संघटन न रहें जहां श्रमिकों के साथ न्याय न हो सके।

उपाध्यक्ष जी वहां पर एक चीज और चल रही है, आपको भी सुनकर आश्चर्य होगा कि 40/50 हजार से अधिक की बस्ती है लेकिन म्युनिसिपल बोर्ड नहीं बन पाया। इसलिये कि म्युनिसिपल बोर्ड बन जाने पर, जो सामान आता जाता है उसके ऊपर टैक्स देना पड़ेगा। टैक्सों का लाखों करोड़ों रुपया इस तरह से मिल वाले बचाना चाहते हैं इसीलिये अभी तक इतने बड़े नगर के अन्दर म्युनिसिपल बोर्ड का निर्माण नहीं हो सका, टाउन एरिया से ही इतना बड़ा नगर चल रहा है। सफाई और स्वास्थ्य की दृष्टि से भी यह हानिकारक है। मुझे विश्वास है कि वित्त मन्त्री इस बजट को पास करते हुये इन सारी बातों पर गम्भीरता से निर्णय लेंगे। धन्यवाद।

17.32 hrs.

MOTIONS *RE* : AMENDMENTS TO UNLAWFUL ACTIVITIES (PREVENTION) RULES

MR. DEPUTY-SPEAKER : The House will now take up the two motions standing in the name of Shri Srinibas Misra and Shri Madhu Lemaye. I would like to mention at the outset that the time is very limited. It has to be finished within 1½ hours.

SHRI SRINIBAS MISRA (Cuttack) : I beg to move the following :

"This House resolves that in pursuance of sub-section (3) of section 21 of the Unlawful Activities (Prevention) Act, 1967, the following modifications be made in the Unlawful Activities (Prevention) Rules, 1968, published in the Gazette of India by Notification No. S. O. 481, dated the 5th February, 1968, and laid on the Table on the 23rd February, 1968, namely :—

(i) in sub-rule 3, the words, 'subject to the provisions of sub-rule (2)', be omitted ;

(ii) sub-rule (2) of rule 3 be omitted.

This House recommends to Rajya Sabha that Rajya Sabha do concur in this resolution."

SHRI MADHU LIMAYE (Monghyr) : I beg to move the following :

"This House resolves that in pursuance of sub-section (3) of section 21 of the Unlawful Activities (Prevention) Act, 1967, the following modifications be made in the Unlawful Activities (Prevention) Rules, 1968 published in the Gazette of India by Notification No. S. O. 481, dated the 5th February, 1968 and laid on the Table on the 23rd February, 1968, namely :—

(i) in sub-rule (1) of rule 3, the words, 'as far as practicable' be omitted ;

(ii) sub-rule (2) of rule 3, be omitted ;

(iii) in rule 4, the words 'all or any of' be omitted ;

(iv) the proviso to rule 5 be omitted ;

(v) in rule 6, the words 'all or any of' be omitted.

This House recommends to Rajya Sabha that Rajya Sabha do concur in this resolution."

SHRI SRINIBAS MISRA : Mr. Deputy-Speaker, when the Unlawful Activities (Prevention) Bill was being discussed in this House, a number of hon. Members on this side of the House had expressed their apprehension that the Home Minister is seeking more powers for using them arbitrarily. Here I may be permitted to quote from the debates dated 10-8-67. I am quoting from Shri P. Ramamurti's speech :

"I, therefore, say that this Bill seeks to clothe the Government with dictatorial powers...The only purpose it will serve is to give this government authority to declare unlawful whichever organisation or person is fundamentally opposed to it from whom it thinks that the government itself is facing a threat."

Now I quote from the apprehension expressed by my leader, Shri Surendranath Dwivedy :

"I would like to ask why a Tribunal is at all necessary. Why not this matter

[Shri Srinibas Misra]

be referred to the High Court itself ? Why not send it before they made the proclamation ? Why not refer this matter to the High Court ? Let the Bench of the High Court decide whether there is sufficient material or not."

Then, the matter was referred to the Joint Committee. Now that the Home Minister is here, I would like to point out the arguments advanced and the promises made by him in the Joint Committee itself. While Shri C. K. Daphtary was being examined, the Home Minister stated—I am quoting from page 5 of the Report of the Joint Committee on the Unlawful Activities (Prevention) Bill—

"I may clarify it. The position is that those facts may not be disclosed in the notification but they will not be concealed from the tribunal which is to decide these things."

So, it will be seen that in the Joint Committee the Home Minister has given the assurance that the acts will be disclosed before the tribunal and that they will not be concealed from the tribunal.

Further, the Home Minister goes on to say at page 5 :—

"Complete facts will be disclosed to the court or tribunal which is going to take a view of the matter. Certain things will not be disclosed in the notification."

So, his only plea was that in the notification things may not be disclosed but they will be disclosed before the tribunal.

My hon. friend, Shri Limaye, asked a question :—

"If these things are not given in the notification, you can give this very argument before the Tribunal. It is not obligatory on the Government to bring all these points before the Tribunal."

He had expressed this apprehension that under the plea of section 4, they may not bring all the facts before the Tribunal and they may only bring the conclusions, not the evidence on which the conclusions are based. Shri C. K. Daphtary, the Attorney General, gave this answer :—

"Before the Tribunal, the Government will have to justify its action."

Then, the Home Minister said :—

"Naturally, when you want to go into a case, it is always open and all the facts necessary to prove a case will be placed before them. What will be placed before the court will not entirely be disclosed."

That means, in the notification.

After this assurance given in the Joint Committee the Home Minister has come up with a rule like rule 3. My objection is to the rule of evidence which is prescribed here in this rule. This rule is under section 21 of the Act. Section 21(2) reads thus :—

"In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) * * *

(b) the procedure to be followed by the Tribunal or a District Judge in holding any inquiry or disposing of any application under this Act ;

(c) any other matter".

So, this power has been exercised under section 21(2)(b). It is for the Home Minister to consider whether changing the mode of evaluating evidence and leading evidence or for deciding whether some thing is privileged or not or for concealing matters which ought to go before the Tribunal, is merely procedure or whether this is not substantive law and is only procedural law that is being effected by those rules.

17.33 hrs.

[Mr. Speaker *in the Chair*]

My contention is that this rule, as it stands now, goes beyond the powers given to the Central Government to frame rules under section 21(2)(b).

Coming to section 4, regarding inquiries, under which these rules have been framed, I will only place section 4, subsection (3) before you. It reads:—

"After considering the cause, if any, shown by the association or the office-

bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in section 9 and after calling for such further information as it may consider necessary from the Central Government or from any office-bearer".

Here I stop. The Act gives power to the Tribunal to call for any information from the Central Government or the office-bearers. Now, under the rules the Government wants to gag the Tribunal and take away the power so that the Tribunal will not be in a position to call for all the documents that the Tribunal needs. The rule says that whenever the Central Government considers it necessary; they may not disclose some documents and may not produce the documents before the Tribunal. So, this rule runs counter to section 4, sub-section (3) which allows the Tribunal to call for all documents and necessary information from the Government. Therefore, it is beyond the rule-making powers of the Government which are given to the Government under the Act.

The rule to which I take exception is rule 3. It reads :

> "*Tribunal and District Judge to follow rules of evidence* :—(1) In holding an inquiry under sub-section (3) of section 4 or disposing of any application under sub-section (4) of section 7 or sub-section (8) of section 8, the Tribunal or the District Judge, as the case may be, shall, subject to the provisions of sub-rule (2), follow, as far as practicable, the rules of evidence laid down in the Indian Evidence Act, 1872."

Then, sub-section (2) which qualifies the general procedure says :

> "Notwithstanding anything contained in the Indian Evidence Act, 1872 where any books of account or other documents are claimed by the Central Government to be of a confidential nature, the Tribunal or the court of the District Judge shall not..."

Here, by these words 'shall not' circumscribes the power vested in the Tribunal to act under the Indian Evidence Act. The Central Government under the rules prescribes that the Tribunal—

> "..... shall not compel that Government to produce before it such books of account or other documents,
>
> where any such books of account or other documents have been produced before it by that Government,
>
> make such books of account or other documents a part of the records of the proceedings before it, or
>
> give inspection of, or copy of the whole of, or any extract from, any such books of account or other documents to any party before it or to any other person."

It appears that whenever the Tribunal wants some documents, the Government will refuse to produce it. Whenever the Central Government comes with a case that such and such an organisation is unlawful, according to them, and that they find they have killed so many persons, that they are manufacturing armaments, bombs or anything they can do so without proper evidence, and they will not be required to produce evidence before the Tribunal. They take the power to withhold the evidence and simply put the conclusion before the Tribunal. The Tribunal cannot compel the Government to produce such books of account or other documents. Not only books of account but other documents also,—any report they have received, any information they have got, any original documents. They can simply say it is privileged and that it shall not be produced, therefore, it shall not be produced.

There is something more. Whenever they produce something, even that will not be available to the accused. That is against the principle of natural justice. The accused who is being charged or an organisation which is being charged should be given those documents, should have inspection of those documents and should be allowed to take copies of those documents. Nothing is provided for it. Why does the Home Minister want such powers ? The Evidence Act is applicable, as far as practicable, subject to sub-rule (2).

Sections 123 and 124 of the Indian Evidence Act provide for claiming privileges regarding certain documents whenever there is a question of State policy. Section 123 of the Indian Evidence Act says :

> "No one shall be permitted to give any evidence derived from unpublished

[Shri Srinibas Misra]

official records relating to any affairs of State except with the permission of the officer at the head of the department concerned who shall give or withhold such permission as he thinks fit."

He has sufficient powers here. If they do not want to produce it, they can say that they do not think fit that it should be produced.

Then, Section 124 says :

"No public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interests would suffer by the disclosure."

In spite of these powers, the Home Minister wants something more so that the power of the Tribunal should be curtailed which, according to my contention, is not within the powers given by the Act itself. Under the Act, he cannot do it.

Sir, you will find that they want to change some decisions of the Supreme Court. The position of law is, as Sections 123 and 124 stand, that it is for the courts to decide whether any matter is privileged or not, whether the privilege is being claimed rightly or wrongly. Now, the Home Minister wants to take away that power. He wants to have, in his hands, the power, to decide, whether some documents will be produced or not, whether somebody will be hanged or convicted without giving him notice as to why he is being convicted. He wants that power. I hope he will consider the points raised by me.

श्री मधु लिमये : अध्यक्ष महोदय, मैं ने जो तरमीमें इस नियमावली के बारे में रक्खी हैं उन में से दो बहुत ही महत्वपूर्ण हैं और इसी पर मैं ज्यादा जोर देना चाहता हूं।

एक नियम 3 के सम्बन्ध में है जिसका कि उल्लेख अभी मिश्र जी ने किया था। दूसरा जो मेरा संशोधन है वह नियम 5 के सम्बन्ध में है। अब अध्यक्ष महोदय, मेरी राय में यह बहुत ही गम्भीर मामला है और गृह मंत्री जी द्वारा जो आश्वासन ज्वाएंट कमेटी को दिये गये थे उन आश्वासनों का खुल्लमखुल्ला उल्लंघन उन्होंने किया था। ऐसी बात नहीं है कि हम को इस के बारे में संदेह नहीं था। बराबर मन में संदेह था और इसलिए जब एटार्नी जनरल साहब को बुलाया गया तो इस विषय पर मैं ने उन से कई सवाल पूछे थे। उस में से एक प्रश्न उन्होंने उद्धृत किया है और उस वक्त गृह मंत्री जी ने हम को कहा कि सारी जानकारी नोटिफिकेशन में न देने की बात चल रही है। अगर अदालत चाहे, ट्रिब्युनल चाहे तो वह सारे तथ्यों को मांग सकता है और हम उन्हें देने को बाध्य हो जायेंगे। इन का यह वाक्य, चव्हाण साहब का :

"SHRI Y. B. CHAVAN : Complete facts will be disclosed to the court or tribunal which is going to take a view of the matter. Certain things will not be disclosed in the notification."

मैं ने उस वक्त पूछा था :

"श्री मधु लिमये : यह कहां साफ हुआ है कि ये सारी बातें ट्रिब्युनल के सामने आयेंगी ?

"SHRI Y. B. CHAVAN : The whole section refers to notification."

आप सैक्शन 3 के बारे में बोल रहे थे लेकिन सैक्शन 4 के अन्दर ट्रिब्युनल के बारे में हम सारी बातें देंगे। मैं ने आगे कहा है :

"श्री मधु लिमये : अगर नोटिफिकेशन में ये बातें नहीं आयेगी, तो आप ट्रिब्युनल के सामने भी यही दलील ले सकते हैं। सरकार के लिये बन्धनकारक तो नहीं है कि वह सारी बातें ट्रिब्युनल को बताए।"

उस का जवाब श्री सी० के० दफ्तरी देते हैं :

"SHRI C. K. DAPHTARY : Before the Tribunal, the Government will have to justify its action."

"SHRI Y. B. CHAVAN : Naturally; when you want to go into a case it is always open and all the facts necessary to prove a case will be placed before them. What will be placed before the court will not entirly be disclosed."

मतलब कोर्ट के सामने जो बातें आयेंगी वह हम नोटिफिकेशन में नहीं देंगे। इसलिए ऐसी हालत में नियम 3 जो इन्होंने बनाया हुआ है जिसमें उन्होंने कहा है कि फलां-फलां चीजें देने के लिए अदालत बाध्य नहीं कर सकती है यह विशुद्ध वादा फरामोशी है। यहां अदालत के अधिकारियों को यह सीमित करना चाहते हैं और इन्होंने जो जनता को आश्वासन दिये हैं वह बिल्कुल साफ शब्दों में दिया है जिसके कि बारे में कोई संदेह नहीं हो सकता है। अभी इन को आपको प्रकाशित किये हुए डेढ़ दो महीने का ही समय हुआ है और इसी डेढ़ महीने के अन्दर यह अपने वचन को तोड़ने लगे हैं और ऐसी स्थिति में राजा हरिश्चन्द्र और दशरथ आदि की बात और "रघुकुल रीति सदा चल आई प्राण जाहिं वरु वचन न जाहिं," यह बातें उनके मुंह से हास्यास्पद ही लगती हैं। मुझे याद आता है बम्बई में पारसी लोगों की एक ड्रामा कम्पनी होती थी और उस में उर्दू नाटक आदि खेले जाते थे। तो उस कम्पनी का नट जोकि हरिश्चन्द्र का पार्ट करता था जब वह व्यक्ति स्टेज पर आता था तो पीछे से आवाज आती थी कि राजा हरिश्चन्द्र पधार रहे हैं, सब लोग अपनी पाकिट सम्हालें...

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : I am glad, you have some sense of good humour.

श्री मधु लिमये : इसलिए मैं मन्त्री महोदय से प्रार्थना करूंगा कि वह अपने नियम 3 को वापिस लें। हो सकता है और मैं यह मानने को तैयार हूं कि इनके आश्वासन के विरुद्ध जिन्होंने जो ये नियम बनाये हैं उन अधिकारियों को पता न हो लेकिन जब हम ने ध्यान आकर्षित किया है तो कम से कम आप 3 नियम को हटा लें। इसी तरह नियम 5 में उन्होंने फिर एक किन्तु परन्तु लगा दिया है। वह लिखते हैं :

"Provided that nothing in this Rule shall require the Central Government to disclose any fact to the Tribunal which that Government considers against the public interest to disclose."

यह भी उन के द्वारा जो आश्वासन दिया गया है उस का उल्लंघन है।

अब मैं नियमों के बारे में एक दो बातें मन्त्री महोदय से जानना चाहता हूं। 30 दिसम्बर को यह विधेयक कानून बना। तो 30 दिसम्बर के बाद उन्होंने किन किन केसेज के बारे में इस कानून का इस्तेमाल किया? सदन के सामने उन्होंने इस के बारे में कोई निवेदन नहीं दिया है। लेकिन जैसा मैंने अखबारों में पढ़ा है उस से ऐसा लगता है कि एक मीजो इलाके के किसी संगठन के खिलाफ उन्होंने इस का इस्तेमाल किया है। मैं जानना चाहता हूं कि क्या यह सही है? इसलिए चार महीनों के अन्दर इस कानून के जरिये परिस्थिति पर काबू पाने में उन को क्या सफलता मिली है इस के बारे में वह जरा रोशनी डालें।

जहां तक इस कानून के उद्देश्य का सवाल था, मैं ने एक संशोधन ज्वायंट पार्लियामेंट्री कमेटी में दिया था, और वह यह था कि जिस तरह आप दलों और संगठनों पर प्रतिबन्ध लगाते हैं, उन्हें गैर-कानूनी करार देने का अधिकार अपने हाथ में लेते हैं, उसी तरह अगर सरकार के अधिकारी और मंत्री अवैध काम करें, जिस से भारत का इलाका विदेशियों के हाथ में जाने की बात चले, तो उस पर कार्रवाई की जाय, लेकिन मेरे संशोधन को मंत्री महोदय ने स्वीकार नहीं किया। जिस इलाके के बारे में हमेशा यह कहा गया कि वह हमारा इलाका है और उस का सबूत कच्छ का करार ही है जो आप का बयान है, जो आप का निवेदन है उस से साफ है। आज भी छाड़बेट में हमारी चौकी है इस से साफ होता है कि कम से कम सरकार की निगाह में जो इलाका हमारा है, कच्छ ट्रीब्यूनल के फैसले के अनुसार आप उस को सरकारी आदेश से पाकिस्तान को देने जा रहे हैं। वह आप की निगाह में और हिन्दुस्तान के कानून की निगाह में

[श्री मधु लिमये]

हमारा इलाका है। मेरे मन में सन्देह था कि आप उस पर अमल करेंगे। इसी लिये मैं ने संशोधन दिया था, लेकिन आप ने उसे ठुकरा दिया। आप को उस को संविधान में संशोधन कर के देना चाहिये था क्योंकि आप को ऐसा इलाका देना है जो कि हमारे कानून की निगाह में और आप के कथनानुसार हमेशा हमारा रहा है। यह इलाका हमारा है क्योंकि आज भी छाड़बेट में हमारी चौकी है। अगर हमारा इलाका न होता तो आप की चौकी वहां पर न होती।

17.53 hrs.

[Shri R. D. Bhandare *in the Chair.*]

मैं कहना चाहता हूं कि अगर इस कानून के खिलाफ सब से पहले किसी ने कार्रवाई की है, तो मीजो वालों ने भी की होगी, लेकिन इस सरकार ने भी की है। मीजो फ्रंट जो है उस को उन्होंने गैर-कानूनी करार दे दिया है। अगर इस कानून के खिलाफ सब से अधिक काम किसी संस्था ने किया है तो वह मन्त्री जी की पार्टी ने किया है। क्या गृह मंत्री जी इस के बारे में सदन को जानकारी देंगे कि उन को भी अवैध घोषित करने के बारे में वह विचार कर रहे हैं ?

इस तरह के कानूनों का दुरुपयोग होने का खतरा ज्यादा है, इस लिये मंत्री महोदय चार महीने के अनुभव की रोशनी में इस कानून को वापस लेने के बारे में सोचें। अगर वह वापस लेने के लिये तैयार नहीं हैं तो उन्होंने अपने आश्वासन के विपरीत यह जो दो नियम और एक परन्तु जोड़ दिया है उस को कम से कम खत्म करने की बात करें।

मैं कहना चाहता हूं कि आप हमारे गृह मन्त्री हैं। उन का फर्ज है क्योंकि उन के हाथ में अधिकार है 256 और 257 का। मैं उस को पढ़ कर सुनाता हूं।

सभापति महोदय : पढ़ने की आवश्यकता नहीं है।

श्री मधु लिमये : आप पंडित हैं, लेकिन दूसरे सब लोग पंडित नहीं हैं, इसलिये पढ़ने की जरूरत है। मेरे कहने का मतलब यह था कि इस सरकार के पास अधिकार है। आप 256 और 257 को देखिये कि उस में क्या लिखा है :

> "256. The executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament and any existing laws which apply in that State, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose."
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> "257. (1) The executive power of every State shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union, and the executive power of the Union shall extend to the giving of such directions to a State as may appear to the Government of India to be necessary for that purpose."

उन के पास आधिकार हैं जिन का इस्तेमाल कर के वह इस देश में कानून और संविधान का राज्य कायम कर सकते हैं। उन्होंने बंगाल के बारे में इस तरह के अधिकार के इस्तेमाल करने की बात की थी। आज चूंकि गृह मंत्री जी यहां पर हैं, मैं उन से एक सवाल पूछना चाहता हूं। एक ओर उन्होंने यह कानून बनाया कि अनलाफुल ऐक्टिविटीज पर रोक लगाई जाय, लेकिन जब एक राज्य सरकार ऐसी गतिविधियां करे, जो बिल्कुल गैर-कानूनी हों तो क्या होगा ? केन्द्रीय सरकार के कानून की तहत कुछ लोगों को विदेशी मुद्रा कानून तोड़ने, तस्कर व्यापार करने आदि गलत कामों को ले कर सजायें दी जाती हैं, अपील होती है और सुप्रीम कोर्ट तक मामला जाता है, सुप्रीम कोर्ट में भी सजा कायम, कन्फर्म की जाती है, उस के बाद

अगर कोई राज्य सरकार उन को छोड़ दे तो क्या होगा ? उन लोगों को एक ही दिन दिल की बीमारी हो जाती है, अपराधी एक ही दिन के अन्दर दिल की बीमारी होने का सर्टिफिकेट प्राप्त करते है और उन को सरकार छोड़ देती है, तो कानून पर अमल कैसे होगा यह बात मेरी समझ में नहीं आती । यह मैं फेडको के बारे में कह रहा हूं । यह मंत्री महोदय की नैतिक जिम्मेदारी है क्योंकि वह महाराष्ट्र के नेता हैं, अब भी उन का प्रभाव इतना ज्यादा है महाराष्ट्र कांग्रेस पर और महाराष्ट्र की सरकार पर कि उन के कहने की अवज्ञा वह नहीं कर पायेंगे, उस को ठुकरा नहीं पायेंगे । जब इस तरह के गलत काम होते हैं तो कानून और संविधान की इज्जत हमारे देश में कैसे बढ़ेगी । आप ने अनलाफुल एक्टिविटीज के बारे में कानून बनाया, लेकिन जब बहुत से ऐसे काम सरकार के द्वारा होते हैं, तब कानून का आदर रह नहीं जायेगा । इस लिये मेरी विनती है कि आप फेडको के मामले की जांच करें । साथ-साथ जो दो नियम हैं, आश्वासन और कानून, मैं मानता हूं कि उन्होंने उन को जवायेंट पार्लियामेंट्री कमेटी में कुछ उदार बनाया, लेकिन जो अच्छा काम किया है एक हाथ से अब वह उस को बिगाड़ने का काम कर रहे हैं दूसरे हाथ से आश्वासन और कानून विरोध नियमों को वह वापस लें ।

इस लिये मैं प्रार्थना करता हूं कि दोनों पहलुओं पर, अर्थात फेडको के मामले की जांच और नियमों के बारे में वह सोचें ।

MR. CHAIRMAN : Both the motions are before the House.

SHRI UMANATH (Pudukkollai) : Sir, I support the motions of both Shri Srinibas Mishra and Shri Madhu Limaye. Of course, I do not have much of an illusion about the Government making any substantial change. I have no illusion. I want to make it clear in the beginning itself. The provisions to which they seek to bring about a change according to me constitutes the kingpin of the entire scheme of things which the Government wants to implement. It is in the nature of the villain of the piece of the story or something like that. Those main provisions from the entire basis of that. I do not think the Government is going to accept any basic change so far as that is concerned. By this Act and rules they want to commit certain undemocratic acts which will not stand the test of even the limited constitution, which we are having now. They know that. Yet they want to do certain unconstitutional acts and yet get the seal of tribunal or get the seal of judicial process. So, I don't think they are going to accept it. We have to make our position quite clear on this. I am supporting this amendment so that if at all it happens, the whole harm is minimised. It is only with that idea that I am supporting these amendments.

18.00

With these things as they stand, and with the kingpin as it stands, how will it work, and what will happen ? Government claim the right not be divulge such of the documents or evidence as according to them it is not in public interest to disclose. How will this work in practice ? I can quote from our own experience.

The question of the CBI report on Orissa, on the affairs of Shri Biju Patnaik and Shri Biren Mitra was raised here in the last Parliament. That report was submitted to Government, and Government said that it was not in public interest to disclose the contents of the report. That is the position which they take even now. As it is, the public will think, at least the gullible among them will think, that there is something there which will affect our national security. But ultimately what happened ? The report came out. We know now what the report contains. Though technically Government maintain the position that they cannot accept it as true or whatever it is, the report is out and we have all read it. But can a single paragraph or sentence be shown in that report which will harm the interests of the country or which it is not in public interest to divulge ? That cannot be done. Of course, there is a lot of things to be covered up. If the report is accepted by Government, then Government will have

[Shri Umanath]

to accept the demand of this Parliament for the appointment of a high-powered commission to go into the entire thing, in which case some of their colleagues in Orissa will have to go to court aud stand there as accused. Here is an instance where Government have claimed public interest to suppress a report, but where actually it has turned out that public interest has been claimed only to protect their colleagues from going to jail or subjecting themselves to certain judicial processes. This is an example of how Government claim public interest.

Here, it is not a question of an individual but it is a question of the fundamental right of an association, and the existence of the association, and you can easily imagine how it will work.

Then, I would give the example of the Preventive Detention Act. Under the preventive Detention Act and the Constitution, Government have no power to hide any facts from the Supreme Court or the High Court if we go to them on a writ. What has been the experience ? Government give a charge-sheet, but we have seen that many of the charge-sheets could not stand the test of the judicial process in the High Court or the Supreme Court. We have seen many of the charge-sheets given by Government under the preventive Detention Act, and we cannot say that any of the revelations in those charge sheets has harmed the interests of the country. Because this right to withhold or suppress the information has not been given under the Preventive Detention Act, the court was able to go through it and then quash many of the orders and set the citizens at liberty.

If this right had been given to withhold information under the Preventive Detention Act even from the courts, then many of the citizens would have been behind the bars today.

What I am saying from that experience is that Government claim this right to withhold some of these documents in the matter of an association, because they know that if these things are taken before a tribunal and subjected to a judicial process, then they may not stand the test because they want to do something here which they cannot do under the Constitution ; they know that these things cannot stand the test of the judicial process and that is why they want this power and that is why I feel they may not accept any changes in the rules as they stand.

Apart from depriving the citizens of their fundamental rights and apart from depriving an organisation or an association of its fundamental rights, this insistence on the part of the Government to withhold certain documents in public interest seeks to deprive the tribunal also of its right to take an independent decision. Normally when an issue is referred to a tribunal, the tribunal wants all the facts to be placed before it so that it can come to and independent decision. But by this provision and by Government's insistence on retaining this provision, they are depriving the tribunal also of its right to consider things independently and on merits and then come to a decision.

If I may so put it, this position of Government also amounts to an obstruction of the judicial process. Finally it also means that Government do not want any tribunal under this Act to give them an independent judicial decision.

On the other hand, Government want to catch the tribunal by its nose and drag and compel it to a decision of their choice. That is why they have framed the rules this way and that is why I am supporting the Motions.

SHRI NANJA GOWDER (Nilgiris) : In the proceedings before the district judge or the tribunal under the parent Act, the unlawful Activities (Prevention) Act 1967, the person or organisation proceeded against occupies the same place as an accused in a criminal case. It is a fundamental principle of law that every facility should be accorded to an accused or person or organisation stading in the position of accused defend himself or itself. Therefore, withholding documents, account books etc. as contemplated in sub-rule (2) of rule 3 of the Rules would be most prejudicial to the interest of the person or organisation proceeded against and the trial itself will be a farce. If such documents are withheld from the accused, the accused cannot meet

the case at all. Such a position, in my view, is not contemplated in the jurisprudence of the nation.

Secondly, if the documents contemplated in this sub-rule are taken out of the purview of the court, as Shri Umanath pointed out, the court will have nothing to scrutinise excepts what the prosecution has to say. This again is a very unhappy state of affairs and not contemplated under any system of law or natural justice. This will give a blank cheque to the State and the prosecution which should be deprecated. I therefore support the Motions.

SHRI S. KANDAPPAN (Mettur): I am one of those who believe that this Act cannot be improved upon because it is such a pernicious and obnoxious measure that Government in there wisdom thought fit to have enacted, I do not know for what purpose. At best, I consider this superfluous because if their intention is honest, they have already so much power in their armoury as to prevent any kind of unlawful activities in this country; at worst, I am tempted to think they have got some sinister motive behind the enactment of this Act.

After all, as Shri Umanath pointed out, that they are going to do is to declare association, unions and even parties as unlawful, if they indulge in unlawful activities. This is a democratic country. A party ruling this country, if it feels that certain groups are carrying on a sort of propaganda that is not agreeable to it and which if it catches the imagination of the people and the public will improve their strength among the public and threaten the very monopoly of the ruling power, can bring this to its aid; otherwise, there may not be even any need for it because if some individual like Sheikh Abdullah goes on carrying a certain kind of propaganda which in the opinion of Government can best be ignored, they will ignore it. But if certain persons who can manage things in such a way as to threaten the very power of Government, proceed to do so, they will come in the way of Government and Government will be stirred to act on against them.

I would like to raise a very basic issue here. Not that I want to prevent Government in their attempt to prevent and prohibit uplawful activities in this country,

I want to raise a basic issue. I am sure the hon. Home Minister is appreciative of the difficulties he is confronting in various parts of this country. It is public opinion that is going to count in achieving a sort of soliderity, a homogenous, healthy and constructive and cooperative spirit in this country. Take, for instance, the Mizo Front. They have applied this Act. But even after the application of this Act, the activities that were carried on before were being carried on; they were not able to prevent it. Why? I know the explanation he will give. Therefore, what counts in the final analysis is: how to bring the people nearer to us. I am sure the hon. Minister is trying to do that. In that case, is it not proper and fair to see that when his chargesheet is made that certain groups are indulging unlawful activities it should be made known to the public at large, not only to the group or people in the location in which that group is in operation, but even to the whole nation as to the nature of its operations, how they infringe the sovereignty the integrity of the nation and how it cannot be allowed or permitted to be operated in a democratic country. Otherwise, people will get suspicion about the bonafides of the Government. I go further and say that instead of really preventing that kind of nefarious activities. This will strengthen the hands of those that indulge in such kind of under-hand activities because these people will get the impression that certain leaders or groups are being banned or punished for political motives or that the Government is trying to be vindictive. That kind of impression will certainly get round. In order to avoid it, at least, I think the amendment moved by Mr. Misra and Mr. Limaye should be accepted; they can very well avoid this kind of complication. What is the harm in it? It is all the more necessary that they should disclose all the evidence that they have at their disposal before they chargesheet a particular group or association. That will clear the whole atmosphere and create a sort of atmosphere conductive for further operations of the Government. It is my approach to the whole problem.

My second point is a corollary to the first. In a democracy, the only safety valve between the executive and the rights of the people is the judiciary. If they do

[Shri S. Kandappan]

not permit the judiciary to operate in an unfettered way, that would be the darkest day in this country. I feel unconvinced about this particular provision in the rules —not to divulge certain documents even to the Tribunal. I feel strongly on these two points and should like to get a clarification from the hon. Home Minister as to what harm is there if they notify whole charges and the grounds of their charges even before they go to the tribunal. What harm is their? Secondly, why should they try to disarm the tribunal or judiciary in such a way that they are prevented from carrying on their mission, if I may put it that way?

श्री योगेन्द्र शर्मा (बेगुसराय) : सभापति महोदय, माननीय सदस्य, श्री मिश्र और श्री मधु लिमये, ने जिन संशोधनों को उपस्थित किया है, मैं उनका समर्थन करता हूँ। यदि उन संशोधनों को स्वीकार नहीं किया जायेगा, तो इस कानून में निहित जो निरंकुशता है, वह और भी भयंकर और स्पष्ट हो जायगी और संविधान द्वारा प्रदत्त हमारे फंडामेंटल राइट्स पर आघात करेगी, जिस के परिणामस्वरूप अनलाफुल एक्टिविटीज एक्ट असंवैधानिक हो जायेगा। जिस कानून के अन्तर्गत ये नियम बनाए गए हैं, वे फंडामेंटल राइट्स से सम्बन्धित है। राष्ट्रीय सुरक्षा को खतरा होने पर और एक विशेष तथा असाधारण स्थिति में ही हम उन फंडामेंटल राइट्स पर रीजनेबल रेस्ट्रेंटस लगा सकते हैं। लेकिन अगर इन नियमों के मातहत उस रीजनेबल रेस्ट्रेंट को छोड़ कर एक-दम निरंकुशता का सहारा ले लिया जाये, क्योंकि इन के मुताबिक एक्सीक्यूटिव जो भी चाहे, वह कर सकता है, वह अपने आप को इस प्रतिबन्ध से मुक्त कर सकता है कि वह ट्रिब्यूनल के सामने एविडेंस पेश करे, तो वह हमारे फंडामेंटल राइट्स पर आघात है। ऐसी हालत में रीजनेबल रेस्ट्रेंट के विचार से जिस ट्रिब्यूनल की व्यवस्था की गई है, वह बेईमानी हो जाती है। यदि ट्रिब्यूनल के सामने एक्सीक्यूटिव एविडेंस पेश नहीं करता है, तो वह ट्रिब्यूनल एक मजाक बना जाता है। अगर इस तरह से फंडामेंटल राइट्स पर रीजनेबल रेस्ट्रेंट से बढ़ कर रेस्ट्रेंट लगा दिये जाते हैं, तो यह पूरा एक्ट अनकांस्टीट्यूशनल हो जाता है।

यदि हम चाहते हैं कि यह पूरा एक्ट अनकांस्टीट्यूशनल न हो, तो फंडामेंटल राइट्स पर जो रेस्ट्रेंट करना है, वह रीजनेबल रेस्ट्रेंट से आगे नहीं जाना चाहिए। इस लिए हमारे दो मित्रों ने जो संशोधन पेश किये हैं, उन को स्वीकार करना चाहिए।

यह अजीब बात है कि हम व्यक्ति और संगठन के अधिकारों को छीन लेते हैं, खत्म कर देते हैं, लेकिन ऐसा करते वक्त हम इस साधारण सी आवश्यकता की पूर्ती की व्यवस्था भी नहीं करते हैं कि जिन आधारों, तथ्यों, और प्रमाणों पर किसी पूरे दल, संगठन या गिरोह को गैर-कानूनी करार दिया जा रहा है, उन को ट्रिब्यूनल के सामने रखा जाये। ऐसी स्थिति में नैचरल जस्टिस और फंडामेंटल राइट्स का क्यासिलसिला रह जाता है ? इस लिए हम एक्सीक्यूटिव को बिल्कुल निरंकुश न होने दें, फंडामेंटल राइट्स का बिल्कुल हनन न होने दें, इसका तकाजा यह है कि हमारे मित्रों ने जो संशोधन पेश किये हैं, उन को स्वीकार कर लिया जाये।

यदि यह मन्त्री इन संशोधनों को स्वीकार नहीं करते हैं तो जब यह बिल आया था उस वक्त जो आशंकायें प्रकट की गई थी, वे सही साबित होंगी। उन आशंकाओं को निर्मूल करने के लिए सिलेक्ट कमेटी में जो थोड़ी सी व्यवस्था की गई थी, वह सब बेकार हो जायगी ; सिलेक्ट कमेटी का सब काम बेकार हो जायगा। इस बिल को सुधारने में और इस को कानून का रूप देने में सिलेक्ट कमेटी की जो सार्थकता थी, अगर हम उस को बचाना चाहते हैं, तो नियमों को संशोधित करने के लिए जो सुझाव आये हैं, गृह मंत्री को उन्हें स्वीकार करना चाहिए। गृह मंत्री ने जो आश्वासन दिये थे, यदि

वह उन को भंग नहीं करना चाहते हैं, यदि वह सिलेक्ट कमेटी के साथ विश्वास नहीं करना चाहते हैं, तो उन्हें इन संशोधनों को स्वीकार करने में कोई एतराज नहीं होना चाहिए ।

SHRI R. BARUA (Jorhat) : Mr. Chairman, Sir, I shall take just two or three minutes only. Mr. Srinibas Misra's amendments are not necessary. He wants to say that by virtue of the rule the Government wants to go beyond section 4 in which it is said that the tribunal should be entitled to call for evidence. But under the Evidence Act itself, which is also applicable for the tribunals' trials, all the provisions are applicable to an enquiry by the tribunal. If so, the withholding of the evidence even at any stage is not to the advantage of the Government, because presumption can be drawn against the Government for not producing the document under section 114 of Evidence Act. Therefore, all the argument that the Government is imposing something extraordinary is not correct. This provision is made in the Evidence Act only in the interests of the public. For instance, supposing there is a matter which may be secret, which cannot be disclosed, even if a man is allowed to go scot-free, and that is why this provision is particularly made in the Evidence Act and that has also been reaffirmed by the rules here under.

Therefore, it is wrong to say that by making this provision, Government is going to make the matter worse for the citizen or the association which is going to be made unlawful. In the final analysis, the judgment is given by the tribunal. In no way is the judgment going to be fettered. If anybody is going to be fettered, it is the Government or the prosecution, because the prosecution by virtue of this rule may not give certain information in public interest. If at all this provision affects anybody, it affects the Government. But the Government takes the risk in the wider interests of the country. It may be a military secret or international secret which the Government cannot, for the matter of a certain individual or institution, place before the tribunal and make it public. Therefore, this amendment is not necessary.

Mr. Misra says that the rule goes beyond the provisions of the Act. But this is not a rule to be made by the executive without the approval of Parliament. Here the rule comes along with the Act before the Parliament. Once the Parliament approves the rule, the validity of the rule is as much as the validity of the Act.

Therefore, from all points of view, these amendments are unnecessary.

SHRI SHIVAJIRAO S. DESHMUKH (Parbhani) : Sir, at the outset I would like to say that Government thought it better to bring forward a special legislation to meet the special conditions to declare an assembly or activity unlawful, which in the absence of specific Act was likely to be accepted as lawful. Even in the democratic Constitution which we have adopted wherein every individual has got freedom of speech and association, we envisage a situation where this freedom is likely to be missued. So, Parliament has got every right to place restrictions on this freedom. The very enactment of this Act is in exercise of this right of Parliament to impose restrictions which would be necessary in public interest. Once having enacted a specialised law and having delegated to Government the powers to frame rules thereunder, as long as those rules are not in direct contradiction of the Act passed by the Parliament, I do not think it would be prudent to interfere with the authority of the Government to frame rules.

Let us not forget that if any rule is in contravention of a specific provision of the Act under which it is to be framed, it is the normal duty of any law court not only to declare that rule to be *ultra vires* but to refuse to take cognizance of that rule. In case of a conflict between a rule and the Act, it is a settled principle of law that the Act remains. Therefore, much that has been said on this is irrelevant.

As pointed out by my hon ; friend, the Evidence Act presupposes that it shall be the Government's privilege to claim privilege not to file any piece of evidence which the Government wants to withhold from the court of law in public interest. On the general principles of jurisprudence, even this—the discretion of Government is to be judiciously exercised. If there are reasons to believe that it has been arbi-

[Shri Shivajirao S. Deshmukh]

rarily exercised, the civil court can say hat claiming of this privilege being *mala fide*, Government is not entitled to claim it. If there is an apprehension that the power conferred by the rule would be missued or used for *mala fide* intentions, it is open to any court worth the name not to accept it. It is a fundamental principle of law that *mala fide* acts, whether of individuals or associations or anybody can never have legal force. If the Supreme Court comes to the finding that a particular legislation passed by Parliament is colourable, solely on the finding, it can be set at nought.

It can be declared *ultra vires* of the Constitution even if it is closely within the ambit of this House, within its power to pass the legislation. If the real apprehension is *mala fide* intentions of the Government, *mala fide* intensions of the officials on the spot, then we must have trust and faith in our own law courts who would be the first to come out and say that this being *mala fide* exercise of powers they refuse to recognise it. Therefore, I request the hon. Members to consider this point. I think their request to modify the rules, if I may say so, is bad in law firstly because it amounts to interference with the authority of the Executive to frame rules within the ambit of a law passed on the specific understanding that it is permissible under thelaw passed for the Government to frame rules. Therefore, all that has been said is farfetched and unnecessary, and the rules as have been framed by the Executive should be upheld.

THE MINISTER OF HOME AFFAIRS (SHRI Y. B. CHAVAN) : Mr. Chairman, Sir, I heared the arguments made by the hon. Members who have moved amendments to these rules. They tried to point out alleged inconsistency that existed, according to them, between what I said in the course of the discussion in the Select Committee and the present rules. I would explain my position about it. I explained it at that time when we were discussing this clause on the notification. The argument was whether we should disclose all the facts in the notification. At that time I said that possibly it would not be necessary to disclose all the facts but it would be in the interest of the prosecuting authority to disclose all those facts which are necessary to convince the tribunal that there exists a case for the prosecution. We stand by it even now. If you see the rule, the rule which has been objected to particularly the proviso (2) to rule 5, the rule reads like this :

> "5. Documents which should accompany a reference to the Tribunal.--Every reference made to the Tribunal under sub-section (1) of section 4 shall be accompanied by—
>
> (i) a copy of the notification made under sub-section (1) of section 3, and
>
> (ii) all the facts on which the grounds specified in the said notification are based."

Of course there it is said that the Government can on the ground of public interest withhold certain information or refuse to disclose certain information. There are certainly facts which are not necessary always to disclose. As my hon. friend here very rightly said there may be in this matter certain facts connected with military aspects. What is the type of problem that will be covered by this Act. It is meant for activities against the integrity of the country and the sovereignty of the country. Therefore, sometimes it may be necessary that certain facts would involve international implications also. Certain information about our friendly countries may also be involved. Is it expected that in the proceedings before the Tribunal all such information should also be revealed ?

SHRI MADHU LIMAYE : Leave it to the Tribunal.

SHRI Y. B. CHAVAN : It is not a question of leaving it to the Tribunal. The Tribunal certainly is entitled to ask for information which it is necessary for them to be convinced about the existence of a case. It would be in the interest of the Government to see that all shch relevant facts are placed before it. It would not be in the interest of Government not to disclose those facts.

SHRI SRINIBAS MISRA : There is a difference between facts and documents.

SHRI Y. B. CHAVAN : Facts necessary to prove the case against the association will have to be placed before the Tribunal.

SHRI SRINIBAS MISRA : What you have to produce are documents and not facts.

SHRI Y. B. CHAVAN : Please see rules 3 which you want to drop. There are two aspects. One is that the District Judge shall not compel the Government to produce before it such books or accounts or other documents. This really speaking will happen rarely, only under special circumstances.

SHRI S. KANDAPPAN : That is no argument. What is the guarantee that you are going to be the Home Minister for ever ? Some unscrupulous person may come as Home Minister tomorrow.

SHRI Y. B. CHAVAN : Whether he is scrupulous or unscrupulous is an irrelevant matter. A man who goes before a tribunal with a case has to prove it. It is not in my discretion here whether certain matters have to be proved or not.

श्री मधु लिमये : हम कानून और नियमों की बात कर रहे हैं ।

SHRI Y. B. CHAVAN : Then (b) is about cases where documents are produced before the tribunal, whether some of the facts from those documents should be published or not. It is a question of ensuring secrecy of certain documents, even when they are produced before the tribunal. There are the two aspects. As I said, the first aspect is meant for exceptional circumstances, exceptional factors.

(SHRI DATTATRAYA KUNTE (Kolaba) : It is not so provided. Wider authority is given.

SHRI Y. B. CHAVAN : This is not giving authority for executive action. This is something to be done before the tribunal, I am asking a simple question and I am not getting any convincing answer for that. Will it not be in the interest of the Government to prove and produce all the facts, all the documents to prove the case ?

SHRI UMANATH (Pudukkotai) : Suppose you feel certain documents produced before the tribunal will go against you. It is likely that you will withhold them. So, the accused is not able to get at them. It has happened.

SHRI Y. B. CHAVAN : This is something which I do not understand.

SHRI UMANATH : For your question I am saying that is possible.

SHRI Y. B. CHAVAN : It is not possible at all. How is it possible ? Naturally, Government cannot be expected to produce documents to disprove their case. What is expected of them ?

SHRI SRINIBAS MISRA : I will give one example to the hon. Minister. Let us take one concrete example. It is alleged that the Naxalites are having connection with China. The Government comes out with a case against the group saying these people are Naxalites, they have been connections with China. Somebody goes to the court as witness and says 'I know it'. Then, when the question of cross-examination comes where is the document ? Have you any report ? The Government say : I am privileged, I will not produce it : This is oral evidence ; on the authority of the evidence the case has to be pursued. What does the Minister say to such a case ?

SHRI DATTATRAYA KUNTE : Under the Preventive Detention Act the court says that the officer himself has exercised his discretion and therefore the grounds will not be disclosed. The same thing will happen here. They will say the documents need not be produced. As long as it does not say about exceptional circumstances, where it endangers the security of the country or something of that nature, as long as there is no qualifying clause—the Minister referred to the defence of the country and military which are exceptional cases—the wording of the

[Shri Dattatraya Kunte]

rule as such is so wide that anything under the sun could be protected or withheld.

SHRI Y. B. CHAVAN : I understand the argument of the hon. Member but, really speaking, the comparison with the Preventive Detention Act is not apt because the two are completely different. This is against certain executive action. Here, really speaking, there is full-fledged proceeding before the tribunal, according to the CPC and CrPC and even the Evidence Act is made applicable. So, the comparison between the proceedings before the advisory board and the executive board is not applicable here. I cannot say that I will be convincing them but I am explaning the intentions of the Government in this matter.

The other criticism was about the restricted application of the Evidence Act. I have accepted in the course of the discussion in the Jiont Committee an amendment to complete the proceedings of the tribunal within a period of six months. Possibly, the hon. Member, Shri Madhu Limaye might remember that. The entire idea of this Act was to meet very exceptional and extraordinary situations. So, when we are accepting certain responsibility to complete the proceedings within six months, I have certain obligations also which flow from this particular situation. I personally do not think that I can accept any of the amendments suggested by the hon. Members.

SHRI SRINIBAS MISRA : Sir, some points have been urged by the hon. Member, Shri Barua, that presumption can be drawn. But I will remind the hon. Member that when the law provides for a privilege, no presumption will be drawn. That is the position of law. Let him go through all the decisions ; they are consistent about it. So, section 114 will not be applicable when powers under sections 123 and 124 and under this rule are exercised by the Government and they claim privilege.

I will admit that I was unable to follow what the hon. Member meant by saying that the rule is as valid as the Act. If it is under the provisions of the Act, it will be valid ; if it goes beyond the permissible limit of the Act or beyond the competence of the Act, rule will not be valid. To this the hon. Home Minister has not replied.

I would accept the contention of Shri Deshmukh that the judiciary will decide whether a matter is privileged or not. That is what we want. Why has the Home Minister not got as much faith in the judiciary itself ? The judiciary is manned by people of this country. Everybody has confidence in them. Why are they afraid of placing even confidential State documents, if you consider them so, before the judiciary for them to decide whether they are really confidential and are privileged and whether they should be published or not ? Leave it to them. Why are you so much afraid of the judiciary ? You want to have the deciding verdict with yourself. That is what I am objecting to. My objection is not that it should not go to the judiciary. I want that the judiciary should decide this matter under sections 123 and 124 of the Evidence Act which give the judiciary the power. Why does the Government want a special evidential right to be given to them or the evidential right of the accused to be curtailed ?

The Home Minister while replying said that these are exceptional matters. According to him, in the present circumstances it is an exception. It may be that somebody in his shoes will find all the political parties, trade unions and all organisations to be unlawful. The exception may become the rule some time. If you are bringing it on the statute book and are framing statutory rules thereunder which have the validity of law itself, why do you think of exceptions ? It will be applicable to everybody.

The Home Minister was talking of scrupulous and unscrupulous. Maybe, somebody unscrupulous or trying to be unscrupulous uses this power and utilises this provision against everybody. So, it is not a question of exception. It is not also a question of intention. Intension, as you know, has to be expressed in words. Intention in the mind of Home Minister will not do. While going before the Tribunal and whlie conforming to the laws

of the land, this intention has to be expressed in words in the rule as expressed in words in the Act itself. That will be considered as the intention of the House. So, there is no question of the hon. Minister's intention.

I will only ask him: What of the assurance that he gave in the Joint Committee? Does he go back upon it? He assured that all documents will be placed. Now he has second thoughts and says that some parts will have to be withheld. Why? He gave that assurance to meet the demand that the notification should contain all the facts. He said, "No; we are not going to do that in the notification; we will place all documents and all facts before the Tribunal." Now he is confusing between facts and documents supporting those facts. That is why he is trying to say that it will be in his interest to place all the facts before the Tribunal. Yes, he will place facts but not documents supporting those facts. That is what he wants to withhold. I think, in good grace he will conform to his assurance given before the Joint committee and at least withdraw this part of the rule so that he will rely upon the provi. sions of the Indian Evidence Act.

श्री मधु लिमये : जब मैं बोलने के लिए खड़ा हुआ था तो यह उम्मीद लेकर खड़ा हुआ था कि जब गृह मंत्री जी को बताया जायगा कि उन्होंने हम को जो आश्वासन दिये थे उन के बिल्कुल विपरीत नियम बनाये गये हैं यह सद्भावपूर्ण ढंग से इन नियमों को वापिस ले लेंगे।

अब गृह मंत्री जी ने कोई दलील नहीं दी कि वे ऐसा क्यों कर रहे हैं। सामने इन्होंने जो आश्वासन दिया क्या इस को वह डिनाई करते हैं? क्योंकि वह तो प्रकाशित भी हुआ है? अब इस आश्वासन पर अगर वह नहीं जमना चाहते हैं, यह मानते हैं कि यह एक्सैप्शनल केस है या इन के कहने पर सरकार काम करेगी तो कैसे इस पर विश्वास किया जायेगा?

नियम में आप देखिये कि यह अपने हाथ में क्या अधिकार ले रहे हैं? यह ले रहे हैं :

> "...the Tribunal or the court of the District Judge shall not,
>
> (a) compel that Government to produce before it such books of account or other documents,

इन के द्वारा जो डाक्युमेंट भी रक्खे जायेंगे उस के बारे में भी यह कहते हैं :

> "(b) where any such books of account or other documents have been produced before it by that Government,
>
> (i) make such books of account or other documents a part of the records of the proceedings before it, or
>
> (ii) give inspection of, or copy of the whole of, or any extract from, any such books of account or other documents to any party before it or to any other person."

जिन व्यक्तियों के खिलाफ या संस्थाओं के खिलाफ आरोप रहेंगे उन को इंस्पैक्शन तक नहीं करने देंगे, उन को यह जानकारी तक नहीं देंगे। इस से मेरा खयाल है कि सारी जो ट्रीब्युनल की कार्यवाही है वह बिल्कुल खत्म हो जायेगी। इसलिए मैं चाहता हूं कि अभी भी वह सोचें। अगर तत्काल फैसला करने के लिए तैयार नहीं हैं तो कम से कब यह आश्वासन दें कि उन्होंने जो आश्वासन दिया है उस की रोशनी में वह विचार करेंगे। इस के बारे में जो वोटिंग है वह आज स्थगित रख सकते हैं, हम को कोई आपत्ति नहीं है। लेकिन यह घर जाकर ज्वाएंट कमेटी की एविडेंस को ठीक तरीके से पढ़ कर कल फिर सदन के सामने बयान दें.....

श्री यशवन्तराव चव्हाण : वह सब खूब देख लिया और समझ लिया है बाकी जो इंटरप्रेटेशन माननीय सदस्य निकालते हैं वह सही नहीं है।

श्री मधु लिमये : आपने जो कहा है कि वह बिल्कुल साफ कहा है कि ट्रिब्युनल से कोई बात छिपाई नहीं जायगी। आप अपने हाथ में अधिकार ले रहे हैं। दस्तावेज, कागजात आदि अदालत के सामने नहीं रक्खेंगे तो जो आप का वायदा है,

[श्री मधु लिमये]

वचन हैं उसकी पूर्ति कहां होती हैं ? इसलिए इन संशोधनों को हम वापिस नहीं ले सकते हैं। हम चाहते हैं कि इस पर वोटिंग हो। अब अगर वह इस के लिए तैयार नहीं है कि घर जाकर वह इस पर सोच समझ कर कल अपना फैसला बतलायें तो फिर आज इस पर वोटिंग हो।

MR. CHAIRMAN : I shall first put the motion moved by Shri Srinibas Misra.

The question is :

"This house resolves that in pursuance of sub-section (3) of section 21 of the Unlawful Activities (Pervention) Act, 1967, the following modifications be made in the Uulawful Activities (Pervention) Rules, 1968, published in the Gazette of India by Notification No. S. O. 481 dated the 5th February, 1968, and laid on the Table on the 23rd February, 1968, namely :—

(i) in sub-rule (1) of rule 3, the words, 'subject to the provisions of sub-rule (2)' be omitted;

(ii) sub-rule (2) of rule 3 be omitted.

This House recommends to Rajay Sabha that Rajya Sabha do concur in this resolution."

The motion was negatived.

MR. CHAIRMAN : I shall now put the motion moved by Shri Madhu Limaye.

The question is :

This House resolves that in pursuance of sub-section (3) of section 21 of the Unlawful Activities (Prevention) Act, 1967, the following modifications be made in the Unlawful Activities (Pervention) Rules, 1968 published in the Gazette of India by Notification No. S. O. 481, dated the 5th February 1968 and laid on the Table on the 23rd February 1968, namely :—

(i) in sub-rule (1) of rule 3, the words 'as far as practible', be omitted;

(ii) sub-rule (2) of rule 3 be omitted;

(iii) in rule 4, the words 'all or any of' be omitted,

(iv) the proviso to rule 5 be omitted;

(v) in rule 6 the words 'all or any of' be omitted;

This House recommends to Rajya Sabha that Rajya Sabha do concur in this resolution.

The motion was negatived.

MR. CHAIRMAN : Now, the House stands adjourned to meet again tomorrow at 11 A. M.

18.44 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Friday, May 3, 1968/Vaisakha 13, 1890 (Saka).

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