

19.30 hrs.

CODE OF CRIMINAL PROCEDURE
(AMENDMENT) BILL—Contd.

MR. SPEAKER : Mr Patil will now reply.

THE MINISTER OF STATE IN THE
MINISTRY OF HOME
AFFAIRS (SHRI S. D. PATIL) : Sir,
I was replying to the points made by hon.
members who opposed the motion for
leave to introduce the Bill. I fully
understand the feelings of the members
who have opposed the introduction of
this Bill and the misgivings that arise
in their minds regarding the conferment
of even of attenuated powers of preventive
detention on the administration. Our
recollections of the gross abuse to which
MISA was put are fresh and vivid.

Nor has Government any pleasure in
introducing a measure of this nature.
But I would request the hon. Members
to bear in mind that Government has at
the same time a responsibility to discharge
and, were it not absolutely necessary for
the discharge of this responsibility, we
would not have come forward with this
proposal. The country expects rightly
that law and order will be maintained.
Government has a moral obligation to
fulfil this expectation, for, the maintenance
of law and order is the primary responsi-
bility of the State and in fact the basic
raison d'être of its existence. The House
is aware of the complexity and the
nature of the problems of security and
public order with which the country is
faced and I need not dwell now upon the
recent acts of sabotage and terrorist threats,
the proneness to violence of certain sections
and the divisive forces that are always
seeking free rein to undermine the polity.
The administration seeks legal sanctions
from this House in coping with these prob-
lems and denying it these sanctions, would
be handicapping it sorely against forces
that, in any case, have only contempt for
law, society, indeed human life itself.

PROF. P. G. MAVALANKAR :
What is the matter being taken up now ?

Mr. Speaker : The Minister is replying
to the earlier debate.

PROF. P. G. MAVALANKAR :
Under what rules can he do this? Please
see the record. The Deputy Speaker had
said that it will go to the next session.

MR. SPEAKER : He has not said that.
Please verify from the records.

(Interruptions)

MR. SPEAKER : I understand from
the office that he has not said that it has
lapsed.

SHRI O. V. ALAGESAN : The
Deputy Speaker had said that it was
3 O'clock and so... (Interruptions)

MR. SPEAKER : I was not present.
My Secretary says that the Deputy Speaker
has not said it.

SHRI S. D. PATIL : To allay mis-
givings, I would like to point out that
the main thrust of the provisions of the
Bill is to ensure that powers for preventive
detention are not abused. Thus it differs
from its predecessors in seeking to limit the
powers of Government and to provide
potent safeguards. (Interruptions)

PROF. P. G. MAVALANKAR :
Which record has the Secretary seen ?

SHRI S. D. PATIL : Therefore, the
activities prejudicial to the security of the
State and the maintenance of public order
have been rigorously defined in the Bill
so as to eliminate any possibility of the
law being used for political or extraneous
purposes. The State Government will
have no power to issue detention orders
for reasons connected with the defence of
India or the security of India or with res-
pect to any foreigner. (Interruptions)

MR. SPEAKER : My Secretary says
that the Deputy Speaker has not said that.

SHRI DINEN BHATTACHARYA :
You must be consistent. We are being
fooled.

PROF. P. G. MAVALANKAR : We
want to know what the Deputy Speaker
himself has said.

MR. SPEAKER : The Deputy
Speaker is here. I would like him to say
what had happened then.

SHRI GODEY MURAHARI
(Vijayawada) : I must strongly protest
against the attempt of some Members
to say something, as if I have said it. I
have never said that it lapses. Actually,
what I said is that the time is 3 O'clock,
and that we will take up the private Mem-
bers' Business. I am sorry that Members
should put words into my mouth. (In-
terruptions)

MR. SPEAKER : You have to accept
it. He said: "Private Members' Business
is being taken up." Nothing more than
that.

SHRI S. D. PATIL: The district authorities will be able to issue detention orders only when such powers are specifically delegated to them and only for activities prejudicial to the maintenance of public order of supplies and services essential to the community. Conditions of detention will be determined by rules to be made by the Central Government and will not be left to the State Governments to decide. A mandatory provision is being made for the payment of monetary relief to the family of the detenu where the means of its subsistence have been rendered inadequate because of the detention. I would, further, like to mention that the constitution of the advisory boards has been so modified as to secure the most independent possible judicial review within two months of detention through a Board nominated by the Chief Justice of the appropriate High Court and consisting of three Judges. Members must have noted that, earlier, the composition of the advisory boards was not restricted by laws to Judges, nor were nominations to the advisory boards made by the Chief Justice. By proposing that the function of nomination to the advisory board be entrusted to the Chief Justice of the High Court and that membership of the advisory board be restricted to Judges (serving or retired), Government have given proof of their good faith and determination to prevent abuse of the proposed legislation.

Further, a detenu will be able to make additional representation against his detention whereas he has no such right to-day.

The total period of detention under this measure has been reduced from three years under the present law to one year in all cases.

I would also like to refer to the provision made in the Bill for the first time in the legislative history of preventive detention that a report on the working of the law will require to be made not only to the two Houses of Parliament but also by each State Government to its Legislature. A statutory provision enabling discussion in the State Legislature as well as Parliament of the manner in which the law has been implemented will be the surest way to ensure that these powers are used with due care and restraint.

We have sought to provide all safeguards that we could possibly think of but, should Members be able to suggest any others during the course of the discussion on this Bill, Government will give their suggestions its most earnest consideration. We will gladly accept

any suggestions that will strengthen the safeguards against abuse without weakening the administration in controlling the divisive forces of chaos and disorder.

It is only our awareness of the serious problems facing the country that has prompted us to bring forward this measure. I would appeal to the hon Members' sense of responsibility towards maintenance of peace and order in the country in seeking their support for the measure.

MR. SPEAKER: The question is:

"That leave be granted to introduce a Bill further to amend the Code of Criminal Procedure, 1973."

The Lok Sabha divided.

Division No. 14]

[19.40 hrs.

AYES

Agrawal, Shri Satish

Amat, Shri D.

Ananthan, Shri Kumari

Argal, Shri Chhabiram

Arif Beg, Shri

Balak Ram, Shri

Barnala, Shri Surjit Singh

Berwa, Shri Ram Kanwar

Bhanwar, Shri Bhagirath

Bharat Bhuahan, Shri

Brahm Perakash, Choudhury

Chandan Singh, Shri

Chandra Pal Singh, Shri

Chandravati, Shrimati

Chaturvedi, Shri Shambhu Nath

Chavda, Shri K. S.

Chowhan, Shri Bharat Singh

Chunder, Dr. Pratap Chandra

Danwe, Shri Pundalik Hari

Dave, Shri Anant

Dawan, Shri Raj Krishna

Dhara, Shri Sushil Kumar

Dharia, Shri Mohan

Dhurve, Shri Shyamal

Digvijoy Narain Singh, Shri

Durga Chand, Shri

Fazlur Rehman, Shri

Ganga Singh, Shri
 Gattani, Shri R. D.
 Goyal, Shri Krishna Kumar
 Harikesh Bahadur, Shri
 Heera Bhai, Shri
 Jain, Shri Kalyan
 Jaiswal, Shri Anant Ram
 Kapoor, Shri L. L.
 Kar, Shri Sarat
 Kaushik, Shri Purushottam
 Khan, Shri Ghulam Mohammad
 Khan, Shri Kunwar Mahmud Ali
 Khan, Shri Mahmood Hasan
 Krishan Kant, Shri
 Kureel, Shri R. L.
 Mahala, Shri K. L.
 Mahale, Shri Hari Shankar
 Mahi Lal, Shri
 Malhotra, Shri Vijay Kumar
 Mallick, Shri Rama Chandra
 Mandal, Shri Dhanik Lal
 Mathur, Shri Jagdish Prasad
 Mehta, Shri Prasannbhai
 Mhalgi, Shri R. K.
 Mishra, Shri Janeshwar
 Mishra, Shri Shyamnandan
 Mondal, Dr. Bijoy
 Munda, Shri Karia
 Negi, Shri T. S.
 Pandey, Shri Ambika Prasad
 Pandeya, Dr. Laxminarayan
 Parmar, Shri Natwarlal B.
 Patel, Shri Dharmasinhbhai
 Patil, Shri S. D.
 Patnaik, Shri Bijju
 Phirangi Prasad, Shri
 Pradhan, Shri Gananath
 Rahi, Shri Ram Lal
 Rai, Shri Gauri Shankar
 Rai, Shri Shiv Ram
 Raj Keshar Singh, Shri
 Raj Narain, Shri
 Rakesh, Shri R. N.
 Ram, Shri R. D.
 Ram Awadhesh Singh, Shri
 Ram Charan, Shri
 Ram Kinkar, Shri

Ramapati Singh, Shri
 Ramji Singh, Dr.
 Ramjiwan Singh, Shri
 Ranjit Singh, Shri
 Ravindra Pratap Singh, Shri
 Sahoo, Shri Ainthu
 Sai, Shri Larang
 Sai, Shri Narhari Prasad Sukhdeo
 Saksena, Prof. Shibban Lal
 Samantasinhera, Shri Padmacharan
 Saran, Shri Daulat Ram
 Sarda, Shri S. K.
 Satya Deo Singh, Shri
 Shaiza, Shrimati Rano M.
 Sharma, Shri Jagannath
 Shastri, Shri Bhanu Kumar
 Shastri, Shri Ram Dhari
 Shejwalkar, Shri N. K.
 Sinha, Shri C. M.
 Sinha, Shri Purna
 Somani, Shri Roop Lal
 Suman, Shri Surendra Jha
 Tiwari, Shri Brij Bhushan
 Ugrasen, Shri
 Varma, Shri Ravindra
 Verma, Shri Mritunjay Prasad
 Verma, Shri R. L. P.
 Yadav, Shri Jagdambi Prasad
 Yadava, Shri Roop Nath Singh
 Yuvraj, Shri

NOES

Alagesan, Shri O. V.
 Ankineedu, Shri Maganti
 Banatwalla, Shri G. M.
 Basu, Shri Dhirendranath
 Bhagat Ram, Shri
 Bhattacharya, Shri Dinen
 Bhattacharyya, Shri Shyamaprasanna
 Bheeshma Dev, Shri M.
 Bosu, Shri Jyotirmoy

Chikkalingiah, Shri K.
Gamit, Shri Chhitubhai

Halder, Shri Krishna Chandra

Kolur, Shri Rajabekhar
Kisalram, Shri K. T.

Machhand, Shri Raghuraj Singh
Mavalankar, Prof. P. G.

Naidu, Shri P. Rajagopal

Patnaik, Shri Sivaji

Rajan, Shri K. A.
Rao, Shri M. Satyanarayan
Ravi, Shri Vayalar
Reddi, Shri G. S.
Reddy, Shri K. Vijaya Bhaskara
Roy, Shri A. K.

Shankar Dev, Shri
Suryanarayana, Shri K.

Venkataraman, Shri R.

MR. SPEAKER: Subject to correction, the result* of the Division is: Ayes 104, Noes 27. The Ayes have it, the Ayes have it.

The motion was adopted

SHRI S. D. PATIL: I introduce the Bill.

19.40 hours

CONTEMPT OF THE HOUSE

MR. SPEAKER: As the House is aware, one person, who has given his name as Surrah Singh, who is a student of B.A. Final of Gorakhpur University, shouted some slogan and threw leaflets from the Visitors' Gallery at about 12.40 p.m. today. He was immediately removed from the Gallery by the Watch and Ward Staff and interrogated. He has made a written statement but not expressed regret for his action.

As today is the last day of the session, if the House agrees, he may be kept in the custody of the Watch and Ward Officer till the rising of the House today and thereafter released with a warning.

SHRI JYOTIRMOY BOSU (Diamond Harbour): I move that he be released forthwith.

SHRI SHYAMNANDAN MISHRA (Begusarai): A motion has to be made by the Minister of Parliamentary Affairs. The procedure is that the motion is made by the Minister of Parliamentary Affairs and then the House expresses its opinion on it. The sentence is never passed by the Chair.

MR. SPEAKER: We are not imprisoning him. I only wanted him to be warned and released. Is that the pleasure of the House?

SHRI SHYAMNANDAN MISHRA: Why not place the whole matter before the House and ask the House to express its opinion? I do not know who is derelicting in the matter. Somebody is derelicting in the matter. The incident has occurred in the House and we have not even been apprised of the incident. The House requires to be apprised of it and the House will deal with it.

MR. SPEAKER: What exactly do you want?

SHRI SHYAMNANDAN MISHRA: The incident took place in the House this morning. We do not know much about it. The House will have to take a view in the matter. Somebody has to inform the House about the incident and then the House will take a view and say, whether he should be sentenced to one day or two days' imprisonment, whatever the case may be. But the general practice has been that the Minister of Parliamentary Affairs comes before the House and tells the House about the incident that has taken place. He also makes a motion.

MR. SPEAKER: My Secretary informs me that the precedent in such cases is that if an imprisonment is to be given, then the Minister for Parliamentary Affairs makes a motion. But if it is merely a question of giving a warning and letting him off, it is done by the Chair.

*The following Members also recorded their votes:

AYES: Sarvashri Charan Singh, Zulfikarullah, Hukmdeo Narain Yadav, Ramanand Tiwary, Ram Naresh Kushwaha, Ram Vilas Paswan, Rajee Vishveshvar Rao, Nathu Singh, Ram Murti Rudolph Rodrigues, Shrikrishna Singh Balwant Singh Ramoowalia, and Raghuraj Singh Machhand.

NOES: Shri Ajitnath Dabhi.