya* party. (Interruption)

Mr. Deputy-Speaker: If the hon. Member only said that this party has got the backing of other parties, or of world parties, there is no objection. But if he said that this party is not a nationalist party, that they are only agents, to that extent it will not be right. I did not follow him. If he said so, that is not right.

Shri G. H. Deshpande (Nasik—Central): On a point of order, Sir. I would like to know this. Supposing there is a party in India which has no right to take decisions in India, but which always depends on decisions from outside, and those decisions are to be followed by the party, irrespective of their own views, have we no right to say that in this House?

Mr. Deputy-Speaker: If the premises are right, then hon. Members have got a right to say so. But it is being challenged by hon. Members from this side, who say they are taking independent decisions and are not merely carried away by what others say: I am not here to decide the truth or otherwise of the allegation. But so long as it is challenged it is not right to make an aspersion on any party represented in this House.

श्री एम० पी० मिश्र : उपाध्यक्ष महोदय, मैं समझता हूँ कि मेरे दोस्त मुझे शान्ति से बोलने देंगे, उन को भी बोलने का मौका मिलेगा। वह बड़े गुस्से से कहते हैं कि बाहर की पार्टियों का, बाहर के राज्यों का उन के ऊपर कोई असर नहीं है। अभी मदुरा में ही उन की कानफरेंस हुई थी और ब्रिटिश कम्युनिस्ट पार्टी के प्रधान मंत्री हैरी पालिट साहब छड़ी घुमाते हुए उस कानफरेंस में तशरीक लाये थे। वह सात दिन तक वहाँ रहे और उन का भाषण भी हुआ। वह भाषण भी इस किताब में छपा हुआ है।

मेरे पास एक निम्न और है। यह डगलस हाइड नाम के व्यक्ति की लिखी हुई है। यह कम्युनिस्ट सज्जन और उन की पत्नी बीस वर्ष तक ब्रिटिश कम्युनिस्ट पार्टी की सेवा करते रहे। वह उस ब्रिटिश पार्टी के "डेली वर्कर" के न्यूज एडिटर भी कई वर्षों तक रहे। उन्होंने जब कम्युनिस्ट पार्टी से अपना सम्बन्ध तोड़ा तब यह किताब लिखी। बीस वर्ष तक जो आदमी कम्युनिस्ट पार्टी में रहा उस की राय में बगैर अपनी राय मिलाते हुए मैं आप की सेवा में एक पैसेज इस किताब से पढ़ देने की इजाजत चाहता हूँ।

An. Hon. Member: What is the name of the book?

Shri M. P. Mishra: "I Believed", by Douglas Hyde, published by PAN Books Ltd. (Interruption from Opposition Benches)

Mr. Deputy-Speaker: Why cannot they listen? They will get their turn.

Shri M. P. Mishra: I am reading from the book *I Believed* by Douglas Hyde, published by Pan Books Ltd.

"One spy of that sort is worth scores of mercenaries. And Russia has forty thousand such potential spies in Britain in the ranks of the Communist Party, and millions more throughout the world. At no

point did the question of its being unpatriotic enter into our thoughts. We were, after all, agreed that a Communist Britain would be a better Britain, that we should not see Communism here in our lifetime if Russia was allowed to be crushed and that, therefore, in defending Russia from her class enemies and ours we were fighting for "our" Britain. The Conventional attitude to patriotism and love of country was easily dismissed with the question: "Whose country—theirs or ours?"

Shri Nambiar: We want to hear any number of books. (Interruptions) Let him bring fifty books; we are prepared to hear.

Mr. Deputy-Speaker: If the hon. Member has not brought any book today, that should not be any justification. (Interruptions)

Shri H. N. Mukerjee: On a point of order, Sir, there is a certain limit to this. After all it must be relevant to the subject. This is a very serious matter. (Interruptions) People are taking time. (Interruptions) If the Speaker is not relevant, you have to put your foot down.

An Hon. Member: There is no point of order.

Mr. Deputy Speaker: So far as the question of relevancy that has been raised is concerned, it may be that these passages which have been read are not relevant. (Interruptions) But the question is one of an extraordinary measure, an unusual measure apart from the ordinary law. (Interruptions) So the passages now quoted in the extraordinary circumstances which prevail in this country are justified.

Shri H. N. Mukerjee: May I make a submission? I would like to make a suggestion. You know how hard pressed we are for time. (Interruptions) I would like to draw your attention to the fact that there are

many other members who are very anxious to speak and it would be better if he is a little more relevant.

Mr. Deputy-Speaker: I have already said that I have got as many as fourteen names here. I am calling upon the hon. Home Minister to reply at 5.15. So, we have about two and three quarters of an hour. Every Group leaders and the various Groups have also got a right to speak in this House and express an opinion. If there are no interruptions, I can call the hon. Members but there are interruptions; that is my difficulty.

श्री एम० पी० मिश्र : उपाध्यक्ष महोदय, मेरी अपनी सरकार से इतनी प्रार्थना है कि

Shrimati Sucheta Kripalani (New Delhi): Is there no time-limit fixed? (Interruptions) He has taken half an hour already.

Shri Bhagwat Jha Azad: You are interrupting and wasting the time.

Mr. Deputy-Speaker: The hon. Member will proceed and must conclude early. (Interruptions). Let there be no interruptions.

श्री एम० पी० मिश्र : मेरा तो सब समय यह लोग खा गये । उपाध्यक्ष महोदय, मुझे अपनी सरकार से यह शिकायत है कि ऐसी खतरनाक चीजों को बिल्कुल नजरअंदाज करते हुए हमारे गृह मन्त्री यहां सिर्फ दो कटिंग्स ले आते हैं, एक अपने कल्याणी जाने के बारे में और एक अफसरों की कोई शिकायत है उस के बारे में और कहते हैं कि प्रेस बिल बनाने का और दो वर्ष इस की मियाद बढ़ाने का हम को हक दो । मैं कहता हूँ कि अगर इस परिस्थिति का मुकाबला करना है, तो यह प्रेस बिल कोई चीज नहीं है । एक बात मैं कहना चाहता हूँ कि मैं इस देश के प्रेस को, यहां के समाचारपत्रों को बहुत नज़दीक से जानता हूँ । उन को कम्युनिस्ट पार्टी जैसी

पार्टियों से मिलाना, जो देश की आज़ादी की दुश्मन हैं, बहुत ग़लत चीज़ होगी । इस देश के अखबारों का, इस देश के समाचारपत्रों का एक शानदार इतिहास है । हिन्दुस्तान की आज़ादी के लिए उन्होंने जो कुछ किया, कांग्रेस संस्था के सिवा कोई दूसरा उन का मुकाबला नहीं कर सकता । दूसरे देशों के अखबारों को वह गौरव और शान प्राप्त नहीं है जो हिन्दुस्तान के अखबारों ने तीस वर्ष तक विदेशी सरकार से लड़कर प्राप्त की है । यह सरकार नाहक उन की दुश्मनी मोल ले रही है । ऐसा क़ानून बना कर देश की आज़ादी के दोस्त जो समाचारपत्र हैं उन पर बंधन लगाया जा रहा है । मैं कहता हूँ कि इस तरह सरकार देश के अस्ली दुश्मनों का मुकाबला नहीं कर सकती ।

हमारे गृह मंत्री महोदय ने बतलाया कि इस प्रेस ऐक्ट के अधीन अब तक कुल ८६ मुकदमों चले हैं जिन में से ६० से ज्यादा मुकदमों सिर्फ़ भद्दी और अश्लील लेखों के लिये चले हैं । ऐसा मालूम पड़ता है मानों सरकार ने पंडितों, मुल्लाओं, पादरियों और पुरोहितों का काम अपने ऊपर ले लिया है कि वह देखें कि कौन चीज़ अश्लील है और कौन चीज़ अश्लील नहीं है । यह काम तो लोकमत का है न कि सरकार का । पादरियों, पंडितों और मुल्लाओं के हाथ से भी अब यह काम छीन लिया गया है । इस अश्लीलता के सम्बन्ध में, मैं आप को बतलाऊँ कि हैवलक ऐलिस को, जो सेक्स साइंस का बहुत बड़ा विद्वान माना जाता है, और जिस को इस पर शास्त्र लिखने के लिए आज संसार पूजता है, इसी अश्लीलता के नाम पर जेल भेज दिया गया था । मैडेम बोवेरी के लेखक के ऊपर मुकदमा चलाया गया था, और आज उस की वंश रचना एक बहुत बड़ी कलाकृति मानी जाती है । सरकार को अश्लीलता से बहुत चिढ़ है तो वह जगन्नाथ मन्दिर के चारों तरफ़ लोहे की एक दीवार

[श्री एम० पी० मिश्र]

लगा दे, जिस में नंगे चित्र और मूर्तियां बनी हुई हैं। और चिकित्सा की तमाम किताबें तब जला दी जानी चाहिए। मैं फिर कहता हूँ, यह सरकार का काम नहीं है, यह काम लोकमत का है वह इस को ठीक करे। और मेरा निवेदन है कि अगर इसी अश्लीलता को रोकने के लिए प्रेस ऐक्ट रखना है तो इस ऐक्ट को पास करने के बजाय रद्दी की टोकरी में फेंक देना चाहिये।

मंत्री महोदय का कहना है कि देश के साधारण कानून इस परिस्थिति का मुकाबला नहीं कर सकते और कहते हैं कि लिखे हुए शब्द बोले हुए शब्द से ज्यादा खतरनाक होते हैं। लेकिन मैं उन को बतलाऊँ कि आज के युग में विज्ञान इतनी उन्नति कर गया है और रेडियो यंत्र का जगह जगह प्रचार है कि कही हुई बात—एक व्यक्ति उस पर बोलता है और लाखों लोग उस को सुनते हैं, अखबार तो उतने लोग पढ़ भी नहीं पाते—बोली हुई बात भी उतनी ही, बल्कि उस से ज्यादा खतरनाक साबित हो सकती है। संविधान में जनता को और सब को बोलने और लिखने की आजादी दी गयी है। उस को भी आप रोक देना चाहते हैं। मैं अपनी सरकार को चेतावनी देना चाहता हूँ कि लोक राज्य की जड़ इस से मजबूत नहीं होगी और यह प्रजातांत्रिक तरीका नहीं है। जिस राज्य पर कोई नियन्त्रण न रहे, जिस के विरुद्ध उठने वाली आवाजें बन्द कर दी जायँ, उस के जुल्मी और अत्याचारी होने का डर रहता है। आज के जमाने में राज्य के पास अशेष ताकत है। उस के विरुद्ध जनता के पास अपने बचाव के लिए नागरिक अधिकारों के सिवा और क्या अधिकार है। और इसलिये उनकी इतनी कीमत है।

मैं कहना चाहता हूँ कि यदि तानाशाही से लड़ना है और उसे इस देश से खत्म करना

है तो उस के लिए एक ही ताकत हमारे पास है और वह ताकत लोक राज्य की है, जनतंत्र की है। इस में हमारी आस्था और विश्वास चाहिये। जनतंत्र में इतनी ताकत है कि पहली लड़ाई के बाद उस ने नाजी हिटलर और फ़ासिस्ट मुसोलिनी की ताकतों का मुकाबला किया और उन का उस ने नाश किया। दूसरी लड़ाई के बाद आज जो दुनिया में कम्युनिज़्म का खतरा खड़ा हुआ है उस से भी जनतंत्र मुकाबला कर रहा है और मेरा विश्वास है कि अन्तिम जीत उस की होगी। यहां भी हम जीतेंगे लेकिन उस के लिये जनतंत्र में हमारा विश्वास होना चाहिये। विश्वास के बिना जनतंत्र और लोक राज्य की ताकत बिल्कुल नहीं है। इसलिये हम गृह मंत्री अपनी सरकार और उन तमाम लोगों से जो लोक राज्य में विश्वास करते हैं, कहना चाहते हैं कि उस में हमारा अटूट विश्वास और भरोसा होना चाहिये। एक लोकराज्य का आधार है उस के नागरिक अधिकार, समाचारपत्रों की स्वतंत्रता और उन की रक्षा। जनता को बोलने, लिखने और सभा करने की आजादी और अधिकार हमें भी देना चाहिये, उस को छीनना नहीं चाहिये। वालटेयर के शब्दों में, जो उस ने अपने विरोधियों को सम्बोधित करते हुए कहे थे, हम भी अपने विरोधियों से कहें, कम्युनिस्टों से नहीं, कि :

"I disagree with every word that you say, but I will defend with my life your right to say."

इसलिए मैं अब अधिक और न कह कर अपने गृह मंत्री जी से कहूँगा कि देश की आजादी पर जो खतरा है और अगर उस का मुकाबला करना है तो कोई दूसरा कानून बनाइये। यह क्या कि अगर किसी अखबार ने किसी सरकारी अफसर को गाली दी या भला बुरा कहा, तो उस अखबार को पकड़ लिया और उस को बन्द कर दिया। मेरे पास मित्राल

मौजूद हैं, लेकिन समय न होने के कारण पेश नहीं कर सकता कि एक अखबार पर सिर्फ इसलिये कार्यवाही की गयी है कि उस ने किसी अफसर पर टीका टिप्पणों को था। मैं तो मानता हूँ कि अखबारों को टीका टिप्पणों करने का अधिकार होना चाहिये। और यहाँ पर मैं इस बात की अपनी सरकार को चेतावनी देना चाहता हूँ कि जिस दिन अखबारों से यह अधिकार छीन लिया जायगा, साधारण लोगों से ये अधिकार छीन लिये जायेंगे तो लोगों को शह मिलेगी कि वह इस सरकार को और भी तरीकों से हटाने की कोशिश करे। इसलिये मैं समझता हूँ कि प्रेस कमीशन के फंसले तक इस क़ानून को मुलतवी रखा जाय और मेरी राय में जो देश का साधारण क़ानून है वह काफ़ी है और उन के द्वारा ही प्रेस का नियन्त्रण हो सकता है।

Shri H. N. Mukerjee: Sir, before I answer the fatuous allegations which were bruited about irresponsibly by the hon. Member who has just sat down, I would like to discuss the Bill before us with a little more seriousness than he has sought to introduce into this discussion. And if you will permit me Sir, I shall begin with a personal reference.

We on this side of the House oppose this Bill root and branch, we oppose it hammer-and-tongs; because we consider that this Bill represents a studied attack on the civil liberties of this country which under the regime of the Congress Party has now become so desperately meagre. And we do so because at least as far as many of us are concerned we are, or have been, journalists in a way. As far as I am concerned I have been brought up in the atmosphere of journalism. My grandfather was one of the pioneers of Bengali journalism and worked with Keshav Chandra Sen when he started the first one-pice daily in India, *Sulabh Samachar* in Bengali. My father was a leading lieutenant of Surendranath Banerjee in *The Bengalee*. I have

breathed the air of journalism in my younger days and have also tried my hand at journalism. That is why I shall speak perhaps with a little more feeling than is usually brought into the discussions in this House.

If we can inject any sense into the cranium of the Government of our country, we can certainly expect that they drop this Bill. I have not got the time, but I can give you quotations from newspapers which support unhesitatingly the policy of the Congress Government—newspapers like the *Amrita Bazar Patrika* of Calcutta, which my friend Dr. Katju likes very well, and yet want Government to drop this Bill. We say to Government, drop this Bill because it is absolutely unnecessary, because it is an unmerited slur on the journalistic profession of our country, and because it attacks the civil liberties of our country in a very undesirable fashion. But, we have no such illusions; we have no such hopes that this Government would come forward to drop this Bill. And, yet it is our duty and our responsibility to voice the feeling of the country, not only of the Press which is absolutely unanimous, whether it is an Anglo-Indian daily like the *Statesman* or a capitalistic weekly like the *Eastern Economist*, or any other paper circulated in our country, but also of the people of our country who are really of the opinion—if you go and talk to them—that this Bill should be dropped at once, and that this kind of obnoxious measure must not be placed on the statute-book.

We have stressed over and over again how ironic it is that this Government which pride itself on building what it calls a welfare state, this Government which contends that the people support it, needs an entire apparatus of repression to be always ready at hand. There is the Preventive Detention Act, and there are so many other Acts which I do not have the time to mention before the House. They must now come forward with a Bill to go on manacling the Press in a manner against which the Press has raised its voice, and against which the patriotic

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instincts of the people of our country—which my friend has not today the sense to understand—are revolting. This Bill revives long and unsavoury memories. We know how the Press has suffered under British imperialism. We know that when the change-over happened, a little before the change-over took place, Sir Tej Bahadur Sapru addressed a meeting of journalists and he said that there should be a special guarantee in our Constitution for the Press, because he said at that time, “there is danger that the ruling party is going to use its powers in its own interests and against the interests of the country.” In spite of that, we find that there was no such special guarantee. I do not quarrel over that. But, article 19 of the Constitution enables censorship of the Press even in times of peace if it was found necessary to preserve the security of the State. We are not going to reopen that matter again, and we cannot. In spite of the fact that in times of peace, article 19 of the Constitution enables the Government to proceed against journalists if they went against the security of the State, it was not thought good enough for Government purposes and so in 1951 they came forward with an amendment about which you, Sir, and the House are very well aware. You remember also the opposition all over the country at that time against that very reactionary amendment of the Constitution. We know how the first Drafting Committee of the Constitution with Dr. Ambedkar as Chairman has decided that the limitative concept of public order should not be introduced. But, this notion of public order was made when the Constitution was amended in 1951. Also, I find that when the Act which we are now going to extend was on the anvil of the House in September-October 1951, during the discussion which took place then,—many Members of the present House who were Members of that House also will remember,—it was said very openly that at the time when the Constitutional amendment was made, a guarantee was given that no such repressive measure against the Press was

in the offing. But, in a few months’ time, the Government’s mind changed and the predecessor of my hon. friend Dr. Katju came forward with a Bill that was first called the Press (Incitement to Crime) Bill and which then, under pressure of the opinion of the House, was changed into the Press (Objectionable Matter) Bill. That is how the whole thing started. That is how we have got today the present measure before the House.

Even in that Parliament which was, if I may use that expression, packed with the supporters of the ruling party, which did not include one single Member who was against the party in power, not only representatives of the Press, but others also like Pandit Thakur Das Bhargava, who made a magnificent speech on that occasion which I had the pleasure to read on account of this discussion pending before the House, opposed that Bill. When it was referred to a Select Committee, I find two Members refused to serve on the Select Committee and when the Select Committee produced its report, there were as many as seven minutes of dissent. This shows how the wind blew even at that time. At that time, the Home Minister could come forward and say, look here, the Communists are doing this. Today, when my hon. friend, whom I do not happen to know from Adam, gets up and says that the Communist danger is like this like that, I know how the country will take it. I know how the country will treat that kind of fulmination with the contempt it deserves.

In 1951, the Government could come forward and publish things: “atrocities” in Telengana, X, Y, Z and all that sort of thing. They came forward armed with that kind of thing. It may at least have some remotely colourable excuse. It was no excuse at all. My hon. friend Pandit Thakur Das Bhargava and others had pointed it out at that time. In 1931 when Sir Harry Haig or Sir James Creer or some such other person was the

Home Member of the Government of India, when they wanted to have a really rigid, severe Press law, they came forward armed with a brief, armed with arguments to show how all over the country there was a movement against the Government, for the overthrow of the Government of the day and that is why they tried to place that measure on the statute-book. Compared to the 1931 days, in 1951 the Government of the day could not come forward with cogent arguments. I have not got the time to quote what Shri Shiva Rao said, what Pandit Thakur Das Bhargava said, and what so many others said in regard to the Government not presenting a cogent case, the Government not showing to the country that the Press had misbehaved, that the Press had behaved in an irresponsible fashion and that therefore the Press should be kept under control. The Government could not say so at all. In 1931, compared to the 1931 days when we had a tremendous movement all over the country, the Government could not place its case before this House with any cogency. In 1954 January, Dr. Katju comes before us and says, we want this measure: this measure where 'objectionable matter' is defined in a manner which defies common sense, which defies intelligence, this measure which now tries to arm this Government with powers which they are going to use, the devil knows when and for what. This measure which, as I have said, is absolutely obnoxious, is being commended to this House by the Home Minister. What is the statement that he makes? In the Statement of Objects and Reasons, he says, we have referred the matter to the Press Commission, the Press Commission has not yet reported and therefore for two years we want extension. That is the point. A few months ago, there was a question regarding the status of working journalists, whether they are workmen or not. This matter caused some headache to the Ministry of Labour and they wanted an interim report from the Press Commission on this point.

What was there to prevent the Home Minister from getting an interim report from the Press Commission? He did not do so. Is it arguable that, since the matter is referred to the Press Commission, therefore we extend this measure and we not only extend it but we make it much worse, we make it more severe, we bring forward amendments in an extension measure in a fashion which I consider to be absolutely against if not the letter at least the spirit of the Constitution, and against the spirit of the rules under which we work? That is the history of this measure.

I feel tempted to quote from Shakespeare: "Man, dressed in little brief authority". But you do not know how long this authority is going to last. You do not quite know to what devilish posture of things you are leading your country to, if you behave in this manner to the common people and their proponents, their representatives, to those who are here to voice their feelings and sentiments.

This Government appointed a Press Laws Enquiry Committee in 1948. It reported. Dr. Katju this time comes and says, "All the State Governments want that this measure should be made even more stringent." What happened in 1931 and after? The Press Laws Enquiry Committee said, "All the officials want that there should be a severe Press law." They said that all the officials wanted that the Press Act of 1931 should continue. Dr. Katju is doing the same thing today. He says, "This is what the officials say. So, this is wanted." Now, are we here to be guided by what the wooden, dead-like-the-desk's-dead-wood, bureaucrats who have not got any conception about the way the country is going, advise? Are we here to be guided by these bureaucrats who have no conception of the basic, seminal changes which are altering the entire face of human society?—these bureaucrats who have no idea except only to expect a repetition of what has been happening since the

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days when the British were ruling this country? Are we going to be guided by the opinion of these people, who naturally want power in their hands, because power corrupts and absolute power corrupts absolutely? It is from these people that you are getting your views, and it is on the strength of those views, repeated as in 1931 and again in 1951, that we are asked to form our opinion. This is a kind of thing against which we must raise our voice. This is happening against all canons of propriety. This is happening in the case of a matter which vitally affects the Press.

After all, what is the kind of Press that we have got? I do not hold a brief for the press tycoons of our country. I know very well that journalism at one time was a profession and it is now in danger of becoming a trade, sometimes of a not very desirable description. I do not hold any brief for the press tycoons, but I know the working journalist and the way he lives. Hats off to the working journalist, because even when he works for a press tycoon, he has certain loyalties to the profession. He goes everywhere. He tries to expose evil. He is fighting this or that. He is a noble creature. He is the salt of the earth. A real, good working journalist is a congenital rebel, and it is with those congenital rebels that we can have the society that we desire.

Now, what is this measure really wanting to do? It is not going to be applied so much against those who control the Press, who draw dividends from the Press. It is going to be used against independent and progressive journalism. I say so because I have looked at the records of 1951. If Dr. Katju discounts what I say, then look up the references and see what was said in 1951. Certainly, conditions have not deteriorated since 1951 from the Government's point of view. Let us see what was said then. I remember Shri Shiva Rao having said that if Government was looking towards this job of pun-

ishing undesirable expression, then why did it not punish obscenity, vulgarity and all that sort of thing? Why did not the Government look towards the films, the gangster films, which were having the run of our land, thanks to the Information and Broadcasting Ministry, whose representative I do not happen to see here today, but who I feel ought to be here when the Press (Objectionable Matter) Bill is on the anvil in this House? If you want to stop obscenity and vulgarity, turn your gaze in the other direction. Even in regard to the Press, this particular matter has been repeated over and over again. The Press Advisory Committee have said it. The All-India Newspaper Editors Conference have said it. The Federation of Working Journalists have said it. Certainly, punish obscene journalism. Certainly, punish vulgarity and obscenity. But do not punish expression of opinion. Do not punish exposure of evil. Do not punish those people who are trying to nose out those secrets on which flourishes the autocratic kind of administration that we are getting in the country at the present moment, the insensitive administration which—I am sorry to say—the Home Minister represents today. And it is because this Government is so insensitive that it comes forward in such a frivolous fashion with measures of this description.

Now, I have got with me the decisions of the Supreme Court of America. I am not going to quote to you what was said in that Supreme Court. Some very fine things have been said there by many judges in judgments such as in the cases of *Whitney v. California* and *Bridges v. Alabama*. I am not going to tire you with quotations from those cases. Very good things have been said, things which we need to remember. But I would ask you to turn your gaze only to the conditions prevailing in this country. What exactly has happened for which we are trying to manacle the Press in this fashion?

Can we say that we have got in this country a Press which is like a certain type of fashionable ladies who are so concerned about their figures that they are not concerned about their morals? Have we got a Press like that sort? We certainly have not. Our Press is a very responsible Press.

What is the condition of things in our country? The Indo-Pakistan question is always there. Look at our Press which generally behaves responsibly. There might be exceptions, but in every country there is a gutter Press. To Dr. Katju, the paragon is Great Britain. Look at the Press of the United Kingdom. I have lived there five years of my life. There are papers there which are much more scurrilous than we can imagine. But that does not make the Home Minister of the British Government get up in the House of Commons and quote what a scurrilous journal which perhaps no serious person ever hears of has said, and say, "This is my justification for having a Press (Objectionable Matter) Amendment Bill". That sort of thing never happens. We have a very responsible Press, I say. Things happen from time to time. Dr. Katju yesterday read from a translation made perhaps by some of his subordinates, of a Bengali editorial article in a paper which is so very much against us that perhaps we are hardly ever reported by it and we are not even given a line. It is a fanatically pro-Congress paper—the *Ananda Bazar Patrika*. Its magnate proprietor hovers about New Delhi and possibly is known to many of us here. In that paper, there appeared an editorial article. At what period? When all over Calcutta there was a grave situation. There was even a discussion in this House about it during August last. That was at the time of the agitation over the increase in tram fares. From that paper the Home Minister quoted a sentence, taking the thing out of its context, wherein it was said, according to Dr. Katju that those police officers who had attacked the pressmen and the press photographers were "bas-

tards" or something like that. Of course, I am not quoting. I have not got the text before me. It added, Dr. Katju had said, that they should have been destroyed when they were in their mothers' wombs or something of that sort. As far as I remember,—I have not got it before me—it was an article talked about very much before the Commission which was constituted and consisted of a High Court Judge. The President of the Indian Journalists Association in Calcutta, who is a Congress representative, said that it was an article that was a work of great literary merit. He said so. He is no Communist. He is a Congressman. He said it. Now, if you take the whole article, you will get the sense of it. You will feel the indignation of Calcutta against what the policemen were doing specially in regard to the pressmen who were there in performance of certain duties.

Now, in regard to this expression: "bastard", I do not know, but as I have told you once before, a naughty Saraswati comes and sits on my tongue and makes me use expressions which perhaps you do not very much enjoy. I think I have said once before that the kind of economy that we have got here in this country is a bastard product of the union of European capitalism and Asian feudalism. Rhetorically speaking, we say these things. As I said, we have got here an economy which is a bastard product of the combination of European capitalism and Asian feudalism. We say it. I have not got that article before me. Possibly, when he referred to that expression, according to this paper, the Home Minister referred to the vile legacy which we have got from British imperialism, this spirit which is still continuing, the birth mark which is carried still on their wrists by so many of our bureaucrats in this country, the birth mark which is the ugly remembrance of shame which the British Government has left in this country. That is the kind of thing which was written in the *Ananda Bazar Patrika*, but I would ask the Home Minister, if a Congress paper, a fanatically anti-

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Communist paper, writes in that fashion about events that have been happening in Calcutta, what does statesmanship and sanity require him to do? Should he come up before Parliament and say, "Manacle these men and put them in jail", or should he rather not come and say, "This is the expression of the public opinion of that city, that much-harried city, but a great-hearted city as cities go"? Should he not say: "I must look into this matter. How is it that a Congress daily, a fanatically anti-Communist daily, writes an editorial in this fashion?" That is statesmanship. But I am sorry to say I do not expect statesmanship from the Congress benches, and that is why they have come forward with this kind of measure. This kind of measure is really and truly against those who are going to have progressive, independent views in journalism. You can punish them. All the big tycoons can go to the High Court and all that sort of thing, but the common journalist who is trying to eke out a living, who is trying to serve his profession, who has his own loyalties which none of you ought to impugn—it is that man who is going to be punished by this kind of measure.

3 P.M.

Now, there are so many things to say, but the discussion has been somewhat derailed by the speech which was made by my hon. friend over there. I had difficulty in finding any sense in what he said. He said all sorts of things. He said the Communists are not *bona fide* Members of Parliament; they are not a national Party, they are agents of a foreign Power and so on and so forth. I am very sorry to have to say it, but there is no time nor do I have the inclination to correct the political illiteracy of the Members of the Congress Party. Communism has been here in this world for over a hundred years, and in the Communist manifesto of 1848 Marx and Engels said: "We Communists disdain to conceal our views". The Prime Minister at least has studied Communism. He knows what the

views of Communism are. If you want to know what the views of the Communists in regard to Parliament are, please look up the classics of Communist theory. I am prepared to give a list to Dr. Katju if he is game for it. But do understand that this is a theory which is out to change the world. It is not a footling little matter which helps you to conduct the administration and issue a permit in favour of X or Y or Z. It is a philosophy which is trying to introduce a new life. That is why we say Communism is the hope of the world. We shall find a new life is dawning when Communism is achieved. And we say Parliaments are good as far as they go, in their own sphere they have a certain kind of usefulness, but we do not say for a moment that we confine our activity only to Parliament. And I would say to Pandit Jawaharlal Nehru if he were here: "To hell with your hopes if you confine your activities only to Parliament". If the Congress Party has any ideology worth the name—and I am very sorry to have to say today the Congress Party has no ideology worth a syllable—the Congress Party would come up and say: "Parliament does not exhaust the work of the Congress Party". We say that. We say it proudly. We say our work lies not inside the four corners of this respectable House, but our work lies outside with the men who work and toil. That is why we say we are here in Parliament for specific purposes. We are not tied to the dead wood of this Parliament, and if necessary we shall be outside somewhere, in the fields and factories to work for the freedom of our people. And that is the view which we have got.

We have been told that we are not patriotic, that we are linked up with a foreign Power, or something of that sort. I fling back that challenge in the face of those who say it. I have said it once before. They do not know what is the meaning of patriotism. I tell this House that we love every blade of Indian grass, and it is because we are patriotic we do not think it right only to worship the

image of Mother India. When we say we are patriots, we do not worship the map of this country. We want to take into consideration the living conditions of every child of Mother India. When we are patriotic, we want to change the conditions of life of the people living in this country. We say that is the definition of patriotism if you want to have it. People here do not know what patriotism is. Let us try to convert into concrete terms of real life what we say is our ideology. And that is why I know Dr. Katju would get up and say: "You Communists who are against civil liberties, how is it that you are asking for civil liberties?" I say....

Shri D. C. Sharma (Hoshiarpur):
May I know how many non-party papers are published in Russia?

Shri H. N. Mukerjee: May I go on?

Mr. Deputy-Speaker: Yes.

Shri H. N. Mukerjee: I say I am anticipating Dr. Katju's argument, which I am afraid I did not hear completely yesterday, that we are against civil liberties. I would say that revolution is certainly a most authoritarian thing in the world. There is no doubt about it. When a revolution happens, when a revolution has to be carried through, just as when a war has to be fought to a conclusion, there are certain limitations on civil liberties. Liberty is rationed with a parsimonious hand when the revolutionary regime continues. There is no doubt about it. If there is a war, a war in which our people are really interested, surely the kind of formal liberty which is absolutely essential as a check on the administration in peace time will have to be limited. There is no doubt about it. Do not compare the conditions of India today with the conditions which prevailed in Russia after the Revolution, because after a revolution, when you are changing the whole foundation of life, when you are fighting those last-ditch fighters who want to maintain this apparatus of exploitation and class repression, when you

are doing that, naturally you deny civil liberties to those who are exploiters. You certainly deny civil liberties to a certain microscopic section of your people. That is why we say that civil liberty is not a concept which absolutely applies in the same sense in every circumstance. And that is why, whenever you see a Communist revolution happens, temporarily certainly there is an infringement on civil liberties which we do not seek to hide for one single moment, but we do that in order that the result might ensue which would bring about real freedom, a classless society wherein it is absolutely essential that every man gets his own opportunity for self-development.

I know these are ideas which would take a long time to push into the crania of my friends over there, and even if I try I will find the crania are so obstinate that I cannot derive any result. But these things are said, and we say: "We fling those charges in the face of the accusers", and we say: "We take our stand on the platform of Liberty, liberty with a big 'L'. Liberty which is so often abused, and we say here that in the present-day circumstances of Indian life and society it is for the Home Minister to come forward and tell us what exactly is the justification for bringing this measure.

I am told he has sent a memorandum to the Press Commission. He did not have the courtesy to circulate it to us. We do not have the information which is necessary even to discuss this measure in any serious, intelligent manner, but anyhow we know that this is only one of the many items of repression which this Government has got in its armoury, and Government does it because it has a guilty fear that it really does not represent the people. And that is why today it is trying to manacle the Press and to manacle the people, but the Press of our country has traditions of which we can be proud, and that is why we say the Press

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and the people together—once Macaulay said: "The reporters in the Press Gallery are the fourth estate of the realm."—the fourth estate of the realm and the people together would combine, and when that day comes I am sorry to conceive of what is going to happen to those who are shouting in inflated terms the anti-Communist venom which they have learnt to spout from Heaven knows what source.

श्री मुकुंजर (जिला झांसी—दलित):
हनोज़ दिल्ली दूर बस्त ।

Shri H. N. Mukerjee: I say therefore this is a Bill which we should oppose with all our strength, which we should oppose root and branch, which we attack hammer and tongs, because we know that we have with us the unanimous support of the common people of our country.

Shri S. N. Agarwal (Wardha): After the impetuous, eloquent, theatrical and what he called the Saraswati-tongued speech of my hon. friend there, I want to speak more calmly but firmly.

Let me, to begin with, pay a warm tribute to the Indian Press in general. I say "in general" because after having gone to many countries of the world I can say with confidence that our young men who are working journalists in this country are not inferior to anybody in the world. They have rendered great service to our national cause during our struggle for freedom, and they continue to forge unity and democracy in this country. I said "in general" because I have heaps of quotations here with me that prove that there are black sheep, as there are everywhere, and this Bill is directed against such black sheep that bring bad reputation to the whole Press. As they say, one bad fish pollutes the whole pond. And there are a number of fishes still in this country, against which we want to raise our voice. But as I said, the

Indian Press in general deserves full appreciation, and I yield to none in my appreciation of the fine men who work in our journals.

I am also very happy that the All-India Newspaper Editors Conference has adopted recently a code of ethics for working journalists, and I did appreciate it publicly because they condemned incitement to violence, and the expression of indecency in public life. I find that there is also an international code of ethics that has been recommended by the UNESCO Sub-Commission on freedom of information and the press. There also, they have admitted that although freedom of expression is a fundamental right, it must be compatible with integrity and dignity of the profession. Their report goes on to say:

"The reputation of individuals should be respected, and information and comment on their private lives likely to harm their reputation should not be published, unless it serves the public interest as distinguished from public curiosity."

Then it goes on to say how it should not incite violence and indecency. Therefore, I would plead with the House that this Act which was enacted two years ago, and which is sought to be extended for the next two years is directed only against the weaker links, against those journals which are generally called yellow journals.

I have with me a number of quotations, but I would not tire the House with many of them. I would just quote a few instances to show how this indecency continues unabated.

The Blitz (Weekly), Bombay says, criticising the Congress:

"In the face of this menace, I feel very pessimistic about the Socialist Party capturing power through the ballot box, which is always state-managed by those in power.....So long as power does not come in the hands of the

Socialists, they will not be able to do any real relief work for the people. Capturing power from fascist rulers through the ballot box is, as illusory as taming a lion by prayers and *satyagraha*."

Then, there is the *Nagpur Times* of Nagpur, which writes a regular article on the ethics of shoe-beating, and it goes on to describe how a particular person was shoe-beaten and what the philosophy behind that shoe-beating is.

Dr. N. B. Khare: That was a Congress paper.

Shri S. N. Agarwal: It is not a Congress paper.

Dr. N. B. Khare: It was. I challenge you.

Shri S. N. Agarwal: You know that better.

Shri C. D. Pande (Naini Tal Distt. *cum* Almora Distt.—South West *cum* Bareilly Distt.—North): Congressmen like Dr. Khare.

Shri S. N. Agarwal: The *Prubhat* (Urdu), Jullundur, quoting Master Tara Singh's speech writes:

"If we do not succeed.....then according to the commandment of Guru Gobind Singhji, our method will be: 'When a task has gone beyond all means of accomplishment, it is lawful to extend the hand towards the sword'."

Then the *Pratap* (Urdu), Jullundur, of the 17th March 1953 published the following:

"Time has come to set up Lath Singh in place of the Charkha Sangh....For that was the only way of bringing about a change."

I have in my hand a few issues of the *Film India* from Bombay, and the great Baburao Patel is so proud of his writings that he sends offerings to all the M.P.'s and M.L.A.'s throughout India. Writing about Panditji,

what an indecent language he uses, when he writes:

"Pandit Nehru has turned even the professional Congress politicians into his stooges and lackies. 90 per cent. of the Congress legislators in the country have by their impotent submission to Nehru disgraced the very wombs of their mothers and stabbed in the back the very people who elected them as representatives."

This is the height of indecency, and if we do not take note of these things, to what degradation shall we go?

He sends us leaflets also, and in a recent leaflet, which he calls 'Eunuchs of History', he says:

"The Government of India believes not in the third force, but in the third area,"

and talking about the sex, he says:

"What is this third area, what sex it has, it has neither the sex of man nor of woman."

Is this the way of writing about a serious problem?

Dr. N. B. Khare: He has a sense of humour at least.

Shri C. D. Pande: Monkey's humour.

Shri S. N. Agarwal: When you discuss foreign policy, is this the way of writing about it?

Now I come to what my hon. friend Shri H. N. Mukerjee referred to. He was speaking of the utility of Parliament. He said that no party worth the name can say that Parliament is the only forum of work. The Congress Party has always believed in constructive work outside. We do not say, and in fact we never have said that Parliament is the only nucleus of activity. But I want to say very seriously one thing. My hon. friend read out from a book. I have also seen that book, only yesterday, and I want to say very clearly that the

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time has come when we must face facts. It is not possible to fool people for all time. It is no good only crying that it is forgery and only saying that it is all bunkum, because a regular bookseller has published the book, and it is on the market. If the Communist Party of India thinks that it is forgery, let them drag the booksellers and the publishers to a court of law. So long as they do not do it,—they have not the courage to refute what is there,—we cannot believe that it is all forgery. I would ask Government to take a serious note of it, and ask the Communist Party whether it is true or not, and if they cannot prove the untruth of it, some action must be taken. If we, the Members of Parliament, and also the public have in our possession certain documents which are not disproved, I do not see, how mere shouts and threats will prove the falsity of that document.

Then, what about the totalitarian countries? What about the Communist philosophy, which talks so readily of the freedom of the press? I have here a report of the speech of Mr. Vyshinsky, where he defends denial of freedom of the press. He says,

“According to Lenin, the freedom of the press is a delusion, so long as capitalists commandeer...freedom of speech and of the press are denied to the foes of socialism, and every sort of attempt on their part to utilise to the detriment of the State—that is to say, to the detriment of all the toilers...”

We also can turn back and say, how can we allow freedom of the press to those who are the enemies of democracy. How can we go on giving a long rope to those who are out to strengthen the illegal apparatus of their parties in this country, and who are out to create partisan warfare.—not ordinary warfare, but guerilla warfare,—and who say that they do

not believe in peaceful methods, but in revolutionary armed methods?

Now, this is a very serious matter and merely making a loud speech—a theatrical speech—will not delude us any more. I would, therefore, say that although we are proud of the Indian Press—as I said, I will be the last person to denounce it in general—the time has come when we must face the enemies of democracy, the enemies of the peaceful non-violent revolution that we want to have under our Constitution, and the enemies of decency in public life. So long as this continues, such Bills have to be there. In fact, I would go to the extent of saying that when so many movements were there, the Praja Parishad and other movements, the Government of India felt helpless. The Press wrote day in and day out and the Home Ministry said: ‘We are helpless. We cannot do anything’. Well, I do not want that the Government should be so helpless. If we have to govern the country, we have to govern effectively. It is no use saying that our laws are defective. Of course, we do not want to infringe the freedom of the Press in general. This is a democratic country and all those who believe in democracy, all those who believe in peaceful revolution are welcome. They can criticise the Government to any extent. In fact, I can say with confidence that I have seen so many papers in different parts of the world and the freedom that is allowed to other parties in this country does not exist in any other country of the world, including the democratic countries. (*Interruptions*). Look at the stuff that we read in the papers! Look at our election speeches! All sorts of falsehood is doled out day in and day out and the Government is helpless. We know that it is patently false. So many things are said. It is said, Sir, that the death duty that we passed last time is a duty which will be a duty on the *fakirs*, a duty on beggars and they say that you will not be allowed to take away the dead body till you

paid the duty! I know so many speeches go on by the Opposition parties.

Now, is that the way, trying to bring our own laws into disrepute?

Therefore, I would, while supporting this measure, say that while we are all out for freedom of the Press and of expression in this country, we are determined to curb and meet the menace of violence and bloodshed and of all those subversive elements that are out to throw our democracy into a whirlpool.

Shrimati Suchota Kripalani: Sir, I rise here to oppose the Bill lock, stock and barrel.

I will draw your attention, first of all, to the Statement of Objects and Reasons. As other Members have already told you, the Statement of Objects and Reasons does not make out a case for the enactment of this amending Bill. I would read out to you the Statement of Objects and Reasons and show you the curious argument that has been placed by the Government before the House. It is a very interesting document and in this they say:

“The Press (Objectionable Matter) Act is due to expire on the 31st January 1954. In view of the fact that the Press Commission will, among other things, examine the existing Press legislation and make recommendations relating thereto...”

This is the reason, Sir—what do they want to do?

“it is proposed to defer a detailed examination of the issues involved until the Press Commission's recommendations have been received.”

Then the logical conclusion that the Government draws from this statement is as follows:

“At the same time, the Government feel that it would be undesirable to allow the Act to

lapse. The Bill seeks to extend the life of the Act by two years.”

This very document, Sir, is condemnation of this measure. The Government themselves admit their weakness. What do they want to do? They do not want to discuss the details. They want to avoid a discussion of details. For that they want to await the report of the Press Commission. But what else do they want to do? Very quickly, in a hurry, they want to do a very small thing! What is that small thing? They want to extend the life of the Act for two years. Is it honest argumentation—that is what I want to know. If the Government were really honest, they should have said that the logical outcome of the present situation is that they await the report in order to go into the whole case. The utmost that the Government can do is to come before the House and say that there should be an extension of the life of the Act till the submission of the report, say, for another six months at the most. Then I would have understood that the Government's intention was honest, and there was some logic in the Statement of Objects and Reasons.

Then I will go to other points. I have fundamental objections to this Act. When the original Act was passed, no case was made out for this kind of a special law creating special offences. Congress Members—not Members of the Opposition—eminent Members of the Congress had strongly opposed the Bill on the ground, that no case has been made out. Shri Rajagopalachari, who is a very astute advocate—even he—could not make out a case. What case did he make out? He pleaded that this is a preventive measure. He said—it is a kind of threat to be held over the press. He even said that this Bill would be a “dead letter”. I would remind the House about these two words that Rajaji used—that this would be a “dead letter”; that is how he persuaded the House to pass it.

Government from time to time appoint Committees to go into important

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issues. Why do they appoint such Committees? So that the Government can be properly advised on the subject. The Government had appointed the Press Laws Enquiry Committee. What is the opinion of the Press Laws Enquiry Committee in this regard? The Press Laws Enquiry Committee holds that there is no need for special law; the ordinary law of the land is quite adequate to meet the situation. Now, you had a special committee appointed to go into the question. They give an expert opinion. You flout that opinion and do just what you like.

Then, Sir, what is the history of the Press law in this country? When did the first Press Act come into being in this country? The Act came into being in 1908. Let us look at the background. In 1908 the whole country was in turmoil. We were fighting the British to overthrow them. There was a revolutionary movement to throw the British out even by means of arms. Therefore, all the Press, the patriotic Press, was helping the movement. At that time, this Act was passed. By whom? Not by the representatives of the Indian people but by the British Government—the alien, imperialist power that was in India. In order to crush the freedom struggle the Government passed the 1908 Act. That Act was opposed by all of us, by all people who represented progressive opinion, people who were leaders of the Congress at that time. As a consequence, what happened? In 1920, a Committee was appointed and that Committee recommended that this Act should be repealed. And the Act was repealed. Even the British had no argument to keep such an Act on the statute-book. From 1920 to 1930, there was no such Act. Then when did it again reappear? It reappeared in 1931. Again, look at the background. What was the condition? We were carrying on a grim fight against the British. At that time, the British Government passed that Act to suppress us, to crush our move-

ment, to prevent the Press from helping us and doing their patriotic duty by this country. Even the British at that time said that it was an emergency measure. They never even argued that they wanted to keep such an Act permanently on the statute-book.

Even the British, Sir, the imperialist British had deep democratic tradition. Therefore they could not deny the principle that the Press should be free. Here, Sir, I would take you back to a very hackneyed quotation that has been given in the Press Laws Enquiry Committee's report. I will read it out; I am very sorry to read this out. Why? Because these are the words of reactionary imperialists who ruled over us. Today in free India when no other person than Pandit Jawaharlal Nehru is leading the country, it is against his Government that I have to quote this. I have to quote the words of a reactionary people as something very progressive. I am ashamed to read it, but I am obliged to read it. This is what Sir Charles Metcalfe said when they were thinking of imposing restrictions on the Press.

"I think on the present occasion that it will be infinitely better to allow anything to be said that can be said, than to furnish a new source of discontent, by crushing the expression of public opinion. I have, for my own part, always advocated the liberty of the Press, believing its benefits to outweigh its mischiefs; and I continue to have the same opinion."

I would like Dr. Katju to listen to this very carefully.

"Admitting that the liberty of the Press, like other liberties of the subject, may be suspended when the safety of the State requires such a sacrifice, I cannot, as a consequence, acknowledge that the present instance ought to be made an exception to the usual practice..."

This is what Macaulay said. We have always looked upon Macaulay as one of the diehard imperialists ruling over us. This is what he says:

"The question before us is not whether the Press shall be free but whether being free it shall be called free. It is surely mere madness in a Government to make itself unpopular for nothing to be indulgent and yet to disguise its indulgence under such outward forms as bring on it the reproach of tyranny. Yet, this is our new policy. We are exposed to all dangers—dangers. I conceive, greatly overrated—of a free Press; and at the same time we contrive to incur all the opprobrium of censorship. It is universally allowed that the licensing system, as at present administered, does not keep any man who can buy a press from publishing the bitterest and most sarcastic reflections on any public measure or any public functionary. It is acknowledged that, in reality, liberty is and ought to be the general rule, and restraint the rare and temporary exception."

Even the British were ashamed to impose such a retrograde measure. They could not justify it so they brought in the pleas of emergency.

What did we do in 1951? Immediately after we got freedom, these very people, the leaders who were fighting for the liberty of the Press, brought in the same Act. They brought in this Act of 1951. In this Act, sections from the 1931 Act were bodily brought in. The Government did not try to make a proper case; they did not try to marshal a whole lot of evidence to convince the House that such an Act was necessary. The British had some kind of respect for the observance of democratic form but now we have even dispensed with that. Even at that time, Members of Parliament strongly complained that no evidence had been placed before the House yet the Bill was got

through. Now, the same thing is being repeated.

Now, we are told that we cannot go into the clauses of the old Act. But the life of the Act is being extended. Then, more reactionary amendments are sought to be introduced in a clever way. In the Statement of Objects and Reasons, they say:

"Opportunity is being taken to make certain minor amendments at the same time."

These are not minor but substantial amendments.

What case has been made out? My hon. friend, Shri S. N. Agarwal tried to make a case. He brought out a number of facts, in order to supplement the hon. Home Minister's speech. Only two cases were brought before the House by the hon. Minister. One was a personal case. It is very awkward to say anything. Everybody is sensitive about his personal honour. We do not want anybody's personal honour to be touched. I am sure every Member of the opposition is keen to see that the yellow journalism or the gutter press, or by whatever name it is called, is suppressed.

An Hon. Member: How?

Shrimati Sucheta Kripalani: Wait a minute; I will tell you.

I would ask, Dr. Katju, if there was dishonour or slur on his character, he could have sued the party under the ordinary law of libel and he could have got damages. I do not know what paper published it; at least we do not read such papers and I hope no respectable person reads them.

Dr. S. N. Sinha (Saran East): I think the *Swadhinta* of Calcutta published it.

Shrimati Sucheta Kripalani: Maybe; I do not know it.

I want to know why the Government is in a hurry to extend the life of the Act by two years. My suspicion

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is that they are in a hurry to do so because they want to anticipate and circumvent the recommendations of the Press Commission. Because once this is extended for two years, when the recommendations of the Press Commission come in after a few months, they can sit over it till two years expire and thus can shelve it for two years. As Mr. H. N. Mukerjee very rightly pointed out, if the Home Minister is really honest and sincere in improving the Press—we are all with him in that—if he were really sincere and honest about it—the right thing would have been to ask for an interim report from the Commission. Why not ask for an interim report at this juncture? But he says, we wait for the report to discuss the details, but meanwhile we extend the life for two years. To my mind, no case has at all been made. As a matter of fact, I think the House has been treated with contempt. If the Government had any regard for public opinion, if they had any regard for this House and if they had any desire to take this House into confidence, they ought to have submitted a report on the working of the Act during the last two years and then made out a proper case. But, they have done nothing of that kind because they have got a tremendous majority. I am sorry to say that that tremendous majority also in actual fact, reflects the opinion of only one man at the head who decides and the rest of them say 'Yes'. (Interruptions).

What is sought to be done? What is the method by which control is sought to be imposed on the Press? The method is one of demanding security. This system of demanding security is not found in any other civilised country. The Press Enquiry Committee has given an opinion against security. What is the character of the security? Security is a kind of threat. That means it is a preventive measure. Shri Rajagopalachari, when he introduced the original Bill admitted that the character would be

preventive. The character is preventive but, the consequence is punitive. When we confiscate the Press, it does not remain preventive; it becomes punitive. In a preventive measure you have introduced this punitive aspect.

The Government boasted that they are doing away with pre-censorship and that it is a great concession. What is the effect of this kind of control? The effect is pre-censorship and nothing else. I will give you one or two examples. We believe the editors should have independence to express their opinions. That is one of the basic tenets of progressive journalism. When we introduce this system of security, the editors come under the control of the proprietors, because, after all, it is the proprietors' money that will be lost when the security is forfeited. Then the proprietor is in a position to compel the editor to write what he wants.

I will give a very good instance. During the 1942 struggle, *The National Herald*, which is a Congress paper and which was fighting with us in the struggle and was supporting us through and through—the editor was Mr. Rama Rao, an eminent journalist. *National Herald* usually published all the things that were banned by the Government those days. But, even a fighter like Rama Rao had to hesitate once because the question of money was involved. One statement of Gandhiji was not published in *The National Herald* by Rama Rao because, the sword of six thousand rupees' security was hanging over his head. Ultimately, the Directors of the paper exerted their influence over him and he then published Gandhiji's statement. If an editor like Rama Rao, a paper like the *National Herald*, which was a Congress paper could not publish the statement of a man like Mahatma Gandhi because money was involved, then you can easily understand how much the independence of an editor can be curbed by this measure. Therefore, Sir, I am totally against this Bill.

Shri Dhulekar: Can you state any instances in which the speech of a leader has not been published?

Shrimati Sucheta Kripalani: I am speaking of a case where it was done.

Shri Dhulekar: That was in 1942; not now.

Shrimati Sucheta Kripalani: It will be done now; don't worry.

The spirit of the Bill is suspicion of the Press. Some members of the Congress Party tried to compliment the Press. I may say that during 1942, I was working as an underground worker. I, along with others, was running the underground A.I.C.C. office from Bombay. I know what help we got from the Press in those days. A booklet that we published then had created a great sensation. That booklet was composed by an eminent journalist—he was afraid to publish it from his own press—it was given to another eminent journalist for printing. I know, at the risk of the confiscation of his entire press he took the book from us and sat the whole night and got it printed in his press. This and many other things the Press has done for us. Why did they do it? Because they were with us. Who constitute the Indian Press? It is we who are the Indian Press. If we have patriotic feelings in us, they too have equal patriotic feelings; they were working for the freedom of our country. Now when freedom is achieved, on one section of fighters for freedom the Government want to impose these humiliating restrictions and prevent them from working freely. Such things are not done in any other country. I would like to draw your attention also to another point, which has already been emphasised by other hon. Members, that by putting these restrictions on the written word, we are discriminating between the spoken word and the written word, which is repugnant to article 19(1) of the Constitution. I do not want to go into details.

I now come to the most important point, namely, the definition of 'objectionable matter' in the original Bill. In a masterly note of dissent by Pandit Thakur Das Bhargava and in the speeches of others, it has been shown how dangerous and wide in scope these objections are. For instance, according to this Act, even interference with the supply of food and essential supplies comes under the mischief of the Act. Supposing the Rationing Department is running very badly—it is notorious for corruption as you all know—and some papers criticise its work then it can be construed as interference and come under the mischief of this Act. The word 'scurrilous' is very wide and very vague, and it has no fixed meaning in the eye of law—scurrility can mean anything. I suppose even Shankar's cartoons can come under it. Anything can be scurrilous and anybody can interpret the meaning of the word 'scurrilous' as he likes. It is therefore a very dangerous Bill and we should fully understand the implications before passing it into law. One Congress Member waxed eloquent in support of the Bill and pleaded that there was no harm if some words have wide scope because they are at par with such words used in the Penal Code. I would like to remind him, however, that in the Penal Code there is also a provision that no court can take cognizance of offences, except certain specific ones, which are trivial in character, but such a provision is not found in this Act. Therefore there is no such safeguard.

I can see that you are growing impatient and I am, therefore, hurrying.

Mr. Deputy-Speaker: I am sitting here all through the day. How can I be impatient?

Shrimati Sucheta Kripalani: If you are not impatient, it is very good and I will go on with my speech.

Mr. Deputy-Speaker: But others are impatient.

Shrimati Sucheta Kripalani: Regarding the point raised by Shri S. N. Agarwal, I wish to assure Dr Katju

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as well as others that we would like to see obscenity, vulgarity, scurrility and all that kind of bad things eliminated from the Press, and no responsible person or Press would disagree with it. Shrimanji gave us the example of one paper. I would like you to appreciate the reason for the existence of this kind of journalism. This Act has been with us for the last two years and even in these two years we have not succeeded in suppressing the bad Press. We have had the Penal Code in force, yet we have not succeeded. Why? Because the administration does not do its work properly. Firstly, it is ineffective and dishonest. I am glad that Shrimanji quoted one particular paper. This paper enjoys the patronage of one of the Congress Chief Ministers. The editor of the paper was an honoured Government guest in that State. It enjoys the patronage of the Government in the form of advertisements. About the other paper *Nagpur Times* I do not know whether I am making a mistake in my facts, but my information is that Shri Ravi Shankar Shukla was one of the directors or had close association with the management of the paper.

Shri S. N. Agarwal: That was long long ago.

Shrimati Sucheta Kripalani: Not very long ago.

Sardar Hukam Singh: Shri Agarwal has now taken up the position that it was a long time ago. I wish to ask him in regard to the paper quoted by him, namely, *Partap*, what date it was. For the extension of the life of this Act, he is quoting from 1951, but now he advances the argument of "a long time ago".

Shrimati Sucheta Kripalani: What I wish to draw your attention to is that this kind of journalism flourishes because there are factions among the ruling party; there are big stalwarts who support one paper or the other and go on vilifying one person or another. That is how this kind of paper

is allowed to live, but it is one of the reasons only. I would like to tell them in all honesty and sincerity that by this Act we cannot suppress this kind of journalism.

An Hon. Member: To some extent.

Shrimati Sucheta Kripalani: Although you have had this Act during the last two years, you have not succeeded in suppressing this kind of journalism. There is enough provision in the Penal Code for that. In times of emergency, you can curtail the power of this Press, and we will help you in doing it. If there is a real emergency, by all means curtail some of the powers of the Press. We would want our country to be protected. If there is obscenity or vulgarity, we will help you to suppress it. But this is totally a wrong method that you are adopting and it is not the way to suppress bad Press. But why have you brought this Bill? It is not directed against vulgar or obscene Press. It is directed against the growth of opposition Press. You do not want an opposition Press to grow and therefore, you have brought forward this Bill.

I have no time to go into the details, but I would like to refer only to two or three clauses. In clause 3, we have introduced a new word "news-sheet". In some of the States, news-sheets are allowed to be printed without the name of the printer. As far as undeclared press is concerned, penalty is provided under the Press Registration Act and I consider that is a sufficient check on the undeclared press. Why do you want to throw unnecessary burden on it in the form of confiscation? Because in its working it may be a great source of harassment. Suppose a vindictive officer take it into his head to suppress a press, he may come and say, "This is a News-sheet without imprint, from your undeclared press" and he will ransack the whole of this house on that plea. So, this will be a source of harassment on mere suspicion. I am therefore opposed to this clause.

With reference to clause (4A) Dr. Katju, the Home Minister very eloquently said that the function of the jury is to give the verdict of guilty or not guilty, and the function of the judge is to give the punishment. We accepted it on principle but not in the context of this Bill. When the original Act was passed, Shri Rajagopalachari tried to induce us to pass it, and one of the inducements offered was that there would be a jury composed of journalists. The journalists, sympathetic friends of the Press, would decide what sort of punishment was to be given. There was some slight concession given to the Press in this provision of the previous Bill. Now this little concession given in the original Bill is being withdrawn.

I come to my last point clause 5. Formerly, under the 1951 Act if the jury and the judge did not agree, the case could be taken up for appeal, but now even when there is no difference of opinion between the two and the party is acquitted the executive is allowed to take up the matter to the High Court. Suppose there is a case against me. The very fact that I have to spend money in conducting my case is itself sufficient punishment. I consider this a totally unjustified provision and a retrograde provision. The only effect of these amendments will be to suppress the growth of the Press. When we struggled for India's freedom, what was our concept of Free India? The concept of Free India did not merely mean that on these Benches we will find a few of our friends? That was not our concept of freedom. Our concept of freedom meant that the people of India will have civil liberties, that the Press will have freedom, that there will be economic equality. These things formed the meaning of freedom for us. Now, Sir, what is happening? The meaning of freedom is narrowed down to mean the freedom of certain Indians occupying those Benches. That is not freedom.

I therefore plead with you: do not distrust the public; do not distrust the

representatives of the public who are the journalists, who are the gentlemen of the Press. Well-organised public opinion is necessary to nourish democracy. If you suppress this section, the fourth estate, as Shri Hiren Mukerjee called it, you are imperilling the democracy that was established in this country with great difficulty. Therefore, I would ask you not to extend the life of this Bill, but wait for the report of the Press Commission. **Whatever you have to do, you may do after you have seen the Report of the Press Commission.**

Shri Frank Anthony (Nominated—Anglo-Indians): Sir, I listened with deep attention—and may I say, with respect—also with deep disappointment to the speech of the Home Minister. Sir, I must say regretfully that the speech of the Home Minister was, at any rate, in parts gratuitously provocative, if not offensive. I regret also to say that he used the same stock-in-trade, the same arguments, even the same phraseology, to commend this obnoxious measure which he used in commending the more obnoxious Preventive Detention Act.

Sir, as my hon. friend Shrimati Sucheta Kripalani has pointed out, even the British when introducing a similar measure introduced it on an entirely different note. It was prefaced by a note of apology that it was an emergent, extraordinary measure, meant to meet an extraordinary, abnormal situation. We found no tinge of apology in the attitude of the Home Minister. He was lyrically extolling it: here is a measure, as usual, harmless, innocuous, necessary—more than that, benign, conferring a boon on the Press and the people of this country! I regret—perhaps the Home Minister does not mean to give offence—the way, the very typical way, he brushed aside, the unanimous disapproval of the Press; with a wave of the hand he brushed aside the unanimous disapproval of the Opposition and of the right-thinking sections of the people of this country. He brushed them aside not only with a

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cynical—but may I say—even with flippant contempt.

Sir, the Home Minister tried, as he did with the Preventive Detention Act, to make our flesh creep. He indulged in all kinds of lurid, highly imaginative pictures. Here is a Press—he exhausted the gamut of adjectives—here is a Press awful, terrible, but after that he stopped. He was not able to substitute lurid fantasy with proof. I am surprised that he, an eminent lawyer, should have done it. He was not able to furnish us with an iota of evidence to support his contention.

Dr. S. N. Sinha: What about the Calcutta instances?

Shri Frank Anthony: My friend has provoked me to analysing it. What about the Calcutta instances?

Two instances were cited. May I say this, Sir, with regret, that these illustrations are not only anaemic but almost laughable! What was the first one? My friend the Home Minister was not prepared to name the paper. More than that he was not prepared to give us the full article. He read something out of the context. He tried to excite this House by throwing an offensive word at us—"bastard", without any context. We do not know the whole article in which this word was inserted. But, as my hon. friend Mr. Mukerjee has pointed out, by itself "bastard" is an offensive term. But anyone who has a passing knowledge of English, passing acquaintance with English idioms, knows that "bastard" in the proper context, used figuratively, can be a most elegant drawing-room expression.

An Hon. Member: Most enlightening!

Shri Frank Anthony: I am asking my friends not to cloud their judgment. I will give my friends an illustration. I have often referred to the English used by some of my hon. friends in this House as a form of bastard English.

In this particular context, as far as the Home Minister was prepared to vouchsafe us details, he gave a few scrappy words. What was this? Certain people were referred to as bastards of some particular regime. In ordinary parlance what does it mean? Merely that they were unnatural, illegitimate products of that regime. What was there to give so much offence?

Shri M. P. Mishra: Can we make a present of this word to you?

Shri Frank Anthony: My hon. friend is unable to distinguish idiom correctly and incorrectly used.

I was trying to show that the use of the word bastard is not a calamity on which we can base an extraordinarily lawless measure of this description.

And what was the other example that the Home Minister furnished us? He said: "It has something to do with my personal case". I say this with all respect to the Home Minister that the standards of the hyper-sensitive Ministers are not the standards by which to impose an extraordinary legislation on this country. I do not know what the Home Minister sought to read into this innuendo. As far as we were given details, all that was suggested was that the Home Minister went to Calcutta to get something which he could not get at Kalyani,—in order perhaps to get a perfectly good peg of Scotch whisky. What is there wrong with somebody suggesting it? Nothing wrong at all. I say with all respect much greater people than our Ministers go to cities in order to have pegs of Scotch whisky and they are much better people for it.

An Hon. Member: Our Ministers do not do it.

Shri Frank Anthony: It certainly is not such a criminal innuendo on which to base the extension of the Press Act of this description.

As I say, the Home Minister could not furnish us with any evidence.

Shri M. D. Joshi (Ratnagiri South): Does the hon. Member know there are people who regard it as defamation?

Shri Frank Anthony: Maybe. As I have said the standards of hyper-sensitive people, people with an unduly inflated ego, with an unduly inflated sense of self-esteem, these are not the normal standards. If my hon. friend goes to a court and tries to prosecute for defamation, not only will his case be thrown out, but he will be mulcted in damage for being a hyper-sensitive, subnormal person.

An Hon. Member: But you are not sensitive

Shri Frank Anthony: I am asking the Home Minister to develop my capacity for comparative thick-skin....

The Minister of Home Affairs and States (Dr. Katju): It is utterly impossible for me.

Shri Frank Anthony: Then I would ask him....

Dr. Katju: I hope what you are saying, you are doing in proper...what shall I say?

Shri Frank Anthony: I will continue with....

Dr. Katju: Please ignore me; come to the Bill. What is the use of addressing me?

Shri Frank Anthony: This was an illustration, Sir, which unfortunately the Home Minister gave us an alleged innuendo against himself. I am only suggesting that what was meant to be a mild leg-pull has been magnified into a crime.

Dr. Katju: You say something utterly improper and should not have been spoken here. A bottle of whisky may be something like water to you.
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Shri Frank Anthony: Fortunately, we have not reached that stage of a police State where what the Home Minister says to me in respect of

whisky must be accepted as something *ex cathedra*. I am sorry. Sir, but the plea I am trying to make this, that we should not in words or attitudes of megalomania and ultra hyper-sensitivity set ourselves up as the mentors of standards in this country. That is why, I say, even for the Home Minister, in spite of his almighty and powerful person—he may take offence at it—this is not the standard on which to ask this House whether there should be an extension of an extraordinary measure of this kind. I am sorry that the Home Minister has left his seat but I say this—I say this advisedly—that these are anaemic and laughable examples because the Home Minister could not give us anything better. (Interruptions). Am I to put up with this kind of interruptions?

What was the figures that the Home Minister gave us or could not give us? He told us in a sweeping kind of way: here is a large country, here are lakhs of newspapers and news-sheets! It is perfectly axiomatic; in a large country with a large population, you must have a large number of news-sheets and newspapers. But he did not give us figures—and I say advisedly that he could not give us figures because if he attempted to, this would immediately torpedo the anaemic and miserable case that he has sought to put before us. How many newspapers are there in this country? Are there one lakh newspapers, or two lakhs or three lakhs? He should have given us some figures. Of these vast number of sheets and newspapers, how many were projected against under this Press (Objectionable Matter) Act?

An Hon. Member: Eighty-six.

Shri Frank Anthony: But he did not go further and say anything. Of these eighty-six only two cases were maintained against them—two out of probably twenty lakhs or ten lakhs of newspapers. You do not give us the figures because you could not give us the figures; if you dare, you would destroy your own case. I am asking the Home Minister to tell us: how

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many cases out of the hundreds of lakhs of newspapers were brought before the court and in how many of the eighty-six cases was security actually demanded, or in how many cases was forfeiture demanded? (*Interruptions*).

An Hon. Member: You are presuming....

Shri Frank Anthony: I am justified in presuming things in the absence of figures.

I think it was my hon. friend, Mr. H. N. Mukerjee who said this and the question was..... I am glad that the Home Minister has come back and I will try to be a little less.....

Dr. N. B. Khare: He had a cup of coffee to stimulate himself; that is why he is smiling.

Shri Frank Anthony: The question was asked both by my hon. friends Shrimati Sucheta Kripalani and Mr. Mukerjee: Is Government's motive—I do not like to question Government's motive, I am trying to view this objectively—suppression of vulgarity and obscenity of pornography or is it not rather for holding a weapon which you can use with extraordinary force in order to strike at the roots and crush the opposition Press? Mr. Mukerjee indicated one of the vast aspects of obscenity in this country. I ask the Home Minister—I hope he will not be unduly sensitive about this or take offence. Let him go to any railway book-stall. In the Delhi Station,—I believe it is partially under the control of the Government,—you will get your fill of obscenity and pornographic libidinous literature. There you find, in the Delhi Station book-stall, virtually a Government-controlled book-stall, something which is wholly disgusting and revolting. There you find books, magazines with nude pictures reeking with every form of sex-ridden, pornographic filth imported into this country. The Government had not applied its mind to that sort of thing. On the other hand, they seem to welcome it; perhaps you

get some kind of ill-gotten revenue from this sort of thing. I say it with grief; I see school children and college students lapping up in a leering kind of way all this filthy kind of stuff, nude and semi-nude pictures, so-called physical journals, French postcards. Why do you patronise this? Why should we have such stuff in the railway book-stalls? If you are seriously concerned with stopping such vulgarity and obscenity, and pornographs, why do you not stop this, something which is definitely corrupting and degenerating the present generation of Indian students?

What I am particularly grieved at is this. I feel—and I say it with all respect to the Home Minister—that there is a progressive **deadening** of the legal and democratic conscience of the Government. I say to the Government—it will not be admitted—I say that there is this growing intolerance or power-drunkenness of the executive and impatience of and obliviousness to the supremacy of the law. This is my greatest objection to this measure. There was my friend Mr. Agarwal who was rather helpless. Why had Pandit Thakur Das Bhargava, one of your most eminent lawyers, in an elaborate note bitterly opposed this measure? Because he is a lawyer and as a lawyer he knows that you have sufficient provisions under the Indian Penal Code; under the Criminal Procedure Code you have ample powers to deal with this type of writing; you have this amply, you have the ordinary law of the country which has been amply widened. But you want something extraordinary which supersedes the ordinary law and that is my greatest objection to it.

What has the Home Minister said? I have to say with regret that he has approached this problem in an attitude of perverted logic. This is a benign measure: ordinarily, a man would go to jail but now he does not go to jail, he is only to pay a deposit! I say this line of reasoning is certainly perverted; and not only that, if I may

say so, immoral. If the Home Minister thinks that a man is liable under the ordinary law of the land and deserves to be sent to jail, but the idea is to save him from going to jail, this piece of legislation is immoral.

An Hon. Member: It is a chance to improve.

Shri Frank Anthony: It is not. My friend seems to be so generous. Let him look at the other side which is not so generous. My own reading about the motive is that it is extremely ungenerous and the particular motive is this....

Shri C. D. Pande: Your very presence in the House is an answer. You have been nominated to the House; that itself shows Government's generosity.

Dr. Lanka Sundaram (Visakhapatnam): Is it given to an hon. Member to cast aspersions on another hon. Member who is lawfully inducted and functioning as one of the senior Members on the front Benches of this side?

An Hon. Member: Every Member is a senior Member. (*Interruptions*).

Mr. Deputy-Speaker: Order, order.

Dr. Lanka Sundaram: Mr. Frank Anthony was here before you were born.

Mr. Deputy-Speaker: Let there be no hot words; no aspersions like this may be made on any hon. Member, nominated Member or elected Member; it does not make any difference in the House; he is a Member all the same, either elected or nominated.

श्री विनूति मिश्र (सारन व चम्पारन) :
मैं प्लाइंट आफ आर्डर रेज करना चाहता हूँ।
हम लोग जो कान्स्टिट्यूट्सी से चुन कर आये
हैं, उन्हें कान्स्टिट्यूट्सी का नाम ले कर
सम्बोधित किया जाता है, लेकिन जो मेम्बर
नामिनेट हो कर आये हैं, उन को कैसे ऐज्रेस
किया जायगा ?

An Hon. Member: There is no point of order. (*Interruptions*).

Shri Joachim Alva (Kanara): May I also state that we carried on this debate on a very high level and that Mr. Frank Anthony's remark associating the Home Minister, who is a teetotalter with a peg of whisky is very improper?

Shri Frank Anthony: May I say that if my observations were out of order, I was entirely in your hands. I am not going to pay attention to the observations which I feel were in extremely bad taste. May I only say this to my so-called elected friends that it will take a long time for them to achieve my standards and my independence. (*Interruptions*).

Mr. Deputy-Speaker: Let there be no exchange of words. (*Interruptions*.) Order, order. Mr. Frank Anthony need not exchange words when I intervene. I said that the observations regarding his coming into the House, whether nominated or otherwise, were not proper. Every Member has his right to have his say. Therefore, he need not retort and say he has got greater freedom than other hon. Members; one characterisation of that kind does not justify another.

Shri G. H. Deshpande: Sir, on a point of order. Prohibition is included as one of the directive principles in the Constitution. One who ridicules Prohibition therefore ridicules the Constitution of the country. One may differ from it, but one has no right to run down or ridicule Prohibition. It is one of the directive principles of our Constitution.

Shri V. G. Deshpande: Freedom of the Press is also one of the directive principles in the Constitution.

Mr. Deputy-Speaker: I would only appeal to the hon. Member and others to avoid personal references. As the hon. Member knows too well, people are touchy and he must appreciate the feelings of others also. For a person who does not belong to a community where it is proper to drink, it is an aspersion.

Shri Frank Anthony: I meant no aspersion. I said it was an innuendo. It was a mild leg-pull. I am perfectly at liberty to give my impression of that kind of innuendo. I said the Minister was trying to make out that this measure was intended to be very benign and ultra-generous, that it will save a man from the full consequences of the ordinary penal law. But I look at it from the other side of the medal. It does not seem to be so generous. Here is an extraordinary measure, a lawless measure in that it supersedes the ordinary law. It is a savage measure, I say, because it will be used to penalise people whom you cannot bring within the purview of the ordinary law of the land. A man against whom you cannot prove an ordinary offence, against whom no offence would be tenable or acceptable in a court of law, you direct against him all the savagery of this lawless law. That is the way I look at this measure. It is not generous, it is not benign; it is meant to be savage and meant to penalise people who do not fall within the ordinary penal law of the country. As one of my friends remarked, there has been a progressive dilution of the Fundamental Rights which we once set up and which we felt had the *impri-matur* of finality on them. You have this dilution of article 19(2). These various amendments to article 19(2) have, in my humble opinion, caricatured the fundamental right to freedom of speech and expression. By an omnibus, blanket clause "public order" and "incitement to offence" the whole original purpose of the article has been changed. That article intended to circumscribe freedom of speech and expression only where it represented a clear and present danger to the security of the state. Now we have got all manner of further limitations. But that does not satisfy the Government. Even those further limitations which have travestied and perverted the original intention of the article are not enough for the Government and they want to amend them and to enlarge them.

As my friend Shrimati Sucheta Kripalani pointed out, contempt of court is punishable, defamation is punishable, libel is punishable. Now, in your omniscience you have brought in a word which has not been through a process of judicial interpretation the word scurrilous. We have seen how hyper-sensitive people can be. I may say, with ample justification, that a Minister is utterly incompetent. But with this fettering of expression, in spite of the fact that people believe—and they are the sole mentor of standards in this country—the Minister in a mood of hyper-sensitiveness may say it is defamatory, obscene, certainly scurrilous. I will sty 'no' to it. Where will we put a limit to legitimate criticism, and where will Government's hypersensitive and totalitarian attitude come in and bring a matter which is perfectly innocuous and legitimate within the mischief of the word scurrilous?

As Shrimati Sucheta Kripalani has further pointed out—I merely want to elaborate it—the Minister has said that it is a harmless and innocuous measure. He said: we have these rather minor amendments. Are they minor? As she has pointed out, one of the ways in which this House was induced to accept this measure originally was that at least they would have this safeguard, partial safeguard, of trial by jury. But today the powers of the jury have been curtailed. Look at the amendment which you propose in respect of section 20. What do you say there? If a person claimed trial by jury, the jury was seized of the whole case. The jury first found whether the matter was 'objectionable', and then they said whether there was to be a deposit or, if a deposit had been made, whether there should be forfeiture of the deposit. But now you have truncated the authority of the jury. All that they can now do under the proposed amendment is to say whether the matter is objectionable or not, and the rest is left with the judge who previously had no independent authority, who had to agree with the jury,

or who, if he disagreed with the jury, could not give an independent decision and could only refer it to the High Court. Now you oust the jurisdiction of the jury and you give the judge the exclusive power of saying 'no, there shall be a deposit' or where the deposit has been made that it shall be forfeited. Even that small concession has now been taken away.

As my friend Shrimati Sucheta Kripalani said, two large holes have been torn into the already tattered position of our regimented press. My friend Pandit Thakur Das Bhargava for whom I have the greatest esteem was trying to argue me out of this point. Under section 23 a person against whom the order was made had a right of appeal. Now we propose to give the right of appeal, to whom? Also to the Government. What does this mean? I have always maintained that the right of appeal against an acquittal is an undemocratic and uncivilised piece of legislation which disfigures the Criminal Procedure Code. The countries from which we draw our jurisprudence like England and America will not tolerate something of this description. This is a retrograde and reactionary provision. No civilised country has a provision for an appeal against an acquittal. After going through the whole gamut of procedure, a man is acquitted. There is an end to the matter. That is the position in other countries. But today we want to make this reactionary and retrograde provision which will provide grist to the police mill. We want to disfigure the statute-book by a lawless measure of this description. I deeply regret that the Minister did not make a concession and, gratuitously, he is going to intensify the hostility of the press and of large sections of the country.

What would have cost him or the Government to have deferred this measure? Look at the perverted argument which has been used. Because the Press Commission was about to report—that is the reason for wanting an extension of this measure! I respectfully submit that because we

know that the Press Commission is likely to submit its recommendations within six months, that should have been the strongest argument at least for not asking for an extension. One does not like to impute motives. But my friend Shrimati Sucheta Kripalani has already done it. I know, knowing the composition of the Press Commission, guided by a person with wide judicial experience and guided as they will be by democratic, juristic and civilised procedure, that one thing they will say will be nothing of a lawless measure of this sort. And I have a feeling that Government also knew that this recommendation was likely to be made by the Press Commission. And Government now exposes itself to this charge, that knowing that the Press Commission is likely to say categorically that this lawless measure offends against the ordinary law of the land and must not continue to remain on the statute-book. In order to forestall that recommendation they have come forward with this. My hon. friend Dr. Katju is smiling rather cynically at me. But he himself has virtually conceded my case. Because I read in the press today that my friend sitting behind me asked for an assurance "If the Press Commission make a recommendation, will you accept it?" and he denied categorically that he was prepared to accept it, meaning that they were not prepared to accept a recommendation that this measure should be thrown into the waste-paper basket. To forestall, as I said, a recommendation that this Act is unnecessary, this request is being made to the House.

The whole measure is utterly obnoxious, repugnant to the fundamental concept of democracy and jurisprudence. But even then, the Press Commission is going to report in six months and if it had been suggested that there should be an extension by six months I might have accepted it, with a bad grace. But this extension of two years is something which no Member can accept.

The Deputy Minister of Home Affairs (Shri Datar): Sir, in the midst

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of endless excitement and arguments I should like to point out by a short analysis the points that have been raised and the points that require an answer so far as their reasoning is concerned. Now, four points have been raised before us. One is that the provisions of this Bill including the provisions of the original Act are against the Constitution. The second point is that this Bill takes away the fundamental rights of the people. Thirdly, that the use of the Act has not been what it ought to be. Lastly, that there is no further need for keeping this Act on the statute-book. These are the four points on which I am going to place some arguments for the consideration of this House.

We have got article 19 which deals with a number of freedoms and freedom of speech and freedom of expression are mentioned in article 19(1)(a). Now, so far as this freedom of speech and freedom of expression are concerned, we have to take into account that the freedom that is protected or safeguarded is not what can be called unbridled freedom because in the very next clause of this article of the Constitution it has been stated that certain "reasonable restrictions" can be placed on certain grounds. So far as these grounds are concerned, the House will agree that there is nothing objectionable. It may also be noted at this stage that the grounds that were mentioned in the original Constitution have been more or less specified in the amendment that was passed a few years ago. Beyond specifying the grounds, nothing has been done, so far as the amendment is concerned, and it would be very clear to see that the grounds that have been mentioned are: The imposition of reasonable restrictions—

"on the exercise of the right conferred by the said sub-clause in the interest of the security of the State....."

This is a ground on which there can be no objection;

"friendly relations with foreign

States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence."

Now, the House will kindly note at this stage, as I shall be developing one of the other points, that very important words such as public order, decency and morality have also been expressed in clause (2) of article 19 of the Constitution. It is taking both these things together that it has been laid down by the Constitution that freedom of speech and expression has to be guaranteed so long as it does not transgress some of the fundamental points on which the structure of the society is based. Therefore, we have to understand it very clearly that our Constitution does not allow or favour unbridled freedom and the freedom, therefore, has to be restricted to the extent that it is necessary in the interest of the society. Yesterday, some of the hon. Members opposite, contended that the word 'scurrilous' and other expressions used in section 3 of this Act were entirely against the Constitution. Now, you will find, Sir, that so far as these expressions are concerned, they entirely fit in with our idea of decency and morality. If there are writings which are against the principles of morality, then, they are scurrilous because they inflame what can be called bad passions and raise low passions. Therefore, the definition that has been given of the expression 'objectionable matter' is entirely in consonance with the provisions of the Constitution. We have to make it very clear here that this original Act or the present Bill has not been intended for the purpose of gagging the Press in general. So far as the Press is concerned, I am happy to note that a very large section of the Press are always carrying on their activities in a very legitimate way and in the highest interest of the nation. But, just as we have got black sheep in all the classes, similarly also so far as this great class is concerned, there are certain papers, gutter papers or others as you may call it,

where they do not observe or exercise that amount of restraint which it is their duty to do in the interest of the nation. Therefore, I should like to tell the Members of this House that this is not an attack on the Press in general, but only against those who offend against the permanent principles on which the structure of the society is based. That point has to be understood very clearly.

Another point may also kindly be noted in this connection, as to whether this particular Act which was passed in 1951 has been used in a manner so as to stifle political opposition. I was surprised, almost shocked, at the way in which the whole thing was being misrepresented. If we take into account the original Act itself, you will find that that Act contains so many restrictions; that it is not open to the executive at all to carry on its work in an arbitrary way. This is one of the very few Acts where the greatest restraints have been placed upon the power of the competent authority or the Government. I would therefore, before making up his mind on this question, implore every Member of the House to read the provisions of the original Act. You will find that the competent authority or the Government, under the provisions of this Act, has been put as petitioners before the court. In fact, in one of the sections it has been clearly stated that a complaint has to be filed and that too in respect of either asking for security, for forfeiture of security or for forfeiture of the copies themselves. The whole structure of this Act has been, in my opinion, completely democratised, and therefore, it would be idle if not futile to make a reference to, or to compare the Acts in the British period with, this Act. Very choicest expressions have been used, but I wish they had been reserved for other occasions. So far as this Bill is concerned you will note from the Act itself that in every case either a Sessions Judge has to be approached by the competent authority or a magistrate has to be appointed. Formerly, under the British Act, you will note that it was open to the District Magistrate to immediately

order the furnishing of security and in case the security was not furnished at all, then certain penalties followed as a matter of course.

That has been entirely taken away and therefore I would appeal to this House to note the particular circumstances in which the provisions of this Act have been laid down in a refined way and in a democratic way. There are two or three cases in which it is open to a competent authority to approach the Sessions Judge. One is when it is found that certain writings are being resorted to for the purpose of spoiling public taste and for certain other purposes which I have already mentioned. It is not open to the executive authority immediately to ask for security. He has to approach the Sessions Judge. You will agree that in all these cases wherever action has to be taken, it is judicial action and not an executive action by the competent authority, a judicial decision after hearing both the parties by a Sessions Judge. In some cases a magistrate also has to be approached. All the provisions have been laid down in such a way that the fundamental principles of justice are completely followed. If that is noted, you will agree that so far as these provisions are concerned, the original criticism against the Act itself ought not to have been repeated *ad nauseam* on the floor of the House when this particular Bill was brought forward this time. Then it was contended that this particular Act has been abused during the last three years. Since yesterday was following very intently whether any Members opposite would give a single instance where the provisions of this Act were abused or exploited or used for the purpose of stifling opposition. We have no desire to stifle healthy opposition. But, if the opposition takes a wrong turn, and if it attempts to spoil public taste, then, naturally Government have every right to take action because Government have to govern. Otherwise, Government will have to abdicate. Therefore, in all these cases, not a single instance has been pointed out. Some instances were cited during the debate on the

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Preventive Detention Act. They also were answered. So far as any action taken by the Government in respect of the Press or in respect of objectionable writings is concerned, I do not find any hon. Member opposite citing a single instance in which the executive action was called in question by the magistrate or the Sessions Judge, censuring the competent authority. That is what we have to see.

I would also point out that the Government have been extremely careful, if not extremely modest also, in taking recourse to the measures that are required in the interests of society. Yesterday, certain figures were given by the Home Minister. I would like to give certain other figures which would clearly clinch the whole issue. This Act has no other motives except the protection of society against attempts at spoiling the morality of the people. I will give the House figures to show that so far as action under this Act is concerned, it was mainly taken under sub-clause (vi) of section 3 which says:

“are grossly indecent, or are scurrilous or obscene or intended for blackmail.”

The largest number of cases, about 50 or 49, were only on this ground. From this, you will agree, I hope even the Opposition would agree—one of the Members very fairly stated that she had no objection to any action being taken if the writings are either indecent or scurrilous—that the largest number of cases were not in respect of political writings at all. That is a point which has to be understood very clearly and I wish to say that the obsession which has been created subjectively or objectively so far as this contention is concerned that this particular Act has been designed for the purpose of stifling opposition, is entirely besides the mark. Therefore, wherever action was necessary, it was mainly taken in the highest interests of society, apart from the other sub-clauses which might deal with political opposition. Not a single

instance has been cited by the hon. Members opposite where certain powers have been abused or where the provisions have been abused for stifling public opinion. If no case has been cited at all, then, the conclusion is natural, inevitable that the Act has been used in as proper a manner as possible, because there have been so many restrictions on the executive authority also. In fact, I may take the House into confidence and point out that the State Governments are of the opinion that the provisions of this Act are not stringent enough for the purposes that have been detailed.

Shri K. K. Basu (Diamond Harbour): That is why it should be opposed.

Shri Datar: Taking all the circumstances into consideration we have placed this Act on the statute-book, which, while being perfectly democratic, perfectly refined, has to check certain anti-social elements. There are certain elements in India which are professedly anti-social.

We have to take into account another fact also. The Press is one of the mightiest weapons for spreading bad public opinion. It is possible for the Press to spread good opinion, to create good opinion or to spread misrepresentations and the highest form of misrepresentation would be blackmail. Government must have in their armoury certain Acts. The presence of this Act in the statute-book itself has a restraining influence. Yesterday some Members of the Opposition raised the question that inasmuch as the number of cases where security was asked for a forfeiture was ordered was very small, the disease was not so deep-rooted, and that it did not require an operation of the nature that the Act, according to them, purports to do. The answer is very simple. The answer is that we have got here an Act and the writer of such scurrilous writings is conscious also that in case he were to outstrip the bounds of decency, or bring his article within the mischief of this Act, surely he will have to lose money.

An attempt was made to make a distinction between the owner of the press on the one hand and the keeper or publisher on the other hand. That distinction, as you will find, has absolutely no meaning, because, ultimately, it is not the employees of the press who pay the security. It is not the employees who suffer when a writing is forfeited or proscribed; ultimately it is the owner. Under the Press Registration Act, Government have not got to deal with the owners; they have to deal with either the keepers of the press or the publishers, and in some cases with the editors. These are the persons who bring out the publication and therefore punishment to these people is punishment to the proprietors and therefore there is no point in contending that this Act has been meant only to punish the poor keeper or the publisher and has nothing to do so far as the proprietor is concerned. If this is taken into account, you will agree that what has been done is perfectly legitimate.

One or two other points remain. One is, is there any need for this Act at all? In other words, is there any need for the extension of the provisions of the Act itself? I have pointed out to the House that there are certain cases. Some of these cases are presses in certain parts of India. I need not mention these parts. There are certain parts where the writings are usually scurrilous and Government take action whenever they find that all the limits of their patience are gone. For such writings, as I stated, an Act is essential. It has also been pointed out by me just now that the Act has been used in as sparing a manner as possible. There is no scope for executive vagaries of which others talked so much.

Then, it was contended that we had the Press Commission which was carrying on its work, and it was likely to submit its report in the course of the next few months. It was also suggested that we might have called for an interim report and taken some action. Now, the action that we have taken

is itself of an interim nature. That must be understood by the House. We desire to examine the whole question in the light of the report that would be submitted.

The Press Commission are carrying on their work. It is bound to have far-reaching influence not only so far as the Press is concerned, but so far as the country is concerned. The Commission's report is likely to be submitted in the course of the next few months, no doubt, but you will agree that merely the submission of the report does not mean the passing of a parliamentary Act. We have got to take a number of very necessary steps, and one of the necessary steps is that we have to ascertain the views not only of the State Governments but also of the public at large. Consultation with the various State Governments is bound to take time, because the subjects that would be discussed in the report would be many and would be of far-reaching importance. Such a process cannot be considered dilatoriness. It is a very necessary process, because after all, we have to legislate in a sober way so far as our new legislation is concerned. Therefore it is that it would not have been possible for Government to call for an interim report and take action.

It might be difficult also—and that is a point which has to be understood by the House—for the Press Commission to deal only with the purposes for which the present Act has been passed, because all the questions are inter-linked and therefore it is quite possible that no interim report could have been made by the Press Commission itself.

So far as the Government are concerned, Government desire to deal with the whole question, not in a piecemeal manner, but as a whole picture. Then Government would bring forward such a measure as they would consider necessary in the interests of India so far as the recommendations of the Commission are concerned. For that purpose, you can take it from me that they would require at least a year for

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consulting the State Governments, for taking public opinion, for consulting the various Press Associations, and then for bringing a Bill forward. That Bill also will be subjected to criticism—perhaps severer criticism—by the hon. Members opposite, and the passage of the Bill also will take some time. It is for these reasons, perfectly *bona fide* reasons, perfectly understandable reasons, that Government thought that the *status quo* should be maintained, because the maintenance of the *status quo* would be in the interests of the nation as a whole.

Ultimately, so far as the papers are concerned or so far as the writings are concerned, the Government of India have to be guided by the views of the State Governments and if the State Government's desire—as we find that they desire rightly—that this Act should remain on the statute book for a period of two years, then it is the duty of the Parliament and the duty of the Government of India to place at their disposal or to allow them to retain at their disposal the particular measure which they require and the measure which they have not abused at all.

Lastly, it was contended that, in addition to extending this measure, certain new provisions not of a minor character have been introduced. I would submit to the House in all humility that only minor provisions have been touched upon so far as these amendments are concerned. One amendment entirely deals with unauthorised writing. I was surprised to find Shrimati Sucheta Kripalani putting in a plea for unauthorised writings. She told us that this matter might be governed by some other provisions of the Bill. That may not be possible at all. After all, all kinds of legalistic oppositions are raised in court and therefore, Government ought to move this particular amendment so far as one of the sections is concerned.

Then there are two other grounds. One is that the right of the jury in

respect of the question of law has been taken away. So far as the larger question of the jury is concerned, Parliament will debate it when the Criminal Procedure Code (Amendment) Bill will be coming before the House. But I would point out to the House that the kind of jury that we are choosing so far as such writings are concerned are persons who have or who ought to have journalistic experience, who ought to have experience so far as keeping of a press is concerned, and therefore we are calling to the aid of the Session's Judge such jury as know what they are about. But after all, it has to be understood—and it has been understood as a plain and patent fact in the Code of Criminal Procedure which has been there for the last ninety years—that in respect of the question of law, the sufficiency of a ground is not a question of fact at all, and under the Code, whenever there is a trial in a criminal case, it is the jury who are judges on fact and it is the judge who finally has to decide and to sentence the accused or acquit the accused. Therefore, the same distinction that exists in the ordinary criminal courts under the Criminal Procedure Code, a distinction which is perfectly unexceptionable, has been opposed on grounds which I fail to understand.

Now, I know of a case.....

Shri Raghavachari (Penukonda): But in spite of the Criminal Procedure Code, and the whole system under it, this enactment was made with special provision for jury having all the powers.

Shri Datar: The special provision may have been made then because the Act was to be passed for the first time. Now we have had experience, and I was going to quote a case where the jury stated that the particular writings complained against were perfectly objectionable under the various sub-clauses and then you found under the second clause that they stated that it was not sufficient for taking security, or for passing any orders under the Code.

Now, this is a question which cannot be decided and which can never be allowed to be decided by a layman. It cannot be left to be decided by a layman. After all, with due deference to his journalistic experience, so far as the sufficiency of a particular ground is concerned, what is required is not that the particular writing is objectionable but where there are sufficient grounds for taking a certain action by way of security or by way of forfeiture and the question of this sufficiency of the ground is one which has to be decided by a Sessions Judge, by a judge who knows how to decide a case judicially, it should be left to such a judge to decide the matter. It is only for this purpose, namely, for bringing it in line with the ordinary law of the land that this particular distinction has been introduced in this Act.

Then, an objection was also raised that under the new measure it has been made open to the competent authority or to the Government to prefer an appeal. Now, preferring an appeal does not mean condemning the particular paper, writer, keeper, or publisher. In all cases, we are aware that under the general principles of the law of jurisprudence, whenever there has been a decision, that decision ought to be open to appeal.

Pandit Thakur Das Bhargava (Gurgaon): May I ask him where are those general principles of jurisprudence to be found which justify an appeal against acquittal? There is no such principle in the whole world except in India.

Shri Datar: It is entirely wrong to suppose that whenever there is an adverse decision there should be no right of appeal. That is a question on which I am absolutely definite. So far as the question of acquittal raised by my hon. friend is concerned, even in respect of acquittal we know to our great shame that there are cases where acquittals are wrong, though not illegal. I would not deal with that question at this stage, because it will be coming before the House when the Criminal Procedure Code (Amendment)

Bill is taken up. But, it has to be very clearly understood that there are cases where on account of certain difficulties in the law, on account of technical principles, on account of other grounds, a decision has to be given by a judge and he has to come to the conclusion that he has to acquit. So such acquittals, even where the judge is of the view that morally the accused has committed an offence, have to be ultimately appealed against in the interests of society itself. Therefore, my friend is wrong in saying that there ought to be no appeals against acquittals. Here the case is extremely simple. Here are certain writings, which the Sessions judge has to hold as not embodying objectionable matter. Under these circumstances, should or should not the Government, who have to govern and who have to safeguard the interests of society, have the right to take the matter to the highest judicial tribunal in the State? That is one of the fundamental rights. Government should also have the fundamental right for protecting the society or safeguarding society. Ultimately, it is the High Court which finally decides the matter. Why should this final decision be objected to at all, and why should the keepers and printers and publishers be extremely nervous about getting an adverse decision? When the matter is before the Sessions Judge, it is natural that, in the ordinary course, they will go in appeal and they must take the chance of whatever the decision of the High Court is likely to be. Therefore, it is that Government desire that, in proper cases, it must be open to them to appeal against an order which is adverse to Government, where the Sessions Judge comes to the conclusion that no security is necessary or no forfeiture is necessary. It is for these reasons that this Bill has been placed before the House. There is absolutely nothing *mala fide* and no rights have been taken away. Again, I repeat, Sir, in all humility that this is a perfectly harmless measure and all the objections that have been raised are without substance.

Shri M. S. Gurupadaswamy (Mysore): Just now the Deputy Minister

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made a pretty long speech and tried to justify this Act without substance. After hearing him, I got the impression that he did not meet the situation in the least. He has repeated today what Dr. Katju said yesterday, and there is not the slightest improvement in his defence of the measure.

There is a saying that if you want to see whether a country is civilised and democratic, you must look at the laws under which the country is governed. I want the House to note that today, after seven or eight years of freedom, we are witnessing a great campaign against civil liberties. It is painful to note that the very people who were once the friends of the freedom of the Press now bring in this measure to stifle this freedom. In my opinion this measure is nothing but an organised onslaught on the Constitution and democratic liberties.

A few minutes back Mr. Agarwal was speaking and he quoted certain publications. I want to know where he got these publications from. Who supplied them? I came to know just know that those very materials were I placed before the Press Commission and he was quoting those very materials. I suspect all this material might have been supplied by the Press Commission or by some Member of the Commission to Mr. Agarwal. I do not in any way want to impute *mala fides* to anybody but I want to know where he got all this from.

An Hon. Member: Why should you know?

Shri M. S. Gurupadaswamy: Some said that the virtues of the Act are these. Firstly, this Act has removed pre-censorship. Secondly, it has done away with security in the first instance. Thirdly, there has been replacement of the Executive by the Judiciary in the matter of demanding security; and fourthly, there is a trial by jury.

I want the hon. Minister to look back a little. The most important thing was pre-censorship. That was

not there permanently on the statute-book before. Look at the 1931 Act. Look at the Press Act of 1910 and the Press Act of 1908. In all these, pre-censorship was conspicuous by its absence. More than that, the Constitution gives this freedom. So, I say that this measure has not given us anything which the Constitution has not given us already. If pre-censorship had been introduced in this measure, that would have been a violation of the provisions of the Constitution. So, it is no relief; it is not an advancement.

Then, there is a lot of talk about demanding security. I say this is a harassment and if security is demanded from the Press, it is very shameful victimisation. As a man who belongs to this profession, I know that it is better to go to jail than furnish these securities. It is more shameful and more irritating and no pressman in the land likes it. So I say this is not an advancement.

Finally, there is replacement of the Executive by the Judiciary in demanding security. It does not in any way improve the Act. Instead of the Executive, the Judiciary will demand the security. You know how these Sessions Judges are behaving. I do not want to impute any motives to them, but, we all know by experience how they act. They tend to act in supporting prosecution and safeguarding the interests of Government.

Pandit Thakur Das Bhargava: Question.

Shri M. S. Gurupadaswamy: I think no justice is being done.

Mr. Deputy-Speaker: It is casting aspersions on judges and it is not right and proper. You can go and accusing the Judges and they can go accusing Members of Parliament. The hon. Member should make no such reference to judges. Even under the ordinary law, the judges can play into the hands of the Government.

Shri M. S. Gurupadaswamy: I do not want to impute motive to the judges.

Mr. Deputy-Speaker: No aspersions can be cast on any court or judge.

Shri M. S. Gurupadaswamy: Not even about risks involved?

Mr. Deputy-Speaker: Even if there is any risk, the hon. Members must be satisfied with that. They must not cast aspersions.

Shri M. S. Gurupadaswamy: I only say that newspapers in India do not claim any rights or privileges which are not guaranteed to other citizens. The freedom of the Press is not a special privilege of the newspapers but the right of all citizens. Freedom of the Press is the right of every man and woman in the country; it is not the privilege of a few who are working in the presses. The Press does not want to be governed by any special law or to be given any special privileges. No man in this land will support this obnoxious measure. If this is circulated for public opinion, no one will support this and I feel that this Government should not proceed with it...because we know that this is a blot on the Constitution and it is an organised fraud on Indian democracy. So I say this Bill may be consigned to the waste-paper basket.

5 P.M.

Dr. N. B. Khare: Yesterday, when the great Home Minister of our royal Republic was moving the motion for consideration of this Bill, I heard him with great attention, rapt attention, because I am also in sympathy with the Press and because in my old Congress days I happened to be an editor and a part-proprietor of a vernacular Marathi paper to propagate the Congress ideal of Independence—and I also burnt my fingers over it, but it does not matter. Therefore, I was all attention, so much so that I was all ears and sometimes I had to lengthen my ears on account of the intelligent interruptions that were going on in the House. Today also I heard his under-study with great attention. He has failed to make out any case as his predecessor did yes-

terday. The Deputy Home Minister, when he paid great compliments to the Indian Press, was perhaps flattering it and thus trying to imply that the Press also was with the measure. In this manner he tried to mislead the House, but the fact is that the All-India Newspaper Editors Conference condemned it and he failed to bring it to the notice of the House. Yesterday, the Home Minister was at great pains to convince the House. He placed certain materials before the House in the shape of arguments and facts, but I frankly admit that he failed to convince me altogether. When he was giving his arguments, he happened to refer to a personal matter. He referred to a paper in Calcutta which described his journeys from Calcutta to Kalyani and from Kalyani back to Calcutta, and perhaps had some jokes against him, and he told the House "Me also to be attacked in that way?" I imagined that a great *devata* had descended from the durbar of Indra to govern and rule these petty mortals residing in the mundane earth. He ought not to forget that, howsoever great he may be, he is also a mortal like us and he showed a petty mind. Petty minds ill go with high positions, I may tell him. He said that the paper wrote such and such things which were imputations against him. After all, he is a powerful authority, he is a popular Minister and a great man, and so he should have followed the maxim—

हाथी चलत अपनी चाल से,

कूकर भूकत, वाको भूकवा दो ।

Instead of that, he showed even peevishness and petulance like an irritable child—I am sorry for that. Even when he was doing so, he failed to convince us by reason. It must be admitted by everybody that under democratic constitutions and in democratic countries a free and fearless Press is an asset and it is, therefore, regarded as the fourth estate and quite rightly too, but in our country—unfortunate country—our democracy is young and I think it is suffering from Small-pox on account of the fact

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that the Congress Party and Congress leaders hardly act in a democratic way and they have got an authoritarian and dictatorial outlook. Therefore, our Press at present has deteriorated considerably. As they say in Sanskrit—

यथा यक्षस्तथा बलिः ।

As is our democracy, so is our Press—nothing to choose—but I must say that in the British days our Press had very noble traditions and deserved all the high encomiums which people could shower on it, because it was then working for a mission, for an ideal to free the country sponsored by great patriots of hallowed memories like Tilak, Arabindo and Motilal—not Nehru, but—Ghosh. At that time the Press was working for a mission of life, but now after the attainment of Independence, I might say with chagrin that the Press is working for a commission of getting advertisements and other preferential treatment from Government, and, therefore, it has lost all its ardour, fervour and fame,—I am sorry to say. My friend Mr. Mukerjee has described the whole of the Press as tycoons, but I do not know what that means, yet I know one thing, that is, that there are two kinds of Presses in this country; one is called the 'kept' Press and the other is called the 'unkept' Press. The 'kept' Press always glories in singing hallelujahs either of the Congress Party or of its Government and ignores deliberately everything that happens in the country outside the Congress Party, not only ignores but belittles it. If that kind of Press is being treated by Government in this manner, I shall not shed a single tear and I shall rightly say "Do it, let the blighters suffer". But there is another kind of Press, not the blighter Press.....

Mr. Deputy-Speaker: Is 'blighter' a parliamentary word?

Dr. N. B. Khare: You can omit it, I have no objection. I only sought to mention my feelings. If you put in any words that convey my feelings, I

am satisfied. There is another kind of Press, which is independent, and I think Government's authority, in spite of all their denials is directed against such a kind of Press. My friend from Wardha quoted the example of the Nagpur Times—a very wrong example—and I rightly challenge it. He said that the Nagpur Times wrote an article about the ethics of shoe beating. It was something scurrilous and bad in taste, but at that time it was a Congress Press, managed under the direction of the Chief Minister, and nothing happened to it. As soon as it became an independent journal, it has been prosecuted by the same Chief Minister—that is my point.

Shri S. N. Agarwal: Just as the hon. Member was once upon a time a Chief Congress Minister.

Dr. N. B. Khare: I am proud of that glory and more proud as I had been ousted because I would not connive at corruption.

Mr. Deputy-Speaker: The hon. Member will kindly address the Chair.

Dr. N. B. Khare: I ask the Government—is there such an Act on the statute-book of any of the civilised countries?

Some Hon. Members: Yes.

Dr. N. B. Khare: I am asking the Government and not the others. There is no answer. I believe, therefore, there is no such act either in the United States of America or the United Kingdom, which are the paragons, and if those countries, which are called civilised, have not got such an act on their statute-book which suppresses the civil liberty of the individual certainly this Act must be called a barbaric measure and nothing else. If they have given certain reasons that this measure is necessary on account of this or that, all that is bunkum. You can do it by peaceful methods. After all, there should be some sense of humour. If something

is said which is mischievous against me, I will excuse the person and take it as a joke. There should be a sense of humour in some big people. If I am convinced that such a measure is necessary in a democracy, I would gladly vote for it, but democracy demands that there should be complete freedom of expression of speech and writing. Therefore, I stoutly oppose this measure tooth and nail, and I hope Government would be better advised not to pursue it any further. If they do pursue, I predict bad luck for them. I oppose the Bill.

Pandit Thakur Das Bhargava: Sir, while speaking on the original Bill when such a question arose, I had a hint from you then that I should speak in English. I remember the occasion and I will take this opportunity to speak in a language with which I am not very familiar and in which I cannot express myself fluently. Anyhow I will try to say what I have to say in simple English.

Now, Sir, I have seen in this House today a spectacle which I had never expected. I heard the Deputy Leader of the Communist Party speaking, I should say, in theatrical language, or perhaps worse, losing his temper and giving us a harangue. I also heard some Member of my Party making some sort of accusations against the other Party. Anyhow I never expected a sober man like Mr. Anthony would go to the length of speaking in such a manner as would wound the susceptibilities of our hon. the Home Minister. I am very sorry for that. We feel sorely injured when anything derogately is said in respect of our leader whether expressly or by innuendo. At the same time, Sir, I must say I have missed the real gravamen of the arguments of these gentlemen. When all the Members of the opposite side remind us of the Constitution and our allegiance to the Constitution and demand that we must stick to the provisions of the Constitution, they do not know what a homage they are paying to the Congress Government and the

Congress Party. After all, what does it mean? This Constitution has been made while the Congress Government is in office. When they sometimes speak of me, Sir, as a humble person who had something to say about the original Bill and speak of me in eulogistic terms, I only wish to remind them as a humble member of the Congress Party that they are paying a tribute to the Congress Party by referring to me in those terms.

Now Sir, I would beg hon. Members to kindly consider that in this Bill as in the original measure, there are many matters in regard to which both sides were agreed. I was one of those who at that time offered, I should say, stout resistance, so far as the provisions of the Bill were concerned, as I considered that Bill as a matter of fact a disgrace to the liberties of this country. I thought then, as I do now, that so far as the original Bill is concerned, it is not in consonance with our Constitution—offends articles 19(1) and 19(2). But after saying all that what did I find? By this august House that Bill was passed, in spite of my opposition and the opposition of others. It means that this House accepted that measure. When in the third reading I was allowed to speak, I submitted, Sir, that when the new Parliament meets, this new Parliament would take steps to amend the Bill, because I still now think that the present Bill does not fully save our Press and jeopardise the liberties of freedom of speech and expression as it goes much farther than what our Constitution warrants.

But at the same time we should not forget the circumstances under which the Bill was brought and why the Bill was brought. I will go into those questions a little later on. I will divide the present Bill into two parts: first, the section relating to the extension to which I will come later; second, some minor amendments, as the hon. the Home Minister has chosen to call them and as his Deputy also has led us to believe.

In regard to these minor amendments the first objection that I have is

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this. When you have got a Commission to which you have referred all the laws of the country relating to the Press, these amendments, whether major or minor, should have been sent to that Commission, to get their opinion and the opinion of the country. I would, therefore, support the suggestion of my hon. friend Mr. Venkataraman that as a matter of fact we would be well advised in not enacting these provisions here, but ask Government to send them to the Press Commission for their opinion.

At the same time, Sir, I have no delusion in my mind that these amendments are not at all minor. They are very major amendments and go to the root of the question. In the first instance, Sir, let me take up the question of appeal. My hon. friend Shri Datar has been pleased to say that the question of appeal is in consonance with the principles of general jurisprudence. The first objection that I have to this provision is this. In no civilised country in the world have you got provisions for appeal on behalf of Government. This is what appears in this book—*The Criminal Procedure Code*, by Ratanlal Ranchhoddas and Dhirajlal Keshavlal Thakore:

"Appeal from acquittal is not recognised by any civilised country. It does not exist in any of His Majesty's colonies. The law of restricting the right of appeal against a judgment of acquittal to the Local Government, prevents personal vindictiveness from seeking to call in question judgments of acquittal by way of appeal."

[SHRI PATASKAR *in the Chair*]

Now, Sir, I agree that if the particular circumstances of our country warrant it, we should have that law. We need not copy everything from other countries. If the circumstances of my country require that Government should be armed with this power of appeal, I would readily agree. But no such circumstances have been

pointed out nor do such circumstances exist. But at the same time I would like to disillusion my friends of one thing. When you appoint a jury, when you appoint a Sessions Judge, there must be a real trial. My hon. friend waxed eloquent that it is only an appeal from an acquittal in a trial. But he forgets that it is not a trial at all. There is no complaint, properly speaking. It is a misnomer to call it a complaint. I submitted at the time when the Bill was originally enacted that complaint has been defined in the Criminal Procedure Code. When a person commits an offence then it is possible that you may have a complaint.

Shri Datar: The Act itself calls it a complaint.

Pandit Thakur Das Bhargava: The Act is wrong when it calls it a complaint. This is not the first time that I am speaking about this. On the previous occasion I brought to the notice of the House that it cannot be called a complaint, unless an offence is there. If there is no offence, there is no complaint. I am here to say that in many cases even when there are no offences, according to the accepted definition of the word offence, under Section 40 of the I.P.C. even then you go with complaints to the Sessions Judge. Therefore, my humble submission is that it is not a trial.

Then again my hon. friend is entirely mistaken in thinking that this complaint is brought for the purpose of punishing an offender. Rajaji himself, while introducing the Bill told us that it is a preventive measure. Now, can it be called a complaint? There is no offence; you are not trying any person for an offence. It is a purely preventive measure. When it is a preventive measure and you are taking steps only to prevent a repetition of the offence, there is no trial. My hon. friend Mr. Venkataraman was right when he submitted to this House that as a matter of fact there was no trial. When there is no trial, why do you

bring in the question of acquittal? There is acquittal when there is no trial.

So far as this provision in the Bill is concerned, I say it is unprecedented. In no Act, whether of 1910 or 1931, or any other Press law will you find a provision like this. Your own provisions in the Criminal Procedure Code, relating to sections 107, 108 and 110 do not provide for appeals on behalf of Government. Therefore, I submit that in the jurisprudence of this country, India, and in the jurisprudence of any other country, there are no principles which warrant an appeal from the order of a Sessions Judge. Such a disputed provision, such a controversial provision, can by no stretch of imagination be called a minor amendment.

The other provision which my hon. friend says is a minor amendment, is this. Sir, unfortunately neither Mr. Datar, nor our Home Minister were in the House when this measure was first enacted. I have no reason to think that they have not gone through the proceedings of the House. They may have done so. But the hon. the Home Minister said that he did not know why it was enacted only for two years. At any rate, I would like to bring to his notice that in respect of many of the provisions there was practically a compromise. We are bound by those compromises and should not question them now.

So far as the amendments relating to the powers of the jury were concerned, I must say that it is not right to say in a matter of this kind that the question of fact must be decided by the jury and the question of law must be decided by the Sessions Judge. What is a question of fact. I want to know what is a question of law in this case? So far as the objectionable matter is concerned, it is conceded that it is a question of fact. So far as the question of ordering a person to furnish security, is concerned I want to know whether it is

a question of fact or of law. I can understand the quantum of punishment may be argued to be a question of law. It may be a question of law. I know in ordinary jury trials when the verdict is given by the jury it is the duty of the Judge to sentence or acquit so far as the crime is concerned. In this case, there are three questions: whether it is an objectionable matter; secondly, whether circumstances are such in which an order has to be passed for demanding security or forfeiture and thirdly, what should be the amount of the security. My submission is that the question whether in particular circumstances security or further security should be demanded or not is to say the least a mixed question. After all you see the antecedents of the persons against whom you are proceeding. Even if it is an objectionable matter, the Judge is not bound to call for security; it depends upon many things; he exercises his discretion; that has to be exercised with reference to many circumstances: the antecedence of that man, whether that man has behaved rightly, whether he knew the law or not, and so many other things and these are questions of fact, pure and simple. Another complication will arise as a result of Section 418 of the Criminal Procedure Code and the relevant sections of this Act in regard to appeals.

Apart from that, this Act had a set purpose when it was enacted by us. It was said—it will be there only for two years and not more and an experiment was going to be tried by an illustrious patriot of India, Shri C. Rajagopalachari. It was his dream and we allowed him to make an experiment of this kind—I am not speaking in the language of my hon. friend, Shri H. N. Mukerjee, which I cannot, as a matter of fact, copy. If you pass through the debates of the proceedings in the past, in these very words you will find that in the proceedings these sentiments are expressed. This measure was not designed to become a permanent feature of the law of

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the land. Therefore, it was meant only for two years; for a specific period for a specific purpose, which I will come to later on. Now, after two years can anybody come up and say that we also want to experiment with it? Without meaning any disrespect to hon. Dr. Katju we may say, 'no more experiments' I have got full faith in him; it is wrong to say that it is only for Shri Rajagopalachari we had such feelings of veneration. It is not that I want to say something in derogation of Dr. Katju. I referred to Shri C. Rajagopalachari because I wanted to say that so far as this piece of legislation is concerned, it was a compromise legislation and the experiment has been tried out and therefore, it grieves me when I find that its life is being elongated. In the third reading on that Bill, I said that I was not happy with the Bill and at the same time I said that when the new Parliament met it will throw out this Bill and amend it. It was not I alone who thought so; this was the view of Shri C. Rajagopalachari himself and of all persons on this side and the other. We thought, 'This is a temporary measure and we shall have it only for two years'.

An Hon. Member: Breach of Honour!

Dr. Lanka Sundaram: Breach of Faith!

Pandit Thakur Das Bhargava: Do not put in my mouth words which I am saying. My humble submission is this. I will not go into other matters so far as the new minor amendments are concerned; they are very minor matters, definition of news-sheet etc. At the same time, I must submit that I do not want that in respect of any matter whatsoever this Bill should be made applicable unless it was made originally applicable. At that time we never discussed the repercussion of these amendments. It is quite wrong now to suggest another addition to the definition of the news-sheet. What are

the consequences? If you think of the consequences, of the dire consequences which are attached to these provisions, you will agree with me that it is not right to bring in minor amendments in this manner. What happens? The entire source of livelihood, the entire press, is confiscated which is too drastic to be found in the legislation of any country. There was an occasion when we in this House discussed a Bill and I moved an amendment—Shri Gopaldaswami was there in charge of the Bill—and I said that in respect of persons who are harbouring strangers and foreigners in our own land in Assam, their property should be confiscated, if they do not obey the law. Shri Gopaldaswami—our revered Shri Gopaldaswami of blessed memory—rose up in his seat and then treated us with an exposition of law of forfeiture and there we all collapsed and I withdraw my amendment. He quoted Act XVI of 1921 which Dr. Sapru got passed by ostracising the barbaric punishment of forfeiture from the penal law of this country. He said that even in regard to offenders who wage war against the Queen—even in regard to such offences, forfeiture will not take place and that Act was put on the statute-book of our country. Shri Gopaldaswami therefore did not like this provision and we passed that Assam Immigration Act according to his wishes. I quoted extensively the views of the House and Shri Gopaldaswami before Shri C. Rajagopalachari but he was determined to have this Bill. I did not understand his reasoning why he wanted this Bill. When I do not understand the reasoning I am glad I am in the company of Dr. Katju; he also does not seem to understand; he himself said in his speech that he did not know for what reason this Act was only kept for two years—I am quoting his speech.

Further the House will be pleased to see that the hon. Shri Rajagopalachari never said at the time when

the original Bill was brought before this House, that there was any necessity for this Bill. He never said so. He only stated that he wanted to create an atmosphere in which some good press people will evolve certain kind of ethics, certain kind of influence by virtue of which they will be able to control what you call the black sheep. According to my hon. friend, Mr. Venkataraman, even in international associations, that has not been possible and he is quite pessimistic whether it will be possible in India. Shri Agrawal, quoted from that international document. I do not know how far it has succeeded. I for one fail to see whether the dream of Rajaji has been fulfilled; I feel it has not been fulfilled and I feel it shall never be fulfilled as long as things go in this fashion. I congratulate Shri Datar in making a very good point against the opposition. He said that the opposition have not been able to cite a single case in which injustice has been done and the Act has been misused. But, are they to cite such cases about which our hon. Home Minister said as a prophet this Bill is a dead letter and must remain as such. It is a dead letter; it will remain a dead letter. It is ineffective inherently and even if it were effective where is the inclination to put it in force. I have no doubt about it. Let Dr. Katju even pass another legislation and have more drastic powers. As long as Panditji and Dr. Katju are there, I predict there will be no repression in this country and I am certain about this; they are incapable, the Congress Government is incapable, of repression. I am a Congressman; I belong to it and I believe in it; my friends may not. I said it before and I say it now. But at the same time I must say, in spite of all this knowledge, I do not want this law. In 1947 we passed a much worse law in this House when Sardar Patel was here, with the help of Dr. Syama Prasad Mookerjee; and I told him in his face when he was speaking on this Bill.

But we never put such an Act into force. We passed even more drastic laws in 1946 and 1947 by virtue of which one could bomb without warning. But nothing was put into force.

Shri V. G. Deshpande: In Bihar it was put into force.

Pandit Thakur Das Bhargava: By the previous Government.

Shri V. G. Deshpande: By our Government.

Pandit Thakur Das Bhargava: Maybe, you know.

Dr. N. B. Khare: By our Nehru's Government, November, 1946.

Pandit Thakur Das Bhargava: But at the same time I am sure that if necessity arose, if there was an emergency, the most drastic legislation that may be brought forward by Dr. Katju and our Government will be supported by us and also by these gentlemen belonging to the opposition if they are true to what they are saying, namely that in an emergency they will behave like good nationals. There is no doubt.

Dr. Krishnaswami (Kanchipuram): But there is no emergency.

Pandit Thakur Das Bhargava: Yes. The present position is that we are in ordinary circumstances and there is no emergency. This is the real position; we cannot justify this Act on the basis of abnormal circumstances. The circumstances have not worsened during these two years that the Act has been in operation. And if they have, there can be no better condemnation of this Act. But the opposition has not been able to show how it has worked or to show any single instance in which the opposition has been crushed. That they have not been able to show. But the absence of even such an instance does not justify our extending this measure.

When Shri Datar spoke that people did not infringe this law because there was a fear, he unconsciously gave

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away his case. If there is a fear in the minds of the people and they do not infringe the law, I must submit that it is not the proper thing, because you create an atmosphere of fear and not one of confidence. This is entirely wrong. This is the real gravamen of my charge so far as this matter is concerned. It brings about a condition in which people do not feel they are safe. The Damocles' sword hangs and you cannot stir.

I do not want to go into very many matters so far as the Bill is concerned as this is an extension Bill only. Dr. Katju gave two reasons in his statement. The first, was that a Commission was there, and secondly that it was undesirable for this Bill to be allowed to lapse. So far as the Commission is concerned, Shri Datar said it will take two months for the report of the Commission to come and Government will take some time, another Bill will be brought, and therefore on the short ground that they have appointed a Commission this Bill should be passed and we should give the Government some time, say one year more or what is absolutely necessary. To this I agree.

Sir, though you have rung the bell, with your permission I wish to point out that Shri Rajagopalachari never wanted this measure to stay for a day more than two years, in spite of this fact that this Press Commission was coming. And I would read from page 2656 of the debates which would show how Shri Rajagopalachari thought about this Bill.

He said:

"Reference is made to the proposed Press Commission. The Press Commission referred to by the Prime Minister was intended for certain purposes which have nothing to do with the matter of this Bill. The aims and objects of such a Commission have been explained by the Prime Minister

to the people concerned. They are well known to journalists and proprietors of presses and newspapers. Some of them like it very much, some of them do not dislike it, and some of them are not very keen about it. Government has not abandoned the idea, but it is a Commission that will take a year, if not more, to complete its task. It has to go round, take evidence and see things as to how newspapers are produced and managed and things of that kind, and not much to do with the content of newspapers."

My submission is that the time when the Press Commission was announced, if you kindly look to the background, was at the time when the First Constitutional Amendment Bill was there. At that time the minds of pressmen were very much exercised, and the hon. the Prime Minister and the hon. the Home Minister gave the press to understand that they were going to bring a Bill which will be acceptable to them and will not restrict their liberties. In many places in these speeches you will see the Home Minister stated that he was not going to restrict the liberty of the press.

Now my humble submission for your consideration is this. In 1947, on 15th March a Committee was appointed. It was called the Press Laws Enquiry Committee. It submitted its report during 1948. We know what that report is. It is very important. But at the same time we have to remember this, that at that time the provision relating to Fundamental Rights had not been passed. Therefore, the report of that Enquiry Committee, though it was very important, was not either complete or was not such as to take into consideration the full effect of the Fundamental Rights: as they had not been passed at that time. That Committee made certain suggestions which were not wholly acceptable to us—though, so far as it

goes, it did not envisage a Bill of this nature. The recommendation was not given effect to. Subsequently on account of the interpretation by the Supreme Court of certain provisions in the Constitution the Government was in great difficulty. If any person made a speech asking people to commit political murder, Government was helpless. And therefore we made a change in the Constitution where the words "reasonable restrictions" were inserted in 19(2). By the first amendment of the Constitution Act it changed the law, and changed it rather widely. All the same, the first Constitutional Amendment Act enlarged the liberties of the people by putting in the words "reasonable restrictions" as I submitted at the time when the First Constitution Amendment was on the legislative anvil. But this Act went beyond the provisions of the amended Constitution. And this is where the rub comes in. I do not want that this House should be a party to extending the Act which is considered by some of us as against the Constitution and which was originally a temporary experimental measure.

So far as the present law is concerned, it is not in consonance with what is obtaining in America and England. Sections 99A to 99G of the Criminal Procedure Code were the gifts to this country of the venerable Dr. Sapru. There are wholesome provisions suited to the circumstances of the country. It is hundred times better than the present provision of juries and sessions judges. I do not want that any seditious or obnoxious thing.....

Mr. Chairman: The hon. Member has already taken twenty-five minutes. How long will he take?

Pandit Thakur Das Bhargava: I thought you were going to call the Home Minister at six, Sir.

Mr. Chairman: Before that I want to call one or two.

Pandit Thakur Das Bhargava: May I have a few minutes more?

5 PSD.

Mr. Chairman: Very well.

Pandit Thakur Das Bhargava: As I was saying, Dr. Sapru gave us sections 99A to 99G. And they are very good provisions. Between Dr. Sapru and Shri Rajagopalachari, if I compare them, Dr. Sapru took away the obnoxious Act of 1910 which was a very bad thing and Shri Rajagopalachari gave us the Act of 1951 in substitution of the Act of 1931. This Act of 1931 is a blot upon the legislature of any country. It was also a temporary measure subsequently made permanent. This Act of 1951 has repeated all those provisions of 1931 Act. Sections 99A to 99G enacted provisions which are suited to my country. I know what I am saying. They may be against the provisions of other countries. But so far as my country is concerned I am convinced that sections 99A to 99G are quite suitable to us. As soon as an obnoxious thing is out, we want that the evil may be nipped in the bud as you have got in section 11 of the Act. In the sessions courts and before juries people go and give evidence in never ending and dilatory proceedings. We do not want them as these proceedings disseminate what you want to prohibit. If you mean business and knowing that poisonous material goes out of the country, the highest man in the local government takes responsibility and says: Here is an obnoxious thing. Forfeit it' and let the law have its course and then High Court Judges get to you justice. These provisions are a hundred times better than the monstrous combination of Session Judge and the jury and the procedure of summons cases being adopted. In summons cases no full evidence is there. The person is asked to show how he is not guilty. There is no charge. It is a mockery of judicial trial, I should say. If the case went to three High Court Judges as in 99A to 99G they are only to interpret a document, not even a speech. They are the best judges and they would have done it in no time.

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This was the best provision. I am not enamoured of gilded juries. All that glitters is not gold. The cage is a cage whether of gold or iron.

Sir, I have to make a complaint against my own Government. When the Constitution First Amendment Act was enacted, it was provided in section 3(2) that all those provisions which were the subject of interpretation by the High Courts and the Supreme Court were in a manner revived unless they were again held to be repugnant to the Constitution as amended. It was said in this House that the provisions under sections 153-A and 124-A were repugnant to the Constitution. I and other Members said—not once or twice but many times in this House that these may be adapted under section 372. I said to Dr. Ambedkar that he should adapt them so that the people may know where they stand. I do not yet know the definition of sedition. No person in this House can say what sedition is in this country, because so far as we are concerned, these two sections have not been adapted. They should have been adapted and then only we will know what sedition is.

Now we have a Press Law. The first thing that the Government should do is to bring in another Bill to adapt these provisions. Let us know where we stand. My friend Shri Agarwal said that in this country we enjoy freedom more than in any other country. This may be true so far it goes but it is equally true that in our country there are more restrictions on the Press than in any other country in the world. If you look at the matter squarely, the Government should come out with a Bill giving the definition of sedition and as to what is wrong, so that people may know what they should do and what not to do. I am not in agreement with Shri Datar when he says that in article 19(1) freedom of speech is not unbridled. It is absolutely unbridled

so far article 19(1) is concerned. But, then in 19(2) we see fundamental duty put in the negative which defines the units of acts what one should not transgress. Article 19(2) imposes a burden upon the Government to justify the restrictions they want to put. If the Government imposes reasonable restrictions all law abiding citizens should abide by them but that law has not been made clear so far by the Government. The Government is responsible for this stalemate and fluid state of the law. Unless the Government brings a law which is simple and which everyone can understand, how can they abide by it? The Home Minister himself is a very great lawyer and I would request him to give us a new Bill, a substantial Bill in which sections 153-A and 124-A will be adapted so that people may know where they stand. Unless this is done you will not be able to succeed with anything.

Now, so far as this gutter press is concerned, so far as obscenity is concerned, the provision under sub-clause 6 are concerned, where is the man in this House who does not want them? We are all in favour of this provision. We are all unanimous that this indecency, scurrility and obscenity should be stopped. There are provisions in the I.P.C. about them. Put them in force and punish the delinquents and every right minded man will support you. But we do not want your 'likely, tend, encourage' and other such provisions which create new offences and have dangerous implications and potentialities.

Shri Sadhan Gupta: In the short time which I have it is impossible for me to deal with all the matters that I would wish to have dealt with. Therefore, I would confine myself to one very important matter which does not seem to have been touched upon by any Member so far, and if I have time I shall deal with one or two other small matters later.

The matter I wish to deal with is the oft-repeated argument advanced by supporters of this Bill and by supporters of its parent Act, that all the danger that the parent Act or this Bill might mean to the freedom of the Press is amply safeguarded against by reason of the judicial process provided in the parent Act. I shall not draw attention to the major incursion into that judicial safeguard which has been made by way of so-called minor amendments. I shall deal with it when I move my amendments to this Bill. Even supposing that there are full judicial safeguards under the parent Act, is that a sufficient protection against the danger of interference with the freedom of the Press? I must tell you that there are many important provisions of the Bill and of the parent Act that are altogether free from judicial safeguard. For example take section 11. That enables the Government to forfeit a publication by simply obtaining a certificate of the Advocate General and notifying in the official gazette. A publisher might have expended all his fortune on it and it might not have even contained any objectional matter; yet if the Advocate General goes wrong and a notification is issued subsequent to the certificate given by the Advocate General, then that publisher is ruined. All that can be done without giving the publisher any notice to show cause against it, or any opportunity to be heard in his defence, and we are asked to continue this Bill. Then there are sections 12, 13 and 14. Sections 12 and 13 of the Act permit interference by postal authorities on foreign mail. Under section 12 there is review by the State Government and under section 13 there is not even that review by the State Government in the matter of interference by postal authorities. Section 14 is the gem of the provisions. It enables any police officer or any other person empowered in this behalf by the State Government to seize any unauthorised newspaper and only after seizure it goes to a Presidency Magistrate, District Magistrate or a

First Class Magistrate. The publication is seized and all the damage is done first and only *ex post facto* there is reference to court. That is the sort of provision we have in the Press (Objectionable Matters) Act, and yet we are supposed to be safeguarded against interference with the freedom of the Press, safeguarded by reason of judicial process. Dr. Katju says that it is judicial process from beginning to end, that is to say at least from section 1 to section 14, it is all judicial process. I do not know what 'judicial process' it is.

Now, let us look at the judicial process itself; how far the judicial process provided by section 16 and onwards, is a safeguard against the freedom of the Press.

This naturally involves the question, what kind of freedom of the Press do we want. It is admitted on all hands that to enable democracy to function, to prevent democracy from turning fascist, it is very essential that the Press should be able to criticise the Government and to comment on all matters of public interest without fear of molestation. If any fear is created in the Press that undesirable consequences would follow or even that undesirable consequences might follow, it would be disastrous to the freedom of the Press. It would damp the fervour of all except the most determined among the press world to freely criticise the Government, and particularly freely to criticise the Government on the most controversial issues where the Government and the public are at loggerheads. Is this the kind of freedom that we want? Is this the kind of freedom that is going to preserve democratic Government? That kind of freedom will bring the democratic Government to ruin, must bring democratic Government to ruin. Because, on every important and most controversial issue, the voice of the people will be silenced; it is only the voice of the Government that would be heard; it is only the repression of the Government that would be justified. That is

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the sort of freedom of the press that would come into being when you put them in fear of forfeiture of security.

It is said, why should they be in fear of forfeiture of security or fear of security being demanded, when there is a judicial safeguard, when there is trial by a judge and jury. This is a very naive question and it is hardly necessary to answer it. In the first place, there is always an uncertainty in a judicial proceeding. I might honestly think one way and the judge might honestly think the other way. This is particularly so in view of the fact that here, the judge is not to decide about my intention. The judge is going to decide whether the effect of my writing is that of encouraging certain things or inciting certain things described as objectionable matter. That is very clear from Explanation II of section 3 of the Press (Objectionable Matter) Act. The Explanation says:

"In judging whether any matter is objectionable matter under this Act, the effect of the words, signs or visible representations, and not the intention of the keeper of the press or the publisher of the newspaper or news-sheet, as the case may be, shall be taken into account."

What can an honest publisher do? What can an honest keeper do? I will come to the keeper later. As regards the publisher, all he can ensure is that he has no guilty intention, that he does not want to encourage any objectionable matter. He cannot do anything more. He cannot ensure that what he writes, perhaps supporting some thing, is not likely to encourage some one into doing some objectionable thing. In spite of all his *bona fides*, if he chances to encourage, in the opinion of the Sessions Judge, any objectionable thing, he is condemned. It is not an idle fear. In Calcutta there was a case. It happened that a certain journal wrote something about the king of a certain country and his

ministers, and referred to them as the "present cowardly gang of stooges of a foreign power who were put in power by Dulles & Co". That is what the paper said. The paper said other things which were not decent and which nobody would justify. But, this was made a ground for demanding security. Does not that show what a danger to the freedom of the press there is in this Act? But, that is not all and that is not even the worst aspect.

Before I go further, I will just add a word about the keeper. The keeper's position is even more unenviable. The keeper cannot possibly be expected to go over everything that is printed in the press. Dr. Katju quoted certain cases which were supposed to be indecent. I am sure that if it was an yellow paper, if it appeared in a small paper, it should have been printed in a certain press, the keeper of which was absolutely ignorant about what matter was contained in the paper. Is the keeper to be penalised for a chance accident of something being printed, for which he is not responsible? Is that necessary?

As I was saying, this is not the worst aspect of it. A publisher or a keeper might be perfectly clear in his conscience that he has not written anything wrong and that he will be able to justify himself before the Sessions Judge and the jury. Still, he would not be safe. Still he would not be induced to go on the wrong side of the Government. It is quite obvious that before you can clear yourself of the charges against you, you have to undergo a litigation. Dr. Katju said, when you are before a Judge, you can say what you want to say and vindicate yourself. All that is very easy to say. Dr. Katju, as a lawyer, knows that before I can vindicate myself in a court of law, I have to pay through my nose. I have to appoint lawyers. I have to spend thousands of rupees in order to vindicate myself and all these costs. I am not allowed to recover. Under these circumstances,

why should I be subjected to all that harassment? Because, a competent authority who may be any petty officer and for all you know, who may be a most irresponsible officer has chosen to complain against me for no rhyme or reason. I may have written a perfectly legitimate criticism. I may go scot free from the Sessions Court. But, before I do so, I am financially ruined. That is the prospect for the press. In these circumstances can there be real freedom? Would not the press be tempted to keep clear not only of the law but also of the whim of the competent authority, of the chance that a competent authority might complain against him and involve him in a ruinous litigation and in financial ruin? That is the thing to consider. This is particularly important when we remember that this Act, if it is applied at all, will be applied not against the press magnates,—they have ample ties with the Government—but against the independent press who is usually a small man, who is usually running his business with a small capital. That is the danger.

We are asked to continue this Act for two years more. I say two more years; because the Bill says so. Always when some unpalatable measure has to be got through, it is just brought in as a temporary measure and then surreptitiously step by step it is made permanent. It is extended and extended till it becomes permanent. The Preventive Detention Act was a temporary measure for one year. It has now gone on for four years. This Bill, I have no doubt, is only a further penetration of the wedge to make it a part of the permanent law or rather the permanent lawlessness in our country which this Government has imposed on us.

The only other point I wish to reply about is the charges made against my party, that it thrives under foreign support. No proof has been adduced. The only proof that has been adduced is that Harry Pollitt the Secretary of the British Communist

Party was present in the Congress. May I remind the hon. Member who said so that in 1939, Nahas Pasha was present in the Tripuri Congress and no one accused the Congress of being the agent of Egypt? It is a very strange irony indeed that people who copied out the Government of India Act bodily into the Constitution, who gave diplomatic immunity to American experts, who made American experts immune from the law of the land, should accuse our patriotic party of looking to the foreigners.

I may also remind him with due humility, who says that there is no civil liberty in China. I know where he has got it from; from the trash dish-out by the American Embassy. Let him consult any independent man who has gone there; let him consult Rabindra Nath Tagore, let him consult any other great man who has visited that country and they will bear with me that there is liberty for every honest man in Russia or China. At the time when the revolution was new, liberty had been curtailed but not now. Every great man, without one exception, has praised China and Russia and the liberties of the individuals and institutions that prevail there.

Pandit K. C. Sharma (Meerut Dist.—South) rose—

Dr. Lanka Sundaram: Before you call the next speaker, Sir, may I draw your attention to the time-table announced by the Speaker for the progress of this Bill? I am not blocking anyone. Eight hours are over. I just want to know from you what is your view.

Mr. Chairman: I would like to hear the hon. Member.

Dr. Lanka Sundaram: The Speaker yesterday announced the time-table for the discussion of this Bill. We had set down eight hours for the first reading. There are only four hours left for the rest. There is a desire on the part of some of the hon. Members to have a division on one of the motions. I want to know how exactly you propose to apportion the time.

Pandit K. C. Sharma: Mr. Chairman, Sir, this has been debated for a fairly long time and very enthusiastically, coming to bitterness also and speeches have been made from every group. I simply want to point out that so far as the principles of the Bill are concerned, the law is already on the statute-book. This Parliament, sovereign as it is, representative as it is, has enacted the law and it is a good law, because it is passed by the representatives of the people. This very Parliament cannot go behind those very principles which they have accepted and say the principle is bad. The only question is whether that law should be extended or should not be extended.

In deciding that question, two points arise. One is whether the law is unnecessary and the other whether the law has been abused to the extent that the functioning of the Press has been made impossible. The first point is whether it is unnecessary. How to decide whether a certain law is necessary or unnecessary? The criterion is, what action has been taken and what has been the number of acquittals; if convictions have taken place, what is the number of appeals against conviction which have been successful. This is the criterion which will decide whether a law is unnecessary or necessary. From the facts given, it does not appear that law is unnecessary. It is no use bringing in irrelevant factors, bringing in abuses or bringing in bitterness, for it pays nobody. On the other hand, the sort of speech which my friend, Mr. Anthony has made is a proof of the weakness of his case. If you have a strong case, why should you be bitter? If you have to lose the case, why should you lose your temper? Once a man loses his temper, it means he loses his case.

Shri V. P. Nayar (Chirayinkil): Please apply it to your Minister.

Pandit K. C. Sharma: I am not losing my temper.

Shri V. P. Nayar: I am referring to your Minister.

Pandit K. C. Sharma: From the facts stated by the Minister, it is not true that the law is unnecessary.

The second question is—has the law been abused to the extent that the function of the Press has become impossible? What is the test to find that the law has been abused? The test is how many prosecutions took place, how many cases were acquitted and how many appeals against convictions were accepted. This will decide whether the law was abused or whether it was used rightly. Many points have been raised that liberty of the individual is being curtailed. I would simply appeal to common sense. Has there been a beautiful flower where there has been no pruning? Just as you cannot raise a beautiful flower without pruning the plant, you cannot build a good life without the liberty being curtailed. It is impossible to think that a State will develop unless you deal sternly with the lawless element of the people. Building itself means chiselling something, and chiselling means doing away with the wrong side of life. You cannot have a great building without chiselling the stone. In the same way, can you not chisel down the lawless element of a man? It is necessary in the nature of things as they are.

Shri N. C. Chatterjee (Hooghly): Chisel that side.

Pandit K. C. Sharma: My respectful submission is that absolute freedom or absolute liberty is possible either in life in the jungle or in a supremely evolved specimen of humanity. We stand between the two. Neither are we going to the law of the jungle, nor can we claim a supremely evolved life. Therefore, in the nature of things, we must have restriction, not because liberty is bad in itself, but because we want the growth and building up of a strong State and a healthy life.

A point has been made by my hon. friend Mr. Mukerjee that he wants not only to correct things here and there, but he wants to change the

whole world, but to do it, it is necessary to know the world. What would you change unless you know it? You cannot hit or strike it like a blind man; you should know things first; if they are acceptable, mend them, but if they are not acceptable, break them. Breaking by itself is not a very creditable job if you can mend it. A mind acting under pressing frustration or under conditions devoid of thinking is simply a fit case for pathology. Therefore, my respectful submission is that acting without thinking is simply the province of a beast. Man by his very nature is given to knowing things, thinking and then acting. Changing without knowing and thinking is not given to man in this world.

I come to the very bitter speech of Mr. Anthony. I am sorry he used language without understanding it. He talked of savage law; he talked of lawless law. These are well known expressions. What is a savage law? If you speak a wrong word or if you abuse your tongue, the tongue itself should be cut. If you abuse your hand, cut your hand itself. Where is the savagery in this law? Where is the punishment of cutting the hand or cutting the tongue? What is the use of using words which have no relevance to the question under discussion. Abuse of words means abusing ones position and it is not a good thing. There are certain decencies of life. There is a certain sense of responsibility which the world outside expects of Members of this House. I say, Sir, most respectfully that vulgarity, abuse and bitterness pay nobody. They do credit to no hon. Member, wherever he may be.

Another expression that was used was "lawless law". What is good law is expressed by the term "due process of law" or the 'law of the land'. What is the meaning of "due process of law"? There are certain elements that is right of defence would be given; right to engage lawyer would be given, witnesses for the defence would be summoned and the trial would be open. All these things are

the elements that constitute a good law. Neither the right of defence is denied; nor the right to summon witnesses is denied; public trial is not denied. Then, how is it a lawless law? You may call it a hard law. You may say that it is a law which is unnecessary. But to call it a lawless law is to use terms which are not justified.

So, Sir, so far as the principle is concerned, it has been accepted, because the law is already on the statute book. The question now is only one of extension of its duration.

One point, Sir, about section 4A. It has been said that the power of jury has been curtailed. I may in this connection refer to sub-section (c) of section 299 of the Criminal Procedure Code, which lays down the duty of the jury. It says:

"It is the duty of the jury to decide all questions which according to law are to be deemed questions of fact;"

Here, what is objectionable matter is a question of fact. What punishment should be given is the province of the judge. I suppose this is a sound and good law and there is nothing wrong with it.

Shri G. H. Deshpande: I rise to support this measure that is being discussed in this House since yesterday. I have tried to listen very carefully to the speeches from the opposition Members. There were speeches full of eloquence and hon. Members opposite were much excited and it was really amusing to listen to the Communist Members on liberty and freedom of the Press. The hon. Member from the Communist Party who was on his legs just now told us that there is every sort of liberty enjoyed in communist countries. It is strange, he alone, it seems, knows that. I would like to know from the hon. Members of the Communist Party through you: how many independent papers are there in Russia and China; how many people are allowed to criticise the leaders of the communist party? Is there a single paper allowed to live

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or to exist? Is there a single writer allowed to criticise men in power? (*Interruptions*). What is the price that one has to pay? Can the hon. Member deny that no critic of Stalin has survived Stalin? This is a plain fact and he need not tell us anything about it as if we do not know these things.

Then, Sir, when we say that we also want liberty here, it is said that this is a law by which we want to curtail the liberty of the Press. But not a single Member was able to quote one instance where the legitimate liberty of the Press was curtailed during the last two years when the latest Act was enforced—not a single instance. Is there any record by which any hon. Member in this House can say that legitimate criticism was not allowed or the Act was misused? When we talk about liberty, democracy and freedom and all these things, we have to remember that things have changed considerably; new factors have come into existence. Things are not what they were 25 years ago. Today amongst us there are parties with no faith in democracy. What has happened around us in Asia and other parts of the world? There were parties who took advantage of these very things; there were parties, individuals, intellectuals, organised groups, who never had any faith in democracy, liberty or freedom of the Press. They wanted to take power in their own hands; they wanted to destroy democracy and to take undue advantage democracy gave them. They attack democracy in the name of democracy, they attack civil liberty in the name of civil liberty; they try to deprive the freedom of the Press in the name of freedom of the Press. This is what has happened in the world. How can we forget that we have achieved this freedom at great cost? We do not want anybody to play with the freedom of our country. What is the world situation today? It is a serious one; anything may happen at any time; and what are we going to do? There are people in this

country who have no faith at all in democracy; openly they say that; they organise, they go underground; they have secret organisations and then say, "Government should give us liberty". What liberty can you have? What right have you to claim liberty and freedom of Press—you who have no faith in liberty, no faith in democracy, no faith in the liberty of the people?

These things ought to be taken into consideration. In the light of these things, we have to see; we have to protect our democracy, we have to see that the freedom of the Press is preserved and for the preservation of this, strong legislation is necessary by which these friends, enemies in the guise of friends, will not be able to take undue advantage of the situation.

Our democracy after all is in its infancy. Take into consideration the political atmosphere round about us. Something may happen at any time. Are we going to allow the ground under us to be cut off? Nobody would be willing to see that the freedom of the country is endangered. This measure is necessary to be in the armoury of the Government. We have never curtailed the liberty of the Press; we are not afraid of our Press. Our Press has been doing its functions well; we are proud of it; generally speaking, the Press has done well. Even during the British period they did well and now many of them, discharging their duties very honourably and respectfully. At the same time, we cannot exclude the danger, the part that was played in other countries by the Communist Party. They need not come here and tell us of freedom. We are not going to be fooled by them under the smokescreen of their slogans. In the name of democracy, in the name of civil liberty, in the name of freedom of the Press, we want that this legislation should remain on the statute-book at least for a few years to come. I support the legislation, and I support it with a clean conscience; I have no reservations in my mind; we are lovers of

freedom and that is why we want this Act. 'Have you any respect for the freedom of others'? I ask the Communists and the communalists. I ask them: 'have you any love for any freedom?' Have they allowed anybody to differ from them? Take for instance a man who belongs to the R.S.S. If he wants to leave the party, has he the liberty to do so? Do you know how he is treated, what dangers he has to face if he is to leave the party? There is no civil liberty with them. When all this talk of civil liberty comes from a Communist and communalist we have no faith in it. And these are people who want to attack democracy in the name of democracy! I would tell the Home Minister that the grievance among the people is that the Act was not used effectively. It ought to have been used properly. The Communists and communalists are very well known by the people. Don't think this will pay them or that they can use the legislature as a forum for their propaganda. People have understood them well, and very well. The people at large, the country at large, the masses in the country want that in the name of democracy nobody is allowed to destroy democracy. That is why I support this measure. And I do so with all sincerity.

Dr. Katju: Sir, I will not use any language which would be characterised by any hon. Member as provocative—though I have received ample provocation in this debate. The debate has been very instructive, and I do hope that hon. Members will take due note of what has been said and that the country also will take due note of what has been said, especially by my hon. friend the Deputy Leader of the Communist Party. He was very frank. He said: we come in Parliament for one purpose, and we act outside Parliament for another purpose.

An Hon. Member: It is a misrepresentation.

Dr. Katju: And he made one clear admission which I want that the

country and the hon. Members here will note for ever.

Shri A. K. Gopalan (Cannanore): What he has said is a misrepresentation. (Interruption). I again say... (Continued interruptions).

Mr. Chairman: Order, order. It is really most improper that hon. Members, whichever side they may belong to, should shout in the House. Let the Minister proceed. I would appeal to every section of the House, whether the views that are advocated are appreciated by them or not, to hear patiently. If anybody wants to make an explanation, so long as I am here I shall give the fullest opportunity for it. If anyone wants to say that he is misrepresented, I will give him a chance to be heard. Let them not take the whole House in their own hands and manage it. It is not proper. Let the hon. Minister proceed.

[MR. DEPUTY-SPEAKER in the Chair]

Dr. Katju: I understood the deputy leader of the Communist party to say that their work was not only in Parliament but also outside Parliament and that they were working over a philosophy which required lot of work. He also said, if I understood him aright, that in working out that philosophy and in establishing that new world there will be for a time—he did not disclose the extent of the time—suppression, partial suppression of liberty. I only want you to know that when they are working out their philosophy, there will be no democracy right from the beginning. There will be some government, probably, from their point of view, wonderful, spiritual and beneficial to people. But till that government is established, to quote his own soft words, there will be a partial suppression of the Press. That partial suppression will include liquidation of millions; let us be clear about it. (Interruption).

I was not surprised at the opposition to this Bill from the hon. Members opposite. They spoke well about

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their philosophy. I have told my hon. friends many times to treat me as a member of the Communist party because I have read a lot of literature about it. I have read volumes in 1933. Therefore I know how their mind works. They are very flexible, very pliable, everything to everybody. They want to infiltrate into the R.S.S., into the P.S.P. and everywhere, wherever they get an opportunity. They have infiltrated into the Parliament. They have got their clear marked line of action. Here in the Parliament they cannot possibly beat their big drum. I think it is by a lapse, some sort of intellectual lapse, my hon. friend who is very frank, said as to what is before the country when the Communist party succeeds; otherwise there is always democracy in action, protection of democracy and all that!

I was very much surprised when I heard the speech which my hon. friend who has been an ex-Judge of a High Court, delivered in this Parliament. I could not understand what he meant. He never applied...*(interruption)*. I will look at you, Sir, I would not look at them. He never applied his mind to the provisions of this Bill. It is a very wrong thing to do. I have not got the time or the eloquence to talk about the freedom of the Press and freedom of expression of opinion and be proud of that. Then you have the Press to applaud you. Then you talk about the editors and about the work of journalists and how they will use their brain. My hon. friend the deputy leader of the Communist party said that he has been brought up in an atmosphere of journalism and he said that if this Bill is passed the poor working journalists will begin to starve and his heart went out to them. He said that he does not care so much for the big barons of the Press. It was for the working journalists who would lose their bread that my hon. friend was shedding some sort of crocodile tears. He is a very eloquent man. I cannot imitate him in that direction.

We are talking of ordinary laws and abnormal laws. I, as a lawyer and as a citizen define ordinary law as any law which is passed by this Parliament. *(Interruptions)* Every law every action of the executive Government suspending the laws of the land is an abnormal law. Where you get an emergency, the *habeas corpus* is suspended in England. Similarly, supposing this Parliament were to say that the executive Government may put people in jail, may not allow Parliament to meet for two years, then there the executive steps in and the legislature steps out and that is abnormal condition.

Shri S. S. More (Sholapur): What happened in Travancore-Cochin?

Dr. Katju: My hon. friend will probably realise that it is a very relevant question. I require about 20 minutes to consider the gravity of the question.

What are we doing here? We are passing an ordinary law. *(Some Hon. Members: Oh!)* As my hon. friend said just now, an ordinary law was passed in spite of the vehement opposition of my hon. friend Pandit Thakur Das Bhargava in 1951. *(Some Hon. Members: As a compromise.)* It was passed by Parliament for two years. Parliament is now invited to extend that ordinary law for another two years.

Shri V. G. Deshpande: With some modifications

Dr. Katju: It is in your judgment to do it or not. If you do it, it becomes an ordinary law of the land. It is not an abnormal law of the land against which Pandit Thakur Das Bhargava's conscience should travail in the course of the night and he should become sleepless. Nothing of the kind. Where is the difficulty?

Shri V. G. Deshpande: No difficulty.

Dr. Katju: My point is this. In all the previous Press Acts. Mr. Deputy-

Speaker, the executive stepped in. Power was given to the executive. I have got here a case. I was just reminded of it. It was the very first case, a well-known case. I was just starting practice in the law courts. I hope Shri N. C. Chatterjee will be familiar with the judgment of Sir Lawrence Jenkins and two other Judges in the case of Mr. Mohammed Ali. It was executive action. Executive demands security; executive forfeits security. The law courts are put aside. That is a great distinction. In this Act which was passed in 1951 by my great predecessor whom my hon. friend Pandit Thakur Das Bhargava venerates so much, what is the scheme? Shri N. C. Chatterjee—that is my complaint against him—never referred to it. Is this executive action or is this judicial action?

We have heard here a lot about democracy in action; democracy should not be sacrificed; it is an infant democracy; it should be nursed so that it may become strong. When this law was passed, it was said that it was a savage Act or a lawless law. Someone said that the Provisional Parliament was not representative and when the representatives of the people come here in this Parliament, they will at once set aside this savage law. What is the savagery about it? When you say that it is democracy, do you mean that there should be perfect liberty in this democracy of ours, to people, either on the platform or in the press, to do what they like? This is a matter of great importance. I should like to take one or two minutes of the House about it. I shall read from here:

“incite or encourage any person to resort to violence or sabotage for the purpose of overthrowing or undermining the Government established by law in India or in any State thereof or its authority.....”

Do you want this to be done freely?

Some Hon. Members: No, no.

Dr. Katju: Freedom of expression, freedom of the Press. You will say no, no. I put this question to my hon. friends who have got a very sensitive conscience, who are so eager about this democracy. The second is:

“incite or encourage any person to commit murder, sabotage or any offence involving violence;”

Shri Sadhan Gupta: The wording is ‘likely to’.

Dr. Katju: So far as I known, under the Penal Code, any one who incites the commission of murder deserves the sentence of death. (Interruption) He exposes himself to life imprisonment sentence. Here this is objectionable matter.

An Hon. Member: Why are you generous to the Press?

Dr. Katju: If you take away this freedom, then the result would be that democracy will be crushed and you will be taking some savage action.

Thirdly, inciting or encouraging any person to interfere with the supply and distribution of food or other essential commodities or with essential services.

Fourthly, incite or seduce any member of any of the Armed Forces of the Union or of the Police Forces from his allegiance or his duty or prejudice the recruiting of persons to serve in any such Force or prejudice the discipline of any such Force.

Do you want this to be done freely by the Press or by anybody on the platform? I know it being done on the platform—we have got our intelligence about the matter and hon. Members are not fully aware of what is happening under the guise of election speeches. Under those speeches everything is being done. Do you want these things to be done? Do you want such kind of writings or statements to be published or broadcast in the Press? Is that the freedom of the Press?

[Dr. Katju]

Then, "promote feelings of enmity or hatred between different sections of the people of India". I am not trying to refer here to Hindu-Muslim question or Hindu-Sikh question or the Hindu-Christian question. It is fatal to this democracy that feelings of enmity or hatred should be encouraged. I ask my hon. friend Mr. Chatterjee—he is the head of a great organisation—to read the Hindu papers written in Urdu, in Hindi and let him also read the Muslim papers published in Hyderabad, published in Bhopal, published in many places. Then, he will realise what is happening. (*Interruption.*)

Mr. Deputy-Speaker, I deliberately do not name the papers here for many reasons. I thought that I should first listen to the hon. Members and not occupy your time for two hours. I have got here all the extracts; they are about 86. Secondly, I do not want to give them an advertisement.

Mr. Deputy-Speaker: I do not want to say anything. What is the good of placing a Bill before the House and then saying I have got all this material? All that material should have been circulated to the hon. Members. The Minister is speaking not only to this House but also to the world at large. I would urge upon the hon. Minister—not only in this matter but in others also—to make available to all the hon. Members all the materials they have with them. It is for the Minister to decide what are confidential papers, but the rest of the material should be available to the hon. Members. I am prepared to sit any number of hours if the hon. Minister wants to place all the matter before the House.

Shri N. C. Chatterjee: Sir, the hon. Minister appealed to me to read the Hindu papers, be they Hindi or Urdu. May we know how many Hindu papers and Muslim papers have been prosecuted and in how many cases the prosecution was successful? In Delhi alone 8 prosecutions were

launched and they were all acquitted because the prosecutions were held to be improper.

Dr. Katju: I will deal with that point later. I am dealing with this subject to your ruling, of course.

Mr. Deputy-Speaker: All that I am suggesting is that in a matter of this kind, while even at the outset in 1951 there was endless debate over this matter and it was restricted for a period of 2 years, when he wants the continuance of it for another two years, he must let the House know how it has worked. If extracts had been given to the hon. Members, possibly the other side might not have such serious objections. That is all I wanted to say.

Dr. Katju: I am very glad for this direction. But, I have, if I may say so, a much higher notion of the knowledge and experience of hon. Members.

Shri S. S. More: You are wrong.

Dr. Katju: But what is happening in the Press? It is all feigned innocence.

Shri K. K. Basu: You have to accept our own view.

Dr. Katju: Let him read their own papers, the *Searchlight*, the *Spotlight* and *Blitz*. Of course they stand up as if they don't know anything. Let him just read this line of thinking. No. (vi) is about "grossly indecent, or scurrilous or obscene or intended for blackmail".

The first point that I would ask the House to consider is this: is it anybody's opinion that publication of this kind of stuff is to be permitted for the sake of the growth of our democracy? Repeatedly it was said by my hon. friends "This is a Congress government; they have great complications; they say one thing but intend another; the extension of the Bill is really intended not so much for the preservation of peace and order or law and order in the land but it is

intended for the suppression of political parties or political opponents". I ask every hon. Member sitting on this side or that side of the House to consider this point: because this is an objectionable matter, has it got anything to do with any political party at all? Seduction of the armed forces, encouragement of violence, incitement to murder, incitement to violence, interference with essential supplies, creation of enmity between parties—where do the political parties come in here? It is a matter of great significance. It is not a matter of a blank cheque that you give to the executive that if the President certifies or if the Government certifies that it is an objectionable matter, that would be quite enough and it cannot be challenged by anyone. These are the specific matters which deal, broadly speaking, with an effort to prevent the preaching of violence, to preserve and integrate the loyalty of the armed forces, to preserve the unity and harmony between the different communities in this country and to prevent, what you call, the yellow Press or gutter Press, the existence of which is admitted all over the land. Where do political parties come in? Has there been a single action anywhere or has it been cited? My friend Mr. Datar asked for an instance and have they cited any single case where action has been taken during the last two years from the political point of view—I mean, action by the Congress people against their political opponents? My grievance is this. Mr. Chatterjee is a fine speaker and I love him and admire him. I should have thought that as a lawyer or as a judge, he would have been quite aware of the fundamental difference between the Acts which were passed by the British Government and the Act which was passed in 1951 by Parliament. Reference was made by my hon. friend Pandit Bhargava to Sapru, who was my *guru* and who was also a Law Minister, and also to S. P. Sinha. The first Press Act was passed during the tenure of office of S. P. Sinha.

Shri N. C. Chatterjee: He resigned on that issue.

Dr. Katju: That is a different point altogether. They first gave the executive the complete power and then they allowed, by a sort of a bypass, access to the High Court. You have the judgment of Sir Lawrence Jenkins in the case of Mohammed Ali and there you will find that it was absolutely useless. What did Parliament do in 1951? Judicial process in the matter of a particular publication in a newspaper—can a State Government or the Central Government confiscate it? I have got a note here saying that the Press is going to be confiscated, but can they do it? Can they do it? Please remember one thing—it is not going to be one article. The Government has got to be satisfied that there is a persistence in the attempt—day in and day out, week in and week out, there is a consistent, persistent endeavour to do one of the prohibited things. When the Government is satisfied on that scope, action is initiated.

My hon. friend, Pandit Thakur Das Bhargava, went into a technical point. He said that complaint is defined in the Criminal Procedure Code. But "complaint" is the very word used here. What does Government do? Government files a complaint before the Sessions Judge.

Pandit Thakur Das Bhargava: The word is wrongly used there.

Dr. Katju: It is used here, whether it is properly used or not. A complaint is filed. It is not before a Magistrate, even a Magistrate of First Class. It is the Sessions Judge himself. The Sessions Judge entertains it. Having entertained it, he issues notice to the opposite party. Evidence is given. Sir Lawrence Jenkins complained in Mohammad Ali's case: we have got no materials before us—we do not know whether Government is right or wrong. Here it is a regular criminal trial.

I have got figures here—I shall lay them before the House—that there are

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proceedings pending for weeks and months. Many State Governments have said that the procedure is so dilatory that they would rather let the matter go. In spite of that they file. The point I am labouring is that it is not an executive process at all. It starts with a judicial process.

Then, someone—I think it was Mr. Sadhan Gupta,—said that money is being spent. Now what will you do? You find direct or indirect incitements to murder in newspapers. What is the evidence? Would you like that the writer or the publisher should be prosecuted for incitement to murder, of which the sentence may be life imprisonment. I am not drawing upon my imagination.

Some Hon. Members: Why not? (*Interruptions*).

Mr. Deputy-Speaker: My difficulty is this. I allowed ample opportunity to all sections, to important leaders, and even to their followers to speak in as strong a language as possible. One side of the case has been placed before the House. Is it not necessary for the Government to explain its own position and try to refute the argument? It may be unpalatable. It does not mean that only whatever is said from this side of the House is palatable. Of course, hon. Members can laugh within themselves, but not laugh outside. It applies to both sides. One single hand alone cannot make noise.

I would like to impress upon hon. Members that this is an important and serious matter. Let us hear what Government have to say. The reporters cannot hear, I cannot hear and persons sitting there cannot hear. Constant laughing and jeering are very uncomfortable.

Dr. Katju: I am accustomed to their laughter; it is not because they are becoming jolly; it is with the intention of interrupting the arguments. That is their favourite way.

I was coming to "incitement to murder". I think Mr. Venkataraman referred to articles which have appeared in newspapers—I do not know how they are called....

An Hon. Member: *Dravida Kazhagam*.

Dr. Katju: Everybody who reads Tamil literature knows it. Heads will roll and the Northerners will be killed and done away with. Hon. Members know it.

An Hon. Member: We know nothing.

Dr. Katju: You are very innocent!

My submission is—someone criticised me when I said that this was really a simpler process and a more lenient process. What would you prefer? Here is a publisher of a newspaper or a book or whatever it is and it contains some incitement. (*Interruptions*). If you go and kill a man, you shoot him and he dies, it is not necessary to produce proof; your intention to kill is there—there is the intention, that fellow is dead and you will be hanged; it is for you to suggest that it was an accident. Similarly, if the publication is to that effect what would hon. Members like to say to the Press, say the working editors and the working journalists. Instead of taking this soft action, giving a warning to behave better and deposit a little security and ask them not to do it again we should start with a criminal prosecution in which there is the danger of being hanged or serving a life imprisonment. Would Mr. Chatterjee like it? My complaint throughout has been that hon. Members opposite have really followed—if I may put it that way—a line of least resistance. They say: in this Parliament and outside let us make fine speeches, (eloquent speeches in defence of the right of expression or freedom of opinion, freedom of the Press,—let the Press write anything it likes,—and they will be heard), keeping back from the public all these provisions which were inserted here and which make this restraint a judicial case. That is the point which I

wish to emphasise over and over again before the Members of this House. Believe me, I am not making a party matter of it; I will come to it later. Mr. Bhargava asked me: in 1951 there was something; what is happening in 1954? We as Members of Parliament hear debates, hear foreign debates, read newspapers. What is happening in the country? All that we do not know! We do not know what the critical situation today is! What is happening in Calcutta? Strikes and again strikes. I do not know who encourages all that—in Lucknow and everywhere. The country is in turmoil. Somebody wants disintegration of the country. I do not want to say anything against my friends, the Communists, they are great patriots. They want complete integration of the country. But times are dangerous. Do not let us become blind and say we do not want it. As Mr. Bhargava said "This Bill should be withdrawn; if there is an emergency you come before us and then we will pass that....."

Pandit Thakur Das Bhargava: Those things which I never said are attributed to me; I never said so.

Dr. Katju: I withdraw it, if you never said so. But sometimes it happens that in the course of one's speech one forgets what he has actually said.

Pandit Thakur Das Bhargava: I never said so; sometime it happens people bolster up something and put it in another's mouth.

Dr. Katju: I was only suggesting that his important and main point was to condemn this Bill and to go back to the days of Sir Reginald Maxwell and Sir Tej Bahadur Sapru and this and that on the ground that it is something of the executive Government riding roughshod over the liberties of the people and trampling under the foot the freedom of the Press and all that! I say—I do not want to use any strong word—it is unfounded; if is not correct; it is not fair to the Government, it is not fair to the Act itself. Look at it. Here is a jury. I do not know whether they like the jury

or not. From what I have heard here they would rather like a common jury. Here is a jury of professional men. There is the sessions judge. The sessions judge is a judicial officer of high experience. A magistrate may be said to be somewhat under the influence of the executive government. But a sessions judge is completely independent, fearless, reliable. He entertains the case. He may decide the case himself, or he may be assisted by jury if the other party want it. Then there is evidence taken. And what has been printed or published in the newspaper before or after for a long period of years, the whole thing, is gone into and judgment given. And the judgment may be—you see why discretion is given to the judge—he may say: well, the case is there, it is quite right, but having heard the parties and (probably) having heard an expression of regret from the other party I think a warning will do. And the warning goes. Or he may say: it is a very trivial matter, the State Government has taken too severe a view of this, discharge. Or the State Government may say: we want three thousand rupees as security. The judge may say: one thousand will do. Over that there is an appeal to the High Court. What more do they want, for a judicial procedure?

Shri Nambiar: Nothing!

Dr. Katju: What more does Mr. Chatterjee want, unless he says—I can understand that position—scrap this Bill, and let there be a prosecution only under the Indian Penal Code and nothing else; and hang them; and instead of being given an opportunity of giving a deposit, one thousand or two thousand, they should go to jail!

As a matter of interest, this morning, when I was considering this I made a draft Bill. May I read it? This is not the Bill itself. But would you like to have it in this form?

Some Hon. Members: Yes, read it.

Dr. Katju: "Whoever publishes in any shape or form any matter of the kind described... (namely objectionable matter)... shall be liable to a sentence

[Dr. Katju]

of two years' imprisonment and a fine of five thousand rupees; and if he is also registered as a keeper of the Press where the offending matter is published, the court may also pass an order directing the forfeiture of the press, and the registration shall be cancelled". Do you want it, do you like it?

Shrimati Sucheta Kripalani: We said we want it in the normal law.

Dr. Katju: As soon as you insert a provision in the Penal Code it is in the normal law.

Shri V. G. Deshpande: It is too mild!

Dr. Katju: The impression I have formed after two days' debate is that it has been wholly unreal. There has been an attempt to pay homage to the deity of Freedom of Expression, Freedom of the Press and all that, but

Members have not applied their mind to what is behind the Bill and what the requirements of the situation are.

I do not want to say anything, but if there was no justification for the Bill, what you have heard from my hon. friend Mr. H. N. Mukerjee whom I like very much, gives you ample justification for passing this Bill. They are very proud of their organisation which is spread all over the country.

7 P.M.

Mr Deputy-Speaker: I am very sorry to interrupt the hon. Minister. For six hours we have been sitting now. Is the hon. Minister likely to conclude now or continue tomorrow?

Dr. Katju: I will continue tomorrow.

The House then adjourned till One of the Clock on Friday, the 12th March, 1954.