

MR. SPEAKER : That is not a part of the arrest. That is a separate question. I am now talking of the arrest of Dr. Ranen Sen and you bring in something else.

SHRI AMRIT NAHATA : 20 Members have signed that and we want to discuss it in the House.

MR. SPEAKER : It is really strange how we function. We are talking about a Member's arrest. I know, you wrote to me; and, not only you, on this question and on some other questions, hon. Members write to me. The Business Advisory Committee has fixed up some Government work. What is the work—Supplementary Demands, the Unlawful Activities Bill which we are considering now and some Ordinances. I have sent your letter and other letters also to the Minister of Parliamentary Affairs. Time must be found for this. It is not as though the Speaker can find the time and fix something. If Government work can be withdrawn, if the Unlawful Activity Bill or something else can be withdrawn, I am prepared to put in any work. Then, the Business Advisory Committee will meet and say what business must be taken up in the House. Some hon. Members want the session to be extended by a few days, beyond the 23rd. I do not want anything to be done at the last minute. If Government wants to withdraw the financial business or the Unlawful Activity Bill.....

SHRI NAMBIAR (Tiruchirappalli) : Yes, Sir; the House will agree to that.

MR. SPEAKER : If you get up whenever you choose, I am not able to ask others to sit down.

I am only saying that because 20 or 30 Members have signed something, I cannot change overnight the work of the House and put something else. Here is the work that was organised by the Business Advisory Committee and it can be changed by the House or by the Business Advisory

Committee. I have asked the Government if they are prepared to give the time, which Bill is to be withdrawn and if they are going to keep to these Demands and the Ordinances etc. If and when I get a reply that they are prepared to withdraw something, I will call the Business Advisory Committee meeting. Even then this may not be taken up and some other work may be taken up by the Business Advisory Committee. It is not in my hands. It is with the Government just now. You belong to the ruling party; so, if you want to contact them, you can certainly contact them and do what you like.

SHRI S. M. BANERJEE (Kanpur) : Sir, I am a member of the Business Advisory Committee.

MR. SPEAKER : I know, you are.

SHRI S. M. BANERJEE : I want to make the position very clear. Yesterday also Shri Panigrahi raised this in the House and today my hon. friend has raised the matter that the Hazari Report should be discussed. I only wish to make it clear that in every Business Advisory Committee meeting I and other Members of the Opposition, Shri Rabi Roy and others, have demanded that this discussion should take place. At that time the ruling party was also there. When there is a question of pressing for anything, they do not press and they come here as champions of anti-Birlas.

12.30 hrs.

UNLAWFUL ACTIVITIES (PREVENTION) BILL—Contd.

MR. SPEAKER : The House will now take up further consideration of the Unlawful Activities (Prevention) Bill. Shri Randhir Singh to continue his speech.

श्री रणधीर सिंह (रोहतक) : जनाब स्पीकर साहब, हमारे देश में मुल्क से दुश्मनी रखने वाली ताकतें न सिर्फ उभर रही हैं, बल्कि और ज्यादा मजबूती पकड़ रही हैं।

[श्री रणधीर सिंह]

12.30 hrs.

[MR. DEPUTY-SPEAKER in the Chair.]

इस सिलसिले में मुझे गिला सिर्फ उन भाइयों से है, जो इस उसूल पर अमल करते हैं कि हाथी के दांत खाने के और, और दिखाने के और। मेरे दोस्त, श्री वाजपेयी, गवर्नमेंट को कोड़े ले कर मारना चाहते हैं, जब भी वह समझते हैं कि कोई बात देश के हित के खिलाफ हुई है। अगर देश की एक इंच जमीन भी जाती है, तो वह इतने जोर से गवर्नमेंट पर हमला करते हैं कि नाक में दम कर देते हैं। मैं उनको बताना चाहता हूँ कि उन्होंने गवर्नमेंट को जो मशवरा दिया है, उन मशवरे को अमल में लाने के लिए यह बिल लाया गया है।

आप यह जानते हैं कि काश्मीर में मुल्क-दुश्मन सरगमियां हो रही हैं। काश्मीर में एक नहीं, हजारों आदमी ऐसे हैं, जो पाकिस्तान के साथ खुली हमदर्दी रखते हैं। वहां पर कुछ लोगों ने एक प्लैबिसाइट फ्रंट बनाया है, जो कि खुल्लम-खुल्ला यह एलान करता है कि उसकी हमदर्दी हिन्दुस्तान के साथ नहीं है और अगर राय शुमारी की गई, तो वह या तो आजाद काश्मीर कायम करने और या पाकिस्तान के साथ इलहाक करने के हक में राय देगा - वहां पर एक एकसन कमेटी भी बनी हुई है, जो खुल्लम-खुल्ला अयूब के इशारों पर नाचती है। जो लोग आजाद काश्मीर का नारा लगाते हैं, जो पाकिस्तान से हमदर्दी का दम भरते हैं, जो हिन्दुस्तान को पास-पास करना चाहते हैं, जो हिन्दुस्तान के टुकड़े-टुकड़े करना चाहते हैं, जो उसके हिस्से-खबरे करना चाहते हैं, अगर इस बिल के जरिये उन का कुछ इलाज किया जा रहा है, तो मैं समझता था कि हमारे कौमपरस्त भाई—जनसंघ, संयुक्त सोशलिस्ट पार्टी, प्रजा सोशलिस्ट पार्टी या दूसरी आपोजिशन पार्टीज के भाई या इंडिपेंडेंट भाई—उसकी हिमायत करेंगे।

लेकिन मुझे यह देखकर नाउम्मीदी हुई कि वे एक वक्त में एक आव ज निकालते हैं और दूसरे वक्त में मुत्तलिफ़ आवाज निकालते हैं। उनमें इतनी अखलाकी जुरंत होनी चाहिए कि वे गवर्नमेंट की किसी सही बात की हिमायत करें। मुझ में इतनी अखलाकी जुरंत है, कि मैं ट्रेजरी बेंचिज़ पर बैठ कर भी आपोजिशन की सही और देश-हित की बात की हिमायत करता हूँ। मैं यह जानना चाहता हूँ कि जिस बिल के जरिये कौम के डिफेंस देश की इन्टेग्रीटी और सालशियत को बचाने का इन्तजाम किया जा रहा है, उस बिल में कौन सी खराबी है कि हमारे दोस्त उसकी मुखालिफ़ कर रहे हैं।

हिन्दुस्तान में पूरे इलाके ऐसे हैं, जिन्होंने देश से खिलाफ एलानेजग कर रखा है। अगर कोई दूसरा देश होता, तो ऐसे लोगों को गोली का निशाना बना दिया जाता। आप जानते हैं कि बागी नागाओं के लीडर जा कर चीन और पाकिस्तान से बातचीत करते हैं और इस बात की कोशिश करते हैं कि नागालैंड एक इंडिपेंडेंट देश बन जाये और चीन और पाकिस्तान उसको रैकग-नाइज़ करें। जब गवर्नमेंट ऐसी कार्यवाहियों का कुछ इलाक करने की कोशिश करती है, तो हमारे दोस्त कहते हैं कि इस बिल की क्या जरूरत है। मैं उनको बताना चाहता हूँ कि आज नागालैंड में जो जारिहाना कार्यवाहियां हो रही हैं, वहां पर जो खुली बगावत हो रही है, उनमें हिस्सा लेने वाले लोगों का दिमाग दुहस्त करने के लिए यह बिल लाया गया है। इस एवान में ये सवाल किये जाते हैं कि हुकूमत मिजो बागियों को काबू में क्यों नहीं करती है, वह नीफा में बागियों की सरगमियों का इलाज क्यों नहीं करती है, लेकिन जब हुकूमत इस बारे में कोई कार्यवाही करती है, तो मेरे दोस्त, पता नहीं किन वजूहात की बिना पर, उसकी मुखालिफ़ करते हैं। मैं श्री वाजपेयी और दूसरे दोस्तों को देशभक्त समझता हूँ—अबने

से ज्यादा देशभक्त समझता हूँ, लेकिन साथ-साथ मैं यह शिकायत भी करता हूँ कि गवर्नमेंट की हर एक बात की मुखालिफत करना उन्होंने अपनी आदत सी बना रखी है। ज़मीं जुम्बद, न जुम्बद गुल मुहम्मद। वे अपनी जिद्द की वजह से गवर्नमेंट की सही बात की भी, उसको प्रेस्टीज का सवाल बना कर, मुखालिफत करते हैं।

मैं तो यह चाहता था कि इस बिल की युनेनिमसली हिमायत की जाती और श्री चह्ल्यान को आशीर्वाद दिया जाता कि उन्होंने मुल्क सोवियरेन्टी और इन्टेग्रिटी को मजबूत बनाने के लिए और आगे किसी हिस्से को इस देश से सिसीड होने से रोकने के लिए निह्वायत मुनासिब कदम उठाया है। एक भाई ने एक बड़ी मजहकाखेज बात कही कि वे इस बिल की हिमायत इसलिए नहीं करते हैं कि इसमें गवर्नमेंट की कार्यवाहियों को एन्टी नेशनल एक्टिविटीज को मैं शामिल नहीं किया गया है। वे चाहते हैं कि अगर पहले प्रधान मंत्री ने चीन या पाकिस्तान को नो-वार पैक्ट की, आफरकी या अगर कल का प्रधान मंत्री ऐसी तजवीज करे, तो वह भी सेशन और सिसेशन की डेफिनीशन में आ जाये, उनके खिलाफ भी एक्शन लिया जाये। मेरे फ्राजिल दोस्त यह भूल जाते हैं कि अगर गवर्नमेंट की तरफ से गुड फेथ में कोई काम किया जाता है, तो उस आफिशल एक्ट को एक्ट आफ इनडेमिन्टी सेव करता है।

हमारे दोस्त एक-एक इंच की बात करते हैं। लेकिन मैं बताना चाहता हूँ कि पहले ईरान और रूस में सरहदों के बारे में झगड़ा था, लेकिन आपसी बातचीत के जरिये उन में समझौता हो गया, जिस के मातहत रूस को डेढ़ लाख मुरब्बा मील का रकबा ईरान को सौंपना पड़ा। चीन और रूस के दरमियान भी लाखों मुरब्बा मील ज़मीन को ले कर सरहदी झगड़ा चल रहा है, लेकिन उस झगड़े को निपटाने के लिए बातचीत की जाती है,

कोई लड़ाई नहीं छेड़ दी जाती है। इसी तरह दुनिया के अलग-अलग मुल्कों के दरमियान जो सरहदी झगड़े हैं, उनका तसफिया आपसी बातचीत से किया जाता है। देश के हित के लिए, देश की इन्टेग्रिटी को बरकरार रखने के लिए हुकूमत की तरफ से प्राइम मिनिस्टर या होम मिनिस्टर या डिफेंस मिनिस्टर कोई प्रोपोजल रखते हैं और पार्लियामेंट उस प्रोपोजल को अपनी संकशन देती है। इसलिए मैं समझता हूँ कि किसी दूसरे मुल्क के साथ समझौते की बातचीत करने पर एतराज नहीं किया जाना चाहिए।

मुझे इस बिल में ऐसी कोई बात नजर नहीं आई, जो देश के हित के खिलाफ हो या आपोजीशन के खिलाफ हो। हां, मैं होम मिनिस्टर साहब से यह जरूर अर्ज करना चाहूंगा कि हमारे दोस्तों को इस बात का खदशा है कि कभी यह बिल आपोजीशन की किसी पार्टी के खिलाफ इस्तेमाल न किया जाये। मैं जानता हूँ कि वह ऐसा नहीं करेंगे। मैं उनकी आदत, दिमाग और दिल को जानता हूँ। आखिर आपोजीजन के भाई बाहर के नहीं हैं। वे हमारे भाई हैं। उनम देशभक्ति हम से कम नहीं है, ज्यादा है। लेकिन अच्छा होता कि सिवाये उन पार्टीज के जिनके देश से हमदर्दी नहीं है, जिनकी हमदर्दी रूस का चीन के साथ है, बाकी सब भाई इस बिल की हिमायत करते।

कांस्चीट्यूशनली यह बिल बिलकूल ठीक है। कांस्चीट्यूशन के आर्टिकल 19(2) और (4) में जिन रीजनेबल रेस्ट्रिक्शन्स का जिक्र किया गया है, इस बिल में उन्हीं के मुताबिक प्राविज्जन रखे गए हैं। लेकिन देश के कांस्टीट्यूशन, पीनल लाज और क्रिमिनल लाज में जो लिखा था, उस को यह बिल पूरा करता है देश के फायदे के लिए, मुल्क की एकजहती और यूनिटी के लिए।

मैं इस बिल की पूरी हिमायत करता हूँ और मैं चाहूंगा कि मेरे दोस्त इस बारे में

[श्री रणधीर सिंह]

फिर से सोचें और इस बिल को यूनेनिमसली पास करायें, ताकि पता चले कि कौन-सा ग्रुप या पार्टी इस मुल्क के खिलाफ है और कौन इस के हक में है ।

MR. DEPUTY-SPEAKER : Dr. Puri.

SHRI G. VISWANATHAN : rose—.

MR. DEPUTY-SPEAKER : He will get his time. I am now calling Dr. Puri.

SHRI J. B. KRIPALANI (Guna) : Sir, I should not be allowed to get up every now and then. I want to say a few words, if you would allow me, before lunch.

MR. DEPUTY-SPEAKER : I am very sorry I was going to call Mr Puri. You speak first. Mr. Puri, I will call you a little later. I never knew that.

SHRI J. B. KRIPALANI : Mr. Deputy Speaker, Sir, I was Chairman of the Fundamental Rights Committee. I told my Committee that this question of fundamental rights was a 19th century idea. In the present century it does not hold good because every Government finds out reasons for reasonable restrictions on these fundamental rights. We have seen how these fundamental rights have been eroded by this Government and there remains nothing of them now. It is true that we here in the Parliament can tell the Treasury Benches in parliamentary language that they are no good, and our throats will not be cut. This is all the fundamental rights that are left to us. Sir, except for this, all these repressive laws violate the rule of law.

I have absolutely no doubt that the intentions of the Government are good. They want to use this law only for the purposes for which it is designed. I have absolutely no doubt about it. I do not doubt their credentials. They are honest, but they must know that no Government, when they can get short cuts, refrain from making use of those shortcuts and to take the

trouble of going to the law courts. So whatever they may intend, this law, as all laws are used, will be used also for purposes for which it is not designed. Their intentions are good, but it is just like putting a sword in the hands of Hanuman. Hanuman may not like to kill, but somehow the sword kills.

श्री अटल बिहारी वाजपेयी (बलरामपुर) :
हनुमान नहीं, वानर कहिए आचार्य जी ।

SHRI J. B. KRIPALANI : Bureaucracy is always ready to use whatever comes handy at the time. Therefore, if the Home Minister wants this law to be passed, it must not be left to the States. Every State must approach the Home Minister and get his sanction before any proceedings under this Act are taken.

Another thing is: the Opposition parties are right when they say that the Government has been giving over chunks of our territory to the foreigners. Not only that, they have even justified the giving away of such territories. I say that they must put a restriction on their own conduct. Also and hereafter somebody must introduce a Bill by which no portion of Indian territory shall be alienated without the consent of Parliament.

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : That is the position.

SHRI J. B. KRIPALANI : This will be a proper restriction on their own policy. The Government has as little right as the political parties have, to barter away our freedom or give away portions of our territory to the foreigners. This must be made clear. I hope that some day such a Bill will be brought before Parliament so that the government of the day may not play ducks and drakes with our territory and with our Independence.

These laws have to be carefully used. I think Government would have been well advised if they had waited for a month or two when the

Defence of India Act would have been expired or repealed and then they could have brought forward this bill. I also believe that in their armoury they already have enough powers as in the IPC, to deal with all such activities as are against the interests of the country. The IPC was framed in the middle of the 19th century. It is the harshest penal code that exists in any democratic country. It provides for all occasions. But Government have not used it. Why have they not used it? They have not used it because they are timid. Here, everything is done with an eye on the imagined consequences, whether they should proceed further with a policy or not. It is not the rightness and the wrongness which matters but the people they are likely to offend. Unless Government take courage in both hands and utilise the powers that they already have under the IPC, they have no right to bring forward this extraordinary legislation. As I have said, the IPC is a comprehensive and a very harsh code. It was made by Englishmen at a time when in England if a person stole a goat, he was awarded capital punishment. It was on account of the English law that Nandakumar was hanged for forgery. I hope the students of history would remember that. Those harsh laws which were there in England were transported here and there has been very little alteration; there have been additions but not alterations and the additions have been intended to make the law more cruel. With such laws in their hands, if Government have not been able to act for so many years, I do not see how they will be benefited by this Bill. It is a lardy Bill. It says that the tribunal that would be appointed to investigate will take six months. During those six months, the mischief-mongers might go underground, and Government may not be able to find them even. If they want to have a law, they must have a law which would be effective. I am afraid they are destroying their reputation for nothing; they will never be able to use this law as is laid down in the Bill. So, I hold that this law is superfluous and this law may be

used by the executive for purposes for which it is not intended.

As regards the need for such a law, I have absolutely no doubt. There are people in this land who are preaching from day to day treachery to this nation, who say that foreign invasion is a necessary condition for the improvement of the nation. Therefore, this law is necessary. But let Government also realise why people listen to such persons who want the division of the country or want a revolution to be brought about in this country by a foreign army invading it. Why do people want to invite China? Why are some of the Kashmiris disloyal to this country? All this is because Government have not been able to solve the economic problems in the country. Where people are happy, though the social order is capitalist, where the labourer and the kisan and the cultivator get their necessities of life there is no communism. They have not to wait for these necessities of life; they have not to starve for want of their food, clothes, their housing, even for their radios, TV or cars. There communism does not prosper. Communism thrives where there is no effort made to improve the conditions of the poor. Instead of applying the proper remedy, Government think that they will be able to crush these ideas by these extraordinary laws that find no place in modern jurisprudence. Give the people food, give them clothes, give them houses, give them medical aid, give them work, have schemes for their requirements, not gaudiose schemes of manufacturing steel which you cannot use, which you have to sell outside and that too by giving a subsidy. Projects that take away the hardship of the people, the everyday hardship of the people have to be put through. After twenty years Government have realised that agriculture has been neglected, and agriculture is the basis of all industry. This is what they have discovered after 20 years. Yet they are contemplating putting up another steel factory, Bokaro, where for two years high-salaried officers have been appointed, where

[Shri J. B. Kripalani]

buildings have been erected for their accommodation, where everything is ready, but nothing has been done to produce steel yet. If this is the way in which the taxpayers' money is to be used, and not for giving the poor people the primary necessities of life, I say the Government cannot stop confusion; they cannot stop communism, they cannot deter traitors from doing what they are doing in Kashmir and elsewhere.

Remember there were no communists in Ladakh, and yet the nation lost some 14,000 square miles of our territory. When there was invasion of NEFA, there were no communists in NEFA. It was Government's negligence that brought about these calamities.

So first of all, let them look at their own conduct. Are they administering the laws properly, laws that they have already on the statute-books? Have they been careful about our territory? Have they been careful about the integration of this country?

There are States where there are Congress governments and yet there are quarrels between those governments. Take, for instance, the case of Maharashtra and Mysore concerning boundaries. Take the water question. In our history has this question ever risen before? This question is between three States and all the three are under Congress governments. What are the Government going to do about these things? Your own people fight with each other.

SHRI NAMBIAR (Tiruchirappalli): In those States the Communists are nowhere near.

SHRI J. B. KRIPALANI: Of course, in those three States the Communists, fortunately, are nowhere near, but in Bengal they are very near, and according to the statement of the former Chief Minister, who is now the favourite of the Communists, he wanted to do what he blames Dr. P. C. Ghosh for doing. He was doing

the same thing, but he was only afraid what the Communists would do to him, Dr. P. C. Ghosh was not afraid, and the Communists are blaming him for doing what the former Chief Minister, their present favourite, was himself doing. This is double talk, double standard of judgment. I hope the Communists will come to realise, as Gandhiji said, that means are as important as the ends. So also, must the Congress recognise, and it must put its own house in order, and then there will be no need for such kind of legislation fundamental rights guaranteed under which takes away with one stroke the the constitution.

SHRI R. D. REDDY (Kavali): I wholeheartedly support the Bill that is before the House, and also congratulate the Home Minister for the Bill that he has brought forward and the provisions that have been drafted very carefully with due regard to the rights of sovereignty which have to preserve, and also with due regard to the rights that have been conferred on the individual in the chapter relating to fundamental rights in the Constitution with due safeguards therein.

The first objection that is now pointed out by several members of the opposition is that it is opposed to the provisions of the Constitution. As far as this matter is concerned, the Attorney-General has given evidence before the Committee appointed to consider this Bill. He has expressed in very clear terms that after the amendment of article 19 which allows reasonable restrictions in respect of safeguarding of sovereignty, the provisions of the Bill are very satisfactory and cannot be said to be unconstitutional. This was the opinion that has been expressed by him, and he is a person on whom we have great faith. He has not expressed his personal opinion, but he has examined the provisions of the Bill from the legal point of view. He has also stated in his evidence that he had an opportunity to scrutinise the Bill as originally drafted, and that he had taken excep-

tion to certain provisions therein and subsequently those provisions have been amended. Therefore, he has scrutinised the amended Bill and he has now given his emphatic opinion that the Bill and its present provisions are absolutely constitutional, and there is no scope for its being declared unconstitutional.

SHRI J. B. KRIPALANI: His evidence is not so clear as my hon. friend makes out.

SHRI NAMBIAR: We will test it in a court.

SHRI R. D. REDDY: What I am saying is that he has been emphatic.

MR. DEPUTY-SPEAKER: The hon. member may continue after lunch.

13 hrs.

The Lok Sabha adjourned for lunch till Fourteen of the Clock.

The Lok Sabha reassembled after Lunch at three minutes past Fourteen of the Clock.

[MR. DEPUTY SPEAKER in the Chair]
UNLAWFUL ACTIVITIES (PREVENTION) BILL—Contd.

SHRI R. D. REDDY: Mr. Deputy Speaker, Sir, I have been submitting that the Attorney-General has said that this is permissible legislation; this is in his evidence. I think this is permissible legislation under the exception to article 19 of the Constitution. In other words, they are reasonable restrictions in the interests of security, sovereignty and the integrity of the country.

Therefore, my submission is that when he was giving evidence before the Committee of Parliament, he was aware of his responsibilities to himself as also his responsibilities to the Committee. He was not before the Committee as witness of the Congress party and the Government. On the other hand, it was the desire of the Committee that this expert should give evidence before the Committee on constitutional aspects.

AN HON. MEMBER: He was not there as a private citizen also.

SHRI R. D. REDDY: That is what I said. He was not there as a nominee of the Government or of the Congress party. He was there in his right as the Attorney-General who was sought to be heard on constitutional aspects by the Committee. It is at the desire of the Committee that he gave evidence and the evidence that he has given is based on his knowledge and his own views of the law. No person who gives evidence before any responsible body can be dogmatic; nobody can say that the opinion that he has given is going to be infallible. No opinion can be infallible. Even the advice that may be given to the President, if necessary, by the Supreme Court also cannot be infallible. The opinion is good and it can be acted upon. By the time the matter is taken before the Supreme Court, there may be a change in the Supreme Court itself. It cannot be said that the opinion given here has been procured or is in any manner incorrect.

SHRI NAMBIAR: The opinion got diluted afterwards.

SHRI R. D. REDDY: He has given his reasons. He has referred to the concept of fundamental rights in the 19th century and in the early 20th century and how it has been interpreted by the Supreme Court in recent times, how Parliament has been trying to say that it is not correct, etc. Taking into consideration the integrity and sovereignty of the country and the amendments made to article 19, he has given his opinion and I submit it is entitled to grant weight.

श्री जार्ज फरनेन्डीज : ऐटार्नी जनरल भी गलती करता है यह आप जानते हैं ।

SHRI R. D. REDDY: Ours is a democracy. The majority cannot say that they are right and even the judgment of the Supreme Court can change any time.

It has been said that there is absolutely no need for this Bill as there are other acts like the IPC. The Attorney-

[Shri R. D. Reddy]

General's opinion on this point is very clear :

"There is no section in the IPC which covers any of these things exactly. As to the other legislation such as the Defence of India Rules and the Preventive Detention Act, no doubt there are certain powers vested in Government, but they also cannot be used for this purpose. It is not redundant; it covers an area which is not exactly covered by other legislation."

He has said definitely that the existing laws do not cover this situation and to meet it effectively, it is not only desirable but necessary to have a Bill of this type.

Then it has been said that there is no need for this Bill because the present situation in the country does not warrant a Bill of this kind. It is also said that the DMK which at one point of time has been advocating secession has given it up irrevocably and there is no other party or individual in the country advocating such a thing and therefore, the occasion does not demand a Bill of this type. I submit that this argument by itself admits that there existed people or associations in this country which advocated secession. It is not as if it is the monopoly of any association or individual to advocate secession. Tomorrow it may catch fire and some other association may advocate it. When such a situation develops, since the existing laws do not cover such a situation, it is eminently desirable that the Government should be clothed with this power beforehand to meet such a situation. When the DMK party advocated secession, Government found they were not able to meet the situation. Therefore, article 19 had to be amended, but still there was a lacuna. Therefore, to meet such a contingency this legislation has been brought in.

Coming to the clauses, the notification becomes effective immediately in certain cases and in certain other cases it does not become effective and it is

in the balance till the matter is decided by the tribunal. If the tribunal confirms the order, it becomes effective. Therefore, Government has put a check upon itself. It is only in extraordinary cases coming under proviso to sub-clause (3) that the notification becomes effective immediately and the association becomes unlawful. Otherwise, any association which is said to be unlawful in the opinion of the Government is not affected till the matter is decided by the tribunal. If the tribunal chooses to confirm it, it becomes effective. Therefore, there would be extraordinary situations when the Government itself may not know. Sometimes the Government does not know many things. That is the accusation made by the Opposition. They say that they themselves know certain things whereas the Government is not aware of them. That is what is said on the floor of the House. Therefore, there may be situations when the Government may not be able to know about the activities of a particular organisation. When it comes to know of their activities and that it will be dangerous, then this is necessary. My submission is, even in this matter the provision is only as in the civil procedure. When we go to civil procedure we find that there is the plaint, statements are made, both the parties adduce evidence, the entire evidence is weighed by the court and it is only after having a preponderance of evidence that the decision is given. In the same way, as far as this notification is concerned the procedure provided is as if it is a civil litigation. Therefore, after the matter is weighed then only a decision is given. It does not affect anybody's rights except the right of the association. No person is going to be prosecuted or any prosecution is going to be launched in such cases. It is a warning so that all people engaged in unlawful activities can at once stop them. Even after the order is passed by the tribunal the Government has reserved to itself the power to cancel its own order.

Regarding penal provisions in clause 9 when persons or associations are

prosecuted, there is no appeal provided and it is final. At the same time writ proceedings under articles 32 and 226 are intact and they cannot be taken away by Parliament because they are provided in the Constitution itself. As far as the notification is concerned, when individuals or associations are prosecuted with specific sentences it is final and no appeal is provided. But the ordinary procedure, whatever is provided under the Criminal Procedure Code in regard to appeals, is intact and the parties can agitate those things and get remedies.

Therefore, as far as this Act is concerned it has been designed and intended to meet a particular situation and the Government need not arm itself with extraordinary powers in order to oppress or do any harm to any individuals or associations.

डा० सूर्य प्रकाश पुरी (नवावा) : जो बहस चल रही है इस में ज्यादातर माननीय सदस्यों ने या तो गृह मंत्री को यह कहा है कि वह बहुत ही शक्तिशाली व्यक्ति हैं या नहीं हैं या फिर यह कहा है कि एटर्नी जनरल ने बहुत अच्छे सुझाव दिये हैं ।

मैंने कमेटी की रिपोर्ट को देखा है। कमेटी की रिपोर्ट के साथ कुछ माननीय सदस्यों ने असहमति प्रकट की है। जब मैं उस रिपोर्ट को और असहमति की टिप्पणियों को पढ़ता हूँ तो मुझे ऐसा लगता है कि उन्होंने जितने प्रश्नों को उठाया जो कि बड़े महत्वपूर्ण प्रश्न थे और जो उनके उत्तर दिये गये, उनसे यह कहना किसी भी हालत में मुनासिब नहीं होगा कि इस विधेयक के पास हो जाने से हमारे मूल अधिकारों का किसी प्रकार हनन नहीं होगा ।

यह कहा जा सकता है और हो सकता है कि गृह मंत्री अपने उत्तर में कहें भी कि इससे कोई आपको हानि नहीं होगी। लेकिन जिस वक्त वह विधेयक की भूमिका दे रहे थे तब उनके लिए यह मुनासिब था कि कैसे तैयार करने के लिए बताते कि ये परि-

स्थितियाँ हैं और इनसे निबटने के लिए हम इस विधेयक को इस प्रकार से बर्हा खा रहे हैं। लेकिन आप देखें कि हमारे पास आपात्कालीन कानून है और उसकी अवधि समाप्त होने जा रही है। मैं समझता हूँ कि उसकी अवधि समाप्त होने से पहले ही वे अपनी सुरक्षा के लिए, अपने दल की सुरक्षा के लिए एक ऐसी ढाल तैयार कर लेना चाहते हैं जिससे आगे के लिए दूसरी संस्थाओं की चोट से वह बच जायें, ऐसी संस्थाओं की चोट से वह बच जायें, जो संस्थाएँ कि प्रजातांत्रिक ढंग से कार्य कर रही हैं। उनके द्वारा जो इनके दल के ऊपर आघात होते हैं और जो होने भी चाहियें—सभी को ऐसा करने की छूट होनी चाहिये—उनसे बचने के लिए वह एक ढाल तैयार कर रहे हैं।

हमारी यह परम्परा रही है कि हम अपनी राष्ट्रीय एकता और भारतीय संस्कृति तथा अपने राष्ट्रीय संस्कारों को जीवित रखने के लिए बहुत-सी संस्थाएँ बनाते हैं और उनके माध्यम से हम अपने विचारों को प्रकट करते हैं और चाहते हैं कि दिनोंदिन इस प्रकार की संस्थाओं को प्रोत्साहन दिया जाए, इनकी गतिविधियों में वृद्धि की जाए। पुराने जमाने में लोग हाट मेलों में जाते थे और इस प्रकार के कार्य होते थे। अब जमाना बदल गया है। हम काफी आगे आ चुके हैं। उस प्रकार के मेलों से, उस प्रकार की हाट व्यवस्था से या उस प्रकार के प्रदर्शनों से, अब हम उतना लाभ नहीं उठा सकते हैं जितना कि किसी न किसी प्रकार से, किसी न किसी ढंग से राजनीतिक स्तर पर अपने विचारों को प्रकट करके उठा सकते हैं। कुछ ऐसी संस्थाएँ हैं जो कि राजनीतिक संस्थाएँ तो नहीं हैं लेकिन फिर भी कुछ अगर उन में राजनीतिक रंग है तो कोई बुरा नहीं है।

हममें से प्रत्येक ने यहाँ आ कर और यहाँ आने से पहले भी देश की अखंडता को

[डा० सूर्य प्रकाश पुरी]

कायम कर रखने की कसम खाई है और यहां कोई भी ऐसा सदस्य नहीं है चाहे इस पक्ष का हो या उस पक्ष का हो जो चाहता हो कि देश का विभाजन हो जाए। कल प्रो० स्बैल ने कहा था कि बेरूवाड़ी के हिस्से को पाकिस्तान को दे दिया गया है। बाद में ताश्कंद में चाहे प्रेशर में ही क्यों न आ कर एक समझौता किया गया था और प्रधान मंत्री ने तब अपनी कुर्सी को बनाये रखने के लिए अपने ही काश्मीर के हिस्से को पाकिस्तान को दे दिया था। लेकिन अब प्रधान मंत्री महोदया नहीं चाहती हैं कि इस प्रकार का हथियार अपने हाथ में ले कर वेसा कुछ करें, किसी से लेन देन की बात करें। लेकिन इस विधेयक के द्वारा इस तरह की ताकत वह अपने हाथ में लेने की बात सोच रही हैं। राष्ट्रीय शान्ति को पाने के लिए वह अपने हाथ में एक हथियार लेना चाहते हैं।

विधेयक में यह कहा गया है कि किसी भी संस्था को गैर-कानूनी करार दे कर उसकी कार्रवाइयों पर रोक लगाई जा सकती है, उसके फंडेंज पर और उसके आदमियों पर नियंत्रण लगाया जा सकता है। अगर ऐसा किया जाता है तो दो वर्ष तक उसके ऊपर कोई किसी प्रकार की सुनवाई नहीं हो सकती है। सम्भावना यह है कि 1972 में जो चुनाव होने वाला है उसको थोड़ा आगे पीछे ध्यान में रख कर कहीं ऐसा न हो कि गृह मंत्री इस प्रकार का कोई तीर चलायें जिससे जो 1972 का इलैक्शन है वह कवर हो जाए। मुझे डर यह है कि उसी समय के लिए यह तैयारी अभी से की जा रही है।

इस विधेयक को कोई नाम देना मैं पसन्द करूँ तो मैं इसे राक्षसी प्रवृत्तिपूर्ण अधिकार पाने की एक अजीब मनोवृत्ति से प्रेरित नाम ही दे सकता हूँ। आप जानते हैं कि जहां राक्षसी प्रवृत्तियाँ उत्पन्न होती हैं वहां मानव स्थिति और संस्कार जो सचमुच में मानव की रक्षा करते हैं वे नष्ट हो जाते हैं। किसी एक

व्यक्ति की राक्षसी प्रवृत्ति की नहीं लेकिन उसके विधेयक की राक्षसी प्रवृत्ति की निन्दा करते हुए मैं इस विधेयक का विरोध करता हूँ और गृह मंत्री महोदय को मेरा परामर्श होगा कि वह इसे इस वक्त वापिस ले लें।

SHRI G. VISWANATHAN (Wandi-wash): Mr. Deputy-Speaker, Sir, I rise to oppose this Bill. The party which has been rejected by more than half of the country, the party which has been thrown out through the front door, wants to come back, wants to entrench itself, through the backdoor by the support of this Bill. This Bill is a great fraud on the Constitution and on the confidence of the public. What is the purpose of this Bill? The party in power want arbitrary, dictatorial, fascist and Draconian powers to be put on the statute book permanently. Even now they enjoy all these powers under the Defence of India Act. They want to continue it under another name and they want to put it on the statute book for ever.

They argue that this Act when it is passed by this Parliament, will curb the cessionist and other disruptive forces. How are you going to do it? By passing a law are you going to curb the tendencies that are erupting all over the country? That cannot be done. You must find out the reasons for such tendencies and for such disruptive forces. So long as there is economic inequality and there are regional imbalances, you cannot curb cessionist activity or a disruptive force by a mere law. That cannot be done. You must go to the root cause.

They say that if this Bill is passed, everything will be okay. Even the Britisher, the so-called Anglo-Saxon British Imperialism, was not so power hungry as this Government is. He was satisfied with the Indian Penal Code. Our Government, this independent Congress Government, is not satisfied not only with the Indian Penal Code but they brought forward another Act, the Preventive Detention Act. Now they are not satisfied with that power also. They now want

another instrument in their hand, another machine gun, namely, this Unlawful Activities Bill.

Where is the need for this power-mongering? Is there no end to this greed for power? There must be some end to this. Even a wild monster, a wild beast, is satisfied after one or two preys. But this Government is not satisfied even with so many laws that it is having. Still they want further laws. What after all are you going to achieve by this? You have got so many powers in your hands. The arm of the law is strong and long enough to catch any man in this country. For any offence, even under the Indian Penal Code, he can be punished. It is so wide; still they want this law to be put on the statute book.

They say that they are only reasonable restrictions. I do not want to argue whether it is reasonable or unreasonable. I want to stress the point whether it is any restriction at all. Where is the need for a restriction? If there is a fundamental right, there can be a restriction on it. But where is a fundamental right today in this country? The whole Chapter on Fundamental Rights, the seven sacred freedoms, is put into the cold storage. Where is the freedom today for a citizen to go to the High Court or the Supreme Court? There is no freedom at all. When there is no freedom, why talk of restrictions, leave apart whether it is reasonable or unreasonable?

They say, it is reasonable. To say that these restrictions are reasonable is unreasonable. Even according to Shri Daphtary it is not perfectly reasonable. Shri Daphtary, our Attorney-General, has described this power as drastic. Even the Attorney-General is not supporting this Bill to a certain extent.

Clauses 3(2) and 3(3) give Government enormous powers. Even before going to the Tribunal they can declare any party or any association as unlawful. Again, they need not even disclose the reasons. That is another clause. Why should we give arbitrary powers to the Government?

A word about the tribunal. Who believes in these tribunals? We know how these tribunals are functioning throughout the country. The tribunals are a farce. Even according to Shri N. C. Chatterji, a well known jurist, a tribunal has always been a failure because it is not a permanent institution. It can be changed according to the whims and fancies of the Home Minister.

We are not able to understand why we should give these draconian powers to this Home Minister. Today, the Home Minister may be a good man, a level-headed man or a sober man.

AN HON. MEMBER: Who told you so?

SHRI G. VISWANATHAN: Even that is disputed by my friend. Suppose, tomorrow another man comes and he wants to use these powers against some of the parties. What will happen? A coalition government may come at the Centre and the same Act may be applied to the same Home Minister or another minister sitting on the Treasury Benches. So, I warn my Congress friends, do not support this Bill; it may go against you yourself. Do not forget that it is not against the Opposition parties only; it may go against even Congressmen. So, I would like all Congressmen to support the Opposition and this Bill must be put into the cold storage.

If the Government finds that there is sufficient reason for bringing forward this Bill, it must be done only after consulting all the State Governments. Nowadays the writ of the Central Government does not reach more than half the country. When your writ does not reach more than half the country, why do you bring forward this Bill without consulting all the non-Congress Chief Ministers? If this law is passed before consulting the Chief Ministers, it will remain only on the statute book; it will not be implemented. Unless and until all the State Governments co-operate with the Centre, it cannot be implemented. So, I request the Home Minister to consult all the State Chief Ministers and then bring it if it is necessary. In that case we are ready to pass this Bill.

MR. DEPUTY-SPEAKER: The hon. Home Minister.

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN): Mr. Deputy Speaker, Sir.....

SOME HON. MEMBERS rose—

श्रीमती लक्ष्मीबाई (मंडक) : उपाध्यक्ष महोदय, मुझे भी थोड़ा समय दिया जाये।

MR. DEPUTY-SPEAKER: We have exceeded our time-limit. You may get a chance at the final stage of the Bill, not now.

SHRI KANWAR LAL GUPTA (Delhi—Sadar): I may be given 5 minutes.

MR. DEPUTY-SPEAKER: It is not possible now. You have no time to your credit.

SHRI MANOHARAN (Madras North): Is the Home Minister in a mood to drop the Bill?

SHRI Y. B. CHAVAN: No, not at all.

Sir, we had occasion to discuss this Bill twice; when this Bill was discussed before it was referred to the Joint Committee, we had a full-fledged debate here, and for the last five hours we have had also the advantage and the privilege of listening to the views of many hon. Members.

I do not want to enter into any arguments. I would reply to some of the arguments that the hon. Members have made and I would, really speaking, go step by step to justify the case that I have originally made in defence of the Bill. The basic question that was raised was whether this Bill is necessary at all. That was the first position taken by some hon. Members. For that, two types of arguments were made. One was which is the Party against which this Bill is going to be used and the second aspect of the argument was that there are enough legislations or there are enough provisions in the present statute book itself which can be made use of if there is any requirement. These were the two arguments that were made.

Dealing with the first aspect, I would like to make it clear that it would be very unfair for me and to the political parties to expect definite reply from me as to the Party against which it is made. I have myself said that it is only required against those who are likely to offend under the Act. I have not particular party in my mind that against 'A' party or 'B' party or 'C' party it should be made use of. We are not defining the political parties against whom it is to be used. We are defining, certainly, some undesirable activity which is to be treated as unlawful activity. As I have said, in the beginning, I would be the happiest man if there is no opportunity to make use of this law. But the necessity is there. I was rather heartened to hear Members like Acharya Kripalani and the hon. Member, Mr. Bose, who are not present now that they concede that the conditions in the country are such that there are real threats to the integrity and the sovereignty of this country.

SHRI KANWAR LAL GUPTA: What are those threats, for instance?

SHRI Y. B. CHAVAN: Therefore, it is necessary and I am advised and also I am convinced that there is no law in the statute book today which can meet this situation.

SHRI NAMBIAR: You must give examples as to against what sort of things you visualise it

SHRI Y. B. CHAVAN: I am coming to that.

This Bill is merely meant against the activities leading to cession or secession. These are the two things which are, really speaking, the threats to the integrity and the sovereignty of this country.

SHRI MANOHARAN: Now both don't exist.

SHRI KANWAR LAL GUPTA: May I ask the Home Minister who are those persons or the parties who are posing this problem? Where is an occasion for this?

SHRI Y. B. CHAVAN : It is a very unfair question that you are asking.

AN HON. MEMBER : Uncomfortable.

SHRI Y. B. CHAVAN : It is a very unfair question. Possibly, even those who are doing it, after this Bill becomes an Act, may reconsider the position. I want them to do that. If they do not do it, the Act is there. I do not want to mention any Party. I did make a mention of certain situations which you have forgotten. I said, at this moment, in Mizo District, for example—if you want a certain situation, I can, certainly, mention situations—there is an organised, armed, rebellion for the secession of that territory from India. What have we to do about it? Somebody said that there is the Defence of India Act and there are the Defence of India Rules. At the same time, I must say, there was a demand for the removal or the withdrawal of this Emergency Act and it is quite clear that the Emergency cannot remain permanently. As I have said, about Emergency, sometime before the end of this year, we will have to review the position.

SHRI SWELL (Autonomous Districts) : May I point out to the Home Minister that even without this Bill they have declared the Mizo National Front as an unlawful organization?

SHRI Y. B. CHAVAN : I have not mentioned the MNF. I have only said about the situation in Mizo district and asked how to deal with it. I am not mentioning any particular organization; I am mentioning certain situations, which are not imaginary situations, which are real situations. How to deal with them? At the present moment, certainly we have the Defence of India rules. Certainly we are making use of them in the border areas. But the Defence of India Act is not going to remain permanently; it has to go some time or other and I will be happy if it goes earlier; earlier the better. There is no doubt that the conditions in the country require such a legislation. I have no doubt in my mind about it. Some hon. members, particularly Mr. George

Fernandes, were, in a rather—what should I say—very clever way trying to argue that this Bill should be used against the Congress. If it is to be used against Congress, if Congress deserves it, I have no objection. But for that a Bill will be necessary. Is it not? It is a very clever political argument that it should be used against Congress. If you want to use it against Congress, you can use. (*Interruption*).

SHRI MADHU LIMAYE (Monghyr) : The Congress Party is the only Party against which it will have to be used.

SHRI Y. B. CHAVAN : If you become the Government, you may do it. But unfortunately you will not have that difficulty.

श्री जाजं करनेडीज : मेरी जो शिकायत
 थी वह हाजीपीर और बेरूवाड़ी पर थी ।

SHRI Y. B. CHAVAN : I am coming to that.

SHRI S. M. BANERJEE (Kanpur) : It was a suggestion for action.

SHRI Y. B. CHAVAN : One thing is clear and that is that this Bill is necessary, it is required. Some hon. Member said this and I want to repudiate it with all the emphasis at my disposal and say that it is not intended against any political party as such. With that view this Bill has not been drafted. Some hon. Member said that this is politically motivated in order to crush all political parties. This is the height of imagination. It is not so.

The second question was about the constitutionality of the Bill.

SHRI MANOHARAN : If you have faith in the people, this Bill is unnecessary.

SHRI Y. B. CHAVAN : We represent the people. There is no question of having faith in the people. Do not suppose that it is your monopoly. We also represent the people. We do represent the people.

[Shri Y. B. Chavan]

Coming to the question of constitutionality, it has been amply made clear in the evidence of the Attorney-General that this Bill is constitutional.

श्री राम चरण (खुर्जा) : होम मिनिस्टर साहब, आप तो गांधी जी में विश्वास करते हैं तो इस बिल की क्या जरूरत है? या तो फिर गांधीजी का नाम छोड़ दीजिए ।

SHRI Y. B. CHAVAN : Some members made a reference to a certain statement that the Attorney-General made. A question was put to him by one of the members of the Joint Committee, "You have stated that this Bill is perfectly constitutional...." There, the Attorney-General said, "I did not say 'perfectly constitutional', I said 'constitutional'." I can explain this because I was present when the evidence was taken.

SHRI S. M. BANERJEE : I was also present.... (Interruptions).

SHRI Y. B. CHAVAN : That day possibly he was sleeping in the Committee.

There are two arguments. One is this. A Constitutional-minded person like the Attorney-General is not given to make over-statements; the training is to make under-statements. If hon. Member, Mr. Banerjee, remembers, on that day he made certain other observations, he pointed out certain other defects in the Bill. I think, Mr. Vajpayee would support me in this. He pointed out certain defects in the Bill and he said that these defects should be removed, which the Joint Committee accepted. So, when he was making that remark, he had these other factors in his mind. So, one should not try to take undue advantage of it when he said, "I did not say 'perfectly constitutional', I said 'constitutional'". It was an under-statement from a person who was giving his legal opinion about certain matters.

Now, Sir, some hon. Members also mentioned some details about the Bill itself that....

SHRI S. M. BANERJEE : May I point out to you from the record..

SHRI Y. B. CHAVAN : Yes, Yes, I have seen it very carefully.

SHRI S. M. BANERJEE : Mr. P. Ramamurti said....

SHRI RANDHIR SINGH : Sir, you can allow them later.

SHRI S. M. BANERJEE : Mr. Ramamurti asked :

'But the Government in certain circumstances is authorised to do certain things. Therefore, in a democracy people can certainly ask the Government to do a thing in a particular way. How is it unlawful?'

To which Mr. Daphtary replied :

' I agree. It did not strike me there.'

SHRI Y. B. CHAVAN : The argument was not about the constitutionality or unconstitutionality. Mr. Ramamurti certainly developed a certain argument to which I am coming a little later. He developed certain other argument.

About the general aspects of the Bill, whether the Bill was constitutional or not, and whether the restrictions put on the fundamental rights were reasonable or not, his answer was positive. He said that the Bill was constitutional and the restrictions that were being put on the fundamental rights were reasonable.

SHRI H. N. MUKERJEE (Calcutta North East) : If I may interrupt, in answer to Mr. Ramamurti the Attorney-General said that he had not thought over the matter and he agreed with Mr. Ramamurti's proposition regarding the unconstitutionality of the matter.

SHRI Y. B. CHAVAN : Really speaking, ultimately the position came to one point that Mr. Ramamurti's line of argument was this : whether to mobilise for certain things, if that was the right of the Government to do that—I mean the essence of his argument was that it is the right of the

State to cede certain area and that is, really speaking, one of the attributes of sovereignty; like this Mr. Ramamurti's argument ran, if I have understood him correctly—he says if that was the function of the State to do that, if he mobilises public opinion to force the Government to do that, how does it become unlawful? That was the logic. The Attorney General says that certainly this logic did not occur to him before. This is how I interpret it.

SHRI P. RAMAMURTI (Madurai) : The evidence is there.

SHRI Y. B. CHAVAN : This is what I am trying to interpret. When you come to the clause, you can certainly read it there.

SHRI S. M. BANERJEE : Sir, in my copy what he said is quite different.

SHRI Y. B. CHAVAN : I think you have printed your own copy perhaps.

SHRI NAMBIAR : Sir, it appears that there are printing mistakes.

SHRI Y. B. CHAVAN : Sir, the point on which the Attorney General was on record was whether an expression of opinion or ideological expression of a view will come within the mischief of this Act and the answer of the Attorney General was 'No'. It will not come. But, when we come to the definition of 'unlawful activity', it is said there that if one supports the claim of cession of certain area, and there is a claim, either the claim of the people or of the other foreign Government, certainly it comes within the mischief of the Act. There is no doubt about it. These are two definite different positions. If Mr. Ramamurti feels that the Act should be amended, when it becomes law, if he wants to amend the Act, certainly he can mobilise public opinion, become Government and amend the Act. Then it becomes a different position. But as long as this Act will remain an Act after this House approves of this, this position will be absolutely clear that ideological expression of views—e.g. some Party says that the problems with China should be settled peace-

fully, it is a very unobjectionable proposition. That is the position of this Government also. If somebody says, 'Settle your problems with Pakistan peacefully', it is a very legitimate position about which I have no objection. But if some one says, 'No. Concede this particular territory to China even in order to purchase peace', it will certainly be objectionable under this Act. These are two very definite positions in this matter. (Interruptions).

Now, the hon. Member, Mr. Krishnamoorthi also argued—he all the time feels that the Government is thinking about DMK....

SHRI V. KRISHNAMOORTHI (Cuddalore) : I am not asking you about DMK. As far as 'Azad Kashmir' is concerned, I put my proposition that Pakistan is occupying that part of Kashmir for over 20 years and if we formulate and put forward certain proposals as a sort of compromise between Pakistan and India and rather try to settle amicably, 'let them occupy those areas which are in their possession', then it comes under the mischief of Sec. 13 of this Bill. If any Party formulates such an idea and speaks it out, then you can ban it under this Bill.

SHRI Y. B. CHAVAN : I do not want to answer any hypothetical questions like this. I do not want to answer. When we are passing an Act, an Act which will have to meet situations as they develop, I do not want to answer any hypothetical questions.

Sir, certainly it is within the reasonable rights of everybody. He can certainly express his views in this Parliament which is a privileged place and you can discuss. But if anybody goes on arguing that a certain part of our territory, only because it is in the possession of Pakistan, must be ceded to Pakistan and if somebody is trying to organise a movement on that and incite people to act on that, certainly it will be an unlawful activity under this Bill. I have no doubt about it.

श्री मधु लिमये : फर्क इतना ही है कि ये कहते हैं—दे दो और आप देते चले जा रहे हैं। इतना ही फर्क है आप में और राममूर्ति जी में।

SHRI Y. B. CHAVAN : This Government has no authority; without the sanction and approval of this Parliament, to do anything; let us be very clear about it.

श्री मधु लिमये : नागाओं से बातचीत करना प्रधानमंत्री का और दूसरे लोगों का वह भी इस में आजायगा।

श्री यशवन्तराव चव्हाण : बात में क्या है।

श्री मधु लिमये : आप पूरे हिन्दुस्तान को दे सकते हैं।

श्री यशवन्तराव चव्हाण : नहीं दे सकता हूँ।

Ultimately this is the authority of Parliament. Government can approve of no treaty without the sanction of this House. The Supreme Court judgment is very clear that if such a treaty involves the cession of any territory, it is not enough to have merely a sanction of this Parliament but legislation would be necessary, in fact, even that would not be sufficient, but even the amendment of the Constitution would be necessary.

श्री मधु लिमये : पहले किसी अधिकारी या मंत्री के दिमाग में यह बात आयेगी—वह भी अनलाफुल है।

SHRI Y. B. CHAVAN : Then it means that he has not understood this law. I can say this much.

श्री मधु लिमये : मैं खूब समझता हूँ—आपके मन में आयेगा, फलां फलां देना चाहिये।

श्री यशवन्तराव चव्हाण : इस लिये ,

Only because I think of something it does not become law. In order to attract the operation of this Bill one has to act. It is the action really speaking which is more important in

this matter. There is no legislation to penalise thinking in this country. Therefore, it will be wrong on the part of the hon. Member to think that merely thinking on this also can be brought under the operation of this Bill.

SHRI VISWANATHA MENON (Ernakulam) : Why not bring another Bill for that?

SHRI Y. B. CHAVAN : A theoretical or academic discussion about any matter or a general preaching of friendly relations with neighbouring countries or solving questions peacefully, and general propositions of this nature cannot attract the operation of this Bill, but certainly any specific proposal for the cession of any territory will certainly be an act which can be considered an unlawful activity under this Bill.

SHRI P. RAMAMURTI : Suppose somebody does not make any specific proposal but says that there should be a political settlement with Pakistan and China over the border issue. Political settlement means a political settlement. Suppose somebody says that but does not make any specific proposal. Would that come within the mischief of this Bill or not?

SHRI Y. B. CHAVAN : Let him appoint me as his advocate; I shall defend him on that.

AN HON. MEMBER : Which means that he concedes that.

SHRI Y. B. CHAVAN : How do I know in what way he refers to a political settlement? He is asking me a question which it is difficult to answer without knowing the connotation of the words 'political settlement'. Suppose he says that he is going to have a political settlement, how do I know what exactly he means by the term 'political settlement'? Unless I know the connotation of the words, how can I say? I am not going to bind myself here.

SHRI P. RAMAMURTI : But the Mover of the Bill must know what he means.

SHRI Y. B. CHAVAN : If anybody takes the position—that will be a very legitimate political position—and says that the relations between India and China should be peacefully settled and that any problems and any disputes between these two countries should be peacefully settled, that is quite an unobjectionable position. That is unobjectionable.

SHRI MANOHARAN : But if he tries to mobilise public opinion in favour of that proposition?

SHRI Y. B. CHAVAN : He can certainly mobilise public opinion for this general proposition. But he cannot mobilise public opinion that a certain area should be ceded....

SHRI MANOHARAN : If he prevails upon Government to change their mind, then what will happen?

श्री कंबर लाल गुप्त : मैं गृह मंत्री जी से पूछना चाहता हूँ कि अगर कोई पार्टी भयूब खां जिन्दाबाद या माम्रो जिन्दाबाद के नारे लगाती है, या उनकी तस्वीर दिखाती है तो क्या वे इस में भायेंगे या नहीं भायेंगे।

SHRI RANDHIR SINGH : Is it a dialogue between the Home Minister and the Members? Why should you allow this? Let the Home Minister continue. A very good speech is being spoilt. We object to this. Please do not allow these interruptions.

MR. DEPUTY-SPEAKER : The hon. Member may resume his seat. I know how to conduct the proceedings. The hon. Member is trying to seek some clarification, and I am giving him an opportunity, and the Home Minister is also welcoming clarifications on occasions.

श्री कंबर लाल गुप्त : मैंने गृह मंत्री जी से यह पूछा था कि अगर कोई पार्टी भयूब खां जिन्दाबाद या माम्रो जिन्दाबाद के नारे लगाती है, या उनकी तस्वीर दिखाती है, तो क्या वे इस में भायेंगे या नहीं भायेंगे?

SHRI Y. B. CHAVAN : I will consult the Attorney-General on that question.

I cannot answer because this legislation is designed to meet specific unlawful activities. Its purpose is to protect the sovereignty and integrity of this country. He is himself a lawyer; he knows the scope of the Bill. Why does he ask me?

SHRI LOBO PRABHU (Udipi) : At the same time, there are strong penal provisions in the Bill. When they are intending to punish people so strongly, it is definitely their duty to make the law very clear.

SHRI Y. B. CHAVAN : I think the law is very clear. If some members have some doubt, I cannot help it. As far as I can see, it is very clear. A law cannot be made more clear than this.

SHRI LOBO PRABHU : Then why does he take shelter under such excuses as that he would consult the Attorney-General?

SHRI Y. B. CHAVAN : He was an administrator....

SHRI LOBO PRABHU : I am still.

SHRI Y. B. CHAVAN : I do not know what he is administering. I will have to sympathise with the subjects of that administration. When you are passing a legislation, are you expected to answer all the eventualities that are likely to arise under that legislation?

SHRI LOBO PRABHU : Not that. But why does he take refuge under such shields as consultation with the Attorney-General and so on?

SHRI Y. B. CHAVAN : It is impossible for me to accept the proposition that all the eventualities should be contemplated and provided for beforehand.

श्री राम चरण : जैसा मिनिस्टर साहब ने कहा कि कहीं पर पोलिटिकल एडजस्टमेंट होता है — तो जैसे राजस्थान का एक हिस्सा अगर पाकिस्तान को देना चाहते हैं— तो क्या राजस्थान की जनता का यह हक

[श्री राम चरण]

नहीं होगा कि इसके आधार पर एजिटेशन कर सके।

SHRI Y. B. CHAVAN : आप समझे नहीं, इसको समझने की कोशिश कीजिये।

Then the hon. Member, Shri Vajpayee, raised a point. I do not know what he meant. On the one hand, he said that we were trying to bring forward this legislation; on the other, we were also trying to talk with those people. He took the Naga example as an illustration of this. I do not see any contradiction in this. These are things which are supplementary to each other. We have no doubt that Nagaland is a part of India. Nobody has any doubt on that. But in order to persuade those Nagas who are hostile to accept this position, if you want to talk with them what is the contradiction in that? Once we have enacted legislation on a certain matter, are we going to take up the position that we are not going to discuss that matter any time with anybody? This is something unacceptable; it is an impossible position to take.

He was also trying to make fun of this Bill saying that this was an ass. He said that we wanted to make a horse out of it, but it has now turned to be a mule, khachhar. Law may be an ass. But I am glad that he has called it a mule because the mule is an animal which is very very useful in border areas.

श्री अटल बिहारी वाजपेयी : मगर फल नहीं देता है, कोई फल नहीं दे सकता है।

SHRI Y. B. CHAVAN : It is a very useful animal in border areas. So if it is khachhar, it meets our point here.

श्री कंबर लाल गुप्त : आपके बहुत काम आयेगा, यह हमें मालूम है।

SHRI Y. B. CHAVAN : One member raised the point that the onus of prov-

ing innocence is on the accused in this case. That is not so. I think this is a misreading of the Act. When we say that the association will be given an opportunity to adduce reasons why action should not be taken against it, it does not mean that the onus is cast on it. It will certainly be Government's responsibility before the tribunal to prove all the facts alleged against the association. So there is no question of the theory of proving the innocence being put on the accused.

SHRI NAMBIAR : It can be clearly put in the legislation because it causes a doubt to us.

SHRI Y. B. CHAVAN : You are not reading it properly, that is why I am explaining it to you. It is not so. The onus of proving innocence is not on the accused, because when a notification is issued and grounds are given, it will be the duty of the Government to prove those grounds before the tribunal.

Shri Viswanatha Menon said that the High Court should appoint the tribunal. When we accepted this principle that instead of three members, it should consist of only one member and that one member should be a sitting Judge, it is common knowledge that when a sitting Judge is chosen, it is always done only after consultation with the Chief Justice. So, there is no doubt that merely the Government of India cannot decide to appoint somebody; if that man is not released by the High Court, that man cannot just be appointed. These are some of the misconceptions about this Bill.

I quite agree that certainly we are taking very drastic power, I have no doubt about it. It is very natural for Parliament to be suspicious of the executive taking more powers. That also I understand.

श्री मधु लिये : यह सब कबूल कर के फिर भी ले रहे हैं।

SHRI Y. B. CHAVAN : But then we say that we are taking it because the

circumstances require it. If there were not unusual circumstances, I would be the last person to come before this hon. House asking for such tremendous powers. They are certainly very drastic powers, I have no doubt about it, I am quite conscious that I am taking tremendous responsibility on my shoulders when I am making this recommendation to this House to accept this Bill. I assure this hon. House that there is no political motivation against any political party as such, but certainly it is the responsibility of this hon. House to give powers to the executive when they have suggested that reasonable restriction can be put in case of danger to the country's sovereignty and integrity. This Bill, really speaking, is seeking powers to put reasonable restrictions on fundamental rights when the integrity and the sovereignty of the country are in danger.

श्री अटल बिहारी वाजपेयी : उपाध्यक्ष महोदय, मैं गृह मंत्री महोदय से स्पष्टीकरण चाहता हूँ। गृह मंत्री महोदय इस बात को स्वीकार करेंगे कि अगर इस विधेयक का इरादा राष्ट्र की प्रभुसत्ता और अखंडता की रक्षा करना है तो अगर सेशन और सेसेशन, इनकी मांग करना केवल गैर कानूनी करार दिया जाय और सौवैरैन्टी और इंटैग्रेटी को बीच में न लाया जाय तो भी वह उद्देश्य पूरा हो सकता है। क्या गृह मंत्री जी इस बात से सहमत हैं कि यह विधेयक सेशन और सेसेशन तक ही सीमित रहना चाहिये।

SHRI Y. B. CHAVAN : If you see the definition of the Act, it makes it very clear. Cession and secession, certainly these are the real dangers.

If you are coming to the question of integrity again, as we all know this was also the view that was expressed by the Attorney-General that integrity is something more comprehensive than territorial integrity. If certain situations do rise in the country; how do I say that this will not be made applicable to them?

श्री कंबर लाल गुप्त : आप आज की स्थिति के लिए कानून बना रहे हैं तो वाजपेयी जी का कहना है कि चाहे आप प्रभुसत्ता या देश की अखंडता व एकता के लिए आप कानून बनायें लेकिन यह इंटैग्रेटी जो इतनी बेग टर्म है और वह आज कोसिचुएशन में नहीं है तो उसे आप क्यों लाना चाहते हैं।

SHRI Y. B. CHAVAN : What can I do? That word is in the Constitution. When that word is in the constitution, we cannot go outside the Constitution. This phrase "sovereignty and integrity" was introduced in the Constitution as recently as 1963. When these phrases are used in the Constitution, how can I depart from the Constitution? I really do not understand.

SHRI SHRI CHAND GOEL (Chandigarh) : How much time has been allotted for the clause by clause discussion?

MR. DEPUTY-SPEAKER : After consideration is over, we have two hours for clause by clause and final reading. I shall now put Mr. Vajpayee's motion to the vote of the House. The question is :

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 15th February, 1968". (37).

The Lok Sabha divided.

Division 22]

AYES

[15.01 hrs.

Amersey, Shri M.
Amin, Shri Ramchandra J.
Anirudhan, Shri K.
Badrudduja, Shri
Banerjee, S. M.
Basu, Shri Jyotirmoy

Bharat Singh, Shri
Bharti, Shri Maharaj Singh
Chakrapani, Shri C. K.
Daschowdhury, Shri B. K.
Deo, Shri P. K.
Desai, Shri C. C.

Devgun, Shri Hardayal
 Dhandapani, Shri
 Digvijai Nath, Shri
 Fernandes, Shri George
 Ghosh, Shri Ganesh
 Goel, Shri Shri Chand
 Gopalan, Shri P.
 Gounder, Shri Muthu
 Gowd, Shri Gadilingana
 Gowda, Shri M. H.
 Gowder, Shri Nanja
 Gupta, Shri Kanwar Lal
 Jha, Shri Shiva Chandra
 Joshi, Shri Jagannath Rao
 Joshi, Shri S. M.
 Kalita, Shri Dhireswar
 Kamalanathan, Shri
 Khan, Shri H. Ajmal
 Khan, Shri Latafat Ali
 Khan, Shri Zulfiquar Ali
 Kiruttian, Shri
 Kunte, Shri Dattatraya
 Kushwah, Shri Y. S.
 Limaye, Shri Madhu
 Lobo Prabhu, Shri
 Madhok, Shri Bal Raj
 Madhukar, Shri K. M.
 Maiti, Shri S. N.
 Majhi, Shri M.
 Manoharan, Shri
 Meghrajji, Shri
 Menon, Shri Vishwanatha
 Modak, Shri B. K.
 Mody, Shri Pilo
 Mohamed Imam, Shri
 Mohammad Ismail, Shri
 Mohammed Sheriff, Shri

Mukerjee, Shri H. N.
 Muthusami, Shri C.
 Naik, Shri R. V.
 Nair, Shri N. Sreekantan
 Nambiar, Shri
 Nihal Singh, Shri
 Onkar Singh, Shri
 Pandey, Shri Sarjoo
 Parmar, Shri D. R.
 Paswan, Shri Kedar
 Patodia, Shri D. N.
 Puri, Dr. Surya Prakash
 Ram Charan, Shri
 Ramabadrans, Shri T. D.
 Ramamoorthy, Shri P.
 Ramamurti, Shri P.
 Ramji Ram, Shri
 Samanta, Shri S. C.
 Saminathan, Shri
 Satya Narain Singh, Shri
 Sen, Shri Deven
 Sequeira, Shri
 Sezhiyan, Shri
 Shah, Shri Virendrakumar
 Sharda Nand, Shri
 Sharma, Shri Yogendra
 Shastri, Shri Ramavatar
 Shastri, Shri Raghuvir Singh
 Sinha, Shri Satya Narayan
 Suraj Bhan, Shri
 Swell, Shri
 Tapuriah, Shri S. K.
 Thakur, Shri Gunanand
 Vajpayee, Shri Atal Bihari
 Viswanatham, Shri Tenneti
 Viswanathan, Shri G.
 Yadav, Shri Jageshwar

NOES

Arumugam, Shri R. S.
 Awadesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha
 Babunath Singh, Shri
 Bajpai, Shri Shshibhushan
 Barua, Shri Bedabrata
 Barua, Shri R.
 Baswant, Shri
 Bhagat Shri B. R.
 Bhakt Darshan, Shri
 Bhanu Prakash Singh, Shri
 Bhargava, Shri B. N.
 Bhattacharyya, Shri C. K.
 Bhola Nath, Shri
 Bohra, Shri Onkarlal
 Bose, Shri Amiyath
 Brahma, Shri Rupnath
 Chanda, Shri Anil K.

Chanda, Shrimati Jyotsna
 Chandrika Prasad, Shri
 Chatterji, Shri Krishna Kumar
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh
 Chavan, Shri D. R.
 Chavan, Shri Y. B.
 Choudhary, Shri Valmiki
 Choudhury, Shri J. K.
 Dalbir Singh, Shri
 Dass, Shri C.
 Deoghare, Shri N. R.
 Desai, Shri Morarji
 Deshmukh, Shri B. D.
 Deshmukh, Shri K. G.
 Dhillon, Shri G. S.
 Dhuleshwar Meena, Shri
 Dinesh Singh, Shri

Dixit, Shri G. C.
 Gajraj Singh Rao, Shri
 Ganesh, Shri K. R.
 Gavit, Shri Tukaram
 Ghosh, Shri Bimalkanti
 Ghosh, Shri Parimal
 Gupta, Shri Lakhan Lal
 Heerji Bhai, Shri
 Hem Raj, Shri
 Himatsingka, Shri
 Iqbal Singh, Shri
 Jadhav, Shri Tulshidas
 Jadhav, Shri V. N.
 Jagjiwan Ram, Shri
 Jamir, Shri S. C.
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kavade, Shri B. R.
 Kedaria, Shri C. M.
 Kinder Lal, Shri
 Krishna, Shri M. R.
 Kureel, Shri B. N.
 Kushok Bakula, Shri
 Lalit Sen, Shri
 Laskar, Shri N. R.
 Laxmi Bai, Shrimati
 Lutfal Haque, Shri
 Mahadeva Prasad, Dr.
 Mahida, Shri Narendra Singh
 Malimariyappa, Shri
 Mandal, Dr. P.
 Mehta, Shri P. M.
 Menon, Shri Govinda
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mondal, Shri J. K.
 Mrityunjay Prasad, Shri
 Mukerjee, Shrimati Sharda
 Murthy, Shri B. S.
 Nahata, Shri Amrit
 Naidu, Shri Chengalraya
 Nayar, Dr. Sushila
 Oraon, Shri Kartik
 Pahadia, Shri Jagannath
 Pandey, Shri K. N.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parmar, Shri D. R.
 Partap Singh, Shri
 Parthasarathy, Shri
 Patel, Shri Manubhai
 Patil, Shri S. D.
 Pramanik, Shri J. N.
 Qureshi, Shri Mohd. Shaffi
 Radhabai, Shrimati B.
 Raghu Ramaiah, Shri

Raj Deo Singh, Shri
 Rajani Gandha, Kumari
 Raju, Shri D. B.
 Ram Sewak, Shri
 Ram Subhag Singh, Dr.
 Ram Swarup, Shri
 Rana, Shri M. B.
 Randhir Singh, Shri
 Rane, Shri
 Rao, Shri Jaganath
 Rao, Shri J. Ramapathi
 Rao, Shri Thirumala
 Reddi, Shri G. S.
 Reddy, Shri P. Antony
 Reddy, Shri R. D.
 Rohatgi, Shrimati Sushila
 Roy, Shri Bishwanath
 Roy, Shrimati Uma
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Sambasivam, Shri
 Sant Bux Singh, Shri
 Sapre, Shrimati Tara
 Savitri Shyam, Shrimati
 Sayeed, Shri P. M.
 Sayyad Ali, Shri
 Sen, Shri Dwaipayam
 Sen, Shri P. G.
 Sethi, Shri P. C.
 Sethuramae, Shri N.
 Shambhu Nath, Shri
 Shankaranand, Shri B.
 Sharma, Shri D. C.
 Shashi Ranjan, Shri
 Sheo Narain, Shri
 Sher Singh, Shri
 Shinde, Shri Annasahib
 Shinkre, Shri
 Shiv Chandika Prasad, Shri
 Shukla, Shri S. N.
 Sinha, Shri R. K.
 Sonar, Dr. A. G.
 Sonavane, Shri
 Supakar, Shri Sradhakar
 Sursingh, Shri
 Suryanarayana, Shri K.
 Swaran Singh, Shri
 Tiwary, Shri K. N.
 Tula Ram, Shri
 Uikay, Shri M. G.
 Ulaka, Shri Ramachandra
 Venkatasubbaiah, Shri P.
 Verma, Shri Prem Chand
 Virbhadra Singh, Shri
 Vyas, Shri Ramesh Chandra
 Yadav, Shri Chandra Jeet

MR. DEPUTY SPEAKER: The result of the division is Ayes 86; Noes 150.

The motion was negatived.
15 Mrs.

MR. DEPUTY-SPEAKER: I will now put amendment no. 75 by Shri Ramavatar Shastri which says that the Bill should be referred to the President for getting the opinion of the Supreme Court.

Amendment No. 75 was put and negatived.

MR. DEPUTY-SPEAKER: There are two more amendments for circulation. There is only a difference in date. I will put them together—Amendment No. 78 by Shri Ramamurti and amendment No. 117 by Shri Banerjee.

Amendments Nos. 78 & 117 were put and negatived.

MR. DEPUTY-SPEAKER: The question is:

“That the Bill to provide for the more effective prevention of certain unlawful activities of individuals and associations and for matters connected therewith, as reported by the Joint Committee, be taken into consideration.”

The motion was adopted

MR. DEPUTY-SPEAKER: Now we will take up clause-by clause consideration.

Clause 2—(Definitions)

MR. DEPUTY-SPEAKER: There are a number of amendments.

SHRI NAMBIAR: Since there are a number of amendments, a large amount of time is necessary.

SHRI GEORGE FERNANDES: I beg to move:

Page 1, line 9,—
add at the end—

“but shall not include a trade union registered under the Indian Trade Unions Act or a political party”.(2).

SHRI NAMBIAR: I beg to move:
Page 2, line 6,—
add at the end—

“even after granting all rights and privileges to the citizens of that part including food, shelter, employment and all those enshrined in the preamble of the Constitution.”(38).

Page 2,—
omit lines 10 and 11(39).

Page 2, line 14,—
before “or” insert—

“except it is an advice given to the Government”.(40).

Page 2, lines 15 and 16,—

omit “or which incites any individual or group of individuals to bring about such cession or secession”.(41)

SHRI ATAL BIHARI VAJPAYEE: I beg to move:

Page 2, line 18,—
after “and” insert “territorial”
(42).

SHRI NAMBIAR: I beg to move:
Page 2,—
for lines 21 to 23 substitute—
“its object any unlawful activity.”
(43).

SHRI P. RAMAMURTI: I beg to move:

Page 1, line 9,—
add at the end,—
“but does not include any political party recognized by the Election Commission of India and any registered Trade Union.”(79).

Page 2,—
omit lines 1 and 2 (80).

Page 2,—
for line 7, substitute—
“(c) “Tribunal” means a bench of a High Court having jurisdiction over the locality where the principal office, if any, of the association is situated;” (81).

Page 2, line 12,—

for "is intended, or" substitute—
"intentionally".(82).

Page 2, line 13,—

after "any" insert—
"frivolous".(83).

Page 2, lines 17 and 18—

omit "or is intended to disrupt".
(84).

SHRI SHRIRAJ MEGHRAJAJI
DHRANGADHRA (Surendranagar) :
Sir, I beg to move :

Page 2, line 9,—

after "taken" insert—
"other than mere expression of
opinion".(154).

Page 2,—

for lines 12 to 16, substitute—

"(i) which incites any individual
or group of individuals to
bring about the cession of a
part of the territory of India
or the secession of a part of
the territory of India from
the Union;". (155).

SHRI SEQUEIRA (Marmagoa) : Sir,
I beg to move :

Page 2, lines 13 and 14,—

omit "the cession of a part of the
territory of India or".(162).

Page 2, line 16,—

omit "cession or". (163).

Page 2,—

after line 23, insert—

"(h) Any reference to a District
Judge or District Magistrate
or Judge or Magistrate
shall, wherever such Judge
or Magistrate is an officer in
the service of Government
upon whom powers of
Judge or Magistrate have
been conferred additional to
his administrative duties be
construed as being a
reference to the High Court
having jurisdiction over the
particular matter."(164).

MR. DEPUTY-SPEAKER : Clause 2
and these amendments that have been
moved are before the House. Other
amendments to Clause 2 are all
covered by these amendments that
have been moved.

SHRI S. M. BANERJEE : Sir, what
will be the procedure in regard to this
discussion?

MR. DEPUTY-SPEAKER : Amend-
ments are many. We had enough dis-
cussion earlier before the Bill was
referred to a Joint Committee. Now
we had about six hours discussion. I
would, therefore, suggest that we
curtail the discussion on the amend-
ments and at the final stage, in the
Third Reading, you may have your
say. Even if I allow two minutes on
each amendment it will take another
six hours. What I would suggest is,
for instance, if from this side there
are a few amendments, the hon. Mem-
ber who will be called from that group
will speak on his own amendments
and also the amendments moved by
others. Then I will call one from that
side and so on. It is not possible to
call all those who have moved amend-
ments. I want to organise in such a
way that we save some time.

SHRI S. M. BANERJEE : Sir, the
hon. Member from the Swatantra
Party may be efficient to cover the
amendments moved by all Members of
his group. But the hon. Member called
from our group may not be so effi-
cient. I would, therefore request that
even if we are given only a total of
five minutes, let it be two minutes to
each Member.

SHRI NAMBIAR : At last we have
to read out amendments and explain
them. That must be on record.

MR. DEPUTY-SPEAKER : Yes, if
you want to just read out and sit
down I will allow that.

SHRI P. RAMAMURTI : Sir, the
Home Minister himself admitted that
this is a very drastic measure. When
it is a drastic measure it will have to
be gone into thoroughly. After all,
when we are making some speeches
on the amendments the object of our

[Shri P. Ramamurti]

making these speeches is not just to get recorded but to place our arguments before the Home Minister and the ruling party. We want to try to change their mind. At least that much opportunity must be given. If it is not given, just only one or two minutes, what is the fun of having clause-by-clause consideration?

MR. DEPUTY-SPEAKER : When the Bill was referred to the Select Committee you had ample opportunity for discussion and persuasion. Now the Bill has been reported back by the Select Committee,.....

SHRI P. RAMAMURTI : If we could not convince the Select Committee, that does not mean that we should not try to convince the House.

MR. DEPUTY-SPEAKER : But we cannot have the same elaborate process once again. I will give you a couple of minutes.

SHRI P. RAMAMURTI : If I failed to convince the Select Committee, it does not mean that it is not open to me to convince the House. Otherwise, there is no necessity for this debate. After all, we are not asking for four days or five days, as in the Select Committee. We only say that sufficient time must be given.

SHRI SRIRAJ MEGHRAJJI DHR-ANGADHRA : First, let me make my general submission that we are not against the crimes which are dealt with in this Bill, but we are sceptical about and opposed to the methods of enforcement provided in the Bill. The Bill supersedes the ordinary courts of law, by-passes normal procedures and relegates the rules of evidence. Therefore some essential amendments are imperative.

Coming to my first amendment, amendment No. 154, I have proposed that in clause (2)(f) the words "other than mere expression of opinion" be inserted in the relevant place. Suppose two or three people collect together and debate such matters, are they to be apprehended under this law? Will it not make a mockery of

free expression of opinion? Much as we value our integrity and sovereignty and we shall guard them, none the less, we must not stifle the democratic spirit of our body politic by so total a prohibition of the expression of opinion. For that reason, mere expression of opinion must be exempted from the operation of this law and for that we have proposed this amendment.

Then I come to my amendment No. 155. This clause is too general, too far-going and it is likely to be struck down by the Supreme Court as being an unreasonable restriction. In section (2)(f)(i), the first portion which reads :

"which is intended, or supports any claim, to bring about on any ground whatsoever the cession of a part of the territory of India or the secession of a part of the territory of India from the Union."

We want this part to be omitted from the section. Then the section will read :

"which incites any individual or group of individuals to bring about the cession of a part of the territory of India or the secession of a part of the territory of India from the Union."

The crime must be incitement and not merely the supporting of a proposal.

The Home Minister himself, just a few minutes ago, described unlawful activity as "organising a movement" or "inciting people." That is something positive and, therefore, acceptable; we do not want it to cover the expressing of opinions. We wish this clause to be limited to the actual incitement of a crime and hence this amendment.

श्री कंबर लाल गुप्त : उपाध्यक्ष महोदय, इस विधेयक के पेज 2, लाइन 18 पर ये शब्द हैं :

"which disclaims, questions, disrupts or is intended to disrupt the sovereignty and integrity of India."

मेरा संशोधन यह है कि "इन्टेग्रिटी" शब्द से पहले "टेरिटोरियल" शब्द जोड़ दिया जाये। जैसा कि मंत्री महोदय ने कहा है, "इन्टेग्रिटी" शब्द बहुत वेग है।

श्री यशवन्त राव चव्हाण : मैंने "वेग" नहीं कहा है, मैंने "काम्प्रिहेंसिव" कहा है।

श्री कंवर लाल गुप्त : यह शब्द इतना काम्प्रिहेंसिव है कि अगर इसके आधार पर किसी पार्टी पर पाबन्दी लगाने का निश्चय किया जाये तो मैं कह सकता हूँ कि देश में जितनी भी पार्टियाँ हैं, उन सब पर पाबन्दी लग सकती है। यह इस बात पर निर्भर करता है कि पाबन्दी लगाने वाला कौन है। अगर कांग्रेस पाबन्दी लगाने वाली है, तो वह सब पार्टियाँ पर पाबन्दी लगा सकती है। अगर कोई विरोधी पार्टी सत्तारूढ़ हो जाये, तो वह इस शब्द के आधार पर कांग्रेस पर भी पाबन्दी लगा सकती है।

जैसा कि मंत्री महोदय ने कहा है, "इन्टेग्रिटी" शब्द बड़ा काम्प्रिहेंसिव है और मैं समझता हूँ कि इस के तहत सरकार किसी का भी गला दबा सकती है यह देखने की बात है कि वह एक अच्छे तरीके से या डेमोक्रेटिक प्रिंसिपल्स के अनुसार काम करती है या नहीं। लेकिन इस सरकार के बारे में हमें जो पुराना तर्जुबा है, जिस तरीके से उस ने पहले काम किया है और चुनाव के बाद अब भी कर रही है, उस से हमारे मन में बहुत डर और शुकहे पैदा होते हैं। पिछला अनुभव यह बताता है कि जो कोई भी ताकत इस सरकार को दी जाती है, वह उस का इस्तेमाल अपनी पार्टी के हित के लिए नाजायज तौर पर करती है।

अगर इस क्लॉज में सिर्फ "इन्टेग्रिटी" शब्द रखा जायेगा, तो क्या होगा कि जब भी इस सरकार को पोलिटिकली मूट करेगा, वह किंगी का भी गला दबा सकेगी। अगर इस शब्द से पहले "टेरिटोरियल" शब्द जोड़

दिया जाये, तो मंत्री महोदय के उद्देश्य में कोई फर्क नहीं पड़ने वाला है। उनका उद्देश्य यह है कि जो देश की प्रभुसत्ता को चैलेंज करे, उस की साविरेनटी को चैलेंज करे, यह कहे कि देश का अमुक टुकड़ा चीन, पाकिस्तान या किसी दूसरे देश को दे दिया जाये या उस को देश से अलग कर दिया जाये, उस के खिलाफ कार्यवाही की जा सके। हम चाहते हैं कि इस तरह के जो तत्व या वर्ग हैं, सरकार उन को दबाये और उन पर पाबन्दी लगाए। लेकिन जैसा कि मैंने अभी कहा है, "इन्टेग्रिटी" शब्द की परिभाषा इतनी काम्प्रिहेंसिव है कि इस का नाजायज इस्तेमाल हो सकता है। हम ने सरकार को पहले ही इतनी ताकत दी हुई है। कहीं ऐसा न हो कि यह सरकार अपने पोलिटिकल एड-वांटेज के लिये अपने पोलिटिकल अपोनेंट्स के खिलाफ इस प्राविजन का नाजायज इस्तेमाल करे। इस लिए हम चाहते हैं कि इस क्लॉज में "इन्टेग्रिटी" से पहले "टेरिटोरियल" जोड़ दिया जाना चाहिए। अगर मंत्री महोदय इस संशोधन को मान लेते हैं, तो इससे कोई फर्क नहीं पड़ता है और इस बिल का जो उद्देश्य और सिद्धान्त है, वह उस में कवर हो जाता है।

SHRI G. VISWANATHAN : Sir, I rise to speak on amendments Nos. 118 and 119. The first amendment seeks to add at the end of line 9, page 1, that is, in the definition of "association" which reads :—

"'association' means any combination or body of individuals".

the following words :—

"but does not include any political party recognised by the Election Commission of India and any registered trade union".

The main purpose of this amendment is this. By getting this law passed the Government will get enormous drastic powers. Now these powers should not be used against rival political parties or any registered trade

[Shri G. Viswanathan] union. It is likely, if the Government thinks that a particular political party comes against its interests, that the Government may try to make that party unlawful. This should be curbed by adding the words "political party and registered trade unions" in the definition; otherwise, any trade union movement can be declared unlawful and any political party recognised by the Election Commission, which has won the elections in some States also, can be banned according to the whims and fancies of a particular minister sitting in New Delhi. So, this power has to be curbed and in the definition of "association" it has to be included.

Then, another amendment is :

"Page 2, for line 7 substitute—

- (e) "Tribunal" means a Bench of a High Court having jurisdiction over the locality where the principal office, if any, of the association is situated."

According to the present Bill, a Tribunal is one where a particular Judge will be appointed by the executive. But we want, not a particular Judge, a Bench of the High Court. Even Mr. Setalvad has said that the people have got more faith in High Court now-a-days. It means that the people have no faith in a Tribunal to put it in a negative way. Of course, the Government appoints it and it means the Government also. So, we want, where the people have got faith, that is, the High Court, that the High Court should be the deciding authority in particular cases, because the cases involved, sometimes, may be any political party or any trade union. So, the deciding authority must not be a single Judge appointed by the Government but it must be a Bench of the High Court. The other day, even Mr. Bose was praising the judiciary of the country and I do not dispute that. We must give this power not to a particular Judge but to a Bench of the High Court. So, the deciding authority must be the High Court and not a particular individual.

श्री रामाबतार शास्त्री (पटना): उपाध्यक्ष महोदय, मैं क्लॉज 2, के पेज 1 की पंक्ति 9 के आखिर में यह संशोधन पेश करता हूँ वह अंग्रेजी में है जो मैं पढ़ देता हूँ :

"Page 1, line 9,—
add at the end—

"but shall not include a trade union registered under the Indian Trade Unions Act or a political party."

अभी जब इस बिल पर बहस हो रही थी तो मंत्री महोदय ने बताया था कि इस बिल का मंशा राजनीतिक दलों पर प्रहार करना नहीं है। अगर ऐसी बात है तो फिर यह संशोधन स्वीकार करने में क्या कठिनाई है? ऐसा मैं इसलिए भी कह रहा हूँ कि अभी इस बिल पर तो बहस हो रही है, पास भी नहीं हुआ है लेकिन इस के पहले ही बंगाल में आप जाकर देखिए कि वहां क्या धींगामुश्ती चल रही है? किस तरीके से दमन चलाया जा रहा है? और जो सेंट्रल रिजर्व पुलिस फोर्स है उस के जरिए या बोर्डर सिक्योरिटी फोर्स के जरिए वहां गांवों में जा जा कर के, शहरों में जा कर के, जिन्हें राजनीति से कोई मतलब नहीं है, ऐसे लोगों को भी पुलिस बाले और जिन में यहां की पुलिस भी शामिल है, तंग कर रहे हैं। उन्हें वह पीटते हैं, सोबे में अन्धेरी रात में उन के घरों में घुसते हैं और उन के जेवर छीन लेते हैं, उन की घड़ियां लूट कर ले जाते हैं बिना इस बिल के, अभी तो इस पर बहस हो रही है, और वह सिर्फ इसलिए कि वहां जो आन्दोलन चल रहा है...

MR. DEPUTY-SPEAKER.: May I point out that it has no relevance to your amendment? About the Bengal situation, whatever you want to say, you can say at the last stage of the Bill. You should be relevant to the amendment.

श्री रामाबतार शास्त्री : उपाध्यक्ष महोदय, उन्होंने (गृह-कार्य मंत्री) अभी कहा कि राजनीतिक पार्टियों पर हमला नहीं होगा। तो यह बिल बनने के पहले ही वहां हमला हो

रहा है, मैं यह बताना चाहता हूँ और जब यह बिल पास हो जायेगा तब तो और ज्यादा हमला होगा और ऐसा लगता है कि देश के अन्दर फासिस्ट तत्वों को बढ़ावा दिया जायेगा। उन को पकड़ा जाता है जो शांतिमय तरीके से अपना आन्दोलन चलाते हैं ऐसी बात नहीं कि कोई अशांति की बात वे करते हों। लेकिन फिर भी उन के ऊपर हमले होते हैं। तो अगर आप का मंशा ईमानदारी का है, आप देश की एकता और प्रभुसत्ता को बनाए रखना चाहते हैं तो इस प्रकार के संशोधन को स्वीकार करने में आप को क्या दिक्कत है? अगर नहीं स्वीकार करते हैं तो मेरे जैसे लोगों के दिलों में शंका हो सकती है कि आप सचमुच में देश की एकता और प्रभुसत्ता की रक्षा के नाम पर राजनीतिक दलों जिन को आप पसंद नहीं करते हैं, और जो दल आप को रफता रफता निकालते जा रहे हैं शासन से, ऐसे दलों पर आप इस का इस्तेमाल करेंगे और पूरे देश में फासिस्ट ताकतों को बढ़ावा देंगे। इसलिए मंत्री महोदय, अगर सचमुच में ईमानदार हैं तो उन्हें इस संशोधन को स्वीकार करने में कोई कठिनाई नहीं होगी क्योंकि ऐसा करने से लोगों को यह संतोष हो जायगा कि यह राजनीतिक दलों के खिलाफ नहीं हैं, मजदूर आन्दोलनों के खिलाफ नहीं हैं। इन शब्दों के साथ मैं अनुरोध करूंगा मंत्री महोदय से कि वह इस संशोधन को स्वीकार कर के जनता के मन के सन्देह और सुबहे को खत्म करें और सचमुच में साबित करें कि उन का कोई गलत मंशा नहीं है।

श्री जार्ज फर्नेन्डीज : जो तरमीम में ने पेश की है वह यह है :

Page 1, line 9,—
add at the end—

“but shall not include a trade union registered under the Indian Trade Unions Act or a political party”.

सीरिअल नं० 2, लिस्ट नं० 2, पेज 1 पर

आफ्टर लाइन 9, इंडिविडुअल्स के बाद यह एड करना है। अध्यक्ष महोदय, मैं इस को पेश करते हुए ज्यादा कुछ कहूंगा नहीं सिवाय इस के कि मेरे मन में खास तौर से कांग्रेस पार्टी का ही बचाव करना है जब पोलिटिकल पार्टी का उल्लेख में कर रहा हूँ क्योंकि जो सेशन या सेसेशन वाली बात होती है, जैसा मैंने शुरू में ही कहा है कि अगर किसी भी एक दल के साथ से यह चीज आज हो सकती है तो वह सरकारी दल के ही हाथ से हो सकती है, और दूसरे किसी दल के हाथ से नहीं। इसलिए हम यह चाहेंगे कि राजनीतिक दलों को इस विधेयक के अन्तर्गत कहीं भी नहीं आने दिया जाय और जहां ट्रेड यूनियन वाली बात है हमें एक बहुत बड़ा खतरा दिखाई देता है पेज नम्बर 2 पर जहां वह यह कहते हैं :

“‘unlawful activity’ in relation to an individual or association means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise)— which disclaims, questions, disrupts or is intended to disrupt the sovereignty and integrity of India.”

15.27 hrs.

[SURI G. S. DHILLON in the Chair.]
तो प्रश्न अध्यक्ष महोदय, इस में यही है कि जब भी कोई मजदूरों का संगठन अपने इलाके के बारे में बोलते हुए यह कहना शुरू करे कि आर्थिक विकास के मामले में हमारे इलाके में जिस किस्म का व्यवहार होना चाहिए या वह नहीं हुआ, कोई भी मजदूर संगठन इस बात को छेड़ता है जिस के नतीजे से कोई गलतफहमी पैदा होती है और एक सूबे के लोग दूसरे के खिलाफ हो जाते हैं, उत्तर के लोग दक्षिण के खिलाफ हो जाते हैं या एक गांव के लोग दूसरे गांव के खिलाफ हो जाते हैं, उदाहरण के लिए मैं चम्पूणा साहब को बताऊं वह समझ जायेंगे, नागपुर में एक ऐसा आन्दोलन चल रहा है जनता का जिस का एक ही हेतु है कि नागपुर में छोटी गाड़ियों वाला कारखाना

[श्री जार्ज फर्नेन्डीज]

बनाया जाय और उस में नागपुर के ही लोगों को नौकरी मिले, तो इस तरह की परिस्थिति आ सकती है और उस में इस तरह के आन्दोलन जो किसी संस्था की ओर से या मजदूर संगठन की ओर से चलाये जाने वाले हों, तो इस कानून के अन्दर उन को भी बिठाने की बात हो सकती है। इसलिए मेरा निवेदन है कि राजनैतिक दलों को आप इस में न रखें, वह आप के दल के हित में जरूरी है क्योंकि नागाओं से आप बात कर रहे हैं, कहीं अपने प्राइम मिनिस्टर को ही गिरफ्तार करने की बात आप के ऊपर न आ जाय। इसलिए आप के हित में ही यह है कि पोलिटिकल पार्टीज वाली बात और ट्रेड यूनियन वाली बात जो कही जा रही है उस को मान लें।

SHRI NAMBIAR: My amendments Nos. 38 to 41 and 43 are as follows:

Page 2, line 6,—

add at the end—

“even after granting all rights and privileges to the citizens of that part including food, shelter, employment and all those enshrined in the preamble of the Constitution”.

Page 2,—

omit lines 10 and 11.

Page 2, line 14,—

before “or” insert—

“except it is an advice given to the Government”.

Page 2, lines 15 and 16,—

omit “or which incites any individual or group of individuals to bring about such cession or secession”.

Page 2,—

for lines 21 to 23 substitute—

“its object any unlawful activity.”

The hon. Home Minister must enlighten us on this point. Perhaps I may be in the wrong. Therefore, I may be clarified. ‘Unlawful activity’ is defined in two ways. I am reading it out.

“‘unlawful activity’ in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise)—

- (i) which is intended, or supports any claim, to bring about on any ground whatsoever the cession of a part of the territory of India or the secession of a part of the territory of India from the Union or which incites any individual or group of individuals to bring about such cession or secession;”

This is the second one.

- “(ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and integrity of India.”

The first part is this. If anybody speaks about cession or secession of any part of India, he will be hauled up under this Bill. That is over; fullstop. The second part is:

“which disclaims, questions, disrupts or is intended to disrupt the sovereignty and integrity of India.”

This has nothing to do with ‘cession’ or ‘secession’. The whole Bill is sought to fight against ‘cession’ and ‘secession’. If that is so, then why should the second part be there? The second part is independent of the first part after ‘cession’ and ‘secession’ are finished. Take the next one. I say any Party which is here, Swatantra Party, Jan Sangh, Communist Party (Right), Communist Party (Left), SSP, everybody can be hauled up under (ii) which ‘disclaims, questions, disrupts or is intended to disrupt the sovereignty and integrity of India’. Any Party can be hauled up for any agitation that can be brought under the mischief of part (ii) of the definition. Therefore, what I submit is that it is not so innocent as it looks. The Home Minister wants to cover it

up in the name of 'cession' and 'secession'. If it were so, then he should have said so. The very title of the Bill should have been changed from 'Unlawful Activities (Prevention) Bill' as it now stands to 'Prevention of Cession and Secession Bill'. He did not do that. Deliberately he omitted that title and put the title 'Unlawful Activities (Prevention) Bill' and the 'unlawful activity' is defined very cleverly. First part is about 'cession' and secession'. Then follows the omnibus provision in (f)(ii) under which anything can come, because the words 'sovereignty and integrity' alone are generally put. My Jan Sangh friend asked, "Why should you put only 'integrity', why not you add 'territorial integrity'?" Because his purpose is not that. They are not worried about the territorial integrity, cession or secession. They are worried more about the general position in the country because of the economic crisis and the deepening of the conflict between the people and the Ruling Party there is likelihood of many contradictions and even skirmishes. They want to haul up that particular Party which is leading the agitation, under the provisions of this Act. That is why it is so cleverly put. Therefore, he owes an answer to us as to whether this Bill is only against 'cession' and 'secession' or it is for the omnibus purpose of bringing every other law and order problem under this. No political Party other than the ruling Party is safe under this law, if it is enacted as law, first it may attack the Communist Party (Leftist), then it will go to the Rightist, then it will go to SSP, then it comes to Jan Sangh. Then at last it comes to Swatantra if Swatantra does not surrender. That is the scheme. Therefore, my amendments are very important. I am not going to detail my amendments, but, if amended, it will read as follows and makes it clear. Both the hon. Home Minister and the Law Minister are here. They must explain to me if my misgivings are not really misgivings. They must say, if they want to bring in other things also—a general repressive measure under the cover of secession and

that they want to use it whenever they feel it necessary. He must explain to the House, Sir.

My amended clause will be like this: I am qualifying this (d) which says:

"'secession of a part of the territory of India from the Union' includes the assertion of any claim to determine whether such part will remain a part of the territory of India."

by adding:

"even after granting all rights and privileges to the citizens of that part including food, shelter, employment and all those enshrined in the preamble of the Constitution".

Even after giving all these things, if any part wants to get away, do not allow it to go. If the people are starved, if Hindi is imposed, if so many things are done....

SHRI Y. B. CHAVAN: Now you are giving me justification.

SHRI NAMBIAR: I am asking the hon. Minister to answer. The hon. Home Minister himself said that the permanent solution is not under the law. This is political, he said. Therefore, I say, I am now supplementing your argument, 'Can you give a political solution?' That political solution must be in the form of food, shelter and employment and all those enshrined in the preamble. Give me that political solution. Then this will be justified. That is all what I wish to say.

SHRI Y. B. CHAVAN: It is there in the Constitution.

SHRI NAMBIAR: After my amendment, the amended clause will read as:

"'unlawful activity', in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written...."

spoken in secret talked to his wife, talked to his children, etc. Why all these things are added? This is very bad. You must say that an unlawful

[Shri Nambiar]

activity means an unlawful act and leave it at that. But the words 'by words spoken or written' have been added. Please, for God's sake, remove these words. It is so vague and so ambiguous and it should not find a place in the Bill.

The provision is :

"Which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India."

Here, I want to add the word "except it is an advice given to the Government". Government may like to do a particular thing in a particular fashion and somebody can tell Government what they should not do. Government cannot do things on every matter *suo motu*, and in a democracy every political party has the right to say and give advice. That is why I have brought forward an amendment seeking to add the word 'except it is an advice given to the Government.

Finally, in support of my arguments, I must say that there must be territorial integrity. Beyond that, I would submit that sub-clause 2 should be deleted. If the provision is against cession, and cession only, that can go.

The term 'unlawful association' has been defined to mean any association which has for its object any unlawful activity. I suggest that the definition may end there. The latter part of that sub-clause should be deleted, which says :

"or which encourages or aids its persons to undertake any unlawful activity or of which the members undertake such activity."

Again, this is very vague. So, the vague portion may be deleted, and the additions that I have suggested should be made.

SHRI P. RAMAMURTI : I wish to concentrate my attention on one particular amendment. A number of other members have spoken on the other amendments. I am referring to amendment No. 81 where I want to define the tribunal in the following words :

"Tribunal means a bench of a High Court having jurisdiction over the locality where the principal office of the association is situated."

The Home Minister has made it very clear that this is a very drastic measure.

SHRI Y. B. CHAVAN : It is. I have said that.

SHRI P. RAMAMURTI : I want to ask him why the kind of justice that is available to an individual should not be available to an association. After all, if an individual is accused of a crime, he has got the right of appeal. Even if there be one judge of the High Court in whichever manner he may be selected, even though he may be selected in consultation with the Chief Justice of India also, it does not follow that he will have the final way; after all, there is some such thing as assessment of evidence and in assessment of evidence we know that judges do differ. Therefore, normally it is provided that there will be an appeal against the assessment made by a magistrate. Even in the High Court, when there are important cases, the Chief Justice himself thinks that it is necessary that the evidence and other case laws must be assessed, not by a single judge, because these are important questions, but by a Bench of the High Court. When such is the case with regard to an individual, when Government are seeking to take away the right of an association to function, when an important fundamental right of organisation is being taken away, I want to ask the Home Minister why the assessment of the evidence and the legal position should be left to the will of one individual; after all his assessment may not be correct and there might be another judgment also. Therefore, it is absolutely essential even for the normal mode of meting out justice that this evidence must be assessed by more than one person. Who is to decide that? After all, it has got to be decided by the High Court itself. So, let him provide for a Bench of the High Court. In principle, how can the Home Minister be opposed to this?

When this question was raised in the Joint Committee, the Home Minister said it was a question of expediency. He said that we could not be getting two or three more judges. May I point out to him that the High Court appoints so many benches to try so many cases everyday? There are hundred of cases before a High Court. On all important questions, the High Court *suo motu* constitutes a Bench and cases are heard there.

This kind of case where an association is going to be banned is not one of daily occurrence. If it is, then that is the end of democracy in this country. But that is not the position. After all, the Home Minister also does not want to have recourse to this generally. Occasionally he may have recourse to it. When occasionally recourse is had to it, where is the question of expediency coming in? What is the difficulty in the High Court taking it on its records and constituting a Bench of the Court, as it would do for any other case which it takes up?

Therefore, the argument of expediency is not true. There must be some other motive behind it. Otherwise, I want to know why the Home Minister is afraid of the evidence being assessed not by one individual but by a Bench of judges so that their collective wisdom may be brought to bear on the assessment of the entire evidence and pronouncement on the Government's decision to ban the organisation. Even when things are done in consultation with the Chief Justice, we know how things are done; there are ways of doing things so far as the administration is concerned. We also know that.

After all, in the original Bill they had provided for not a sitting judge but of a tribunal consisting of members who are qualified to be judges. Why did they do so? At that time the proposition that the evidence has got to be assessed not on the basis of one individual's judgment but on the strength of a collective assessment. When that is the position, the basic

fact, how can it be changed by the proposal to appoint a single High Court Judge, whose assessment can only be individual and not be collective, and against whose judgment there is no right of appeal?

So in refusing to accept the proposition of a tribunal and insisting upon the evidence being assessed by only one individual, there flows a desire to steamroller and to get an individual's assessment accepted by the High Court. He cannot escape that charge. Therefore, I would appeal to him even now to concede that it is absolutely essential from the point of the principles of natural justice to agree that the evidence should be assessed not by one individual but at least by a Bench of three.

श्री श्रीचन्द्र गोयल (चण्डीगढ़) : सभा-पति महोदय, क्लॉज नम्बर 2 पर मेरा संशोधन नम्बर 42 है जिस में मैंने यह मांग की है कि बिल के पेज नम्बर 2 में 18वीं लाइन पर "एंड" के बाद "टैरीटोरियल" शब्द बढ़ा दिया जाय। मैं यह इस बिना पर कहता हूँ कि जो शब्द इंट्रैटी है वह तो बिलकुल इन्डिफिनिट, वेग और ओपन टु सर्वरल इंट्रैटेशंस है। मैं समझता हूँ कि जब यह हाईकोर्ट या सुप्रीम कोर्ट में इंट्रैटेशंस के लिए जायेगा तो इंट्रैटी का मतलब सोशल इंट्रैटी हो सकता है, कल्चरल इंट्रैटी हो सकता है और किसी प्रकार की ईमानदारी और प्रामाणिकता की तरफ यह शब्द संकेत कर सकता है। इस का मतलब बिलकुल यह नहीं निकलता है कि टैरीटोरियल इंट्रैटी है। शायद हमारे गृह मंत्री जी यह धारणा रखते हैं कि इंट्रैटी का मतलब भी टैरीटोरियल इंट्रैटी है। अगर वह ऐसा समझते हैं तो उनको संशोधन स्वीकार करना चाहिए क्योंकि इस कानून का उद्देश्य यह है कि यदि कोई व्यक्ति या संस्था देशहित के विरुद्ध कोई कार्यवाही करती है अथवा इस बात के लिए प्रोत्साहन देती है कि भारत का इलाका भारत से निकल कर उस के बाहर जाये तो मैं समझता हूँ कि उन को इस में कोई

[श्री श्रीचन्द गोयल]

अपत्ति नहीं होनी चाहिए कि शब्द अधिक स्पष्ट हों। अगर उन की नीयत साफ़ है, अगर वह सचमुच यह दो ही उद्देश्य तक इस बिल के मकसद को सीमित रखना चाहते हैं कि कोई ऐसी संस्था या व्यक्ति जो भारत के किसी इलाके को भारत से बाहर किसी तरीके से ले जाना चाहे तो उस के ऊपर रोक लगाई जाये तब "टैरीटोरियल" लफ्ज बढ़ाना निहायत जरूरी है वरना जब सुप्रीम कोर्ट और हाईकोर्ट में यह केशक जायेंगे तो वहां पर यह लफ्ज बेग होने की बिना पर और चूंकि वह गवर्नमेंट को प्रनलिमिटेड पावर देते ह इस बिना पर हाई कोर्ट और सुप्रीम कोर्ट इस क़ानून को स्ट्राइक डाउन कर देंगे। इसलिए मैं समझता हूं कि यह लफ्ज "टैरीटोरियल" जोड़ देना बहुत जरूरी है। बस इतना ही इस में मेरा संशोधन है।

SHRI SEQUEIRE (Marmagao) : My amendment No. 161 is for the omission of lines 1 and 2 in page 2 of the Bill. The Bill at present reads :

"cession of a party of the territory of India" includes admission of the claim of any foreign country to any such party;

As presently drafted I think that even discussion on the pros and cons of territorial border settlement would come within the mischief of this clause, and that is why I have suggested that this clause should be deleted.

I would like to bring to the attention of the hon. Home Minister that if he redrafts this clause by changing the word includes "into means", this Bill would be considerably improved, because at present even if any individual stands upon the street and says that we should reach a border settlement with such and such country by giving to them such and such a territory, as mentioned by him in his reply, it would come within the mischief of this clause. With our borders with neighbouring countries not accepted by both sides, it is quite conceivable that such situations may arise,

and when they do arise, I submit that it is necessary that there should be a public debate on the pros and cons of any settlement that we might envisage, and it is for that reason that I have suggested this amendment. I am not going to press it, but I think it is better if the word "includes" is changed to "means". If that is done, what would happen is that if you said that you accepted the claim of any other country to a certain area of ours which they are holding, it would be an unlawful activity, but if you said that the territory was ours but that in the interests of settlement, in the interests of peace should give it to somebody, then it would not be included within the scope of this clause.

Amendments 162 and 163 are along the some lines. I am also not pressing them.

In Amendment 164 I have suggested that the following definition be added:

"(h) any reference to a District Judge or District Magistrate or Judge or Magistrate, shall, wherever such Judge or Magistrate is an officer in the service of Government upon whom powers of Judge or Magistrate have been conferred additional to his administrative duties be construed as being a reference to the High Court having jurisdiction over the particular matter."

You are aware that under this Bill some very sweeping powers have been granted to magistrates and district magistrates. If these powers are to be judiciously applied, I think it would be very much safer if they were exercised only by an independent judiciary and not by administrative officers with judicial powers. I say this because all of us here know how the chapter powers are today being used. One goes to a district magistrate or a magistrate who is an officer of the Government with a nicely cooked up police report, and people are sometimes bonded for doing nothing at all. If these powers are to be

judiciously applied, I think we should make it quite clear that they should be exercised only by an independent judiciary. That is all I have to say on clause 2.

SHRI S. M. BANERJEE: Mr. Chairman, Sir, I rise to support amendment No. 2. of Shri Fernandez. My amendment was a similar one. Of course, Mr. Fernandez' amendment came first, and so that has been covered. It says:

"but shall not include trade unions registered under the Indian Trade Unions Act or a political party."

A similar amendment has also been moved by my other friends which reads:

"but does not include any political party recognized by the Election Commission of India and any registered Trade Unions."

Even in the Joint Committee,—I had the fortune to be there—we impressed upon the hon. Minister that the political parties or recognised political parties or those political parties which are recognised by the Election Commission for the purposes of election, on the basis of keeping, in our country, the democratic traditions and parliamentary democracy, should not come within the mischief of this legislation. All the arguments and counter-arguments in this regard exchanged between us and the Home Minister at the Joint Committee were considered by us. Even after that, being in the Joint Committee for hours together, I was not at all convinced that this clause is a must. First of all, what will happen? Now, anybody, taking advantage of this provision, when this measure becomes an Act, or any political party or any trade union can be hauled up under the mischief of this Act.

What is the definition of unlawful activity? It is defined in the Bill as follows:

"'unlawful activity', in relation to an individual or association, means any action taken by such individual

or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise)—"

Only the invisible thing is not included in this. Otherwise, everything is there within the mischief of this definition. If you can do things invisible, elude the eyes of the police or any other officer you can do whatever you like. Even if you think that the Government is behaving in a very shabby fashion and there is some change needed, and if you want to propagate even thought, it will be attracted by this measure. You know, Sir, the historic judgment in the Meerut conspiracy case, which was to the effect that prosecution of thought was illegal. That was delivered by the late-lamented Sir John Beaumont and after that judgment, all of our friends were let off. So, I say that these amendments should be accepted in good faith, thinking that all the political parties in this House as well as outside have placed their unconditional support to the country at the time of the foreign aggression. You may accuse a particular political party but even then they have made their position absolutely clear. So, I see no reason why they should come under the mischief of this Act.

During the last Chinese aggression, or during the conflict with Pakistan, is it not a fact that all the trade unions, whether they belonged to the INTUC or the Hind Mazdoor Sabha or the UTUC or any other trade union organisation, gave their unconditional support to the Government and the Prime Minister, the late Jawaharlal Nehru? They gave their blood and money, and I know that the All-India Defence Employees Federation which is represented by me and Shri S. M. Joshi contributed Rs. 27 lakhs in a month. You can imagine that even that could not convince this Government and the Home Minister that the trade unions in the country will never act against the interests of the country. I feel that this amendment should be accepted.

[Shri S. M. Banerjee]

Then there is the question of the tribunal. This tribunal will be just an eye-wash. This particular amendment, on which my friend Shri Ramamurti has spoken, really brings a sense of justice in the minds of those who may be arrested under this Act. This amendment says :

“Tribunal means a bench of a High Court having jurisdiction over the locality where the principal office, if any, of the association is situated.”

I request the minister kindly to see reason and accept these amendments in the large interests and unity of the country. He talks of individuals. Even after the passage of the Languages Bill, the Congress President, Mr. Kamraj, issued a very provocative statement from Madras. Does that not come under the mischief of this Act? He is an individual and he has expressed his opinion. Of course, we do not want any action to be taken against Mr. Kamraj. But he has issued a statement after the Bill was passed after 35 hours of discussion in this House. So, people do have their opinions. If we cannot express our opinion, what does democracy mean to us? Democracy is democracy as long as it suits the ruling party—if that is the conception of democracy, I am against that. We should be allowed to express our opinion.

A very pertinent question was raised by Mr. Goel and Mr. Limaye. What happened to Kashmir? Half of Kashmir is under Pakistani occupation. What happened to Berubari, Latitilla-Dumabari and other places? After all those things have been done, keeping the entire people of this country in the dark now they bring forward this legislation. I am one of those who want that India and Pakistan should remain one and India should become the same India as before 1947. I may not see that. But my son may see that. I request the hon. minister to accept these amendments, so that this Bill, though not acceptable to us, at least may not invite criticism from all quarters. If

he is not accepting the amendments, he must give reasons for that. When the Attorney General appeared before the Joint Committee, we put him many questions, but with due respect to him, I say that he could not give satisfactory answers to many of our questions. So, we demanded that the Bill should be referred to the Supreme Court for its opinion. We requested that the Bill be circulated for public opinion. If that could not be accepted, I request the hon. minister in all seriousness and humility to accept the amendments at least.

SHRI TENNETI VISWANATHAM (Visakhapatnam) : Sir, on the question of sovereignty and integrity of India, the words are no doubt taken from the Constitution, but I am not sure whether at the time they were introduced in the constitution, much discussion was there or was needed. At that stage, it was not needed because it was only an enabling provision in the Constitution which said that the Government may impose reasonable restrictions to safeguard the sovereignty and integrity of India. Now we have a legislation which seeks to impose restrictions. It does not actually impose any restrictions, but it only creates an offence through the definition of “unlawful activity”.

As has been already explained, I must also register my protest against the use of the word ‘integrity’ as it is. The Constitution was quite right in saying ‘integrity’. But the Act is not right in taking it as it is without qualifying it. If they actually mean territorial integrity, there should be no harm in the Government moving an amendment to that effect or accepting an amendment to that effect. If it is not a matter of prestige, that amendment can be accepted.

16 HRS.

The position with regard to the word “sovereignty” is also somewhat very difficult. So many treaties and agreements are now being made. Particularly in the industrial field different kinds of agreements are made.

Recently an agreement with Russia about some publicity matter came into question. The foreign powers who are collaborating with us or lending money for certain specified projects may impose certain conditions which may prejudicially affect the sovereignty of India. These things are arising very often and several treaties also are being made, several agreements are being made with foreign powers. These trade agreements are not made with the consent of Parliament. It is not quite correct on the part of the Home Minister to say that these agreements are made with the consent of Parliament. The Constitution gives the Executive entire power. It is only after these agreements are made sometimes they are brought here if and when legislation is needed. When legislation is not needed there is no such thing as bringing an agreement for approval of Parliament. That is in our Constitution. It is not like the American Constitution. The executive has the entire power. In these days, therefore, when so many agreements are being made, arguments may be made by us on the Opposition or even by party members that they will or will not conflict with the sovereignty of India and therefore let us not have a particular clause in an agreement relating to collaboration on the industrial side—it may be a radio broadcast or something else. If you do not have freedom to discuss these things, in fact, all freedom of Parliament is gone, all freedom of the citizens is gone. Therefore, the Government must have a clear notion of what they are trying to declare as unlawful. To take words like 'sovereignty' and 'integrity' from the Constitution is not quite right. As I said, it is an enabling provision here. When you want to punish a man you have to specify what kind of sovereignty it is and what integrity you have in your mind which if offended would become an unlawful activity. These are words which I think the Law Minister, who is present here, and the Home Minister have already agreed that they have also this in their mind, they do not want it to be very wide

and they have got only territorial integrity in their mind and sovereignty is the concept of Independent Sovereign Republic of India as stated in our Preamble and anything which affects that only will be considered as an unlawful activity. Therefore, there should be no harm in the Government coming forward with an amendment about these things.

With regard to the tribunal the Home Minister said that after all the judge is appointed in consultation with the Chief Justice and therefore there is no harm. What I submit is, firstly, the appointment of a tribunal also is a discriminatory procedure setting aside some provisions of Criminal Procedure, without repeating them. There are many offences created in this Bill, separate from those in the Penal Code. Waging war is an offence and made part of ordinary Indian Penal Code. The offence under this particular Bill is a lesser offence. It is not like waging war against India. It is only a proposal to cede a part of India or secede from India yet a special procedure is sought to be presented. Possibly, it may be that tomorrow I may say that India shall be a union of some sixteen or seventeen linguistic federations. I may say that the Federal Republic consists of sixteen or seventeen linguistic units as an arrangement or a solution to save all these conflicts that are going on. Supposing I said these things, then I will not be able to go to the Constitution House, gather a meeting of the parliamentarians and talk upon this. The Home Minister said that expression of opinion is not an offence. Good: Let him say so the Act. All that we want is that in the Act it should be said that expression of opinion is not an offence, by 'integrity' he means 'territorial integrity' and they should clarify what 'sovereignty' means in this context. If they have got some democratic spirit as they say they have, I have no doubt they will accept this.

SHRI P. RAMAMURTI: Sir, I raise to a point of order. A very important Bill is being discussed. It has

[Shri P. Ramamurti]

emanated from the Home Minister and he is not present in the House.

THE MINISTER OF LAW (SHRI GOVINDA MENON): Sir, the Home Minister will be coming in a few minutes. I have been asked to watch till he comes.

SHRI P. RAMAMURTI: We are only thinking of the Home Ministry. There are other Ministers in that Ministry.

SHRI S. M. BANERJEE: That is not the question. We have been shocked to see that the Cabinet Minister is not present here. We are told that he has gone somewhere and he will be back soon. But he has a Minister of State, Shri V. C. Shukla. He is in Bhopal now to see the Ministry there toppled. There is a Deputy Minister. He is also not present here. Who will reply? Is the Law Minister going to reply to the debate?

SHRI RANDHIR SINGH: We have half a dozen Ministers sitting here.

SHRI S. M. BANERJEE: Shri Randhir Singh is not a Minister yet. I am talking of Ministers. Under rule 340, when the Ministers are not present in the House at any time after the motion has been moved any member may move that the debate on the motion be adjourned. So, I would request you, Sir, to adjourn the discussion for half an hour.

MR. CHAIRMAN: This argument is not sufficient for adjourning the House. There are other Ministers present here.

SHRI S. M. BANERJEE: We are not concerned with the Railway Minister in this discussion.

MR. CHAIRMAN: Is there any provision in the rules that only the Minister-in-charge should be present throughout.

SHRI S. M. BANERJEE: That is the convention.

SHRI RANDHIR SINGH: According to the General Clauses Act, a Minister includes a Minister of State and a Deputy Minister.

SHRI S. M. BANERJEE: Sir, you are an eminent legislator. Have you ever seen the Home Ministry debate being replied to by the Railway Minister?

SHRI C. K. BHATTACHARYYA (Raiganj): I think the Minister of Parliamentary Affairs represents all the Ministers.

SHRI NAMBIAR: We are debating an important amendment. Is the Law Minister in a position to say that he will accept those amendments?

MR. CHAIRMAN: I have already given my ruling.

SHRI GOVINDA MENON: I was here listening to the speeches by the hon. Members on all the amendments which were moved. Government will be prepared to accept one of the amendments, that is to say, the amendment which seeks to qualify the word "integrity" by the word "territorial" in clause 2(f) (ii). Several members wanted that the word "integrity" should be qualified by the word "territorial". Although government do not think that the simple use of the word "integrity" will create any difficulty, in defence to the opinions expressed here by various hon. Members, government are accepting that amendment.

SHRI KANWAR LAL GUPTA: Is his pronouncement authentic?

SHRI GOVINDA MENON: Regarding the comments made here with respect to the constitution of the Tribunal, government do not think that there is any danger when it is provided in the Bill that a serving Judge, in consultation with the Chief Justice, will be selected to decide these cases. After all, the system of adjudication on many important and vital matters by tribunals has become a part of the system of administration of law today. We do not leave everything to courts. The chief object in having a tribunal to decide these matters is expedition. If it is left to the courts to decide, there would be delays.

SHRI P. RAMAMURTI: You have provided six months period.

SHRI GOVINDA MENON: In the case of election cases also, there is a provision in the Representation of the People Act that those cases should be decided within six months. But there have been very few cases which have been decided within six months. That is because of the large number of cases pending in the various High Courts.

SHRI P. RAMAMURTI: But here you are not going to have a large number of cases.

SHRI GOVINDA MENON: That is the reason. Therefore it is decided in the interest of expedition, not only for Government but also for the effected parties and associations, that a serving Judge in the High Court be selected in consultation with the Chief Justice to be a member of the Tribunal (Interruption).

श्री जार्ज फरनेन्डिज : अध्यक्ष महोदय, यह चुनाव की बात जो कर रहे हैं वह यहां लागू नहीं होती है। इसलिए नहीं लागू होती है कि आगे जो भी ट्रिब्यूनल बनाया जायेगा उस ट्रिब्यूनल की मदद के लिए अलग स्टाफ का जिक्र है.....

"All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India."

यह अलग इन्तजाम किया है तो फिर यह जो बात कह रहे हैं यह बिल्कुल गलत कह रहे हैं।

SHRI GOVINDA MENON: That is to say that the cost will not be charged to the persons against whom steps are taken. That is what it means. Even in the case of High Courts the expenditure is from the Consolidated Fund of India.

श्री जार्ज फरनेन्डिज : अलग स्टाफ का भी जिक्र है साहब। अध्यक्ष महोदय, यह फिर गलतफहमी पैदा कर रहे हैं। देखिए उसी के पहले :

"The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act."

यह अलग स्टाफ का भी जिक्र है।

SHRI GOVINDA MENON: That is also provided in the interest of expedition.

जार्ज फरनेन्डिज : तो फिर यह क्यों बात कर रहे हैं चुनाव वाली ?

SHRI GOVINDA MENON: The Government do not think that the provision with respect to Tribunals in the Bill should be changed.

SHRI P. RAMAMURTI: Here the fundamental right of a political party is being taken away and for that you want to provide only for one man.

SHRI GOVINDA MENON: Fundamental rights are decided by a Judge of the High Court.

SHRI P. RAMAMURTI: It is not always the case.

SHRI KANWAR LAL GUPTA: It is very important. There is no right of appeal.

SHRI GOVINDA MENON: Where fundamental rights are involved, the rights under the Constitution remain intact. No legislation by Parliament can take away those rights.

16.12 hrs.

[MR. DEPUTY SPEAKER in the Chair]

SHRI P. RAMAMURTI: We are not talking of other rights.

SHRI GOVINDA MENON: Those rights are there.

SHRI P. RAMAMURTI: You are taking away the right to organise and you are not prepared to have that evidence assessed by a Bench. You want to pick and choose one individual.

SHRI GOVINDA MENON : Government thinks it is in the interest of all parties. Even in respect of the fundamental rights . . . (Interruption).

SHRI RANDHIR SINGH : The proposal for having a Bench of Judges is very good. I think, it should be accepted . . . (Interruption).

SHRI P. RAMAMURTI : One single Judge will decide. What is this law? A criminal has got the right of appeal to the Supreme Court but here the right of the party is being taken away by executive action and that is to be decided by a single Judge.

SHRI GOVINDA MENON : All the rights provided by the Constitution remain intact.

SHRI P. RAMAMURTI : Absolutely not. I can go to the court only on a constitutional question, whether the Act is valid or not (Interruption).

श्री श्रीचंद्र गोयल : उपाध्यक्ष महोदय, हमारे विधि मंत्री इस बात को जानते हैं कि डिफेंस आफ इंडिया के केसेज में भी जहां पर ऐसे केसेज की सुनवाई होती है वहां पर ट्रिब्यूनल के तीन मेम्बर्स की व्यवस्था की गई है। इसी तरह से जो डिटेशन के केसेज पहले सुने जाते थे उसमें भी तीन मेम्बर सुना करते थे परन्तु वर्तमान कानून द्वारा हम किसी राजनैतिक संस्था को या दूसरी संस्था को अवैध घोषित करना चाहिये। ऐसे केसेज तो साल में या दो साल में शायद एकाध आयेंगे। उस वक्त हम सुप्रीम कोर्ट के जज और दो हाई कोर्ट के जजेज का ट्रिब्यूनल क्यों नहीं बना सकते? मैं समझता हूँ कि यह दलील बिलकुल बेमानी है कि हाईकोर्ट के काम में कोई रुकावट आयेगी। कई सालों में ऐसा एक केस आयेगा और जब कि जनतंत्र के अन्दर किसी दल के अस्तित्व को खत्म करने जा रहे हैं उस दल को अवैध घोषित करने जा रहे हैं तो मैं समझता हूँ कि यह बड़ी गंभीर

समस्या है और इसके लिये तो तीन जजेज का ट्रिब्यूनल होना बहुत ही आवश्यक है जिस में एक सुप्रीम कोर्ट का जज चेरमैन हो और दूसरे हाई कोर्ट के दो जजेज हों। वह मिल कर सारी बातों को सुन कर फैसला करें इस में कोई आपत्ति सरकार को नहीं होनी चाहिए। यह बात बहुत उचित है और मैं आशा करता हूँ सरकार इस को स्वीकार करेगी।

SHRI RANDHIR SINGH : I very seriously feel that the proposal mooted out by my hon. friend, Shri Ramamurti, holds enormous waters. This offence of cession and secession as adumbrated or stipulated in the Bill is something very very serious. Even for normal offences, for murder cases, one Judge or a Division Bench or a Full Bench is there. This offence is a very serious offence. An offence like this should be heard by a Bench of the High Court. There should be a Bench created in every High Court. It should consist of two or three Judges which should entertain such cases just as we have in the case of election petitions. An election petition is a small matter. Election petitions are, normally, heard by two or three Judges or even by one Judge. But this is a much more serious thing. It not only involves something constitutional but an inroad, an onslaught, on the fundamental rights of a citizen or a group or a party or a association. This is something which pertains to the integrity and the sovereignty of the country. I agree with this amendment from the other side and I would humbly request the hon. Minister that this amendment should be accepted. Instead of a single Judge, it should be a Bench of the High Court.

SHRI S. M. BANERJEE : Kindly read clause 2, (e) :

“(e) “Tribunal” means the Tribunal constituted under section 5;”

Section 5 says :

"The Central Government may, by notification in the Official Gazette, constitute, as and when necessary, a tribunal to be known as the "Unlawful Activities (Prevention) Tribunal" consisting of one person, to be appointed by the Central Government;"

Previously, it was just "one person" to be appointed by the Central Government. After a great deal of insistence, they have said :

"Provided that no person shall be appointed unless he is a Judge of a High Court."

Now, the situation is that you are going to decide the fate of a person or a party or an association which is recognised today but you are going to hold that party or association unlawful. You want to leave it to the sweet will of a single Judge. The amendment of Mr. Ramamurti is a simple one and it should be accepted. The amendment is :

"Page 2—

for line 7, substitute—

- (e) "Tribunal" means a bench of a High Court having jurisdiction over the locality where the principal office, if any, of the association is situated;"

The only argument of the Law Minister is, not legal argument—he has not given legal argument—that there will be expenditure or there will be a delay in the High Court and that other cases will suffer. It is not as if all cases are going to be decided within a day or two. The appointment of more Judges or leaving it to the Chief Justice to appoint more Judges should not stand in the way. You are going to decide the fate of a party, the future of a party, rightly or wrongly, by a single Judge. We want that there should be a bench of a High Court for deciding this. I congratulate Shri Randhir Singh for supporting this and I condone all that he has said in the past.

SHRI V. KRISHNAMOORTHY : Even when the original Bill was being discussed, the hon. Home Minister stated in the course of the discussion that he would not mind making it two or three Judges. He agreed to that. But the amendment is that there should be a bench of a High Court. When you are providing that you are going to refer the matter to a Judge of the High Court, you can agree to this. The High Court consists of more than one Judge and almost all the High Courts consists of more than five or six Judges. The object, the ulterior motive or the illegal motive of the Government is to ban certain parties, the parties which are constituents of Governments in certain States or the parties which are recognised by the Election Commission. I support the amendment that instead of a single Judge, it should be a bench of the High Court. Democracy should not be tested by a single man. He may be a great man like Mr. Setalvad or anybody else. It should not be given to the discretion of a single man when the fate of a party is involved. It should be decided by a bench of the High Court.

श्री जार्ज करनेन्डीज : मेरी परेशानी अध्यक्ष महोदय, यह है कि इन मसलों पर अंतिम निर्णय न तो आप लेने वाले हैं और न ली-मिनिस्टर लेने वाले हैं। गृह मंत्री यहां पर मौजूद नहीं हैं—ऐसी स्थिति में हम यहां पर जितनी बहस कर रहे हैं वह फिजूल है।

SHRI V. KRISHNAMOORTHY : I am requesting Mr. Ivor Jennings of India to accept this amendment. He is also a lawyer and he knows that in the High Court there are many judges. Some judges may sit as members of the Tribunal and decide it.

श्री जार्ज करनेन्डीज : अध्यक्ष महोदय, मेरी परेशानी यह है कि इन मसलों पर अंतिम निर्णय न तो आप लेने वाले हैं और न ली-मिनिस्टर लेने वाले हैं। गृह मंत्री यहां पर मौजूद नहीं हैं—ऐसी स्थिति में हम यहां पर जो बहस कर रहे हैं, वह फिजूल है।

SHRI RANDHIR SINGH: The sense of the House is that .. (*interruptions*).

MR. DEPUTY-SPEAKER: When the Law Minister is here, I presume he is authorised to be here. In case there is any doubt, let us see. Whatever he says is with full authority. He will not express any doubt.

Mr. Kundu.

SHRI S. KUNDU (Balasore): The point which I want to make is a very simple one. The concept of justice is that justice should not only be done but should also be seen to be done. That is the most important thing. Here the feeling is that you are going to haul up a political party or whatever name you may give it. If you are going to hang it, have some Tribunal where everybody will have some justice. Now what is the provision? I think, nobody has taken up this point. The provision says:

"Provided that no person shall be so appointed unless he is a Judge of a High Court."

It does not say whether he should be a sitting judge of a High Court. (*Interruptions*). It is open to different interpretations. The provision simply says, "a Judge of a High Court"....

MR. DEPUTY-SPEAKER: That clarification was given by the Home Minister himself while he was replying to the debate. If at all there is any doubt, we shall see. The question now is whether, instead of one judge, there should be three judges.

SHRI S. KUNDU: Unless this is put here, that apprehension will remain and it will leave room for interpretation by the High Courts or Supreme Court.

The most important thing is the verdict of the Tribunal. If there is more than one judge, then the verdict is given by the majority vote. By this there is some assurance given to the people that justice is not only done but is also seen to be done. If you want this in the name of democracy,

if you want to keep the democratic order, then the Law Minister and the Home Minister should agree to this.

DR. SUSHILA NAYAR (Jhansi): I wish to remind the hon. House that in the original Bill, there was a provision for three judges, if I remember correctly, and at the same time it was stated that they shall be of the status of High Court judges. It was not made obligatory that they should be serving High Court judges. Now if the hon. House would like to restore that original clause, it will, I think personally, be an advantage. I had the honour to chair the Joint Committee....

SHRI NAMBIAR: She was the Chairman of the Committee.

DR. SUSHILA NAYAR:....and in the Joint Committee, a number of hon. Members felt that, instead of taking retired judges or judges who are of the status of High Court judges, it would be better if they were sitting judges. It was then felt that to get so many serving judges at a time would be impracticable and it was decided that perhaps it may be a good idea to have one only serving judge. I think Government might agree to associate with him two others who may not be serving judges. To have three serving judges of the High Court may not be easy. We want these cases to be decided as quickly as possible. We do not want the Tribunal to take a long time to decide these cases. It is in the interest of the parties concerned that these cases are decided quickly.

Sir, I wish to say that we are all interested that if any application of this law is necessary with regard to any organisation, it should be a quick process and not a prolonged process. After all, who knows, to-day we are making a law some of my friends may be exercising it against us some day. (*Interruptions*). It is possible and therefore, we want it to be as good and as foolproof as possible and from that point of view I am in agreement that a Tribunal of two or three, pre-

ferably three, is better than a Tribunal of one and I would recommend that we may not insist that they are all serving Judges of the High Court, but let us have a Tribunal of three instead of one as in the original bill.

SOME HON. MEMBERS *rose*—

MR. DEPUTY-SPEAKER: I give you time. Just let us know. You want some result out of it. This is a question that really relates to Clause 5 of the Bill. What I suggest is: after this discussion let the Law Minister say what his reaction is.

SHRI ATAL BIHARI VAJPAYEE: Let him consider.

MR. DEPUTY-SPEAKER: When we reach Cl. 5, we will take it up again because it has been clubbed together. If he accepts, there would not be any debate on Cl. 5.

श्री अटल बिहारी वाजपेयी : प्राप विचार कर के बतलाइये ।

SHRI P. RAMAMURTI: In that case I will not press my amendment if a Tribunal means that. I will withdraw that. Let it be done later.

MR. DEPUTY-SPEAKER: The Chairman of the Select Committee has supported the plea put forward by all of you. I would suggest that the Minister may be given more time. A Member from this side pleaded and the Chairman of the Select Committee has more or less agreed with the suggestion. I would like the hon. Minister to kindly explain that.

श्री मधु लिमये: उन को मना कीजिये, वह मन्त्री जल्दी न करें, क्योंकि वह फौरन जवाब देने के लिये गे गये हैं

SHRI P. RAMAMURTI: On this question I do not want him to say anything. I shall withdraw my amendment for the Tribunal. It can be taken up under clause 5.

MR. DEPUTY-SPEAKER: After such a lengthy debate on this issue, if he wants some more time to make up his mind, let him have. But once you

withdraw, then later on, when we reach Cl. 5 immediately you will get up and say, "There was an implicit understanding". That argument would be advanced.

SHRI P. RAMAMURTI: I am only giving them time to think.

SHRI INDRAJIT GUPTA (Alipore): We do not want the opinion of a single Minister. Let the whole cabinet think over it.

श्री जार्ज फरनेन्डीज : उपाध्यक्ष महोदय, मेरा जो संशोधन है कि मजदूर संगठनों और राजनीतिक दलों को इस में से भ्रमण रखा जाय, इस के बारे में मुझे उन से कोई जवाब नहीं मिला है। मैं चाहता हूँ कि हमें इस का जवाब दिया जाय ।

MR. DEPUTY-SPEAKER: It was before we put to vote. Now at this stage let him clarify the other point.

SHRI GOVINDA MENON: Regarding the question of the composition of the Tribunal I shall be amenable to the suggestion which fell from the Chair. That is to say, the question can be considered when Cl. 5 is taken. The real difficulty with Government in this matter was stated by Dr. Sushila Nayar. I do not want to spend more time on that question. There is a real difference, let it be understood, between a High Court Judge as a Member of the Tribunal and a Bench of the High Court hearing a case. It is not as if this matter goes to a single Judge of a High Court and if two Judges are taken, it is not as if the matter goes to a Division Bench of the High Court. What is constituted is a Tribunal under the Act. The membership of the tribunal will be confined to a High Court judge. There is no scope for the doubt expressed by Shri S. Kundu in this regard. The term "who is a judge" means a serving judge. Once a man has retired from the High Court he would not be a judge. So, the present intention is that a judge of the High Court should be selected to become the tribunal. As suggested

[Shri Govinda Menon]

by you, the question may be left to be discussed and voted upon at the time when clause 5 is taken up for discussion.

MR. DEPUTY-SPEAKER : There was a point raised in regard to the definition of association also.

SHRI GOVINDA MENON : The term 'association' has been defined: "association" means any combination or body of individuals." Shri George Fernandes does not want political parties and trade unions to come within this definition. You know that the entire argument regarding the composition of the tribunal, whether it should be one judge or three judges etc. was advanced because all these important associations like political parties and trade unions etc. will come up for consideration and the question would be considered whether they should be declared unlawful or not..

SHRI P. RAMAMURTI : If he accepts that amendment, then these things will not be pressed.

SHRI GOVINDA MENON : In the circumstances, I shall not be willing to accept Shri George Fernandes's amendment.

SHRI NAMBIAR : Leave alone political parties; at least trade unions can be left out.

SHRI GOVINDA MENON : All these activities can be indulged in by trade unions also.

श्री जार्ज करनेच्छीख : मजदूर संगठनों को इंडियन ट्रेड यूनियन ऐक्ट के मातहत रजिस्टर किया जाता है और यह रजिस्ट्रेशन उन्हें तब मिल पाता है जब वह अपना एक संविधान सरकार के सामने पेश करते ह । उस संविधान में किसी भी सियासी कामकाज के लिये इंतजाम नहीं रहता है । ऐसी हालत में मैं नहीं समझ पाता हूँ कि कौन सी ऐसी दिक्कत आती है कि मजदूर संगठन जिसको सरकार खुद रजिस्टर करती है उन्हें इस कानून से बाहर रक्खा जाय ? राजनीतिक दल

देश में रजिस्टर नहीं किये जाते हैं मगर मजदूर संगठन तो रजिस्टर किये जाते हैं, उन को अपना हिसाब किताब सरकार को हर साल देना पड़ता है, उन को अपने पदाधिकारियों की सूची देनी पड़ती है, उन के नाम व पते आदि देने पड़ते हैं और कमेटी के सदस्यों के नाम और पते भी देने पड़ते हैं । उन की उम्र क्या है और घंघा क्या है यह सारी चीजें देनी पड़ती हैं । मजदूर संगठन के ऊपर सरकार का इतना ताबा रहता है जैसा कि शायद दुनिया के और किसी मुल्क में नहीं होता तो इतना ताबा रहने के बाद भी जब आप कह रहे हैं कि मजदूर संगठन को इस कानून में हमें जरूर रखना पड़ेगा तो मैं समझ नहीं पा रहा हूँ कि आखिर इस का कारण क्या है मजदूर संगठनों पर सरकार का यह हल्ला करने का इरादा मेरी समझ में आ नहीं रहा है । इसलिए मैं पुनः अपील करूंगा कि मजदूर संगठन को इस के बाहर रखने की बात आप मान लीजिये ।

MR. DEPUTY-SPEAKER : I have realised the importance of that. Somebody has suggested that the trade unions may be exempted; some others have suggested that parties recognised by the Election Commission may be left out....

SHRI S. M. BANERJEE : I shall advance another argument....

श्री मधु लिमये : ट्रेड यूनियन को तो आप मान लीजिये ।

MR. DEPUTY-SPEAKER : I am asking the Law Minister now to explain.

श्री मधु लिमये : आप का जबाब तो हमारे हक में जायेगा इस में हमें कोई शक नहीं है ।

MR. DEPUTY-SPEAKER : I am not saying anything on my own, but I want the Law Minister to explain. The argument has been advanced that once a party is recognised by the Elec-

tion Commission as one of the legally functioning parties, entitled to a symbol etc. that party should not come within this definition; the same argument was advanced in respect of registered trade unions also. I would like to know categorically whether Government want to have that change incorporated or not. I am not saying anything, but I am only asking the Law Minister.

SHRI P. RAMAMURTI: There is another point to which I would like to draw the hon. Minister's attention. The term 'unlawful association' has been defined as follows :

'unlawful association' means any association which has for its object any unlawful activity or which encourages or aids persons to undertake any unlawful activity or of which the members undertake such activity."

The word used here is 'members'. The number may be two or hundred. If two members speak some such thing then all the members are responsible for that. So, it is very necessary that the term 'members' must also be defined.

MR. DEPUTY-SPEAKER: Now, let us close this discussion. We have spent more than an hour on this.... Let us proceed a little ahead.

SHRI S. M. BANERJEE: I have spent 30 years of my rosy life in the trade union movement.

MR. DEPUTY-SPEAKER: I know his activities, that he has devoted his whole lifetime to it.

DR. SUSHILA NAYAR: I am afraid I am unable to understand how the hon. Members want exemption for political parties and trade unions. So far as I am concerned, I wish I could say with confidence that no political party or trade union will ever include in unlawful activities. But we are all aware of what some of the members belonging to Shri Ramamurti's party did in Naxalbari. We know that there may be a few members who may do these things.....

श्री मधु लिमये : यह दो-दो दफे क्यों बोल रही है ? क्या वह गृह मंत्री है ? वह भूल गयी है कि एक जमाने में कांग्रेस भी अनलाफुल असोसियेशन हो गयी थी ?

DR. SUSHILA NAYAR: Yes, in that event we break the law and take the consequences and go to Jail.

MR. DEPUTY-SPEAKER: Do not take up that point.

DR. SUSHILA NAYAR: I must express myself. What is wrong? It is being claimed that if members of a political party do something wrong, the political party should not be made responsible. We are all political workers. We know very well that if we were to do that type of thing, we can have a few members doing all kinds of unlawful things and the parent political party can disown all responsibility. That will not be right. Therefore, I wish to oppose the amendment put forward seeking to exempt political parties and trade unions from the purview of this law. I wish that conditions in India would be such that Government may not need to use the provisions of this law against any political party or trade union or any such other organisation, but I do not want the Home Minister to accept these amendments.

MR. DEPUTY-SPEAKER: That has been made very clear by the Home Minister. What has been made clear need not be repeated. I am pressed for time.

SHRI S. M. BANERJEE rose—

MR. DEPUTY-SPEAKER: He has made his point ten times, umpteen times.

SHRI S. M. BANERJEE: Nothing is going to be lost by some more discussion.

श्री मधु लिमये : उपाध्यक्ष महोदय, मैं एक मिनट से ज्यादा नहीं लूंगा। मैं गृह मंत्री जी को और ऐक्स चेयरमैन साहिबा को इतना ही कहना चाहता हूँ कि गैर कानूनी काम और गैर कानूनी संघ दो किस्म के हो

[श्री मधु लिमये]

सकते हैं। शान्तिपूर्ण काम करने पर भी माना जायेगा कि गैर क़ानूनी है जैसे बहू खुद जानते हैं कि महात्मा जी के ज़माने में कांग्रेस कितनी ही दफ़ा गैर क़ानूनी हो गई थी.

डा० सुशीला नायर : क़ानून तोड़ेंगे तो जेल जायेंगे, सज़ा भुगतेंगे।

श्री मधु लिमये : ठीक है, लेकिन इस में कम से कम इतना तो कहना चाहिए था कि जो हिंसात्मक गैर क़ानूनी और ग़लत काम करेंगे वही पकड़े जायेंगे।

श्री रणधीर सिंह : ग़लत काम करोगे तो पकड़े जाओगे। अंछा काम करने वाले को कौन पकड़ता है ?

श्री मधु लिमये : आप किसी संघ को दल को, इस तरीक़े से नहीं बंद कर सकते हैं। मेरे कहने का यह मतलब था कि कम से कम आप उस में यह रखिये कि हिंसात्मक गैर क़ानूनी काम करने वालों को पकड़ा जायेगा। बाक़ी अहिंसात्मक ढंग से जो संगठन काम करेंगे उन पर तो इस तरीक़े से यह नहीं लागू होना चाहिए और उस को साफ़ किया जाना चाहिए।

श्री रणधीर सिंह : हमें पता है कि आप चीन की हिमायत नहीं करेंगे।

SOME HON. MEMBERS rose—

MR. DEPUTY-SPEAKER : I have to put an end to the debate. Has the Minister got anything to say on this? I am putting cl. 2 to vote.

SHRI SRIRAJ MEGHRAJJI DHR-ANGADHRA : May I seek one clarification?

MR. DEPUTY-SPEAKER : No.

SHRI SRIRAJ MEGHRAJJI DHR-ANGADHRA : Others have spoken four or five times. I am speaking only once.

MR. DEPUTY-SPEAKER : No, we must conclude this.

SHRI GOVINDA MENON : Government cannot agree to the amendment of Shri Fernandes seeking to exempt trade unions from the scope of the

definition. Apart from what I stated earlier, classification of associations of the type suggested may even become unconstitutional under art. 14.

MR. DEPUTY-SPEAKER : I wanted one point to be clarified. I was told the Home Minister gave a general reply. He used the word 'integrity' in a broad, comprehensive sense. Does he want to limit it to territorial integrity?

SHRI Y. B. CHAVAN : Yes. Members feel that a comprehensive term like that may be misinterpreted. So I am prepared to accept amendment No. 42 confining it to territorial integrity.

SHRI INDRAJIT GUPTA : He has not replied to the points we had raised.

SHRI GOVINDA MENON : No other amendment we are agreeable to accept.

SHRI INDRAJIT GUPTA : Will you tell me what reply he has given to part (g)?

MR. DEPUTY-SPEAKER : Once he has replied, that means that he has not thought it so important to argue about it. That is the only thing.

SHRI NAMBIAR : An exhaustive answer to Clause 2 will solve much of the problems.

MR. DEPUTY-SPEAKER : Let us proceed further. These are only definitions. As I pointed out, when we reach clause 5 we shall consider other things.

SHRI NAMBIAR : If you solve clause 2, the main problem is solved. You spend some time on it.

SHRI INDRAJIT GUPTA : We must know the meaning of this before we give our opinion on this clause. Part (g) reads :

“unlawful association” means any association which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity.”

This point has not been answered as to what is meant by members. Does it mean one member or two members? Does it mean that in an organisation if one or two members indulge in such activities, the whole association or organisation can be declared illegal? What is his reply to this?

श्री मधु लिमये : उसमें मेंबर्स कालेक्टिवली अगर जोड़ दें तो ठीक हो जायेगा ।

SHRI NAMBIAR : Ten members can be planted.

SHRI Y. B. CHAVAN : When we say member, it means the generality of members, it is not one or two members, because there are organisations which take up one position officially, while their members start acting in a different way.

SHRI SEZHIYAN (Kumbakonam) : Take action against them, not against the organisation.

SHRI Y. B. CHAVAN : We will have to prove it before the tribunal. So, I do not want to add any word.

MR. DEPUTY-SPEAKER : We have given two hours. For one clause we have spent 1½ hours, and full latitude has been given.

SHRI SRIRAJ MEGHRAJJI DHR-ANGADHRA : There is a contradiction between the Home Minister and the Law Minister.

MR. DEPUTY-SPEAKER : What the Home Minister has said is final, I take it. No inconsistency now remains.

SHRI SRIRAJ MEGHRAJJI DHR-ANGADHRA : In that case, I support the Home Minister against what the Law Minister said.

SHRI SWELL : Let him include what he has said in the clause.

SHRI Y. B. CHAVAN : I may have stated, but I am not prepared to accept it to be included in the section.

SHRI NAMBIAR : I am not making a hairsplitting argument, but let him answer this point, because I am worried about this clause. I would

request him to clarify the position. This unlawful activity is in two parts. One part is about cession and secession. The other part is omnibus :

“which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India.”

Does this refer to only cession and secession or does it mean anything beyond that in general way? I want to know that.

SHRI Y. B. CHAVAN : This definition includes two parts. One is cession and secession. The other is completely different.

SHRI NAMBIAR : What does he mean by this?

SHRI Y. B. CHAVAN : How do I tell you what it means. It is such a clear thing. Does he know the meaning of sovereignty and territorial integrity? Any disruption of it or any disclaiming or questioning of it is what is meant.

SHRI NAMBIAR : Disruption in what form?

MR. DEPUTY-SPEAKER : That will be interpreted by the tribunal when it is taken up there; not now. This House cannot go on interpreting it.

SHRI NAMBIAR : What is the intention of the legislator, the intention of the law-makers?

MR. DEPUTY-SPEAKER : The law-makers have made the intention clear, and Parliament has enough opportunity to know the mind of the Government.

SHRI NAMBIAR : I am the law-maker here. You and I are the law-makers. We are all here making the law. I must know what it is. (Inter-ruption). Please hear me.

SHRI Y. B. CHAVAN : He seems to be very fond of illustrations. Really speaking, a legal definition cannot be understood by a definition. I will give him an illustration. Suppose a party or a group of people, without asking for cession or secession of any territory, organises for welcoming of some foreign power into this country,

then, what do I do? Is it not a very interesting position? He wanted an illustration. Suppose, some group of people, say, welcomes China,—(Inter-ruption) certainly it is an offence under the Act. Is it clear now?

SHRI NAMBIAR : If it is the intention, then comes the question of the intention of the legislature.

MR. DEPUTY-SPEAKER : Well, this House legislates. There is some limit to our understanding of the law, and we try to be as specific and as clear as possible. Beyond that, how is it possible?

SHRI NAMBIAR : I want to know. We are the legislators now. I must know what laws we are making.

SHRI SRIRAJ MEGHRAJJI DHR-ANGADHRA : Sir, if I heard the hon. Home Minister aright, he said that so far as this Bill is concerned, any academic expression of opinion will not constitute a crime. Has he departed from that position? I think he said that.

SHRI Y. B. CHAVAN : I have not departed from whatever I have said. (Inter-ruption). I have said that academic expression of opinion or idealistic expression of opinion does not come within the operation of this Act.

SHRI SRIRAJ MEGHRAJJI DHR-ANGADHRA : Then may we not add that in the amendment?

SHRI Y. B. CHAVAN : You cannot include the interpretation of the Act in the Act itself.

MR. DEPUTY-SPEAKER : You cannot do that. It is very difficult. So, except amendment No. 42 of Mr. Vajpayee, shall I put all the other amendments together?

श्री जार्ज फरनेन्डीज : नम्बर 2 को अलग से लीजिये ।

MR. DEPUTY-SPEAKER : So, you want amendment No. 2, List No. 2, to be put separately. Now, I shall put amendment No. 42 to the vote.

The question is :

'Page 2, line 18, after "and" insert "territorial"' (42)

The motion was adopted.

SHRI G. VISWANATHAN : Sir, they said "Yes." they do not understand anything.

SHRI KANWAR LAL GUPTA They are all sleeping. They do not know what it was.

इनका मुंह काम कर रहा है, दिमाग काम नहीं कर रहा है ।

MR. DEPUTY-SPEAKER : I have heard them. They have accepted it.

SHRI DATTATRAYA KUNTE (Kolaba) : Sir, has the amendment been passed?

MR. DEPUTY-SPEAKER : Passed.

SHRI DATTATRAYA KUNTE : You declared the amendment as carried?

MR. DEPUTY-SPEAKER : It is passed; it is accepted by the Government; therefore it is passed.

Let us try to finish the work. I take amendment No. 2 now.

AN HON. MEMBER : Please read it.

MR. DEPUTY-SPEAKER : I have read it in the beginning. It will take a long time.

16.50 hrs.

[MR. SPEAKER in the Chair]

MR. SPEAKER : I will put amendment No. 2 to the House.

The questions is :

Page 1, line 9, add at the end—

"but shall not include a trade union registered under the Indian Trade Unions Act or a political party."(2).

The Lok Sabha divided :

Division No. 23]

AYES

[16-56 hrs.

Banerjee, Shri S. M.
 Bharti, Shri Maharaj Singh
 Chakrapani, Shri C. K.
 Devgun, Shri Hardayal
 Fernandes, Shri George
 Ghosh, Shri Ganesh
 Goel, Shri Shri Chand
 Gopalan, Shri P.
 Gowda, Shri M. H.
 Gupta, Shri Indrajit.
 Haldar, Shri K.
 Kameshwar Singh, Shri
 Khan, Shri Zulfiquar Ali
 Kirutinan, Shri
 Krishnamoorthi, Shri V.
 Kunte, Shri Dattatraya
 Lakkappa, Shri K.
 Limaye, Shri Madhu
 Maiti, Shri S. N.
 Menon, Shri Vishwanatha
 Modak, Shri B. K.
 Molahu Prasad, Shri

Mukerjee, Shri H. N.
 Naik, Shri G. C.
 Nair, Shri N. Sreekantan
 Nambiar, Shri
 Nihal Singh, Shri
 Onkar Singh, Shri
 Paswan, Shri Kedar
 Ramamurti, Shri P.
 Samanta, Shri S. C.
 Satya Narain Singh, Shri
 Sen, Shri Deven
 Sequeira, Shri
 Sezhiyan, Shri
 Sharma, Shri B. S.
 Sondhi, Shri M. L.
 Suraj Bhan, Shri
 Swell, Shri
 Thakur, Shri Gunanand
 Vajpayee, Shri A. B.
 Viswanatham, Shri Tenneti
 Yadav, Shri Jageshwar

NOES

Aga, Shri Ahmad
 Amersey, Shri M.
 Amin, Shri R. K.
 Ankineedu, Shri
 Arumugam, Shri R. S.
 Awadesh Chandra Singh, Shri
 Azad, Shri Bhagwat Jha
 Babunath Singh, Shri
 Bajpai, Shri Vidya Dhar
 Barua, Shri Bedabrata
 Barua, Shri R.
 Baswant, Shri
 Besra, Shri S. C.
 Bhagat, Shri B. R.
 Bhanu Prakash Singh, Shri
 Bhargava, Shri B. N.
 Bhattacharyya, Shri C. K.
 Bhola Nath, Shri
 Bohra, Shri Onkarlal
 Bose, Shri Amiyannath
 Brahma, Shri Rupnath
 Chanda, Shri Anil K.
 Chanda, Shrimati Jyotsna
 Chatterji, Shri Krishna Kumar
 Chaturvedi, Shri R. L.
 Chaudhary, Shri Nitiraj Singh

Chavan, Shri D. R.
 Chavan, Shri Y. B.
 Choudhury, Shri J. K.
 Damani, Shri S. R.
 Dasappa, Shri Tulsidas
 Dass, Shri C.
 Deo, Shri K. P. Singh
 Deoghare, Shri N. R.
 Desai, Shri Morarji
 Deshmukh, Shri B. D.
 Deshmukh, Shri K. G.
 Dhillon, Shri G. S.
 Dhuleshwar Meena, Shri
 Dinesh Singh, Shri
 Ering, Shri D.
 Gajraj Singh Rao, Shri
 Gandhi, Shrimati Indira
 Ganesh, Shri K. R.
 Gavit, Shri Tukaram
 Ghosh, Shri Bimalkaanti
 Ghosh, Shri Parimal
 Gowd, Shri Gadilingana
 Gupta, Shri Lakkan Lal
 Heerji Bhai, Shri
 Hem Raj, Shri
 Himatsingka, Shri

Jadhav, Shri V. N.
 Jagjiwan Ram, Shri
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kavade, Shri B. R.
 Kedaria, Shri C. M.
 Khan, Shri M. A.
 Kinder Lal, Shri
 Krishnan, Shri G. Y.
 Kureel, Shri B. N.
 Lalit Sen, Shri
 Laskar, Shri N. R.
 Laxmi Bai, Shrimati
 Lutfal Haque, Shri
 Mahadeva Prasad, Dr.
 Maharaj Singh, Shri
 Majhi, Shri M.
 Malimariyappa, Shri
 Mandal, Dr. P.
 Meghrajji, Shri
 Mehta, Shri P. M.
 Menon, Shri Govinda
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mody, Shri Piloo
 Mohamed Imam, Shri J.
 Mondal, Shri J. K.
 Mrityunjay Prasad, Shri
 Muthusami, Shri C.
 Naghnoor, Shri M. N.
 Nahata, Shri Amrit
 Naidu, Shri Chengalraya
 Naik, Shri R. V.
 Nayar, Dr. Sushila
 Oraon, Shri Kartik
 Padmavati Devi, Shrimati
 Pahadia, Shri Jagannath
 Pandey, Shri K. N.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parmar, Shri Bhaljibhai
 Parmar, Shri D. R.
 Partap Singh, Shri
 Patil, Shri Deorao
 Patil, Shri S. D.
 Poonacha, Shri C. M.
 Pramanik, Shri J. N.
 Qureshi, Shri Mohd. Shaffi
 Raghu Ramaiah, Shri
 Raj Deo Singh, Shri
 Rajani Gandha, Kumari
 Raju, Shri D. B.

Ram, Shri T.
 Ram Dhan, Shri
 Ram Sewak, Shri
 Ram Subhag Singh, Dr.
 Ram Swarup, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Randhir Singh, Shri
 Rao, Shri Muthyal
 Rao, Shri J. Ramapathi
 Rao, Shri Rameshwar
 Rao, Shri Thirumala
 Rao, Dr. V. K. R. V.
 Reddy, Shri P. Antony
 Reddy, Shri Surendar
 Roy, Shrimati Uma
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Sambasivam, Shri
 Savitri Shyam, Shrimati
 Sayyad Ali, Shri
 Sen, Shri Dwaipayana
 Sen, Shri P. G.
 Sethi, Shri P. C.
 Shah, Shri Shantilal
 Shambhu Nath, Shri
 Shankaranand, Shri
 Sharma, Shri D. C.
 Shashi Ranjan, Shri
 Shastri, Shri Ramanand
 Sher Singh, Shri
 Sheth, Shri T. M.
 Shinde, Shri Annasahib
 Shinkre, Shri
 Shiv Chandrika Prasad, Shri
 Shivappa, Shri N.
 Siddayya, Shri
 Siddeshwar Prasad, Shri
 Sinha, Shri Mudrika
 Sinha, Shrimati Tarkeshwari
 Sonar, Dr. A. G.
 Sonavane, Shri
 Sudarsanam, Shri M.
 Supakar, Shri Sradhakar
 Swaran Singh, Shri
 Tapuriah, Shri S. K.
 Tiwary, Shri K. N.
 Uikey, Shri M. G.
 Ulka, Shri Ramachandra
 Verma, Shri Prem Chand
 Vivhadra Singh, Shri
 Vyas, Shri Ramesh Chandra
 Yadav, Shri Chandra Jeet
 MR. SPEAKER: The result of the
 division is Ayes 43*, Noes 160.

The motion was negatived.

MR. SPEAKER : I will now put Mr. Nambiar's amendments Nos. 38, 39, 40, 41 and 43.

Amendments Nos. 38, 39, 40 and 43 were put and negatived.

MR. SPEAKER : I shall now put Mr. Ramamurti's amendments Nos. 79, 80, 81, 82, 83 and 84.

SHRI S. M. BANERJEE : Regarding amendment No. 81, we made a request to the Law Minister—the Home Minister was not here—and he said that that amendment can be considered when we take up clause 5.

SHRI P. RAMAMURTI : I withdraw that amendment.

MR. SPEAKER : Does he have the permission of the House to withdraw his amendment No. 81?

HON. MEMBERS : Yes.

Amendment No. 81 was, by leave, withdrawn

MR. SPEAKER : I shall now put the other amendments of Mr. Ramamurti. *Amendments Nos. 79, 80, 82, 83 and 84 were put and negatived*

Division No. 24]

AYES

Aga, Shri Ahmad
Ankineedu, Shri
Arumugam, Shri R. S.
Awadesh Chandra Singh, Shri
Azad, Shri Bhagwat Jha
Babunath Singh, Shri
Bajpai, Shri Vidya Dhar
Barua, Shri Bedabrata
Barua, Shri R.
Baswant, Shri
Besra, Shri S. C.
Bhagat, Shri B. R.
Bhanu Prakash Singh, Shri
Bhattacharyya, Shri C. K.
Bhola Nath, Shri
Bohra, Shri Onkarlal
Chanda, Shri Anil K.
Chanda, Shrimati Jyotsna
Chatterji, Shri Krishna Kumar
Chaturvedi, Shri R. L.
Chaudhary, Shri Nitiraj Singh
Chavan, Shri D. R.

MR. SPEAKER : Is Shri Sequeirs pressing his amendments?

SHRI SEQUEIRA : Only Amendment No. 164.

MR. SPEAKER : The question is :
Page 2,—

after line 23, insert —

“(h) Any reference to a District Judge or District Magistrate shall, wherever such Judge or Magistrate is an officer in the service of Government upon whom powers of Judge or Magistrate have been conferred additional to his administrative duties be construed as being a reference to the High Court having jurisdiction over the particular matter.”

The motion was negatived.

Amendments Nos. 154, 155, 162 and 163 were also put and negatived.

MR. SPEAKER : The question is :
“That clause 2, as amended, stand part of the Bill.”

The Lok Sabha divided.

[17.02 hrs.]

Chavan, Shri Y. B.
Choudhury, Shri J. K.
Damani, Shri S. R.
Daschowdhury, Shri B. K.
Dosappa, Shri Tulsidas
Dass, Shri C.
Deoghare, Shri N. R.
Desai, Shri Morarji
Deshmukh, Shri B. D.
Deshmukh, Shri K. G.
Dhillon, Shri G. S.
Dhuleshwar Meena, Shri
Dinesh Singh, Shri
Ering, Shri D.
Gajraj Singh Rao, Shri
Gandhi, Shrimati Indira
Ganesh, Shri K. R.
Gavit, Shri Tukaram
Ghosh, Shri Bimalkanti
Ghosh, Shri Parimal
Gupta, Shri Lakkan Lal

*The following Members also recorded their Votes.

AYES : Sarvashri Yogendra Sharma, Samar Guha, S. Kundu, Mohammed Ismail and G. Viswanathan.

NOES : Sarvashri N. Sethurama, R. D. Dubey, K. Surya Narayana, and Shrimati Sharda Mukerjee.

Bill

- Heerji Bhai, Shri
 Hem Raj, Shri
 Himatsingka, Shri
 Jadhav, Shri V. N.
 Jagjiwan Ram, Shri
 Karan Singh, Dr.
 Kasture, Shri A. S.
 Kavade, Shri B. R.
 Kedaria, Shri C. M.
 Kesri, Shri Sitaram
 Kinder Lal, Shri
 Krishnan, Shri G. Y.
 Kureel, Shri B. N.
 *Lakkappa, Shri K.
 Lalit Sen, Shri
 Laskar, Shri N. R.
 Laxmi Bai, Shrimati
 Lutfal Haque, Shri
 Mahadeva Prasad, Dr.
 Maharaj Singh, Shri
 Maiti, Shri S. N.
 Malimariyappa, Shri
 Mandal, Dr. P.
 Mehta, Shri P. M.
 Menon, Shri Govinda
 Mishra, Shri Bibhuti
 Mishra, Shri G. S.
 Mohinder Kaur, Shrimati
 Mondal, Shri J. K.
 Mrityunjay Prasad, Shri
 Muhammad Ismail, Shri M.
 Mukerjee, Shrimati Sharda
 Naghnoor, Shri M. N.
 Nahata, Shri Amrit
 Naidu, Shri Chengalraya
 Nayar, Dr. Sushila
 Oraon, Shri Kartik
 Pahadia, Shri Jagannath
 Pandey, Shri K. N.
 Panigrahi, Shri Chintamani
 Pant, Shri K. C.
 Paokai Haokip, Shri
 Parmar, Shri D. R.
 Partap Singh, Shri
 Parthasarthy, Shri
 Patil, Shri Deorao
 Patil, Shri S. D.
 Poonacha, Shri C. M.
 Pramanik, Shri J. N.
 Qureshi, Shri Mohd. Shaffi
 Raghu Ramaiah, Shri
 Raj Deo Singh, Shri
 Rajani Gandha, Kumari
 Raju, Shri D. B.
 Ram, Shri T.
 Ram Dhan, Shri
 Ram Sewak, Shri
 Ram Subhag Singh, Dr.
 Ram Swarup, Shri
 Ramshekhar Prasad Singh, Shri
 Rana, Shri M. B.
 Randhir Singh, Shri
 Rane, Shri
 Rao, Shri Muthyal
 Rao, Shri J. Ramapathi
 Rao, Shri Rameshwar
 Rao, Shri Thirumala
 Rao, Dr. V. K. R. V.
 Reddi, Shri G. S.
 Reddy, Shri P. Antony
 Reddy, Shri R. D.
 Reddy, Shri Surendar
 Roy, Shrimati Uma
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Saigal, Shri A. S.
 Sambasivam, Shri
 Savitri Shyam, Shrimati
 Sayyad Ali, Shri
 *Sen, Shri Deven
 Sen, Shri Dwaipayana
 Sen, Shri P. G.
 Sethi, Shri P. C.
 Sethuramae, Shri N.
 Shah, Shri Shantilal
 Shambhu Nath, Shri
 Shankaranand, Shri
 Sharma, Shri D. C.
 Shashi Ranjan, Shri
 Shastri, Shri Ramanand
 Sher Singh, Shri
 Sheth, Shri T. M.
 Shinde, Shri Annasahib
 Shinkre, Shri
 Shiv Chandika Prasad, Shri
 Siddaya, Shri
 Siddeshwar Prasad, Shri
 Sinha, Shri Mudrika
 Sinha, Shrimati Tarkeshwari
 Sonar, Dr. A. G.
 Sonavane, Shri
 Sudarsanam, Shri M.
 Supakar, Shri Sradhakar
 Suryanarayana, Shri K.
 Swaran Singh, Shri

*Wrongly voted for 'AYES'

Tiwary, Shri K. N.
Uikey, Shri M. G.
Ulaka, Shri Ramachandra

Verma, Shri Prem Chand
Virbhadra Singh, Shri
Vyas, Shri Ramesh Chandra
Yadav, Shri Chandra Jeet

NOES

Amersey, Shri M.
Amin, Shri R. K.
Banerjee, Shri S. M.
Bharti, Shri Maharaj Singh
Chakrapani, Shri C. K.
Deo, Shri K. P. Singh
*Dixit, Shri G. C.
Fernandes, Shri George
Ghosh, Shri Ganesh
Gopalan, Shri P.
Gounder, Shri Muthu
Gowd, Shri Gadilingana
Gowda, Shri M. H.
Gupta, Shri Indrajit
Halidar, Shri K.
Kameshwar Singh, Shri
Khan, Shri H. Ajmal
Khan, Shri Zulfiquar Ali
Kirutinan, Shri
Krishnamoorthi, Shri V.
Kundu, Shri S.
Kunte, Shri Dattaraya
Limaye, Shri Madhu
Majhi, Shri M.

Meghrajji, Shri
Menon, Shri Vishwanatha
Misra, Shri Srinibas
Modak, Shri B. K.
Mohamed Imam, Shri
Molahu Prasad, Shri
Mukerjee, Shri H. N.
Naik, Shri G. C.
Naik, Shri R. V.
Nair, Shri N. Sreekantan
Nambiar, Shri
Nihal Singh, Shri
Parmar, Shri D. R.
Paswan, Shri Kedar
Ramamurti, Shri P.
Samanta, Shri S. C.
Satya Narain Singh, Shri
Sequeira, Shri
Sezhiyan, Shri
Sharma, Shri Yogendra
Shivappa, Shri N.
Tapuriah, Shri S. K.
Thakur, Shri Gunanand
Viswanathan, Shri G.
Yadav, Shri Jageshwar

MR. SPEAKER: The result of the division is: Ayes 154; Noes 49.

The motion was adopted

Clause 2, as amended, was added to the Bill

MR. SPEAKER: I think we will sit a little late today and finish this Bill (*Interruptions*). I think it will not be possible, because there are a number of clauses and amendments to all of them.

SHRI NAMBIAR: It will be taxing.

MR. SPEAKER: Let us see.

Clause 3.—(*Declaration of an association as unlawful*)

SHRI GEORGE FERNANDES: I beg to move:

Page 2,—

omit lines 32 to 34. (3)

Page 3,—

omit lines 1 to 6. (4)

Page 3, line 15,—

for "or" substitute "and" (5)

Page 3, line 17,—

for "or" substitute "and". (6)

Page 3, line 20,—

for "or" substitute "and". (7)

*Wrongly voted for Noes.

†The following Members also recorded their Votes.

AYES: Sarvshri G. C. Dixit, B. N. Bhargava, Rupnath Brahma and Amiyannath Bose.

NOES: Sarvshri Tenneti Viswanathan, Deven Sen, K. Lakkappa, S. Kundu and Ramavatar Shastri.

SHRI NAMBIAR : I beg to move :

Page 2, line 37—
add at the end—

“and securing the approval of the Parliament”. (45)

SHRI P. RAMAMURTI : I beg to move :

Page 2, line 27.—

after “may.” insert—

“after receiving the approval of the State Government concerned.” (85)

SHRI N. SREEKANTAN NAIR (Quilon) : I beg to move :

Page 2, lines 30 and 31,—

for “the Central Government may consider necessary.” substitute “are necessary :” (86)

MR. SPEAKER : The amendments given notice of by Shri Vajpayee, Shri V. Krishnamoorthi Shri S. M. Banerjee, Shri Sriraj Meghrajji Dhrangadhra and Shri Sequeira to clause 3 are already covered by the amendments moved by other hon. Members.

श्री मधु लिमये : अध्यक्ष महोदय, मेरी राय में यह पूरा विधेयक अनावश्यक और खतरनाक है। हम को ऐसा लगता है कि यह विधेयक जहरीले सांप की तरह है लेकिन गृह मंत्री जी का कहना है कि यह सांप नहीं है, यह खूबसूरत जानवर है। तो अगर इन की राय में यह खतरनाक नहीं है तो कम से कम इस के जो जहरीले दांत हैं उन को हटा दें। कुछ दांतों को तो उन्होंने ज्वाइंट पार्लियामेंटी कमेटी में हटाया। मैं समय ज्यादा नहीं लेना चाहता हूँ। केवल उन से अपील करना चाहता हूँ। आपके मार्फत खंड 3 के उपखंड (2) और (3) को जो कि जोड़ दिए गए हैं हिस्से प्राविजो के रूप में उन को कम से कम हटाएं। वह प्राविजो इस प्रकार हैं। एक है कि जो यह लोग आवेश जारी करेंगे उस में तफसील देनी चाहिए लेकिन साथ ही साथ सरकार को यह अधिकार दिया गया है :

“Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.”

तो उस का मतलब हुआ कि किसी भी दल को या संघ को गैर-कानूनी करार देते समय कारण दिखाने की इन के ऊपर जिम्मेदारी नहीं है। यह कह सकते हैं कि यह सार्वजनिक हित में नहीं है। इसलिए हम कारण नहीं देंगे। यह उस संघ के साथ, उस संस्था के साथ बड़ा अन्याय होगा। तो मैं चाहता हूँ कि यह सरकार यह खास अधिकार अपने हाथ में न ले और जो कारण हैं वह जनता के सामने रखे क्योंकि अदालत में तो बापको देना ही पड़ेगा। फिर क्या वजह है कि इन कारणों को न देने की बात इस प्राविजो के जरिए कर रहे हैं ?

दूसरा जो उपखंड 3 के लिए है वह इस प्रकार है :

“Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette.”

तो यह जहरीला दांत कैसे है, इस को देखिए। यह नोटिफिकेशन जब प्रकाशित करेंगे तो इस में इन को अधिकार है कि ट्रिब्यूनल के सामने, न्यायालय के सामने जाने के पहले ही यह कुछ कारण देकर कहें कि इस पर तत्काल अमल किया जाय। इम्मीडिएट एफेक्ट। इसका मतलब होगा कि ट्रिब्यूनल के सामने जा कर अपनी सफाई देने का मौका इन लोगों को नहीं मिलेगा। इस के पहले ही यह संस्था या दल गैर-कानूनी हो जायेगा। तो इस तरह से खास अधिकार सरकार को नहीं लेने चाहिए। अभी-अभी गृह मंत्री जी ने ज्वाइंट पार्लियामेंटी कमेटी की रपट पर जो

बहस हुई उस के जवाब में यह स्वीकार किया कि यह बहुत भयानक अधिकार सरकार अपने पास ले रही है और पार्लियामेंट अगर इस का विरोध करती है तो उन की समझ में यह बात आती है। तो मैं उन से विनती करूंगा कि इनकी राय में यह जो खूबसूरत जानवर है विधेयक है, इस के जो जहरीले दांतों को हटाने का काम करें। उस में कोई दिक्कत नहीं है। ट्रिब्यूनल के सामने जायें, उस की सफाई दें अगर ट्रिब्यूनल उसे मानता है तो उस के अनुसार कार्यवाही करें।

श्री श्रीचन्द्र गोयल : अध्यक्ष महोदय, इस में दो संशोधन नं० 44 और 46 हम लोगों ने दिए हैं अगर उन में यह मांग की है कि यह जो प्राविजन है जिस में यह कहा गया है कि यदि केन्द्रीय सरकार किसी तथ्य को सामने न लाना चाहे जनहित के अन्दर तो वह सामने नहीं लायेगी। इसको हटा दिया जाय। अध्यक्ष महोदय, जब आप इस भूमिका का विचार करेंगे कि इस प्रकार के संशोधन के विरुद्ध कोई अपील का अधिकार किसी भी व्यक्ति या संस्था या संघ को नहीं दिया गया है तो उस के लिए केवल दो उपाय रह जाते हैं। या तो वह धारा 226 के अन्तर्गत हाईकोर्ट में रिट पेटिशन करे या धारा 32 के अन्तर्गत सुप्रीम कोर्ट में अपनी पेटिशन दायर करे और वहां पर फिर वह प्रश्न आयेगा कि जब सरकार ने यह अधिकार अपने हाथ में लिया है कि जनहित में वह किसी तथ्य को सामने नहीं रखना चाहती और यह अधिकार सरकार को होगा कि वह ऐसे तथ्य को दबा कर रखे या सामने लाये। मैं समझता हूँ कि जब किसी व्यक्ति को हम उस की आजादी छीन कर डीटेन करते हैं तब भी सारे बजूहात, सारे कारण सामने जाते हैं और तभी कोई न्यायालय या ट्रिब्यूनल इस स्थिति में होता है कि उस पर विचार कर सके, इसलिये मैं यह कहना चाहूंगा कि जो एक हाथ से चीज दे रहे हैं वह दूसरे हाथ से वापस ले रहे हैं। कारण दें या न दें यह बिलकुल इन के ऊपर हो गया। मुझे पता है कि म्युनिस्-

पल कमेटीज को सुपरसीड करने में पब्लिक इन्टररेस्ट का प्रश्न आता है, यह एक ऐसा विचित्र सा टर्म है कि जिस का अर्थ आज तक हाई कोर्ट और दूसरी अदालतें नहीं कर पायी हैं कि पब्लिक इन्टररेस्ट क्या चीज है। तो मैं समझता हूँ कि वैसे भी वेगनेस की बिना पर और इनडेफिनिटनेस की बिना पर इसे अवैध घोषित किए जाने की संभावना रहेगी इस लिए यह जो क्लॉज है इस में जो प्राविजो है वह डिलीट कर दिया जाय।

अब 3 के ऊपर प्राविजो है। उस में हम ने 46 नम्बर का संशोधन दिया है कि वह भी डिलीट कर दिया जाय। मैं एक निवेदन करना चाहता हूँ कि आखिर सरकार को एक दिन में तो यह इस तरह का कोई इल्लहाम नहीं होगा कि कोई संस्था है उस का इस प्रकार का रवैया या कार्यवाही हो गई है कि उस को अवैध घोषित किया जाय। आखिर सरकार को अपने इंटेलिजेंस विभाग से समय-समय सब प्रकार की गतिविधियों की सूचना मिलती रहती है, उस संस्था की गतिविधियों के बारे में भी पता रहेगा, कोई एकदम अचानक कोई चीज हो जायेगी और इसलिए इन को इस बात की आवश्यकता महसूस होगी कि जो सारी प्रक्रिया है कि तीस दिन के अन्दर ट्रिब्यूनल के पास जायेगी, ट्रिब्यूनल उस संस्था को बुलाएगा, उन को अबसर वहां दिया जायेगा कि वह अपने विधान और अपनी गतिविधियों के बारे में अपने सारे तथ्य रखें यह बात साफ करने के लिए कि उन की गतिविधियां उस के अन्दर नहीं आतीं, इस सारे प्रोसीजर को हम बाई-पास करना चाहते हैं तो ऐसी कोई चीज कि अचानक कोई इस तरह की चीज नोटिस में आयेगी ऐसी तो बात है नहीं। इसलिए हमारे अमेंडमेंट को मान लिया जाय। और इस को भी डिलीट कर दिया जाय।

SHRI SRIRAJ MEGHRAJJI
 DHRANGADHRA : Sir, the two
 amendments have just been very ably

[Shri Sriraj Meghrajji Dhrangadhral moved and I have only a little to add to them. The first proviso, that is, the proviso to sub-clause (2) of clause 3 is contrary to law, contrary to equity, to good conscience and fair play. That is, not to disclose the facts to the party against whom an accusation or allegation is made.

Sir, on another aspect, I take the liberty of reading from the letter addressed to the Home Minister during the last session when the Bill first came to our notice. I read :

"The proviso to this sub-clause be omitted. Where so grave a matter is concerned, the Government should not hesitate, and should have courage enough, to disclose all facts. In fact, it would be in the public interest to make a complete disclosure. The people have a right to know who are the friends of their country, or rather, who are not. If an association is disunionist, we should like to know exactly in what way and in what direction it is disunionist. We would like to know the inspiration of disunionist tendencies."

For that reason, I propose that this proviso be dropped.

As regards the other proviso, the proviso to sub-clause (3) of clause (3) it is a most objectionable one. The executive power, if it chooses to do so, can work whatever mischief it wants to within the six months during which extraordinary powers are to be allowed to it. Sir, our whole constitutional and democratic structure is based on curbs on the executive power. This the hon. Minister has admitted. This total lifting of curbs for periods is contrary to our whole system of checks and balances. It will be destructive of a just public administration. I, therefore, very sincerely plead with the hon. Minister and the House that this wholly objectionable proviso should be omitted.

SHRI V. KRISHNAMOORTHY : Sir, in moving amendments....

DR. SUSHILA NAYAR : Sir, you may call from this side also.

MR. SPEAKER : They have got their amendments and they have to explain them. If you have got an amendment, I will, certainly, call you. After all the amendments are over, I will call from this side also. You may get a chance; you can oppose them.

SHRI NAMBIAR : She can oppose the clause itself.

SHRI V. KRISHNAMOORTHY : Sir, clause 3(1) says :

"If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful."

My amendment here is :

"after "may" insert—

"after receiving the approval of the State Governments concerned."

Then, there is clause 3(3) which says :

"No such notification shall have effect until the Tribunal has by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette;"

My another amendment is :

"add at the end—

"after securing the approval of the Parliament."

My objection is this. There are parties in the States. The whole scheme is that the Central Government has to take initiative and decide whether a particular organisation is unlawful or not or whether a particular party is unlawful or not. But the Home Minister may not be aware what is happening in a distant State. So, he should receive the report not only from the C.B.I. but from the State Government as to whether the State Government there considers that a particular organisation is unlawful. I say this because our country is a federal country and the Home Minister, sitting here, cannot decide or dictate what the State says is illegal. So,

their views also must be obtained. That is why I have given an amendment that it should be after receiving the approval of the State Government concerned.

Another amendment is about the Tribunal which has to confirm the declaration made. The Tribunal is just of one Judge. The hon. Minister may agree for a bench of one or two Judges of the High Court. In India, there are about a dozen parties and for the effective functioning of the democracy, the Opposition parties are very necessary. The Government should not vest the power in a single Judge. That is why I say that the Parliament's approval must be obtained before declaring an association or a party unlawful or lawful. If the matter comes to Parliament, we will have full opportunity to discuss whether the Home Minister is right or whether the Tribunal is right and then only we can declare whether a particular party has to be banned or not. There is another thing also. When the matter is being discussed in Parliament, it may be open to the party concerned to retrace the steps taken, whether it is cession or secession, and it may even amend the constitution of the party itself. Then in such a case there would not be any need for banning a political party. That is why I have moved this amendment. The confirmation by the Tribunal alone is not satisfactory. It must be ratified or approved by the Parliament. That is why I have moved this amendment. The Home Minister is laughing. I think, he will agree to this.

SHRI S. M. BANERJEE: My amendments are 141 and 142.

They read as follows :

Page 2,—

omit lines 32 to 34.

Page 3,—

omit lines 1 to 6.

These are the same as my hon. friend moved.

My submission is this. 'Public interest' has not been defined by this Government. What is 'public interest'? You will remember, many times when we put a question in this

House, the Minister does not disclose the contents 'in public interest' and under the rule, we are not supposed to question it and we accept it though the same document is available outside this House at Re. 1 per copy like the CBI Report on Orissa. Therefore, my submission is that this proviso should be omitted. My argument is that 'public interest' should be defined.

My second amendment is to omit another proviso, lines 1 to 6 on page 3. This is necessary in the interest of this Act. If this is passed, it can be used against any association or party. He does not want to exclude even the registered unions, unions which are registered under the Trade Union Act, 1926. I would, therefore, request the hon. Home Minister to accept this amendment. This is not going to do any harm. On the other hand, it will make the Bill a foolproof one.

SHRI GEORGE FERNANDES
(Bombay South): My amendments are these :

Page 2,—

omit lines 32 to 34. (3)

Page 3,—

omit lines 1 to 6. (4)

Page 3, line 15,—

for "or" substitute "and". (5)

Page 3, line 17,—

for "or" substitute "and". (6)

Page 3, line 20,—

for "or" substitute "and". (7)

अध्यक्ष महोदय, इन पर काफ़ी बहस हो चुकी है इस लिये मैं ज्यादा समय नहीं लूंगा। लेकिन एक बात कहना चाहता हूँ कि यह जो पब्लिक इंटरैस्ट वाली बात हमेशा कही जाती है—जब आप कोई भी काम करना चाहते हैं, तो वह समाज की भलाई के लिये होता है—ऐसी हालत में उस को मुस्क से छिपाने की क्या आवश्यकता है। मैं आपको अपना अनुभव बताऊँ। सन 1963 में, हमारे एक पुराने दुश्मन यहाँ बैठे हैं—श्री शांतिलाल शाह, ये उस वक़्त

[श्री जार्ज फरनेन्डीज]

महाराष्ट्र के मंत्रिमंडल में थे—इन लोगों ने उस वक्त डी० आई० आर० में मुझे बन्द कर दिया

SHRI SHANTILAL SHAH (Bombay North-west) : I am quite proud about it.

श्री जार्ज फरनेन्डीज : जब हम अदालत में पहुंचे तो इन्होंने अदालत में वजह बताने से इन्कार कर दिया और कहा कि कानून में ऐसा लिखा है। लेकिन गांवों में जा कर लोगों को ऐसी बातें बतलाने लगे कि चीन से पैसा लिया है, बैंक आफ चाइना से पैसा लिया है, ऐसी अफवाहें फैलाइ गईं, हमारे दस को बदनाम करने की कोशिश करते रहे। इस लिये मेरा यह कहना है कि पब्लिक इन्टरेस्ट कह कर लोगों के सामने असलियत को न आने दिया जाय, यह ठीक नहीं है, इसलिये मैं चाहता हूँ कि इस को हटा दिया जाय।

आगे की बात पर मैं ज्यादा नहीं कहना चाहूंगा, दूसरे लोग इस पर काफ़ी कह चुके हैं। सरकार को यह बात जरूर मालूम होनी चाहिये कि अगर किसी संगठन को अवैधानिक घोषित करना चाहते हैं तो उसके बारे में जितनी भी मालूमात हैं उन को इक्कठा करने में काफ़ी समय लग जाता है और समय पर ट्रिब्यूनल के सामने नहीं पहुंच पाती है। मैं नहीं जानता पहली दो अर्मेंडमेंट्स के बारे में मंत्री महोदय क्या कहेंगे, लेकिन तरमीम 5, 6, 7, को जरूर मान लेना चाहिये। इन में इतना ही कहा है कि सब क्लाज 4(ए) में "आर" की जगह "एण्ड" कीजिये, सब क्लाज (बी) में भी "आर" की जगह "एण्ड" कीजिये, सब-क्लाज (सी) में "आर" की जगह "एण्ड" कीजिये। मैं यह इस लिये कह रहा हूँ कि जिनके ऊपर इतनी सख्त कार्यवाही करने जा रहे हैं उन को इतिला देने का काम ठीक ढंग से होना चाहिये। आप के नोटिफिकेशन को कोई नहीं पढ़ता है, आपका आफिशियल गजट यहां छपता है

और यहीं रहता है, सब लोगों के हाथ में नहीं जाता है।

"...be published in not less than one daily newspaper having circulation in the State in which the principal office, if any, of the association affected is situated..."

अब अध्यक्ष महोदय, मैं समझता हूँ कि हिन्दुस्तान में हर एक अखबार, खास तौर पर जोकि अंग्रेजी अखबार छापे जाते हैं दिल्ली में, उन छपने वाले अखबारों की कुछ प्रतियां मद्रास में भी बेची जाती हैं और इसी तरह बम्बई में छपने वाले अखबारों की कुछ प्रतियां हिन्दुस्तान के हर सूबे में बेची जाती हैं। ऐसी हालत में कल आप हिन्दुस्तान टाइम्स में एक विज्ञापन देंगे और कहेंगे कि अमुक-अमुक संगठन को हम अवैधानिक कर के घोषित करना चाहते हैं तो बम्बई में हिन्दुस्तान टाइम्स की 100-200 प्रतियां जरूर जाती होंगी इसलिए यह जो लोकल अखबार वाली चीज है लोक भाषा वाले अखबार की भी बात उस में आनी चाहिए। मगर मैंने उस तरमीम को इसलिए नहीं दिया कि मैंने आगे की तरमीम दी है कि जहां पर हम यह पूरा पूरा इंतजाम करना चाहते हैं :

"by affixing a copy of the notification to some conspicuous part of the office, if any, of the association."

अब यह लोग कहते हैं कि हम इतना कर के चुप हो जायेंगे लेकिन समझ लीजिये कि आप का कोई नौकर है और अगर वह कहता है कि मैंने चिपका दिया है लेकिन असल में नहीं चिपकाया है तो फिर क्या होगा ? इसलिए आगे जो आप की दो और प्राविजोड हैं उन को भी, यह तीनों चीजों को, तीनों शर्तों को आप पूरा कीजिये ताकि किसी के ऊपर अन्याय न हो जाय और किसी को भी बदमाशी करने का मौका न मिल जाय। न अ.प के नौकर को और न ही मालिक को यह कहने का मौका मिल जाय

कि मैंने जो करना था वह कर लिया है अब उन को नहीं मिला तो मेरी क्या जिम्मेदारी है। इसलिए मैं आशा करता हूँ कि गृह मंत्री जी मेरी इन तरकीबों को मान लेंगे।

डा० सूर्य प्रकाश पुरी : अध्यक्ष महोदय, मैं एक व्यवस्था का सवाल उठाना चाहता हूँ और वह यह है कि अभी जब यहाँ सदन में डिबीएन हुआ था और उस के लिए घंटी बजी थी तो मैं उस समय संसद् के पुस्तकालय में बैठा अखबार आदि पढ़ रहा था लेकिन वहाँ कोई घंटी नहीं बजी और परिणाम-स्वरूप मैं यहाँ आकर मतदान में शामिल न हो सका।

MR. SPEAKER : That is all right. Now I cannot help it. I will verify it later on.

SHRI NAMBIAR : Sir, my amendments 44, 45 and 46 have been very well explained. I will only add my word of protest against this proviso. The proviso reads :

"Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose."

Here, the position is this, that when an Association is declared 'unlawful', 'unlawful activity' has already been defined, which is very vague. Anything under the sun can be brought under the 'unlawful activity' and a body or an association . . .

MR. SPEAKER : Any activity of Mr. Nambiar can be brought under it.

SHRI NAMBIAR : So, unless and until the hon. Minister tells us what exactly he is providing for, we have to presume the maximum in it. He can haul up anybody, any individual or any association under the clause of 'unlawful activity'.

MR. SPEAKER : What is your amendment ?

SHRI NAMBIAR : My amendments are 44, 45 and 46. This proviso says

that when an organization is declared 'unlawful' the reasons for such declaration need not be disclosed even to the party concerned—that is what exactly it means—and also to the Tribunal. But what I say is : why is it so :

"Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose."

Now, the hon. Minister stated, when I wanted him to say what comes under the omnibus clause, 'a Party which invites another country to come in'. Thereby he means some section. Yesterday many hon. Members were talking about Naxalbari. All these Naxalbari insinuations are against the Communist Party (Marxist). Let us not mince matters. By hiding, nothing can be known. Does he mean that he wants to declare the Communist Party (Marxist) as an illegal body under the provisions of this law? Is it in his mind? From what he said, it is in his mind. Let him say 'No'.

MR. SPEAKER : He will reply, not now.

SHRI A. S. SAIGAL (Bilaspur) : It is incorrect.

SHRI NAMBIAR : I am accusing the hon. Home Minister. The purpose is that. Let him say 'No'. Here in the previous clause it is stated :

"'unlawful association' means any association which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity."

Otherwise, repeatedly this Naxalbari need not be brought in. Because somebody belonging to the CPI (Marxist) indulges in some unlawful activity, he wants to haul up the entire CPI (Marxist), and now under clause 3, he need not even reveal the reasons why he is doing so because it is not necessary....

MR. SPEAKER: The hon. Member is only repeating what has been said earlier.

SHRI NAMBIAR: I am saying this because the attack is against my party. Therefore, I want an assurance. I say that it is an illegal and most undemocratic thing. Therefore, I must know it. Dr. Sushila Nayar who was the chairman of the Joint Committee need not have brought in Naxalbari and all those things. Why should Naxalbari be brought in here?

SHRI A. S. SAIGAL: With reference to Naxalbari she advanced her arguments.

SHRI NAMBIAR: I know. It is not as if something has cropped up suddenly. We know the purport behind it.

There is another provision to which I shall refer. Once a party is declared illegal and that declaration is gazetted, it can come into effect if Government so desire even before the matter goes before the tribunal. That is the second proviso. All the parties are against this kind of proviso.

I would submit that the information must be revealed to the party and secondly the declaration must come into effect only after the tribunal's award. My third amendment is that when it is notified in the gazette, the approval of Parliament must also be obtained. After all, the banning of a party is not an ordinary thing; it is not an individual but an organisation. When an organisation is declared illegal and when Government find that there is enough justification to declare it illegal, it is all the more necessary to tell the people why it has been so declared and they should get the approval of Parliament. If at all he believes in democracy and he says that somebody is fighting against the sovereignty and integrity of the country, he must tell us very clearly what his purpose is, and whether he is prepared to accept our amendment that it should come up before Parliament.

SHRI SEQUEIRA: My amendments are amendments Nos. 165 and 166.

Amendment No. 166 is to the effect that the following should be omitted, namely . . .

MR. SPEAKER: He wants that the proviso must be deleted.

SHRI SEQUEIRA: Yes, I would only mention this that the declaration of an organisation as an unlawful organisation is a very serious matter, and in such a serious matter there should be no fact which should be hidden under this subjective satisfaction proviso. If an organisation is to be declared unlawful, the people of this country have every right to know every reason and every fact on which this claim is based.

SHRI BIBHUTI MISHRA: (Motihari): It cannot be disclosed.

SHRI SEQUEIRA: I am explaining my point of view. Let him reply to that.

In my other amendment, I have asked for the deletion of the proviso to sub-clause 3. The reason is that all the powers under clause 8 and therefore, the power to notify any place, the power to search any place, the power to seize any money etc. all flow from the notification becoming effective under sub-clause (3) which I presume includes also the proviso. So, this Government could declare an association unlawful and make it effective immediately under the proviso and harass an organisation for the full six months that would pass between the declaration and the order of the court. This is a very dangerous power.

SHRI P. RAMAMURTI: The Home Minister has already stated that this proviso refers only to the notification and not to the question before the tribunal. He has said that before the tribunal he will disclose the entire evidence and that he will go before the tribunal with the entire evidence. That is what he has stated. I want to point out that after all, these tribunals are not going to hold their sittings in camera, because on serious questions like the banning of a political party, the people must know the rea-

sons for it. So, when they go before the tribunal, the entire evidence will be gone through and after that the matter will be made public. In the notification we are not asking Government to place the entire evidence. That is not what is asked for. If later on the entire evidence has got to be disclosed before the tribunal which means that it will be disclosed to the people later on, then immediately when Government declare it, why should the people be deprived of the knowledge of the reasons for that decision? After all, you are dealing with political parties. It is not a question of one individual only. Political parties function in this country. People have got certain faith in them. If they are suddenly told that a particular political party has now become unlawful, they should also know the full facts. I am not going into the evidence aspect—that will be disclosed before the tribunal. But at least the reasons which impel Government, whatever they may be, should be disclosed to the public. Those reasons cannot not certainly to the detriment of the country. After all, the people are the final judges of Government's action. So even during that temporary period, the people must be taken into confidence.

Therefore, I would oppose the proviso. It must go. Government has no reason whatsoever to seek to retain it.

DR. SUSHILA NAYAR: I rise to support the clause and to oppose the amendments moved by some hon. Members. There was a full and long discussion on this clause in the Joint Committee . . . and it was accepted thereafter.

SHRI S. M. BANERJEE: On a point of order. She was the Chairman of the Joint Committee. I was also on the Committee. But every time she refers to certain proceedings in the Joint Committee or what was said by a somebody. She is no more the Chairman. The report is here, the evidence is with us. Let us confine our discussion to these. What

somebody told her in private talks and all that is irrelevant here.

MR. SPEAKER: A general reference can be made.

DR. SUSHILA NAYAR: The evidence has been laid on the Table. There is nothing secret in those discussions. I do not understand way the hon. Member objects to my reference to some of those discussions.

I wish to say that this Bill is meant for certain extraordinary situations and not for normal everyday life. If Government come to know that particular organisation is indulging in such dangerous activities, Governments will have to do two things simultaneously. One is to declare the association illegal and the other, to try to check the activities which the association was undertaking which would be deleterious to the interests of the country.

MR. SPEAKER: The main thing is about the proviso.

SHRI SHRI CHAND GOEL: She is irrelevant.

DR. SUSHILA NAYAR: As such, it will be dangerous for Government to put in the notifications the grounds for the declaration of the organisation as illegal.

SHRI NAMBIAR: Why?

DR. SUSHILA NAYAR: Not to give notice to the organisation to hide its activities. The second proviso has further said that there may be certain situations in which the notification may come into action immediately without waiting for the procedures of the tribunal.

SHRI NAMBIAR: Why?

DR. SUSHILA NAYAR: Because those situations will be such as can brook no delay in tackling them. My hon. friend was very angry that I mentioned Naxalbari. Does he not know that some of their members were Welcoming the Chinese, displaying Mao

[Dr. Sushila Nayar]

Tse-tung's photos and shouting pro-Chinese slogans? Everybody knows that. Suppose there is actually some such plot. Should Government not declare that illegal? Should Government not hold the party, whose members are doing such things, responsible for those actions?

SHRI NAMBIAR : The cat is out of the bag.

DR. SUSHILA NAYAR : Should Government before taking action to nip that plot in the bud declare to the world that they have come to know that such and such a plot is being hatched in such and such a place by such and such people?

SHRI NAMBIAR : Behind the screen you want to do all that?

DR. SUSHILA NAYAR : The Joint Committee took good precaution to ensure that Government do not become tyrannical. Within 30 days, Government have to go to the tribunal; before the tribunal they have to lay everything. The tribunal may take as six months. We have laid down that limit. The thirty-day grace period should enable Government to take such action as is necessary to prevent the mischief from developing further.

The second proviso enables the Government to take action in the association immediately, so that the continuation of those nefarious activities for another six months is not allowed. Therefore, both these provisos are necessary. I hope and pray that no organisation, association or political party may be so irresponsible as to do things which make the operation of this law necessary.

MR. SPEAKER : Allow something for the Minister to say.

DR. SUSHILA NAYAR : Therefore, I request the hon. Minister not to accept any of these amendments.

SHRI Y. B. CHAVAN : Dr. Sushila Nayar has made my task somewhat

easier. Objection is raised against the two proviso. The first proviso says that in the public interest certain facts may not be disclosed at the stage of publication of the notification. There we will have to see the distinction between two things, grounds and facts. They will certainly disclose all the grounds, but possibly they may think that in the case of one ground they should not disclose all the facts. I will tell you why. Sometimes it is likely to hinder or obstruct further enquiry.

For example, I can imagine a case where it is found that certain operation of accounts is used for this type of illegal activity. We can certainly mention the grounds, but where exactly the accounts are that may not be disclosed. This is a fact which it is possibly necessary to conceal for some time to see that further enquiries are made, investigations are completed, but this fact will not be concealed from tribunal.

SHRI P. RAMAMURTI : You take action after investigation; after action you do not investigate.

SHRI Y. B. CHAVAN : We certainly know certain facts, but the same time we have to see the further ramifications of that account. I am certainly visualising certain possibilities. So, these are quite different things, facts and grounds. The grounds will be disclosed, all the facts about the grounds may not be disclosed.

About the second proviso, I know it is very radical power that is taken, but it is not merely for power's sake that we are taking it. Power is taken to meet certain situations. If, suppose, there is an extraordinary situation that you cannot wait till the six months period to act the confirmation of the notification, and in the meanwhile mischief is done, then the purpose of the Bill will be defeated. Therefore, in the next ordinary situation, it is absolutely necessary that Government has to act. Therefore, this power is taken.

In the next clause we have accepted the maximum period for the completion of the enquiry by the tribunal. It was, really speaking, without any

period. But as they insisted on this thing, I accepted their reasonable suggestion that this enquiry by the tribunal should be completed within a given time. So, the six month period in the next clause is some sort of curative for this.

SHRI NAMBIAR : By that time the organisation can be disorganised and destroyed.

SHRI Y. B. CHAVAN : The idea is to do it.

SHRI NAMBIAR : Suppose the tribunal says it is not a proper thing that you have done.

SHRI Y. B. CHAVAN : Some members say that we should accept the amendment of Mr. Krishnamoorti, to take the consent of the State Government. It is not possible because these operations do not merely relate to one State sometimes. They may relate to more than one State. This is a matter which comes exclusively under the Union list. That is why this Parliament is authorised to pass this Act, and we are doing it.

Some hon. Member asked, why not come for ratification to Parliament? We do not want Parliament to do the work of a court. This is a supreme body. This gives power to act and do many powerful things. You do not want this to be a creature under a very ordinary Act like this. This is an august House. So, it is not necessary.

About the appeal from the tribunal, we will certainly discuss that matter when we come to that.

The hon. Member Shri Fernandes has spoken about "or, or, or" in relation to sub-clause (4) of clause 3. Most of the Members are possibly having some experience of the legal position. Sub-clause (a) says, "by affixing a copy of the notification to some conspicuous part of the office . ." This is the normal method of servicing notices. This is not something very peculiar to this Act. I say this from

my experience as a lawyer. Sub-clause (b) says, "by serving a copy of the notification, where possible, on the principal office-bearers, if any, of the association." I am sure some intelligent office-bearers of some group or organisation will evade the service of such summons. If I say, "and", it will be impossible for Government to serve notice on them. Therefore, we have not only expressed it like that but we have also added, "in such other manner as may be prescribed." It is a general alternative. These are the answers to the questions raised.

The last point—the point that was taken by Mr. Nambiar. He asked whether it is the Communist party that is in our mind. No political parties are in mind; I have said it. I repeat it. There is no political party in my mind. It will be absolutely unfair to me and unfair to the House if I have a political party in my mind, and keeping it in my mind, I bring a legislation. It will be very unfair, but then he is constantly showing a finger against himself. Why? He asked me, and he wanted me to give an illustration, an illustration of disruption, of sovereignty, etc. I said, suppose a group of people, without talking of cession or secession wants to invite or invites another country here. Suppose, I give the example of China. . . .

SHRI NAMBIAR : Who is inviting?

SHRI Y. B. CHAVAN : Any group of people. Why do you think it is only your monopoly? Any group of people. Why China? Let it be any other country. I do not want to take China for an example. Suppose they invite any other country, will they not be considered liable under this Act. They will be. He wanted to ask to specific question: whether the Communist (Marxist) party is in my mind. Then, I will ask him to counter-question: Are they thinking of inviting China?

SHRI NAMBIAR : No, Nobody. It was Dr. Sushila Nayar who brought vogue and unfounded allegations. (Interruption).

SHRI Y. B. CHAVAN : If you are not inviting, then this Act will not be applicable to you.

MR. SPEAKER : Now, I think I can put amendment Nos. 3, 4, 5, 6, 7, 45, 85 and 86, all together, to the vote of the House.

SOME HON. MEMBERS : Yes.

MR. SPEAKER : Yes; I shall put amendment Nos. 3, 4, 5, 6, 7, 45, 85 and

86, all together, to the vote of the House.

Amendments Nos. 3 to 7, 45, 85 & 86 were put and negatived.

MR. SPEAKER : Then, I will put clause 3 to the vote of the House.

MR. SPEAKER : The question is :
"That clause 3 stand part of the Bill."

The Lok Sabha divided :

Division No. 25]

AYES

[17.57 hrs,

Aga, Shri Ahmad
Ankineedu, Shri
Arumugam, Shri R. S.
Babunath Singh, Shri
Barua, Shri Bedabrata
Barua, Shri R.
Basu, Dr. Maitreyee
Baswant, Shri
Bhagat, Shri B. R.
Bhanu Prakash Singh, Shri
Bhargava, Shri B. N.
Bhattacharyya, Shri C. K.
Bhola Nath, Shri
Bohra, Shri Onkarlal
Chanda, Shri Anil K.
Chanda, Shrimati Jyotsna
Chatterji, Shri Krishna Kumar
Chaturvedi, Shri R. L.
Chaudhary, Shri Nitiraj Singh
Chavan, Shri D. R.
Chavan, Shri Y. B.
Choudhary, Shri Valmiki
Choudhury, Shri J. K.
Damani, Shri S. R.
Dasappa, Shri Tulsidas
Dass, Shri C.
Deoghare, Shri N. R.
Desai, Shri Morarji
Deshmukh, Shri B. D.
Deshmukh, Shri K. G.
Dhillon, Shri G. S.
Dhuleshwar Meena, Shri
Dinesh Singh, Shri
Ering, Shri D.
Gajraj Singh Rao, Shri
Gandhi, Shrimati Indira
Ganesh, Shri K. R.
Gavit, Shri Tukaram
Gosh, Shri Bimalkanti
Ghosh, Shri Parimal
Gupta, Shri Lakhan Lal

Heerji Bhai, Shri
Hem Raj, Shri
Himatsingka, Shri
Jadhav, Shri V. N.
Jagjiwan Ram, Shri
Jamir, Shri S. C.
Karan Singh, Dr.
Kasture, Shri A. S.
Kavade, Shri B. R.
Kedaria, Shri C. M.
Kesri, Shri Sitaram
Khadilkar, Shri
Kripalani, Shrimati Sucheta
Krishnan, Shri G. Y.
Kureel, Shri B. N.
Laskar, Shri N. R.
Laxmi Bai, Shrimati
Mahadeva Prasad. Dr.
Maharaj Singh, Shri
Malimariyappa, Shri
Mandal, Dr. P.
Mehta, Shri P. M.
Menon, Shri Govinda
Mishra, Shri Bibhuti
Mishra, Shri G. S.
Mohinder Kaur, Shrimati
Mondal, Shri J. K.
Mrityunjay Prasad, Shri
Mukerjee, Shrimati Sharda
Naghnor, Shri M. N.
Nahata, Shri Amrit
Naidu, Shri Chengalraya
Nayar, Dr. Sushila
Oraon, Shri Kartik
Pahadia, Shri Jagannath
Pandey, Shri K. N.
Pant Shri K. C.
Parmar, Shri Bhaljibhai
Partap Singh, Shri
Parthasarthy, Shri
Patil, Shri Deorao

Patil, Shri S. D.
Poonacha, Shri C. M.
Pramanik, Shri J. N.
Raghu Ramalal, Shri
Rajani Gandha, Kumari
Rajasekharan, Shri
Raju, Shri D. B.
Ram, Shri T.
Ram Subhag Singh, Dr.
Ram Swarup, Shri
Randhir Singh, Shri
Rane, Shri
Rao, Shri J. Ramapathi
Rao, Dr. V. K. R. V.
Reddy, Shri G. S.
Reddy, Shri P. Antony
Reddy, Shri R. D.
Reddy, Shri Surendar
Roy, Shrimati Uma
Saha, Dr. S. K.
Saigal, Shri A. S.
Sayyad Ali, Shri
Sen, Shri Dwaipayan

Sen, Shri P. G.
Sethi, Shri P. C.
Shah, Shri Shantilal
Shankaranand, Shri
Shastri, Shri B. N.
Shastri, Shri Ramanand
Sher Singh, Shri
Sheth, Shri T. M.
Shinde, Shri Annasahab
Shinkre, Shri
Shiv Chaudika Prasad, Shri
Siddayya, Shri
Siddeshwar Prasad, Shri
Sinha, Shri Mudrika
Sonar, Dr. A. G.
Supakar, Shri Sradhakar
Suryanarayana, Shri K.
Swaran Singh, Shri
Tiwary, Shri K. N.
Uikey, Shri M. G.
Verma, Shri Prem Chand
Virbhadra Singh, Shri
Yadav, Shri Chandra Jeet

NOES

Amersey, Shri M.
Banerjee, Shri S. M.
Basu, Shri Jyotirmoy
Chakrapani, Shri C. K.
Fernandes, Shri George
Ghosh, Shri Ganesh
Goel, Shri Shri Chand
Gounder, Shri Muthu
Gowda, Shri M. H.
Gupta, Shri Indrajit
Gupta, Shri Kanwar Lal
Lakkappa, Shri K.
Limaye, Shri Madhu
Maiti, Shri S. N.
Majhi, Shri M.
Menon, Shri Vishwanatha
Modak, Shri B. K.
Mohamed Imam, Shri J.
Molahu Prasad, Shri

Mukerjee, Shri H. N.
Naik, Shri G. C.
Naik, Shri R. V.
Nambiar, Shri
Paswan, Shri Kedar
Puri, Dr. Surya Prakash
Ramamurti, Shri P.
Samanta, Shri S. C.
Satya Narain Singh, Shri
Sequeira, Shri
Sezhiyan, Shri
Shah, Shri Virendrakumar
Shastri, Shri Ramavatar
Shivananjappa, Shri
*Sonavane, Shri
Swell, Shri
Thakur, Shri Gunanand
Vajpayee, Shri A. B.

MR. SPEAKER: The result of the division is: Ayes 128; Noes 37.

The motion was adopted.

Clause 3 was added to the Bill

Clause 4—(Reference to Tribunal)

*Wrongly Voted for 'Noes'.

†The following members also recorded their votes:

AYES: Sarvashri Sonavane, Sambasiwam, N. Sethuramae, G. C. Dixit, Manibhai J.

SHRI NAMBIAR: I am moving my amendment, No. 47.

SHRI P. RAMAMURTI: I am also moving my amendments Nos. 90, 91 and 92.

Patel, G. L. Nanda, Ram Dhan, Ramsekhar Prasad Singh and Ramesh Chandra Vyas.

NOES: Sarvashri Mohammad Ismail, G. Vishwanathan and Pilloo Mody.

SHRI NAMBIAR: I beg to move:
Page 3, line 28,—

after "shall" insert—

"if in its opinion there is a
prima facie case"(47).

SHRI P. RAMAMURTI: I beg to
move:

Page 3, line 29,—

for "association affected" substi-
tute —

"Central Government"(90).

Page 3, line 31,—

omit "not"(81).

Page 3,—

for lines 32 to 41, substitute—

"(3) After considering the cause,
if any, shown by the Central
Government, the Tribunal
shall hold an inquiry,
according to Code of Cri-
minal Procedure, 1898 and
the Indian Evidence Act,
1872 and shall decide whe-
ther or not there is suffi-
cient cause for declaring
the association to be unlaw-
ful and make such order as
it may deem fit."(92).

SHRI NAMBIAR: My amendment
reads thus:

Page 3, line 28, after "shall" insert—

"if in its opinion there is a
prima facie case".

Clause 4 says that the tribunal can take cognizance of a letter or representation given by the Government about the legality or illegality of a particular association. I have said that when it is done there must be a *prima facie* case. If without that the tribunal calls the parties concerned and creates an impression in the country that such and such a party is illegal it will be ridiculous. Therefore, on a representation being given by the Government to the tribunal only if the tribunal thinks that there is a *prima facie* case it can start the proceedings or drop it. Sometimes in their exuberance to suppress the opposition parties, when the Government has the powers and

they are going to be delegated to junior officers, they may very indiscriminately declare a party illegal and refer it to the tribunal. The tribunal may create a big hulla-baloo in the country and people from Cape Comorin to Srinagar may be asked to go and all that. Therefore, there must be a *prima facie* case.

SHRI P. RAMAMURTI: By our amendment No. 90 I want to say that where it is said: "On receipt of a reference under sub-section (1), the Tribunal shall call upon the association affected...." I want to substitute the words "Central Government" for the words "association affected". The purpose is very clear. After all, I am being—I am talking as if in court—declared unlawful. I do not know what the evidence is. Supposing the tribunal calls upon me to show cause why I should not be declared unlawful, I know nothing. What can I say about it, unless the Government comes forward and says that these are the reasons, this is the evidence before us and this is the *prima facie* case. That is why I say that the tribunal must first call upon the Government to disclose why it has declared me unlawful and only on that basis I must be called upon the answer to charges. Instead of that, it is put the other way. Instead of that first of all you presume that I am guilty and then you want me to show why I am not guilty. It is a strange way. This is not the way jurisprudence in this country has been going on for the last so many years.

By my amendment No. 92 I have said that in sub-section (3) of clause 4 I want to provide that the Tribunal shall hold an inquiry according to Code of Criminal Procedure and the Indian Evidence Act. After all, it is a very serious thing affecting the activities of not one or two people but the activities of hundreds, thousands and even hundreds of thousands of people. Should I not have the normal course of law? You are not providing for appeals. Under the normal course of law we can let in evidence, I get an opportunity to cross-examine and all that. All these things must be there.

If they are not there, where is the question of fairplay in this. That is why I say that they should accept, in all fairness and fairplay, these two amendments. First of all it is for the Government to disclose the reasons and it is for the Government to let in evidence under the normal procedure as provided for in the Criminal Procedure Code and the Evidence Act.

SHRI V. KRISHNAMOORTHY : My amendment No. 125, which is the same as amendment No. 92 of Shri Ramamurti, seeks to bring in the Code of Criminal Procedure and the Indian Evidence Act. In continuation of the argument advanced by Shri Ramamurti I would like to say that the procedure which is given in Section 9 of the Code of Civil Procedure has to be applied as far as procedure to be applied before a District Judge or Tribunal is concerned. Under section 3, government does not give all the information in the notification. When it is decided before the tribunal, even the tribunal is not able to get all the information because the government may say that in the public interest it cannot disclose all the information. There is a section in the Code of Civil Procedure under which government can claim privilege that in the public interest they cannot disclose all the information. That is why I say that the Code of Criminal Procedure and the Indian Evidence Act have to be applied. Before declaring an association to be unlawful it is always presumed to be innocent. Until it is proved that it is a guilty association, it cannot be declared unlawful. That is why I say that this clause may be modified, as pointed out in the amendment.

SHRI GOVINDA MENON : Shri Krishnamoorthi in his speech has supplied the material for the answer.

SHRI S. M. BANERJEE : Sir, the Law Minister can reply when there is any law point involved. Now, he is replying to every point.

MR. SPEAKER : Constitutionally, any Minister can reply. If the Home

Minister were here, he would have replied.

SHRI GOVINDA MENON : Clause 9 of the Bill provides the procedure for trial before the tribunal and the district judge, reference to whom comes later, and it shall be as laid down in the Code of Civil Procedure. The CPC lays down the rules for disposal of matters like this. Hon. Members have suggested that instead of CPC, the CrPC should come in. I do not think this is a case in which the provisions of CrPC should be applied.

SHRI V. KRISHNAMOORTHY : This is of a criminal nature. This is not a case of some money or suit for declaration of a title. This is a case of a quasi-criminal nature.

SHRI GOVINDA MENON : Government puts forward the case that there are certain activities attributed to a certain association. The question is whether those activities are there or not. The C.P.C. provides a complete code with respect to trial in these matters. I hope this will be a sufficient answer.

Then, Shri Nambiar says that notice shall be issued by the tribunal only if there is a *prima facie* case. Unless there is a *prima facie* case, will the matter be referred to the tribunal? I, therefore, do not see any reason why the amendment should be accepted.

MR. SPEAKER : I will now put all amendments to clause 4 to the vote of the House together.

Amendments Nos. 47, 90, 91 & 92 were put and negatived.

SHRI PILOO MODY (Godhra) : When the Home Minister goes for tea, instead of answering questions here, it is an unlawful activity.

MR. SPEAKER : I am told he is in the other House. Now, I am putting clause 4 to the vote of the House. The question is :

"That clause 4 stand part of the Bill."

[Mr. Speaker]

10 hrs.

Those in favour may kindly say 'Aye'.

SEVERAL HON. MEMBERS : Aye.

MR. SPEAKER : Those against may kindly say, 'No'.

SOME HON. MEMBERS : No.

MR. SPEAKER : I think, the 'Ayes' have it.

SOME HON. MEMBERS : The 'Noes' have it.

MR. SPEAKER : Let the lobbies be cleared.

SHRI P. RAMAMURTI : Sir, you were going to adjourn the House.

MR. SPEAKER : After this Division.

SHRI P. RAMAMURTI : After this you are going to adjourn the House.

MR. SPEAKER : Yes.

SHRI P. RAMAMURTI : Then, no voting.

MR. SPEAKER : They are not pressing. The 'Ayes' have it; the 'Ayes' have it.

The motion was adopted.

Clause 4 was added to the Bill.
18.01 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, December 20, 1967/Agrahayana 29, 1889 (Saka).