

Shri Dinesh Singh: The Government does not consider it necessary to obtain any assurance because these are not Indian citizens. These people are people of Indian origin who have settled there. It is for them to settle among themselves.

Shri Sham Lal Saraf: The delegation mentioned by the hon. Minister just now was led by a Member of the Legislative Assembly of Nyassaland. Is it a fact that they have asked aid from India from the private sector particularly to set up industries in that country?

Mr. Speaker: That would be a different question.

12.03 hrs.

PAPERS LAID ON THE TABLE

NOTIFICATION UNDER THE SEA CUSTOMS ACT, ETC.

The Deputy Minister in the Ministry of Finance (Shri B. R. Bhagat): I beg to lay on the Table—

- (i) a copy each of the following Notifications under sub-section (4) of section 43B of the Sea Customs Act, 1878 and section 38 of the Central Excises and Salt Act, 1944, making certain further amendments to the Customs and Central Excise Duties Export Drawback (General) Rules, 1960:—
- (a) G.S.R. No. 1483 dated the 10th November, 1962.
- (b) G.S.R. No. 1534 dated the 17th November, 1962.
[Placed in Library, See No. LT-613/62]
- (ii) a copy of the Central Excise (Nineteenth Amendment) Rules, 1962 published in Notification No. G.S.R. 1522 dated the 17th November, 1962, under section 38 of the Central Excises and Salt Act, 1944.
[Placed in Library, See No. LT-614/62].

(iii) a copy each of the following Notifications under sub-section (4) of section 43B of the Sea Customs Act, 1878:—

- (a) G.S.R. No. 1481 dated the 10th November, 1962.
- (b) G.S.R. No. 1529 dated the 17th November, 1962.
- (c) G.S.R. No. 1530 dated the 17th November, 1962.
[Placed in Library, See No. L.T-615/62].

RESOLUTION REGARDING GRANT OF INTERIM WAGE INCREASE TO WORKERS

The Deputy Minister in the Ministry of Labour and Employment and for Planning (Shri C. R. Pattabhi Raman): I beg to lay on the Table a copy of Government Resolution No. so and so dated the 24th November, 1962.....

Shri Surendranath Dwivedy: Is it Number so and so?

Shri C. R. Pattabhi Raman: It was a long number.

Mr. Speaker: The hon. Member is right. He may say as appearing on the Order Paper.

Shri C. R. Pattabhi Raman: Resolution No. WB-3(53)62 dated the 24th November, 1962 on the recommendations of the Central Wage Board for Coffee Plantation Industry, Calcutta, regarding the grant of interim wage increase to workers. [Placed in Library, See No. LT-616/62].

12.05 hrs.

DEFENCE OF INDIA BILL—contd.

Mr. Speaker: We now take up Clause by Clause consideration. The hon. Minister.

Shri Hari Vishnu Kamath (Hoshangabad): Before you proceed to the business of the day, may I invite your attention, Sir, to the question of the time of the sitting of the House? Last week, you will recollect that the Minister of Parliamentary Affairs said that on Monday, the House would meet

at 12 noon and it was left open for later decision. I do not know what decision has been taken with regard to the time of the sitting of the House, 2.30 to 7.30 as you suggested or.....

Mr. Speaker: That has been considered and then conveyed to me that this is the time from 12 to 5 that would best suit all and therefore I had announced in the House that we will sit from 12 to 5. Probably the hon. Member was not present.

Shri Hari Vishnu Kamath: For the rest of the session?

Mr. Speaker: Yes.

The Minister of State in the Ministry of Home Affairs (Shri Datar): While dealing with the amendments relating to clause 3, a number of hon. Members made certain new suggestions. While, on the one hand, certain hon. Members were anxious that the powers which were naturally wide in nature should have to be used as extensively as possible, certain other hon. Members made a suggestion that they should be used as judiciously as possible, and they also gave expression to a fear that possibly they were likely to be abused. Then, certain other hon. Members wanted amendments to be accepted which would go against the scheme of clause 3 itself.

So far as clause 3 is concerned, I would invite the attention of the House to sub-clause (1) where the various purposes for which the rules have to be made have been categorised. The House will find that generally, there are three categories; one of them is the defence of India and civil defence. That is naturally the most important point. The furtherance of military operations has also been dealt with in certain sub-clauses, for instance, in sub-clauses (1) and (2), where it has been definitely stated that the safety and welfare of the Armed Forces of the Union, ships and aircraft etc. will be ensured.

Similarly, we have got sub-clause (2) which deals with this specific subject. While we are in the field of civil jurisdiction, the House will agree that we have to take certain steps for helping the military who are carrying on the defence operations on the front and wherever else it is necessary.

Therefore, the first object and the most important object since the declaration of emergency is to further the war effort even within the civil jurisdiction so far as it becomes necessary.

Subject to this, the next object with which we are naturally concerned is the public safety and the maintenance of public order. That also is essential, because without taking necessary steps for maintaining public safety and for having law and order in the proper condition, it would not be proper, and it would not be possible to enhance or even to further the war effort. Therefore, these are inter-related.

The last category with respect to which certain hon. Members wanted to move certain amendments, and which were of a restrictive nature, should also be taken into account. This relates to maintaining the supplies and services essential to the life of the community. So far as these are concerned, Dr. K. L. Rao pointed out how even during the emergency it was absolutely essential to see that food production was properly encouraged and steps were taken for increasing the supplies because they would be required on a far larger scale. In the course of his speech, he pointed out how during the war regime in the UK, they took special steps for the purpose of increasing food production for the purpose of furthering the war effort. He stated that nearly six million acres were brought under cultivation, and an additional 70 per cent food production target was reached. So, food production has to be fully looked into for the purpose of the community as a whole and also for the purpose of furthering the war effort.

[Shri Datar]

Thus, you will find that all the rules that have to be made so far as the Defence of India Rules are concerned, must have a direct relation with one or the other of the three categories which have been specifically mentioned in sub-clause (1) of clause 3. If these are taken into account, you will agree that rules have to be made and the rules will have to be given effect to wherever necessary as sternly as possible. With a view to see that these rules are applied properly and only where necessary, a specific sub-clause has been put in where it is stated that these rules should be used wherever necessary and to the extent required. Therefore, due precaution that hon. Members wanted has already been taken.

The second point in this respect that was urged by a number of hon. Members was as to whether the powers under the Defence of India Rules should be delegated only to gazetted officers or to others as well. As has been pointed out, these rules have to be exercised by officers at different levels. It would not be practicable to confine the exercise of these rules only to gazetted officers. At certain levels in the lower rung, it might become necessary for government officers to take action either in the States or in the Centre; so authority has to be delegated to officers, whether they are gazetted officers or non-gazetted officers. Otherwise, the purpose of the rules themselves is likely to be frustrated. Therefore, while dealing with the question of delegation, I would assure the House that they would be delegated wherever necessary.

An hon. Member on this side suggested that some penal provision should be made regarding abuse, or excessive exercise of authority by government officers. So far as the Government officers are concerned, may I point out to him that they are always subject to the Government Servants' Conduct Rules?

Shri Hari Vishnu Kamath: That is different.

Shri Datar: Any violation of those rules would be met with the largest measure of penalty.

Shri Narasimha Reddy (Rajampet): So far as the citizens are concerned, they are also expected to act according to the best interests of the country. Therefore, the Defence of India Rules are not necessary.

Shri Datar: They are essential in order that people should know what the rules are and how they have to be acted upon.

So far as the general conduct of government servants, either in the Central Government or in the State Governments, is concerned, to a large extent we have to trust them. We have also to see to it that when they discharge their duties, they are supervised by officers at the higher level.

Shri Hari Vishnu Kamath: On a point of order.

Shri S. N. Chaturvedi (Firozabad) rose—

Mr. Speaker: Not two at a time. Shri Kamath stood up first. I will call the hon. Member later.

Shri Hari Vishnu Kamath: You have been an eminent Judge....

Mr. Speaker: Why should there be that reference always?

Shri Hari Vishnu Kamath: You have administered the Law also. Is it right for the Minister to say that the Government Servants' Conduct Rules are a safeguard against abuse of authority under the Defence of India Rules?

Mr. Speaker: That might be his opinion. Let us hear him.

Shri S. N. Chaturvedi: My suggestion was not only about abuse of power but also about neglect of duties concerning which we have come to know so much in this House during this debate and during this emergency.

Shri Datar: I have to point out that in addition to the Government Servants' Conduct Rules, we have also powers of supervision. Wherever any government servant is found to have acted in excessive exercise of his authority or to have abused the authority, the State Government or the Central Government, as the case may be, will certainly take action.

Shri Hari Vishnu Kamath: Where is the provision here?

Shri Ranga: In view of the fact that there are plenty of gazetted officers now in various parts of the country, what difficulty would there be for those gazetted officers themselves to pass orders to be enforced by their subordinates, instead of giving the power of passing orders also to the subordinates?

Shri Datar: I have already pointed out that the powers have to be exercised at different levels, and they cannot be confined to only gazetted officers. Take for example the service of certain orders through a police officer. That cannot be done only by a gazetted officer. It will have to go down in certain cases. If one is to be practical, one will have to take into account the services of the non-gazetted officers also.

I may point out that after this Bill was introduced with a view to know the reactions of the hon. Members of both Houses, we had an informal meeting of hon. Members who were taking interest in this Bill, and as a result of the discussions which were carried on over two days, Government have accepted a number of suggestions made by the hon. Members.

Shri Hari Vishnu Kamath: It was only two hours, not two days. Spread over two days perhaps.

Mr. Speaker: Was it two days or two hours?

Shri Datar: One day in the evening and the next day.

Shri Hari Vishnu Kamath: We adjourned in the evening.

Shri Datar: The hon. Member was not present.

Shri Kamath: I was.

Mr. Speaker: There is nothing to dispute. It is two hours so far as the cumulative time taken is concerned, and the duration is two days.

Shri Hari Vishnu Kamath: The Minister's statement is somewhat misleading.

Shri Datar: A certain number of suggestions were made by the hon. Members, and Government have accepted those suggestions, and that is the reason why there is a fairly large number of amendments standing in my name. Secondly, in respect of certain other amendments which the hon. Members have moved on the floor of the House, I have accepted a number of them.

Shri Ranga: Here is an amendment given notice of by my hon. friend, Amendment No. 111. Is this amendment not expected to have any reference to corrupt officials, but only to citizens? It reads:

"the prevention of any corrupt practice or abuse of authority or other *mala fide* action in relation to the production, storage, purchase..."

I thought my hon. friend was pleading that there should not be any such provision at all against any such official.

Mr. Speaker: Beyond the extent to which the Government have agreed.

Shri Datar: If the hon. Member goes on making a running commentary, I cannot proceed.

Shri Ranga: It is not a commentary.

Mr. Speaker: The hon. Member might resume his seat. I will take up his cause. What he says is that just now the Minister was telling the

[Mr. Speaker]

House that there is no need of any further checks to be taken against the officials when they have to discharge the duties entrusted to them under this Bill. But he points out, that there is a specific amendment in the name of the hon. Minister himself where the safeguard is being provided and certain provisions are being enacted by which there ought to be some check on those officers. That is what he means to say.

Shri Datar: So far as that is concerned, as the House is aware, we had recently appointed a committee under the chairmanship of Shri Sathnam of the other House. That committee considered this question, and the committee made certain informal suggestions which Government have accepted, and therefore it is a point more in my favour that we have accepted a number of suggestions made by the hon. Members.

Shri Hari Vishnu Kamath: You are not far wrong.

Shri Datar: The last category with which we have to deal is naturally the question of the increase in food production. That also has a direct relation upon the maintenance of law and order and the furtherance of the war effort. It is for this purpose that certain powers have been taken in respect of even agricultural production.

With regard to this, one hon. Member, the leader of the Swatantra Party, would have no objection provided we take powers for marketing facilities. He fears that possibly under the cover of authority given by these rules, we might force certain reforms like co-operative farming etc. That is a matter for voluntary effort and for the State Governments to take such action as they want. Government have no desire to act under the cover of these rules for introduction any such revision though it would certainly be open to the Government to take action with the co-operation or voluntary help of the people concerned. Subject to this I would deal with the

specific amendments moved by hon. Members.

Shri Narasimha Deddy (Rajampet) rose—

Mr. Speaker: He is not yielding. I will give him an opportunity afterwards.

Shri Datar: My hon. friend Shri Kamath wanted amendment No. 140 to be accepted. It deals with certain pictures and others. This is covered by clause 3(2) (4) (e) dealing with acts, publications or communications prejudicial to civil defence. Secondly, defence rules Nos. 44 and 49 which have been made in this respect under the Ordinance would serve as a model to the extent that they would continue until they are amended by this hon. House or the other. So, it can be dealt with like that. The suggestions he made will be fully considered whenever it is necessary.

A number of hon. Members made suggestions about the detention. They seemed to feel that the powers under the Preventive Detention Act were not properly used. That was one line of argument. The second point seemed to be that the elaborate procedure such as communicating the grounds of detention to the person concerned and placing all the papers before an advisory body, etc. under that act should be maintained here also. But that was an Act of a special nature in normal circumstances.

Shri Hari Vishnu Kamath: Peacetime, not normal.

Shri Datar: Now here we are dealing with an emergency. Therefore, sometimes it may not be in the interest of the nation as such to communicate the grounds to the person concerned. Secondly, it may not also be practicable to have recourse to elaborate procedures laid down in the earlier Act. But a suggestion was made, as I pointed out in the informal committee, that this order regarding detention should be passed only by the head of the district ad-

ministration, namely the district magistrate. Government have accepted that suggestion. Then, it was further pointed out that there ought to be some other authority to go into that question after the orders have been passed for detention; there ought to be some reviewing machinery. Government have accepted that suggestion also. Hon. Members may see my amendment No. 108. Naturally the reviewing authority would be some officer higher than the District Magistrate—the Chief Secretary or a Member of the Board of Revenue or certain other high officers who would be specified in the rules that would be made in this connection. Government have accepted the principle that whenever it becomes necessary, there ought to be a reviewing authority. Who he should be is a question which the Government will consider properly, taking into account the emergency conditions and Government will prescribe in the rules the reviewing authority. I am quite confident that when the papers are placed before such a reviewing authority, he would go into the material. But all this naturally will have to be within the purview of the reviewing authority who would be from the higher officers of Government.

If on these two points Government have accepted the suggestion of certain hon. Members of the House, namely, that the order regarding the preventive detention will be passed by the District Magistrate and not by any authority below him and that a provision is made for a reviewing authority, then we have gone a fairly long way in meeting the wishes of hon. Members in this respect.

Shri Daji (Indore): Since a review is to be made, why not have review by a High Court Judge, which would be more fair? What is the difficulty?

Shri Datar: This is not a matter which can go to a High Court Judge or a judicial authority.

Shri Tyagi (Dehra Dun): Sometimes the allegations may be of such a serious nature that they cannot be made public.

Shri Hari Vishnu Kamath: This is about having a High Court Judge as the reviewing authority.

Shri Datar: I have pointed out that the Government have accepted the position that rules can be made for a review of the orders passed by certain authorities. But I would not like to commit the Government to this position that he ought to be a High Court Judge or a judicial officer. There may be certain matters which are of a highly confidential nature. Under these circumstances, Government are prepared to accept the principle that there ought to be a reviewing authority, but who that authority should be may kindly be left to Government.

Shri Hari Vishnu Kamath: Parliament cannot leave it to the Government.

Shri Datar: Shri Daji, Shri Banerjee and some others have also said that the grounds should be supplied to the persons concerned. As I pointed out, these are days of emergency and in certain cases it might not be in public interest to divulge the grounds to the person concerned. Under these circumstances, all that can be done is that after the orders have been passed, a reviewing machinery will be provided for and the reviewing authority can satisfy itself that the order passed in the light of these circumstances was a proper one or it is open to him to make some other suggestions.

Dr. M. S. Aney (Nagpur): The authority should be such as to command the confidence of the people.

Shri Datar: He would be one of the highest authorities in the State; for example, a Member of the Board of Revenue. These are the executive authorities who can look into the circumstances and consider as to whether the order that has been passed in the light of the circumstances was a proper one.

Shri Hari Vishnu Kamath: Why does he not like Judges—High Court Judges?

Mr. Speaker: Government is giving its own point of view, to the extent that it is unprepared to go. It is for the House to accept it or reject it.

Shri Datar: A number of hon. Members had made a reference to the powers of detention. They had expressed certain fears. With a view to allaying those fears I have accepted two suggestions, namely, that it should be a district magistrate who should pass the order, and secondly, there ought to be a reviewing authority. Subject to this, I think it is not possible to go further because we are to deal with emergency conditions and, under these circumstances, even the rules or the provisions under the Preventive Detention Act cannot be availed of for the present time.

Then I would pass on to amendment No. 143 moved by the hon. Member, Shri Kamath. He wants certain further words to be introduced in an amendment which I have moved, namely, amendment No. 111. So far as amendment No. 111 is concerned, the wording is very clear. We have said "goods". The hon. Member, Shri Kamath wants to include the words "foodstuffs and drugs" specifically. I would point out to him that the words that we have used, to my mind, are comprehensive enough, and therefore these things need not be further specified.

Shri Ranga: I think this should be re-numbered as 35A and 35B should be re-numbered as 35A.

Shri Datar: That we shall consider when we come to the specific amendments.

The next group of amendments relates to agricultural produce. I have already referred to that, and in this respect, as I have pointed out, with a view to increasing the food production it would be absolutely essential for Government to take action. For increasing food, that is absolutely essential. And, as my hon. friend, Dr. Rao pointed out—I made a reference

to it also—it might become necessary to take certain action for the purpose of increasing food production. I have already pointed out that this is necessary as a matter of furtherance of war effort because, as I pointed out, certain specific categories of objectives have been mentioned in sub-clause (1) and they have to be duly fulfilled.

I have also pointed out that Government have no desire to take recourse to the power in this respect under the Defence of India Rules for the purpose of providing for co-operative farming or collective farming, as hon. Members made it clear. So far as these are concerned, it is perfectly open to a State Government under the ordinary law, with the co-operation and voluntary effort of the people, to have co-operative farming or collective farming if they are so minded. But Government have no desire to take recourse to the rules or to take cover behind these rules for the purpose of initiating such reforms wherever they are necessary.

Certain hon. Members were needlessly nervous over this particular proposition. That is the reason why a number of amendments, including that by my hon. friend Shri Ranga, were moved in this respect. But I would like to submit that in such cases it is absolutely essential for Government to take recourse to certain powers for the purpose of increasing food production and for the purpose of dealing with industrial and other production as well. That is the reason why these powers will have to be maintained.

Then, I will pass on to the two amendments moved by Shri Prakas Vir Shastri.

Dr. P. S. Deshmukh (Amravati): Before the hon. Minister passes on to the next item, I would like to ask for a clarification. May I know how he proposes to control agriculture? Is he going to order how fast they should grow?

Shri Hari Vishnu Kamath: By music.

Dr. P. S. Deshmukh: I think it should be changed to "agriculturists" or "farmers". He cannot control agriculture, because he cannot control weather.

Shri Datar: My hon. friend was in charge of agriculture for a number of years. So, he knows how these things can be managed.

Shri Kashi Ram Gupta: Regarding the control of agriculture it is laid down in the rules "prohibiting, restricting or otherwise controlling the cultivation of specified crops". What are those specified crops?

Mr. Speaker: That would be specified afterwards. If it is to be mentioned just now, then what is the point in specifying it afterwards?

Shri Kashi Ram Gupta: Will it be by the Government of India or by the State Government?

Shri Datar: So far as amendment No. 70 is concerned. . . .

Mr. Speaker: He is not present; so he is not very serious about his amendment.

Shri Datar: Then I will not deal with his other amendment either. I have dealt with the amendment of Shri Ranga.

Shri Ranga: What did he say? He does not want the word "regulation"?

Shri Datar: Some hon. Members suggested that there ought to be a parliamentary committee for supervising what is being done under the Defence of India Rules. So far as that suggestion is concerned, it is highly impractical because these rules will be administered by the various State Governments. Under these circumstances, it will not be possible, nor will it be practicable for Government to accept it. Of course, whenever any suggestions are made, Government will very carefully look into them and take necessary action. Therefore, so far as the various am-

endments that have been moved by hon. Members are concerned, I submit that they need not be accepted except to the extent that I am myself going to accept them.

Shri Hari Vishnu Kamath: Since Government have accepted my amendment No. 138, I request that amendment No. 139 may also be accepted as it also relates to punctuation.

Shri Datar: I have accepted that also.

Mr. Speaker: The question is:

Page 4, line 7,—after "entering" insert," (138).

Page 4, line 24,—after "purpose" insert," (139).

The motion was adopted.

Mr. Speaker: The question is:

"That in the amendment proposed by Shri B. N. Datar, printed as No. 111 in List No. 5 of Amendments,—

in the proposed new clause (35B) after 'hoarding' insert 'profiteering'" (142)

The motion was adopted.

Mr. Speaker: What about amendment No. 140? Is Government accepting it?

Shri Datar: No.

Mr. Speaker: The question is:

"That in the amendment proposed by Shri B. N. Datar printed as No. 105 in List No. 5 of Amendments,—

in the proposed clause (7)(a), after "document" insert—

"the making of any picture, photograph, or cinematograph film". (140).

The motion was negatived.

Shri Hari Vishnu Kamath: I want my amendment No. 141 to be put to the vote. I want to press it.

Mr. Speaker: Are there any other amendments which hon. Members would press to a division?

Shri Ranga: Amendment Nos. 19 and 1.

Shri Hari Vishnu Kamath: Amendment No. 143 also. It is a very important amendment, because it deals with foodstuffs and drugs.

Mr. Speaker: So, I can put amendments Nos. 143, 69, 2, 3, 18, 70, 71 and 31 to the vote of the House.

Shri Narasimha Reddy (Rajampet): I withdraw amendment No. 3.

Shri Ranga: We are withdrawing amendment No. 3 in the light of the assurance given by the hon. Minister.

Mr. Speaker: Has the hon. Member the leave of the House to withdraw his amendment (No. 3)?

Amendment No. 3 was, by leave, withdrawn.

Mr. Speaker: Then, I shall put amendments No. 143...

Shri Ranga: We may have only a voice vote on amendment No. 143. The other amendments we are pressing to a division.

Mr. Speaker: That is what I am doing. I am reading out the numbers of amendments that I am going to put together. They are amendments Nos. 143, 69, 2, 18, 70, 71 and 31.

Shri Ranga: We want to press to a division amendment No. 2. Amendment No. 3 has been withdrawn, but we want to press to a division amendments Nos. 1 and 2.

Mr. Speaker: I was told that only amendment No. 1 was to be pressed. All right, I will put amendment No. 2 also separately. So, amendments Nos. 1, 2, 19 and 141 I shall put separately and amendments Nos. 143, 69, 18, 70, 71 and 31 I shall put together to the vote of the House.

Amendments Nos. 143, 69, 18, 70, 71 and 31 were put and negatived.

Mr. Speaker: Now, I shall put amendment No. 141 to the vote of the House.

Shri Hari Vishnu Kamath: Will you kindly read out the amendment?

Mr. Speaker: Yes; I will do that when I put it to the vote of the House. Let the lobbies be cleared.

Shri Datar: Sir, we are accepting certain amendments; so, let the record be clear. Those amendments are not concerned with the one in respect of which the division is asked for but they are others which I am going to accept specifically if they are moved by them; or, I might move them myself.

Mr. Speaker: He can move them now. I called out their numbers three times but no hon. Member stood up to say that he wanted to move them nor did the hon. Minister move them.

Shri Ranga: Have you been informed about the other amendments which the hon. Minister said that he is accepting?

Mr. Speaker: Not yet.

Shri Ranga: How can we make up our mind?

Mr. Speaker: I am now putting to the House amendment No. 141. When he wants to accept, I will inform hon. Members before putting to the House.

The question is:

Page 6, after line 26, insert—

“Provided that every person against whom action is taken under this clause shall be served with the grounds for such action, as soon as may be after such action is taken.

Provided further that every such person shall be permitted to make a representation in respect of the aforesaid grounds, and

against such action, to an Advisory Board consisting of a High Court Judge, whose advice shall normally be acted upon by the Government." (141)

The Lok Sabha Divided

Shri Sham Lal Saraf: It is not working. For 'Noes'.

Shri Gajraj Singh Rao: I am for 'Noes'.

Shri Hanumanthaiya: For 'Noes'.

Shri Shree Narayan Das: I voted for 'Noes'. It is giving 'Abstention'.

Division No. 5]

AYES

[12.48 hrs.

Badrudduja, Shri
Banerjee, Shri S.M.
Burus, Shri Hem
Basant Kunwari, Shrimati
Berwa, Shri
Bhattacharya, Shri Dinen
Biren Dutta, Shri
Brij Raj Singh, Shri
Chaudhary, Shri Y. S.
Daji, Shri
Dasaratha Deb, Shri
Dwivedy, Shri Surendranath
Elias, Shri Mohammad
Gokaran Prasad, Shri
Gupta, Shri Indrajit
Gupta, Shri K.R.
Jambichibava, Shri
Jmail, Shri M.

Jha, Shri Yogendra
Kachhavaiya, Shri
Kamath, Shri Hari Vishnu
Kapur Singh, Shri
Kar Shri Prabhat
Karjee, Shri
Keishing, Shri Rlahang
Lahari Singh, Shri
Mahida, Shri
Marandi, Shri
Mate, Shri
Mukerjee, Shri H.N.
Murmu Shri Sarkar
Nambiar, Shri
Pandey, Shri Sarjoo
Pattnayak, Shri K.
Pillai, Shri Nataraja
Pottakkatt, Shri

Raghavan, Shri A.V.
Ranga, Shri N.G.
Reddy, Shri Hawara
Reddy, Shri Narasimha
Reddy, Shri Yallamanda
Roy, Dr. Saradiah
Seth, Shri Bishanchander
Sen, Dr. Ranen
Shashank Manjari, Shrimati
Singh, Shri J.B.
Singh, Shri Y.D.
Soy, Shri H.C.
Swamy, Shri Sivamurthi
Utiya, Shri
Vimla Devi, Shrimati
Vishram Prasad, Shri
Warior, Shri
Yaypal Singi. Shri

NOES

Alva, Shri A. S.
Alva, Shri Joachim
Aney, Dr. M.S.
Babunath Singh, Shri
Balakrishnan, Shri
Barupal, Shri P.L.
Basappa, Shri
Bhagi, Shri B.R.
Bhagvati, Shri
Bhattacharyya, Shri C.K.
Bisat, Shri J.B.S.
Brajeshwar Prasad, Shri
Brij Raj Singh—Kotah, Shri
Chakraverti, Shri P.R.
Chand asekhara, Shrimati
Chaturvedi, Shri S.N.
Chaudhuri, Shri D.S.
Chaudhur, Shrimati Kamala
Chavda, Shrimati
Chettiar, Shri Ramanathan
Das, Shri B.K.
Dasappa, Shri
Datar, Shri
Desai, Shri Moraril
Deshmukh, Dr. P.S.
Deshmukh, Shri Shivaji Rao S

Dinesh Singh, Shri
Dixi, Shri G.N.
Dube, Shri Mulchand
Duhey, Shri R.G.
Dwivedi, Shri M.L.
Gaekwaid, Shri Fatehajnrao
Gajra, Shri Singh, Rao
Goni, Shri Abdul Ghani
Hanumanthaya Shri
Icbal Singh Shri
Jagjivan Ram Shri
Jamunadevi, Shrimati
Joshi, Shrimati Subhadra
Jyotishi, Shri J.P.
Kairo'kar, Shri
Kanungo, Shri
Karurhruman, Shri
Khadilkar, Shri
Krishnamachari, Shri T.T.
Lalit Sen, Shri
Laskar, Shri N.R.
Laxmi Bai, Shrimati
Mahtab, Shri
Mahishi, Shrimati Sarojini
Maimoona Sultan, Shrimati
Malsichaml, Shri

Malaviya, Shri K.D.
Mandal, Dr. Paahupati
Mandal, Shri Yamuna Prasad
Maniyangadan, Shri
Maruthiah, Shri
Mehdi, Shri S.A.
Melkote, Dr.
Minimata, Shrimati
Mishra, Shri M.P.
Mohanty, Shri G.
Mohuiddin, Shri
Mobsin, Shri
More, Shri S.S.
Mukherjee, Shrimati Sharda
Muthiah, Shri
Naik, Shri Maheswar
Nehru, Shri Jawaharlal
Nigam, Shrimati Savitri
Niranjan Lal, Shri
Panna Lal, Shri
Pant, Shri K.C.
Paramasivan, Shri
Patel, Shri Mansinh P.
Patel, Shri N.N.
Patil, Shri D.S.
Patil, Shri M.B.

Patil, Shri S.B.
 Pattabhi Raman, Shri C.R.
 Puri, Suri D.D.
 Raghunath Singh, Shri
 Raghuramaiah, Shri
 Rai, Shrimati Sahodrabai
 Raju, Dr. D.S.
 Ramaswamy, Shri S.V.
 Rane, Shri
 Rao, Dr. K. L.
 Rao, Shri Jaganatha
 Rao, Shri Krishnamoorthy
 Rao, Shri Rameshwar
 Rao, Shri Thirumala
 Raut, Shri Bholu
 Ray, Shrimati Renuka
 Reddiar Shri
 Reddy, Shri K. C.

Reddy Shri Ramakrishna
 Reddy, Shrimati Yashoda
 Sadhu Ram, Shri
 Saha, Dr. S. K.
 Sahu, Shri Rameshwar
 Samnani, Shri
 Sanji Rupji, Shri
 Saraf, Shri Sham Lal
 Sen, Shri P.G.
 Shah, Shrimati Jayaben
 Sharma, Shri D. C.
 Shree Narayan Das, Shri
 Siddananajappa, Shri
 Sidheshwar Prasad, Shri
 Singh, Shri D.N.
 Singh, Shri R.P.
 Singh, Shri S.T.

Sinha, Shri B.P.
 Sinha, Shri Satya Narayan
 Soundaram Ramchandran,
 Shrimati
 Subramaniam, Shri C.
 Subramanyam, Shri T.
 Swaran Singh, Shri
 Thomas, Shri A.M.
 Tiwary, Shri D.N.
 Tyagi, Shri
 Uikey, Shri
 Upadhyaya, Shri Shiva Dutt
 Valvi, Shri
 Varma, Shri Ravindra
 Wadiwa, Shri
 Wasnik, Shri Balkrishna

Mr. Speaker: The result of the Division is:

Ayes 54; Noes 124.

The 'Noes' have it. The amendment is lost.

The motion was negatived.

Shri Hari Vishnu Kamath: It is a moral victory for the opposition.

Mr. Speaker: Order, order. I am not here concerned with victory or otherwise. I shall now put to the House Shri Narasimha Reddy's amendment No. 1.

Shri Narasimha Reddy: Amendments 1 and 2 can be put together.

Mr. Speaker: The question is:

Page 7, line 17, for "control" substitute "Intensification". (1)

Page 7, lines 17 and 18,—

omit "(including the cultivation of agricultural land and crops to be raised therein)". (2).

Those in favour may say 'Aye'.

Some Hon. Members: 'Aye'.

Mr. Speaker: Those against may say 'No'.

Some Hon. Members: No.

Mr. Speaker: The 'Noes' have it.

Shri Ranga: The 'Ayes' have it.

Mr. Speaker: I will have to put them separately afterwards.

Let the lobbies be cleared. The doors are still closed. If the Members have no objection, I might put it straight.

Some Hon. Members: The other Members may be able to come.

Mr. Speaker: Therefore I am putting it to the House. If the House agrees, I may put it. Otherwise . . .

Some Hon. Members: Yes.

Some Hon. Members: Voice Vote.

Mr. Speaker: There are only some Members. If there is no objection, they may rise in their seats.

Shri Ranga: No objection if the names are recorded.

Mr. Speaker: I am calling Division. Members should get ready. Amendments 1 and 2 might be put together. The House has no objection, I suppose. I therefore, put amendments 1 and 2 together.

The question is:

Page 7, line 17, for "control" substitute "intensification". (1)

Page 7, lines 17 and 18, omit "including the cultivation of agricultural land and corps to be raised therein")

The Lok Sabha Divided.

Shri Shree Narayan Das: I pressed 'No'. It has given 'Abstention'. Something is wrong here.

Mr. Speaker: Either the machine is persisting or the hon. Member is persisting.

Shri Shree Narayan Das: I pressed 'No'. It has given 'Abstention'. Something wrong here.

Some Hon. Members: Lights have gone off.

Shri Hem Barua: There is a unilateral Cease-fire on the Board.

Mr. Speaker: It is not Cease-fire; it is withdrawal.

May I ask hon. Members to rise in their seats? Names might be noted. Those in favour?

Shri Ranga, Shri Surendranath Dwivedy, Shri Yashpal Singh, Shri Narasimha Reddy, Shri Brij Raj Singh, Shri Hari Vishnu Kamath, Shri Hem Barua, Shri Kapur Singh, Shri Lahri Singh, Shri Narendra Singh Mahida, Shri Y. S. Chaudhary, Shrimati Basant Kunwari, Shri Y. D. Singh, Shrimati Shashank Manjari, Shri Badrudduja, Shri Vishram Prasad, Shri Gokaran Prasad, Shri Kachhavaiva, Shri Kashi Ram Gupta, Shri Berwa.

Mr. Speaker: Those against? So much of majority. The 'Noes' have it. The 'Noes' have it. The amendments are lost.

Amendments Nos. 1 and 2 were negatived.

Mr. Speaker: The question is:

Page 7, line 17, for "control" substitute "regulation" (19).

The motion was negatived.

Mr. Speaker: Amendments No. 27 and 29 are sought to be withdrawn.

Amendments Nos. 27 and 29 were, by leave, withdrawn.

Mr. Speaker: I shall now put the other non-official amendments to vote.

Amendments Nos. 46, 23, 25, 55 and 26 were put and negatived.

Mr. Speaker: Now Government amendments. Have I the permission of the House to put them all together?

Some Hon. Members: Yes.

Mr. Speaker: The question is:

Page 4, line 20, after "enemy territory", insert "or occupied territory". (103).

Page 4, line 24,—
omit "false" (104).

Page 4,—

for lines 31 to 39, substitute—

"(7) (a) prohibiting the printing for publishing of any newspaper news-sheet, book or other document containing matters prejudicial to the defence of India and civil defence, the public safety, the maintenance of public order, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community;

(b) demanding security from any press used for the purpose of printing or publishing, and forfeiting the copies of, any newspaper, news-sheet, book or other document containing any of the matters referred to in sub-clause (a);

(c) forfeiture of such security and the circumstances in which and the authority by whom such forfeiture may be ordered;

(d) closing down any press or any premises used for the purpose of printing or publishing any newspaper, news-sheet, book or other document, containing any of the matters referred to in sub-clause (a) in spite of the forfeiture of such security." (165).

[Mr. Speaker]

Page 6, line 11,—

for "as the case may be", substitute—

"(the authority empowered to detain not being lower in rank than that of a District Magistrate". (106).

Page 6, line 24,—

omit "and" (107).

Page 6,—

after line 26, insert—

"(iv) the review of orders of detention passed in pursuance of any rule made under sub-clause (i)". (108).

Page 7,—

after line 16, insert—

"(24A) the taking over by the Central Government or the State Government, for a limited period, of the management of any property (including any undertaking) relating to supplies and services essential to the life of the community;" (109).

Page 7,—

omit lines 35 and 36 (110).

Page 8,—

after line 16, insert—

"(35A) the prevention of any corrupt practice or abuse of authority or other *mala fide* action in relation to the production, storage, purchase, sale, supply or transport of goods for any purpose connected with the defence of India and civil defence, the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community;

(35B) the prevention of hoarding blackmarketing, or adulteration of, or any other unfair practices in relation to any goods procured

by or supplied to the Government or notified by or under the rules as essential to the life of the community." (111)

The motion was adopted.

Amendments Nos. 3, 27 and 29 were, by leave, withdrawn.

Mr. Speaker: The hon. Minister wanted to accept some other amendments, I think.

Shri Datar: The House has already accepted some amendments like amendments Nos. 138, 139 and 142. So far as the other amendments are concerned, I am accepting amendments Nos. 41, 43, 47, 48 and 49.

Mr. Speaker: The hon. Minister might move those amendments in his own name, because my difficulty is that the hon. Members in whose names those amendments stand, have not moved them.

Shri Datar: If they have not moved them, I shall move them as my own amendments.

Amendments made:

Page 4, line 22, add at the end "or military operations". (41)

Page 5, line 9, after 'roads' insert 'bridges'. (43).

Page 6, line 28, add at the end 'and aircraft' (47).

Page 6, line 32, for 'dockyards and shipyards' substitute 'dockyards, shipyards and aerodromes'. (48).

Page 6, line 33, add at the end 'and aircrafts'. (49).

[Shri Datar]

Mr. Speaker: The question is:

"That clause, 3 as amended, stand part of the Bill".

The motion was adopted.

Clause 3, as amended, was added to the Bill.

New clauses 3A and 3B

Mr. Speaker: Now, I shall take up the amendment seeking to insert new clauses 3A and 3B, namely amendment No. 56.

Shri Daji (Indore): I beg to move:

Page 11, after line 10, insert:

"3A. A Committee consisting of members of both Houses of Parliament shall be constituted to advise the Government in the exercise of power under this Act.

3B. A report of the action taken under the Rules framed under section 3 shall be placed before both the Houses of Parliament in each Session." (56).

Mr. Speaker: The amendment is now before the House.

Shri Daji: Yesterday, many hon. Members including three Members of the Congress Party pointed out that the House should be vigilant about the exercise of the powers under this Bill and should act as a watch-dog.

12.58 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

My amendment only seeks to build into the Bill itself the possibility of Parliament acting as the watch-dog. I am sure that this is an amendment which Government should accept, namely that in every Session of Parliament, a report of the action taken under the rules should be laid on the Table of the House. Not only should the rules be laid, but even a report on the action taken thereunder should also be laid on the Table of the House, so that the House is informed from time to time of the various actions taken under the Bill. Unless it is informed, the House cannot possibly exercise its powers fully as a watch-dog. I hope that this part of the amendment will be accepted by Government.

The other part of the amendments seeks to provide that a committee of both Houses of Parliament be constituted to advise the Government and help them in the exercise of the powers under this Bill. About this also, much has already been said. I would only point out that the informal consultative committee attached to the Home Ministry will be too unwieldy and will not serve the purpose, and, therefore, a small compact committee consisting of Members of both Houses should be constituted to advise and help Government. It is not necessary for Government to place before that committee everything before it is done, but the committee if it is kept informed can certainly help Government not only by going over the actions taken but by suggesting measures which may be found necessary.

These two parts of this amendment are meant to strengthen the hands of Parliament to act as the proper watch-dog over the exercise of the powers under this Bill.

Shri Datar: I am opposing both these new clauses which are sought to be inserted. While replying to the debate on clause 3, I have already pointed out that the powers would be exercised by the officers under the State Governments generally, and therefore, it would not be possible here for us to constitute a committee here, much less to make a report to it from time to time.

Shri S. M. Banerjee (Kanpur): On a point of clarification. May I know from the hon. Minister what specific objection he has to accept the new clause 3B, which says:

"A report of the action taken under the Rules framed under section 3 shall be placed before both the Houses of Parliament in each Session"?

If we say that the report should be placed before Parliament, what specific objection does the hon. Minister have to this?

Mr. Deputy-Speaker: The hon. Minister has already said that he is opposed to it. Is Shri Daji pressing it to vote?

Shri Daji: Yes.

Mr. Deputy-Speaker: I shall now put amendment No. 56 to vote.

Amendment No. 56 was put and negatived

13 hrs.

Mr. Deputy-Speaker: The question is:

"That clause 4 stand part of the Bill".

The motion was adopted

Clause 4 was added to the Bill.

Clause 5—(Enhanced penalties)

Shri Datar: I beg to move:

Page 11, line 22, after 'any person' insert 'contravenes,' (112).

Page 11, line 24, omit 'contravenes' (113).

Shri Daji: I beg to move:

Page 11, for lines 22 to 27, substitute:

"5. (1) If any person commits any act with the intent to wage war against India or to assist any country committing external aggression against India, he shall be punishable with death or imprisonment for life or imprisonment for a term which may extend to ten years and shall also be liable to fine." (72).

Shri Nambiar (Tiruchirapalli): I beg to move:

Page 11, lines 24 and 25, for 'contravenes any provision of the rules made under section 3 or any order issued under any such rule' substitute 'assists such country'. (73).

Mr. Deputy-Speaker: Then, there is an amendment in the name of Shri Kashi Ram Gupta, namely Amendment No. 32. The hon. Member is not in his seat.

Then, there is amendment No. 57 standing in the name of Shri Brij Raj Singh, Shri Bade, Shri Y. S. Chaudhary, and Shri Berwa. None of those hon. Members is present here

So, the other amendments which have been moved are now before the House.

Shri Nambiar: My amendment seeks to provide that in page 11, lines 24 and 25, the words 'contravenes any provision of the rules made under section 3 or any order issued under any such rule' be deleted. If I read out the original provision in clause 5 (1), it will be very clear. Sub-clause (1) of clause 5 reads thus:

"If any person with intent to wage war against India or to assist any country committing external aggression against India, contravenes any provision of the rules made under section 3 or any order issued under any such rule, he shall be punishable with death or imprisonment for life, or imprisonment for a term which may extend to ten years and shall also be liable to fine."

If there is an intent to do it, and if with that intent he contravenes any of the provisions, which may be about forty or fifty in number, then the man can be punished. It is enough if it is said that there is an intent; then, the man can be punished with death or transportation for life.

Now, what does the term 'contravenes any provision' mean? Sub-clause (3) of clause 5 defines the term as follows:

"For the purposes of this section, any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of any provision of any law rule or order shall be deemed to have contravened that provision."

So, according to this, even an actual contravention is not necessary; it is

enough even if there is an abetment or the doing of any act preparatory to a contravention of any provision. This is very sweeping. Nowhere can such a law be allowed. The straight question is whether there is an intent to war, and that is what I have sought to provide for through my amendment.

Mr. Deputy-Speaker: Even in the 'Criminal Procedure Code, there are several sections where abetment is an offence.

Shri Nambiar: Even abetment or any act preparatory to a contravention of any provision becomes punishable under this provision. Supposing it were to be provided that if anybody has an intent to wage war against India or assist the aggressor, then he commits an offence under this Bill, then I would have no objection to his even being hanged. Here, on the other hand, what is stated is 'with intent'. He need not do anything. He may contravene any of the provisions. The provisions are from 1 to 100 (*Interruptions*). After all, I want to explain the position. That is why I have moved my amendment. It does not say only 'contravene'. It is abetment to contravene or intent to contravene. Under this, anybody can be brought within the mischief of the law. For instance, a jawan reports sick. He is unable to go to the front. It may be said that he is not sick, but he is purposefully doing it to assist the aggressor. Therefore, he comes under the mischief of this provision and he has to be hanged. I am just giving an example. Or take the case of a shopkeeper. He sells rice at an increased price. Instead of Re. 1 per measure, he sells it at Rs. 1—2 per measure. It may be said that this is done with intent to contravene one of the provisions. Or take another case where a person addresses a public meeting and criticises Government. It can be interpreted from the CID report that that criticism was made with intent to militate against the defence of India. As such, it becomes a contravention of such and such rule and he has to be hanged.

2256(Ai)LS—2.

If the meaning of the provision is taken to its extreme end, anything can be brought under the mischief of this provision. Therefore, my amendment seeks to delete the words 'contravenes any provision of the rules made under section 3 or any order issued under any such rule'. This deletion will make the clause straight, namely,—any person with intent to wage war against India or to assist any country committing external aggression against India may be punishable with death or imprisonment for life. This is the reason why I have moved my amendment. I hope the hon. Minister can accept it because the idea is not to negative the clause as such but to delete only that portion under which anything and everything can be brought under the mischief of the provision.

Shri Daji: Unfortunately, this Bill could not go to a Select Committee. But in the Informal Consultative Committee, I had occasion to point out that this clause is very loosely worded. But unfortunately, sufficient attention could not be given then to this, and I am afraid this provision has now come before the House.

I would most respectfully point out that in the parallel law of England the wordings are not as in our Act. Therefore, I have moved an amendment trying to bring the wording in line with the English Treachery Act. The Government need not be excited about this clause. What we are creating by this clause is a special offence punishable with a sentence more than normal. What we are saying in this clause is that if any order passed under any rule is violated with intent to assist an aggressor, then the man can be punished with death or transportation for life. May be after the case has gone wrong, the tribunal may acquit him, but keeping the clause so loosely worded would be giving a handle for unnecessary prosecutions on a serious charge, causing great trouble. How it will be used and against whom it will be used, it

[Shri Daji]

is very difficult to say today. Remember the provision is 'contravention of any rule'.

I may also add that under the English law, a man can be apprehended under a similar clause, but cannot be proceeded against unless there is a sanction of the Attorney-General. So even a country like England, ravaged by war and facing continuous bombing, when it enacted a similar provision prescribing a deterrent penalty for treachery, wrote into the law two precautions: one, that it would be examined by the Attorney-General and two, what was punishable was an act intended to help the enemy or impair the defence of the country. Even the English law does not go as far as to say that violation of any order under any rule—the order may be important or a minor one—would be visited with this punishment.

Therefore, the clause as it stands gives a very wide connotation, and some sort of limitation or check is necessary so that the temptation for abuse of the law as a result of it being very loosely worded will not be there. Hence my amendment.

Dr. M. S. Aney (Nagpur): I am afraid the clause, as it is, is so vague and indefinite that it is impossible for any intelligent person to give his consent to its passing here.

13.11 hrs.

[SHRI MULCHAND DUBE *in the Chair*]

As has been rightly pointed out by the two previous speakers, there is not only punishment provided for intent to wage war against India or to assist any country committing external aggression against India, but for contravening any provision under the rules made under clause 3 or any order issued under such rule.

Shri Hari Vishnu Kamath: With intent to wage war.

Dr. M. S. Aney: In the first place, we do not know what rules are going to be made under clause 3. This House

is asked to take it for granted that Government will make certain rules and we are to imagine that those rules will be all good, wise, reasonable and equitable.

Shri Hari Vishnu Kamath: They will come before the House.

Dr. M. S. Aney: It is on the basis of that assumption that we are going to approve of this provision which envisages the death penalty for contravention.

Shri Hari Vishnu Kamath: The rules will come before the House.

Dr. M. S. Aney: They may, later on. They are not today before the House. They cannot be before the House now.

Shri Hari Vishnu Kamath: This session.

Dr. M. S. Aney: Those rules will have the force of law, whether they come before the House or not. Contravention of those rules is going to be visited with sentence of death. This is rather a dangerous thing. Under the circumstances, it will not be wise for this House to adopt this clause as it is. Government must make the necessary changes removing at least the punishment for contravening the rules. Later on, they may bring the rules before the House and amendment can be made then. But in the present state of things, it is not fair to ask this House to sanction the punishment of death for some offence which we do not know. It will be known only when a man breaks the rules which will be framed later. So now we are not in a position to say whether the punishment of death should be given for contravention of a rule which does not exist today. Hence it is not possible for any reasonable Member of this House to accept the clause as it is.

Shri Hari Vishnu Kamath: Government by a verbal transposition has made the meaning slightly clearer than it would otherwise have been, by drafting the clause—that is the amend-

ment moved by the Minister—which now reads:

"If any person contravenes with intent to wage war against India or to assist any country committing external aggression against India, any provision of the rules. . ."

But even so, I would have been happy, as I am sure you and the House too would have been, if the penalty that is sought to be provided is provided only for violation or contravention of the provisions of the Act, that is section 3, and not of the rules made thereunder. I say this because all kinds of rules, some very trifling sometimes, are made under the Act and it would be wholly monstrous and sometimes even inhuman to award the sentence of death for contravention of the rules made under clause 3 of the Act. It is true that a safeguard is there, that intent to wage war or to assist any country committing aggression against India, has to be proved. I suppose here the onus of proof will be entirely on the prosecution, proof that the person has contravened or has done so with intent to wage war against India. But in spite of this built-in safeguard in the clause itself, it would be much better if this provision is reworded so as to make the action liable only if that action is for a violation of the Act and not of the rules made thereunder.

Shri Ranga (Chittoor): Would it not be possible for my hon. friend to agree to some small amendment in this clause instead of making any mention of these rules. Would it not be enough if the clause says:

"If any person with intent to wage war against India or to assist any country committing external aggression against India, contravenes any provision of section 3 of this Act, he shall be punishable with. . ."

The reference to the rules may be dropped.

Shri Datar: How can that be? It is the rules that are operative.

Shri Ranga: Sometimes in a court it may be pleaded that a particular rule is not germane to the particular section, that it goes beyond the scope of the particular section etc., but if you simply leave it with the section alone, it should be satisfactory.

Shri Datar: That is against the whole provisions under which rules are to be made, and the subjects for which rules are to be made have been enunciated in a number of columns, about 55 in number.

So far as Dr. Aney's objection is concerned, there is a clear distinction between clause 5(1) and clause 5(2). So far as sentence of death, imprisonment for life etc., are concerned, they are only in respect of clause 5(1). So far as clause 5(2) is concerned, the punishment is less, imprisonment for a term which may extend to five years unless there is intention to assist the enemy etc. Therefore, if the hon. Member reads both the clauses together, he will find that we have been very careful in confining the punishment of death only to extreme cases.

Shri Nambiar: No, Sir. Under clause 3, there is a set of rules, numbering about 100. So, the entire rules will come under the operation of clause 3.

Shri Datar: That is quite correct. So far as the rules are concerned, they will be placed on the Table of the House.

Shri Nambiar: They have already been placed. We have got them.

Shri Datar: The rules will have the force of law.

Shri Nambiar: Therefore, death is the punishment in respect of those rules which have already been placed on the Table of the House, and we have got a copy.

Shri K. C. Sharma (Sardhana): It is a simple provision, and it is in every law that is promulgated at a time of war. Once you intend to go against the security of your country, you are likely to be hanged.

Shri Daji: It is done in no other country, I challenge you.

Shri K. C. Sharma: In war, these things are done.

Shri Daji: During the war it has not been done in UK or anywhere else.

Mr. Chairman: The question is:

Page 11, line 22,—

after "any person", insert
"contravenes". (112).

Page 11, line 24,—

omit "contravenes". (113).

The motion was adopted.

Mr. Chairman: I shall put amendments 72 and 73 to the House.

Amendments Nos. 72 and 73 were put and negatived.

Shri Nambiar: Before you put the clause to the vote of the House, may I make a request? The hon. Minister can at least redraft the clause before it is passed. We can go to the next clause, and in the meantime he can think about it.

Shri Datar: Redrafting in what way?

Mr. Chairman: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clause 6— (*Temporary Amendments to Acts*)

Amendments made.

Page 14, lines 13 and 14,—

for "not exceeding five years" substitute—

"or for the period of operation of this Act, whichever is less;" (114).

Page 14, line 41,—

for "State Government", substitute—

"Central Government or the State Government". (115).

Page 15, line 2,—

for "State Government", substitute—

"Central Government or, as the case may be, the State Government." (116).

[**Shri Datar**]

Mr. Chairman: The question is:

"That Clause 6, as amended, stand part of the Bill."

The Motion was adopted.

Clause 6, as amended, was added to the Bill.

New Clause 6A.

Mr. Chairman: New Clause 6A. Amendment 75.

Shri K. Pattnayak (Sambalpur): I beg to move:

Page 15,—

after line 13, insert—

"6A. For the removal of doubts it is hereby declared that the normal and constitutional activities of political parties shall not be interfered with so long as such activities are not directly prejudicial to the conduct of defence." (75).

Mr. Chairman: I put amendment 75 to the House.

Amendment No. 75 was put and negatived.

Mr. Chairman: Clauses 7 to 12. No amendments have been moved.

The question:

"That Clauses 7 to 12 stand part of the Bill."

The motion was adopted.

Clauses 7 to 12 were added to the Bill.

Clause 13—(Constitution of special tribunals)

Shri Datar: I beg to move:

Page 17, line 19.

for "has for a total period of not less than three years exercised, whether continuously or not." (117)

Page 17—

after line 25. insert—

"(3) At least one member of a Special Tribunal shall be qualified for appointment thereto under clause (a) of sub-section (2), and where only one member is so qualified under that clause, at least one other member shall be qualified for appointment under clause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (ii) of the said clause (b)." (118)

Shri Daji: I beg to move:

Page 17, lines 22 to 24,—

omit "Chief Presidency Magistrate. Additional Chief Presidency Magistrate," (76)

Shri Nambiar: I beg to move:

Page 17, lines 23 and 24,—

omit "Additional Chief Presidency Magistrate" (77)

Shri Daji: I beg to move:

Page 17,—

omit line 25. (78)

Shri Nambiar: I beg to move:

Page 17, line 25,—

omit "Additional District Magistrate" (79)

Sir, I wish to make certain observations.

Clause 13 and some other clauses in Chapter IV are very important. This is about the constitution of the special tribunals. Special tribunals are to be constituted under this Act when there are certain offences which are either committed or likely to be committed in a particular area, and that is likely to create danger to the national defence, and here the normal courts do not come in at all. These offences are to be tried by a special tribunal.

Yesterday, the Law Minister said that these special tribunals would be operating only in certain areas where they are required, but nothing of the sort is found here. What we understand is this, that anywhere in India, for anything that is done against the rules that we have now passed under clause 3 of the Bill and so on, the special tribunal can try the persons. It need not go to the normal courts. Therefore, special tribunals will be appointed at all places.

There is a procedure given as to how the special tribunal should try cases. It is this special tribunal which has got the power to give death sentence, imprisonment for life or ten years and so on. The entire punishment can be given by this tribunal. There is no appeal except for death penalty and more than five years imprisonment. Thus these tribunals have immense powers and they can be formed in any part of India. There is no other safety to the accused except that the tribunal must be constituted of persons of high calibre and secondly they must have the normal appellate remedies. When these normal remedies are denied, they should be constituted with persons of high calibre. Now, according to this clause it can be constituted by the Sessions Judge, additional sessions judge, chief presidency magistrate, additional chief presidency magistrate, district magistrate and additional district magistrate. An IAS officer newly recruited and functioning as ADM can sit in judgment along with two other ADMs and pass a death sentence. This looks ri-

[Shri Nambiar].

diculous. Of course, everything can be done under the emergency. But there must be certain minimum norms. Why have ADMs and presidency magistrates? Sometimes they are police officers. The additional chief presidency magistrate will be a deputy superintendent of police. Then, there is no appeal from these tribunals also if the sentence is for less than five years. Then the normal procedure is not there. Only a brief summary of the evidence will be recorded. The accused can be tried *in absentia*. It is enough if he appeared in court only once; subsequent is not necessary. In *absentia* he may be tried and convicted. Even though there is an emergency, there must be a limit to all these things. These provisions go even beyond those limits. My amendment seeks to delete the chief presidency magistrate and the ADM from these persons. Since it comes from this side, there should be no prejudice. I am prepared even to withdraw my amendment if the Government comes forward with a similar amendment.

Shri S. M. Benerjee (Kanpur): I move my amendment No. 33.

Page 17,—

after line 14, add—

"Provided that Special Tribunal shall include one Judge of the High Court." (33)

Clause 13 speaks of the composition of the tribunal. Our experience in the past shows that when we launched any movement, such as the food movement, people were tried by the Additional District Magistrates summarily. When their judgements are taken up to the High Court, most of them are quashed and the persons were acquitted. When these powers are taken by Government in an emergency, there should be a High Court Judge in these tribunals. High Court judges may not be available for all the tribunals, it may be argued. The hon. Minister has said yesterday that these tribunals may be necessary only in exceptional cases and otherwise

they will not utilise these provisions normally. In every State we have a High Court and there are a number of High Court Judges. With the suspension of many articles of the Constitution in view of the emergency, I think there will not be much work for the High Court Judges. If for any reason a sitting Judge is not available, at least a retired High Court Judge should be on the tribunal and he will have a sense of justice. In the subsequent clauses 14 and 15, it is said that the special tribunal may take cognisance of offences against accused without the accused being committed to it for trial. This is serious. Therefore, I submit that there should be a High Court Judge in each of these tribunals in the interest of justice.

Shri Daji: Sir, I have moved amendments Nos. 76, 77, 82 and 88. I do not want to repeat what has been said. Let it be made clear that we are establishing such tribunals which will try an accused against all established principles of criminal jurisprudence. There will be no commitment. That counts out delay. We met that argument of the hon. Home Minister. Secondly, I do not understand why evidence should not be recorded. Our experience shows that recording evidence is quicker than recording a summary. Our summary may not be what the witness said. Then, when there is not record it will be difficult to argue at the end of the trial. You have also not provided for any appeal. Yesterday, the hon. Law Minister assuaged us by saying: the powers of these tribunals will not be exercised everywhere but only in a real emergency. He found such a case in Tezpur. This morning's paper has falsified the Law Minister in a shocking manner. Yesterday, the Punjab Government have already set up such tribunals. There is no 'Tezpur' in Punjab; even Tezpur is looking normal now. But Punjab Government had already announced a tribunal for each district. Now, what is this tribunal? The Law

Minister said: We are giving you a three-man tribunal. That is a mere eye-wash. I shall put it straight to Shri Datar. The composition of the tribunal in Punjab is: Sessions Judge sitting with a magistrate and a small cause judge. Do you think any magistrate will go against the judgement of the Sessions Judge with whom he is sitting? Why waste time and money? You can as well give the powers straight to the sessions judge. The two men in this tribunal are the subordinates of the third, administratively and judicially.

Dr. M. S. Aney: They may not be magistrates from the same district.

Shri Daji: In Punjab they are from the same district. It is almost a one-man tribunal. There is no right of appeal and no right of revision. I do not know why the right of appeal is being withheld. The man is sentenced; let him be put in jail and you may even say that he cannot be released on bail pending the appeal. But the right of appeal is a fundamental right in criminal jurisprudence to see that no injustice has been done. When you close all the doors for rectifying injustice, certainly we have reasons to be apprehensive.

In the consultative committee, the hon. Minister conceded one principle, but it has not been embodied in the amendment. I stressed the point that in many cases the District Magistrate and Additional District Magistrate have no judicial experience. I come from Madhya Pradesh and I know the only judicial experience they have is in dealing with cases under sections 107 and 109 of the Cr.P.C. When he has said three years judicial experience, that means a District Magistrate who has only tried cases under sections 107 and 109 will be deemed to have the necessary judicial experience to be elevated to the special tribunal and he is supposed to have some knowledge also.

So far as the Presidency Magistrate is concerned, it is meaningless. You are cutting out the commitment proceedings, cutting out evidence, cutting out appeal, etc. You are handing it over to a fictitious three-man tribunal, which is no guarantee that injustice will not be done. I also submit that howsoever big the emergency may be, the right of appeal is not going to hinder. When we are prescribing a special procedure cutting across all established principles of criminal jurisprudence, the right of appeal is all the more necessary, so that no innocent man will be punished. I do not want to repeat the oft-repeated maxim in English law, because you may say this is an emergency power. It is the *sine qua non* of the rule of law that not one innocent man should be sentenced and certainly not without a fair trial. The more you cut across a fair trial according to established principles, the more necessary it is to have the right of appeal.

Shri Narendrasingh Mahida (Anand): I am speaking on amendment No. 5.

Mr. Chairman: It has not been moved.

Shri Ranga: You have made an exception in the case of the Home Minister. Can you not show the same indulgence to the hon. Member also?

Mr. Chairman: All right; he may move it.

Shri Narendrasingh Mahida: I beg to move:

Page 17, after line 14, add—

“provided that at least one member of the Special Tribunal shall be such as has qualified for appointment under clause (a) of sub-section (2).” (5)

I have sought to provide that at least one member should be qualified for appointment as a High Court Judge under clause (2) of article 217 of the Constitution.

Shri Datar: Please see my amendment No. 118. That goes a long way in meeting his amendment.

Shri Ranga: Yours is too complicated. Why not accept this simpler amendment?

Shri S. M. Banerjee: Amendment 118 says that at least one member shall be qualified for appointment as High Court Judge. It does not say he should have acted as High Court Judge. Being qualified for appointment is something different from actually working as High Court Judge. I may be qualified to be anything; that is different.

Shri Narendrasingh Mahida: My amendment is clearer than the hon. Minister's amendment. He may kindly accept.

Shri Kashi Ram Gupta: Sir, I would like to say a few words on my amendment No. 34. Shri Banerjee and Shri Nambiar spoke about the Additional District Magistrate. I may say that specially in my State of Rajasthan, the District Magistrate and the Additional District Magistrate are on equal footing. They always fall a prey to the pressure of politicians. They are more of executive officers, carrying out the orders of the Government. If such persons are put on the Tribunal, the people concerned cannot expect any justice. So, it is a very simple thing and the Minister also knows it. He knows how these executive people work. So, in fairness to the people who are to be tried under this law, such persons should not be on the Tribunal.

Shri Ranga: My friend, Shri Mahida, has already spoken on his amendment No. 5. This is couched in such a way that this would be more easily understood than what the Minister has got. In addition, I wish to express my support to the two amendments that have been moved earlier by Shri Nambiar and Shri Daji. One amendment suggests the omission of District Magistrate and Additional District Magistrate. Our friends have already said

what ought to be said in regard to this matter. I do hope that my hon. friend will be agreeable to accept this amendment because District Magistrate and Additional District Magistrate are essentially executive officers, although some judicial powers are also conferred upon them. The great distinction between them and the Sessions Judge is that the Sessions Judge is expected and does manage to exercise what is known as judicial conscience, whereas the District Magistrate and Additional District Magistrate are primarily executive officers and cannot be said to have developed that necessary quantum of judicial conscience that can be depended upon by people who would be brought before them. It is all the more necessary that this amendment should be accepted, in view of the fact that there is no provision made here for appeal against the sentence of death, life imprisonment and even sentence upto five years and more. It is such a serious matter for anyone to be brought before this Tribunal without any opportunity of having an appeal. Therefore, it is only fair that the Minister should agree to this suggestion that these Special Tribunals should contain at least one High Court Judge or a retired High Court Judge. Otherwise, they would all be at the district level—Sessions Judge, Chief Presidency Magistrate or someone else of that status and it would be really expecting the House to agree to too much when they say that such a Special Tribunal should be empowered with so much power over the lives of the people.

Therefore, I sincerely hope that my hon. friend would see his way to accept our amendment No. 5 and also the other two amendments moved by Mr. Nambiar and Mr. Daji.

Shri Kishen Pattnayak: I beg to move:

Page 17,—

after line 25, insert,—

“(3) for the removal of doubts it is declared that the Tribunals

shall be so constituted that the same authority shall not be both accuser and judge." (80).

Shri Datar: May I point out to the hon. Members that I have already accepted some of the suggestions made by hon. Members?? Two or three points have been made clear. I would invite the attention of the House to two amendments, No. 117 and 118. Amendment 117 says, three years judicial experience is insisted upon. Amendment 118 meets to a large extent what is asked for in amendment No. 5. Amendment No. 5 also says "qualified for appointment" and not actually those who have acted as High Court Judges. Amendment 118 makes it clear:

"(3) At least one member of a Special Tribunal shall be qualified for appointment thereto under clause (a) of sub-section (2) and where only one member is so qualified under that clause, at least one other member shall be qualified for appointment under cause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (ii) of the said clause (b)".

Two other amendments also might be seen. Those amendments are: 153 and 156—they will come in due course. So far as 153 is concerned, full evidence will have to be recorded in all cases wherever there are offences punishable with five years imprisonment or more. Formerly it was ten years or more. Now it has been brought down so as to include more offences so that full evidence will have to be recorded.

Amendment No. 156 makes it clear that in all these cases an appeal will lie to the High Court. Therefore, on a number of points, the hon. Members will kindly see, we have gone a very long way in meeting the desires of the hon. Members including those opposite on three or four points. Under these circumstances it would not be proper to make any derogatory remarks, as one hon. Member did, about Presidency Magistrates or Additional

Magistrates. The House is aware that Additional Magistrates are also experienced magistrates; it is not that they are immediately appointed.

Shri Hari Vishnu Kamath: Not always.

Shri Datar: It is not a correct view to take at all. It has been stated that in all these cases a certain amount of judicial experience is essential.

Under these circumstances, in view of the two amendments that I have moved to this very clause and two others to which I have made a reference, I hope the hon. Members will not press their amendments.

Mr. Chairman: I shall first put amendments Nos. 5, 33, 76, 77, 78, 79 and 80 together to the vote of the House.

Amendments Nos. 5, 33, 76, 77, 78, 79 and 80 were put and negatived.

Mr. Chairman: I shall now put the two Government amendments.

The Question is:

Page 17, line 19,—

for "has exercised" substitute—

"has for a total period of not less than three years exercised, whether continuously or not," (117).

Page 17,—

after line 25, insert—

"(3) At least one member of a Special Tribunal shall be qualified for appointment thereto under clause (a) of sub-section (2), and where only one member is so qualified under that clause, at least one other member shall be qualified for appointment under clause (b) of that sub-section by virtue of having exercised powers exclusive of those specified in sub-clause (ii) of the said clause (b)." (118).

The motion was adopted.

Mr. Chairman: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

Clause 14 (Jurisdiction of Special Tribunals)

Mr. Chairman: Then we come to Clause 14.

Shri Datar: I beg to move:

Page 17,—

for lines 30 and 31, substitute—

"(b) punishable with death, imprisonment for life or imprisonment for a term which may extend to ten years under section 5 of this Act or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act," (119).

Mr. Chairman: Are there no other amendments?

An Hon. Member: No.

Mr. Chairman: I shall then put it to the vote of the House.

The question is:

Page 17,—

for lines 30 and 31, substitute—

"(b) punishable with death, imprisonment for life or imprisonment for a term which may extend to ten years under section 5 of this Act or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act,"

The motion was adopted.

Mr. Chairman: The question is:

"That clause 14, as amended, stand part of the Bill."

The motion was adopted.

Clause 14, as amended, was added to the Bill.

Clause 15—(Procedure of Special Tribunals)

Mr. Chairman: What are the amendments to clause 15?

Shri Datar: Sir, I beg to move:

That for the amendment proposed by me, printed as No. 120 in List No. 5 of Amendments, substitute the following amendment,—
Page 18, line 4,—

for "imprisonment for life", substitute—

"imprisonment for life or imprisonment for a term which may extend to five years or more" (153).

Shri S. M. Banerjee: Sir, I beg to move:

Page 18, line 1,—

for "may" substitute "shall not" (35).

Page 18,—

(i) line 4, omit "not";

(ii) lines 5 to 9,—

omit 'but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes, to be taken down, and such memorandum shall be signed by a member of the Special Tribunal and shall form part of the record' (36)

Shri Nambiar: Sir, I beg to move:

Page 18,—

omit lines 3 to 9. (81).

Page 18,—

omit lines 17 to 22. (83)

Shri Daji: Sir, I beg to move:

Page 18,—

for lines 3 to 9, substitute—

"(2) The special Tribunal shall follow the same procedure as

laid down in the Code in cases of Sessions trial." (82).

Shri Narendrasingh Mahida: Sir, I beg to move:

Page 18,—

omit lines 1 and 2. (6)

Page 18,—

for lines 3 to 9, substitute—

"(2) In all cases of trials of offences punishable under this Act, it shall be necessary in any trial for a Special Tribunal to take down the evidence at length in writing." (7).

Shri Hari Vishnu Kamath: Sir, I beg to move:

Page 18,—

omit lines 1 and 2.

That in the amendment proposed by Shri B. N. Datar, printed as No. 120 in List No. 5 of Amendments,—

for "which may extend to ten years" substitute "exceeding five years".

Shri S. M. Banerjee: Sir, my amendment reads like this:

Page 18, line 1,—

for "may" substitute "shall not" Clause 15(1) reads:

"A Special Tribunal may take cognizance of offences without the accused being committed to it for trial."

If my amendment is accepted—I am sure it will not be accepted—it will read like this:

"A Special Tribunal shall not take cognizance of offences without the accused being committed to it for trial."

My amendment No. 36 reads:

Page 18,—

(i) line 4, omit "not;

The clause will read like this:

"(2) Save in cases of trials of offences punishable with death or imprisonment for life, it shall be necessary in any trial for a Special Tribunal to take down the evidence at length in writing...."

Shri Nambiar: I hope the hon. Minister accepts it, that in the trial evidence will be written down in full.

Shri Datar: I am not agreeing to anything beyond what has been said in clause 15.

Shri S. M. Banerjee: That is why I move my amendments. Then I want omission of this:

omit "but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes, to be taken down, and such memorandum shall be signed by a member of the Special Tribunal and shall form part of the record".

Thus, with my amendment, clause 15 (2) shall read as follows:

"Save in cases of trials of offences punishable with death or imprisonment for life, it shall be necessary in any trial or a Special Tribunal to take down the evidence at length in writing...."

We do not want that people should be punished merely on the basis of substance. I am facing a trial in the Patna High Court where entire conviction has been based on mere substance. Even the proper record has not been given. Even the shorthand book which was demanded by the magistrate and the sessions judge was not produced by the Intelligence Bureau. Merely on the basis of substance, which has been taken out of context, punishment has been given and myself and Shri Indrajit Gupta have been convicted. So, I would suggest that there should be proper recording of evidence. I feel that these two amendments are absolutely harmless and the

(Shri S. M. Banerjee)

hon. Minister, if he applies his mind a little more carefully, will accept them.

Shri Narendra Singh Mahida: My amendment is No. 6 which seeks to omit sub-clause (1) of clause 15. Then, I have suggested the following in substitution of sub-clause (2)::

"In all cases of trials of offences punishable under this Act, it shall be necessary in any trial for a Special Tribunal to take down the evidence at length in writing."

It is absolutely necessary that this provision should be there because otherwise there is no point in having a Special Tribunal; you can sentence a person straightway without hearing at all. So, it is absolutely necessary that this procedure should be laid down so that proper records can be kept. I would appeal to the Home Minister to accept the provision which I have suggested.

Shri Narasimha Reddy (Rajampet): I support the amendments of my two friends who have spoken before me. I feel that it is absolutely necessary that evidence in all cases should be taken down in writing. My experience, even in sessions courts, is that we come across some judges who put the pen on paper and make it appear as if the pen is moving but when we get a copy of the evidence we find that nothing is written there except one or two lines. When such is the case with a regular sessions court and sessions judges with considerable experience, what would be the behaviour of the wonderful judges who form the Special Tribunal? In our experience we come across impatient judges, cantankerous judges and sleeping judges. This provision that evidence need not be taken at length in writing will come as a god-send to the sleeping judges because they could sleep well.

Shri Datar: Let the hon. Member be a bit careful while making such sweeping remarks.

Shri Narasimha Reddy: I said "some". I have qualified my statement by the use of the word: "some". The hon. Minister should hear me better in future.

This provision that evidence need not be taken down in writing is a temptation even for good judges to sleep. Therefore, I support the amendment.

Shri Nambiar: A clear reading of this sub-clause will make everyone understand the dangerous aspect of this clause.

"A Special Tribunal may take cognizance of offences without the accused being committed to it for trial.

(2) Save in cases of trials of offences punishable with death or imprisonment for life, it shall not be necessary in any trial for a Special Tribunal to take down the evidence at length in writing...."

That is to say, except in cases where there is death penalty or life sentence, in all other cases they need not have the evidence recorded *verbatim*.

"...but the Special Tribunal shall cause a memorandum of the substance of what each witness deposes, to be taken down, and such memorandum shall be signed by a member of the Special Tribunal and shall form part of the record."

Only one member has to sign it. He can write anything of the substance. What is the safety for the accused? It is true that there is an emergency. But what is the harm in having the evidence in writing? Is it the contention that in an emergency you cannot write it down? What is the guarantee for the accused during the emergency? Of course, the war is there and the enemy is there. But, then, the judge is there and he is paid for the job. He has only to write down the evidence in paper. What is

the harm in doing it? What is your objection? Why can you not do it? Will the paper record undermine the defence of the country? There is absolutely no meaning for this argument. It is absurd. After all, a person is being accused and he is going to be given a sentence of 10 or 15 years after the trial. So, you should record the evidence in writing. That is all what I seek. I want sub-clause (2) of clause 15 should be deleted, which will mean that the normal procedure of recording evidence should be adopted.

Then, sub-clause (5) reads:

"After an accused person has once appeared before it, a Special Tribunal may try him in his absence if, in its opinion, his absence has been brought about by the accused himself for the purpose of impeding the course of justice, or if the behaviour of the accused in court has been such as, in the opinion of the Special Tribunal, to impede the course of justice."

What is the meaning of this? Since the accused is in the lock-up, if he does not come you can take him by force and place him before the Tribunal. Suppose he is on hunger strike, as that is one of the reasons. Even then you can bring his body before the Tribunal. Why should he not be brought in? It is possible that the accused is some 10 or 15 miles away in the prison from the place where the Tribunal is sitting. You can send a police party and bring him. What exactly is the meaning or motive behind this provision? It is stated:

"if the behaviour of the accused in court has been such as, in the opinion of the Special Tribunal, to impede the course of justice".

What behaviour is that? In sessions trials when a man is to be condemned to death, he is put on the dock when the trial is going on. What can he do?

He may shout. Then the police are there to stop him. This enactment is going to be in the statute book. Not only we, but many other people will read it. So, there must be some sense in what we do. After all, it is this august House which is passing the law; so, there must be some meaning. I, therefore, suggest that sub-clause (5) may be deleted, so that the normal course of trial may take place. Of course, X, Y or Z may sit in the Tribunal. But, then, at least the normal procedure of taking down the evidence in writing and presenting the accused in person before the Tribunal will be there. I hope my two amendments will be accepted.

Shri Hari Vishnu Kamath: Mr. Chairman, Sir, it is rather surprising that the hon. Minister of State for Home Affairs took offence at the remark made by my hon. friend, Shri Reddy, with regard to some judges. Sir, you well know that even in England, which is the home of democracy and judicial eminence, the famous author, Charles Dickens, has recorded in *Pickwick Papers* a very interesting court incident in the case of *Mrs. Bardell Vs. Mr. Pickwick* where he says that as soon as Sergeant Buzfuz, the lawyer, sat down, after finishing his argument, Justice Stareleigh woke up.

Mr. Chairman: That is only fiction.

Shri Datar: That is fiction.

Shri Hari Vishnu Kamath: It was based on fact. Even there it has happened. If it could happen in Britain, why can it not happen in India.... (*Interruption*) where democracy is in its infancy? I hope, we are happily progressing.

Shri Daji: I have heard of clerks writing judgments for the judges.

Shri Hari Vishnu Kamath: I wish, Sir, the hon. Minister of State for Home Affairs had given us his amendments in proper order. He gave us first amendment No. 120. Now, amendment No. 120 has been changed to No. 154.

Shri Datar: To 153.

Shri Hari Vishnu Kamath: To 153. Amendment No. 121, to which you will come later, has been changed to No. 154 and again to No. 156. I hope, this only shows an open mind and not a fickle or a vacillating mind on the part of the Government. They go on changing them from day to day and the Parliament Secretariat, naturally, is very hard put to it to collate them together and arrange them clause-wise. It would have been easier for us also to follow and to cut short the time of the House in discussion.

Now, I will come to my own amendments, Nos. 146 and 147. Regarding amendment No. 146, may I suggest that sub-clause (1) of clause 15 is not an appropriate one? The clause, as it stands, is to the effect that a Special Tribunal can take cognizance of offences under this Act without the accused being committed to it for trial. I do not know where the practical difficulty in every case is. It would have been better if the Government had listed particular offences or particular circumstances where the accused need not be brought for trial. But as the clause stands, it will be a blanket power for the Special Tribunals not to have the accused before them for trial at all. If it is passed by Parliament, to that extent it is a dangerous provision. If I am arrested under this Act and am not brought before the Tribunal for trial, I can protest. That is all that I can do. What else can I do?

The Government may say, "We are here to protect. We are here to see that it is not abused and that it is properly implemented." It is not that the hon. Minister will be present all over India. He is not ubiquitous or a sort of a *sarvagami*. He cannot be everywhere. Officers who will implement the Act, the members of the Tribunal and those Police officers who arrest a person may not think it necessary to produce any accused before the Tribunal. Therefore this provision is likely to be violated and

to be abused to a considerable degree. I will be happy if it is deleted.

Then, I have got another amendment, No. 147. The hon. Minister himself has got an amendment substituting "ten years" by "five years". It was 'five years' formerly but finally it has emerged as "five years or more". I do not know what exactly "exceeding five years" means. I am sorry that my own amendment has, in writing, slightly got a bit wrongly worded. I wanted to make it extending to five years. But I do not know what change even the hon. Minister's amendment will make. It was 'ten years' before. Now the minimum has been fixed at five years. That means that the floor has been fixed but the ceiling has not been fixed at all.

Under the Indian Penal Code, as you well know—I have got a copy here—I do not think this legal terminology of "five years or more" is quite correct. Either it is extending to something or it is not exceeding something. This "five years or more" is vague and badly vague. It should be more accurate and correct. It should be made either 'extending to ten years' or 'not exceeding'.

I hope, Sir, the hon. Minister will not engage in a conversation with an hon. Member when the discussion is going on. It is not proper. It is disrespectful to the House. The hon. Minister may turn round and hear. He may have a word with him later on. It is very bad. They have always been doing this. It is a growing vice on the part of the Government. They go on conversing with hon. Members when the debate is going on. You should listen if you want to listen at all. If you want to carry it with your brute majority, you can carry on.

Shri Datar: I am listening.

Shri Hari Vishnu Kamath: You are not listening. This is not a true statement at all. I will not say that it is a false statement but it is not a true statement. They should be more

respectful to the House. Is this the way to treat Parliament even in an emergency?

Shr C. K. Bhattacharyya (Raiganj): You are talking like a school master.

Shri Hari Vishnu Kamath: Who is this sitting down and talking like that? Get up and talk if you want to talk.

Mr. Chairman, I would suggest, therefore, that the hon. Minister might pay a little more attention to this amendment of his. He might have a second or a third substitute if he wants to have it—we do not mind—and change that wording. "Five years or more" is no legal terminology at all. It is either 'extending to' or 'not exceeding'. It is very bad. The hon. Minister has been practising before law courts for many years. He will know the legal terminology. It cannot be "five years or more". It is entirely vague and uselessly vague. He can change it even now. He can consult his officers in the gallery and see what can be done about it.

श्री ह० च० सोय (सिंहभूम) : माननीय सभापति जी, मैं श्री बनर्जी का अमेन्डमेंट नम्बर ३५ सपोर्ट करने के लिए खड़ा हुआ हूँ ।

सभापति जी, मद्रास के एक बहुत बड़े जज के बारे में कहा जाता था कि वह सो जाते थे । तो यह बात नहीं है कि जज लोग सोते नहीं हैं । इसलिए हो सकता है कि गवाही लेते समय अगर वह सो रहे हैं तो कुछ हिस्सा वह सुनेंगे और अगर उनको केवल समरी बनानी है तो वे उसी हिस्से की समरी बनायेंगे जो कि उन्होंने सुना है जो कि पूरी नहीं होगी । अगर उनको सारी बातें लिखनी होंगी तो अच्छा रहेगा ।

फिर सरकार ने इस चीज को तो मान ही लिया है कि किसी आदमी को जो डिफेंस ग्राफ इंडिया ऐक्ट के मातहत सजा पाता है रिब्यू कराने का अधिकार है । ऐसी हालत में

यह बहुत जरूरी है कि सजा पाने वाले को गवाही की पूरी नकल मिल जाए ।

इस प्रावीजन में गवर्नमेंट क्या चाहती है । उसका सिर्फ यह मंशा मालूम होता है कि जज को पूरी गवाही लिखने का परिश्रम न करना पड़े । इससे ज्यादा उसका मंशा नहीं मालूम होता । जब यही मंशा है तो सारी की सारी चीजे लिखी जानी चाहिए ताकि उसकी पूरी नकल मिल सके । समरी नहीं लिखी जानती चाहिए ।

Shri K. K. Verma (Sultanpur): Mr. Chairman, Sir, so far as the objection to the language of the amendment (No. 154) is concerned, I think, the objection is not sound. It is quite definite. If an accused is sentenced to a term of five years or extending five years, where is the ambiguity?

14.14 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

The amendment says:

"imprisonment for a term of five years or more".

It means that if he is sentenced to less than five years, the other procedure would apply. If the sentence is of five years or more, there is no ambiguity. I do not think that the words 'exceeding' or 'extending to' would clarify the position more. The language that has been used is quite definite precise and categorical and I do not think that it requires any improvement. So far as the amendment regarding recording of the entire oral evidence is concerned, I also agree with the amendment. It is very necessary.

Shri S. M. Banerjee: Which number?

Shri K. K. Verma: Clause 15, sub-clause (2). An amendment has been proposed that the entire evidence ought to be recorded and not only a memorandum. I am also a lawyer. From my experience, I would also say that there are certain Judges who actually are found napping during the course of the evidence.

Mr. Deputy-Speaker: I think the hon. Member should close now.

An Hon. Member: Defect of the argument.

Shri K. K. Verma: It is not the defect in the argument. The witness is making statement, but they are not listening to him.

Mr. Deputy-Speaker: The hon. Member has not moved any amendment. Why should he take the time of the House? They have taken too much time over this.

Shri K. K. Verma: I wanted only to say that the amendment is quite sound and ought to be accepted.

Shri H. N. Mukerjee (Calcutta Central): Here is a Member of the House and a Member of the Government party who, because of the discussion that has taken place, seems to have persuaded himself to support something in the amendment. That being so . . .

Mr. Deputy-Speaker: He has finished.

Shri H. N. Mukerjee: No, Sir. You were pleased to intervene and ask him to conclude. I do not understand it. A Member of the House who belongs to the Government party appears to be convinced by certain arguments which were forwarded from this side and . . . (*Interruption*)

Shri K. K. Verma: The hon. Member need not defend me. I can defend myself.

Mr. Deputy-Speaker: The opposition should not take advantage of such things.

Shri K. K. Verma: Mr. Deputy-Speaker, I wanted only to point out that in those cases where there is no appeal, every care should be taken to see that justice is done to the accused. If the full evidence is not before the tribunal at the time of the arguments, it is just possible that there may be miscarriage of justice. It is necessary that the full evidence should be before

the tribunal so that they may be able to do full justice.

Shri Datar: I have moved amendment No. 153. Let my hon. friend Shri Kamath hear what I am saying about him.

Shri Hari Vishnu Kamath: All attention.

Shri Datar: This is my call attention to the hon. Member.

Shri Hari Vishnu Kamath: I said I am all attention.

Shri Datar: I have moved amendment No. 153 according to which you will find that the scope of this particular clause has been considerably enlarged. We had fixed it at 10 years or more. It has been brought down to five years or more. My hon. friend needlessly objected to the language of my amendment. "Imprisonment for life or imprisonment for a term which may extend to five years or more"; this is the usual language. Let my hon. friend understand. Therefore, it has to be very clear: either five years or more. In fact, as I pointed out, my hon. friend, with due deference to him, had put in something which did not bring out his own idea, because 5 years was not included in his own amendment. Therefore, I submit, the scope has been very much increased so far as clause 15 is concerned.

Now, we come to the position that in all cases where the offences are punishable with death or imprisonment for five years or more, full evidence will have to be recorded. That means, the whole scope has been enlarged. In a small number of cases it is not necessary. Even under the ordinary Code of Criminal Procedure, let the hon. Member kindly refresh his own knowledge of the Code of Criminal Procedure, there is such a thing as summary procedure. In the case of a summary procedure all that has to be done has been put down in this case also. But, the Special Tribunal shall cause a memorandum of the substance of what each witness deposes to be taken down and such memoran-

dum shall be signed by a Member of the Special Tribunal and shall form part of the record. What has been done is not necessarily outside the scope of the Code of Criminal Procedure. All hon. Members who spoke will kindly note that this is an emergency provision. Only in exceptional cases this provision is to be resorted to. Under these circumstances, I fail to understand what my hon. friend was speaking about the omission of sub-clause (1) or sub-clause 5. There are cases even under ordinary Code of Criminal Procedure where evidence can go on in the absence of the accused himself provided certain requirements are complied with. Similarly also in the case of sub-clause (5), it has been made very clear, if in its opinion, his absence has been brought about by the accused himself. In these circumstances, the accused cannot remain absent and again claim that the whole proceedings should be held up. It is not open under law to a person to take advantage of his own wrong.

Shri Nambiar: Can an example be quoted?

Mr. Deputy-Speaker: He is not yielding.

Shri Datar: I am pointing out that so far as clauses 1 and 5 are concerned, they are absolutely essential against the background of emergency and in substance we have got some such provision in the normal Code of Criminal Procedure itself.

Mr. Deputy-Speaker: I will now put amendment No. 153 to the House.

The question is:

That for the amendment proposed by me, printed as No. 120 in List No. 5 of Amendments, substitute the following amendment,—

Page 18, line 4, for "imprisonment for life" substitute—

"imprisonment for life or imprisonment for a term which may extend to five years or more" (153).

The motion was adopted.

2256 (A) L.S.—3.

Mr. Deputy Speaker: Amendment No. 146 is the same as amendment No. 6. So let us now take up amendment No. 6. Are you pressing it?

Shri Narendra Singh Mahida: Yes.

Mr. Deputy-Speaker: The question is:

Page 18, omit lines 1 and 2 (6).

Those in favour many kindly say 'Aye'.

Some Hon. Members: 'Aye'.

Mr. Deputy-Speaker: Those against may say 'No'.

Some Hon. Members: 'No'.

Mr. Deputy-Speaker: The 'Noes' have it.

Shri Hari Vishnu Kamath: The 'Ayes' have it.

Mr. Deputy-Speaker: You want a division?

Shri Hari Vishnu Kamath: Yes. Under the convention, there can be no Division till 2-30.

Mr. Deputy-Speaker: We will hold it over. I will now put amendment No. 35 to the vote of the House.

Amendment No. 35 was put and negatived.

Mr. Deputy-Speaker: I will now put amendment No. 81 to the vote of the House.

Amendment No. 81 was put and negatived.

Mr. Deputy-Speaker: Shall I put all the rest together?

Some Hon. Members: Yes.

Mr. Deputy-Speaker: I will now put amendments Nos. 7, 82, 147, 36 and 83 to the vote of the House.

Amendments Nos. 7, 82, 147, 36 and 83 were put and negatived.

Mr. Deputy-Speaker: We will hold over amendment No. 6. There is an announcement to be made by the Minister of Parliamentary Affairs.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Mr. Deputy-Speaker, in response to a suggestion in the House yesterday, the Prime Minister had promised to supply maps showing the relevant lines mentioned in the Chinese proposal and the Indian proposal for Cease-fire. Arrangements have been made to place two maps in the Central Hall today from 12.30 P.M. onwards. An officer of the Ministry of External Affairs will be present in the Central Hall to explain the relevant lines.

Shri Daji: For how many days?

Shri Satya Narayan Sinha: Two days.

Mr. Deputy-Speaker: We will go to clause 16. There are two amendments, 84 and 85. Amendment No. 84: not moved. Amendment No. 85 also not moved.

Shri Daji: Amendment No. 88 is there.

Mr. Deputy-Speaker: That is for clause 18. We are on clauses 16 and 17.

The question is:

"That clauses 16 and 17 stand part of the Bill."

The 'Ayes' have it.

Shri Namblar: No one says 'Ayes'.

Mr. Deputy-Speaker: They did say.

Shri C. K. Bhattacharyya: I said 'Aye'.

Shri Rane: I said 'Aye'.

The motion was adopted.

Clauses 16 and 17 were added to the Bill.

Clause 18—(Sentences of Special Tribunals)

Shri Datar: I move amendment No. 156 in the place of amendments 121 and 154:

"That for the amendment proposed by me, printed as No. 154

in List No. 8 of Amendments, substitute the following amendment,—

Page 19,—

for lines 14 to 17, substitute—

"(b) to imprisonment for a term of five years or more, under this Act or the rules made thereunder or under sub-section (4) of section 5 of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act." (159)

Shri Namblar: I move:

Page 19, line 11, add at the end—

"and the person sentenced shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed." (86)

Page 19, omit lines 12 to 27. (87).

Shri Narendra Singh Mahida: I move:

Page 19, lines 19 to 27,

omit "but save as aforesaid and notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of a Special Tribunal, and no court shall have authority to revise such order or sentence, or to transfer any case from a Special Tribunal, or to make any order under section 491 of the Code, to have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal." (8)

Shri Daji: I move:

Page 19, for lines 12 to 27, substitute—

"(2) A person sentenced by a Special Tribunal shall have the same right of appeal and revision as under the Code." (88)

Shri Hari Vishnu Kamath: I beg to move:

That in the amendment proposed by Shri B. N. Datar, printed as No. 121 in List No. 5 of Amendments, for 'exceeding' substitute 'extending to'. (148)

Page 19, line 14, for 'ten' substitute 'five'. (149)

Mr. Deputy-Speaker: These amendments are now before the House.

Shri Nambiar: My amendment is a simple one. Clause 17 provides that a special tribunal shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction, that is to say, it has got the powers of a Sessions Court. I have suggested that clause 18 may read as follows. The first sub-clause may read as follows:

"A special tribunal may pass any sentence authorised by law."

What all appears subsequent to that is sought to be deleted, and in its place, the following is to be added, namely

"and the person sentenced shall have a right of appeal to the High Court within whose jurisdiction the sentence has been passed."

The provision must be simplified in the above manner. The reason for it is this. This clause provides for appeals in the case of certain types of sentences only and not in respect of all types of sentences. We have discussed it already.

Now, sub-clause (2) of clause 18 reads thus:

"A person sentenced by a Special Tribunal—

(a) to death or imprisonment for life, or

(b) to imprisonment for a term extending to ten years under section 5 of this Act or under sub-section (4) of section 5

of the Indian Official Secrets Act, 1923, as amended by section 6 of this Act."

After the amendment of the hon. Minister, it would mean that there would be an appeal in respect of sentences of five years and more including that of death. But there is no appeal in respect of sentences of less than five years. That is what the hon. Minister wants the House to accept. My amendment is very straightforward and clear, namely that it wants to provide that there should be an appeal in all cases. We have already argued that point earlier while we were on the earlier clauses, that there must be another body, a judge or some other higher authority to sit in judgment over the question whether what the former authority did was right or wrong.

It may be argued that when there is a rigorous punishment or a very high penalty with a sentence of five years or more, an appeal is provided for, and we must be satisfied with that. But a judge can give a sentence of 4 years and 11 months, or 4 years and ten months and so on. In such cases there would be no appeal. What is it that makes him award a punishment of four years or four and a half years? Who is to decide whether the sentence of three or four or four and a half years which he has awarded is proper or not? Even in an emergency, to stay in jail for five years continuously is not an easy thing. I do not know for how long the hon. Minister has stayed in jail. But, even otherwise, to stay continuously for five years in jail is not an easy thing. Of course, if the man has committed an offence, then there is no objection. But what is the guarantee that the judgment is a proper one? For, there is nobody even to review it. I would like to know what objection Government have got to a review of the former judgment. After all, if a tribunal can sit and award punishment, then with so much of latitude and so much of liberties, and so much of administrative mechanism in exist-

[Shri Nambiar].

ence, I think it should be possible for some authority to sit in judgment over that case. If a whole area is threatened or comes within the firing range immediately, or if a whole area is going to be bombed or is being bombed, if the whole thing is in a confusion, as we saw in Tezpur recently, then even the very constitution and the working of the tribunal will not be possible. Then, the question of awarding punishment will not be possible there. Even in Tezpur I find from the reports that the jails were thrown open, and the prisoners went off. Therefore, there is no necessity even to punish the man because even the punished fellow gets out of the jail and goes away as happened in Tezpur recently. If civil administration is not in existence, then the punishment itself has no meaning. If an administration is in existence which can punish a man for five years or up to five years, then that shows that the administration is capable of looking after the appeal also. Therefore, an appeal can be provided for. Therefore, I do not understand how it can be said that because of this emergency no appeal is possible. Therefore, there is no valid reason on the part of Government to provide for no appeal merely on the ground of emergency saying that because there is emergency anything and everything that is wanted cannot be done. I may be excused if I say that this is very autocratic in the sense that even in a democracy certain civil liberties which can be given should be given. I do not say that all the civil liberties should be given. I am only pleading for an appeal. After all, you are punishing a man with a tribunal with an additional district magistrate sitting in judgment, and without even giving the man an opportunity to be present, and without his evidence being fully recorded. When all that is said and done, why can you not provide for at least an appeal? This is the minimum that an accused can expect from this Government. Therefore, I would request the hon. Minis-

ter to accept my amendment to the effect that whatever may be the term of imprisonment or punishment, an appeal may be provided for.

Mr. Deputy-Speaker: We shall take up the further discussion of this clause tomorrow. Before I go to the next item, let us dispose of the division on amendment No. 6 to clause 15.

Mr. Deputy-Speaker: The question is:

Page 18,—

omit lines 1 and 2. (6).

I think the 'Noes' have it.

Shri Hari Vishnu Kamath: The 'Ayes' have it.

Mr. Deputy-Speaker: Division.

The Lok Sabha divided.

Dr. Ranen Sen (Calcutta East): My button has gone out of order.

Shri Hari Vishnu Kamath: Mine also.

Some Hon. Members rose—

Mr. Deputy-Speaker: Let me find out the corrections to be made. Who are the Members whose votes have to be added to the 'Ayes'? They may please mention their division numbers.

Dr. Ranen Sen (Calcutta East): No. 465.

Shri Krishnapal Singh (Jalesar): No. 460.

Shri Easwara Reddy (Cuddapah): No. 511.

Shri Sarkar Murmu (Balurghat): No. 513.

Shrimati Shashank Manjari (Palamau): No. 499.

Shri Badrudduja (Murshidabad): No. 486.

Shri Muzaffar Husain (Moradabad): No. 387.

Shri Hari Vishnu Kamath: And mine, No. 442.

Mr. Deputy-Speaker: And for 'Noes'?

Shri L. N. Bhanja Deo (Keonjhar): No. 376.

Shri Bhagwat Jha Azad (Bhagalpur): No. 286.

Shri S. N. Chaturvedi (Firozabad): No. 228.

Shri Achal Singh (Agra): No. 221.

Shrimati Satyabhama Devi (Jahana- bad): No. 148. I have voted for 'Ayes', wrongly.

Shri S. T. Singh (Inner Manipur): No. 170.

Shri Ranjit Singh (Sangrur): No. 349.

Shri T. Ram (Sonbarsa): No. 81.

[Division No. 6]

AYES

[14:36 hrs.]

Badrudduja, Shri
Banerjee, Shri S.M.
Bhattacharya, Shri Dinen
Bircn Dutta, Shri
But a Singh, Shri
Chatterjee, Shri H.P.
Daji, Shri
Dasaratha Deb, Shri
Elias, Shri Mohammad
Gupta, Shri Indrajit
Gupta, Shri K.R.
Ismail, Shri M.
Jha, Shri Yogendra
Kamath, Shri Hari Vishnu

Kar, Shri Prabhat
Koya, Shri
Krishnapal Singh, Shri
Mahida, Shri
Marandi, Shri
Mate, Shri
Mukerjee Shri H.N.
Murmu, Shri Sarkar
Muzaffar Hussain, Shri
Nambiar, Shri
Pandey, Shri Sarjoo
Pottakkatt, Shri
Raghavan, Shri A.V.

Ranga, Shri N. G.
Reddy, Shri Eswara
Reddy, Shri, Narasimha
Roy, Dr. Saradish
Sen, Dr. Ranen
Shashank Manjari, Shrimati
Singh, Shri Y.D.
Soy, Shri H.C.
Swamy, Shri Sivamurthi
Utiya, Shri
Vishram Prasad, Shri
Warior, Shri

NOES

Achal Singh, Shri
Alva, Shri A.S.
Azad, Shri Bhagwat Jha
Barupal, Shri P.L.
Basappa, Shri
Batra, Shri
Bhakt Darshan, Shri
Bhanja Deo, Shri L.N.
Bhattacharyya, Shri C.K.
Brahm Prakash, Shri
Brajeshwar Prasad, Shri
Brij Raj Singh, Shri
Chaturvedi, Shri S.N.
Chaudhuri, Shrimati Kamala
Chettiar, Shri Ramanathan
Chuni Lal, Shri
Colaco, Dr.
Daljit Singh, Shri
Das, Shri B.K.
Datar, Shri
Desai, Shri Morarji
Deshmukh, Shri Shivaji Rao S.
Deshpande, Shri
Dighe, Shri
Dube, Shri Mulchand
Gaha, Shri A.C.
Harvari, Shri Ansar
Jedhe, Shri
Jena, Shri
Joshi, Shrimati Subhadra

Jyotishi, Shri J.P.
Karuthiruman, Shri
Khadiolkar, Shri
Kureel, Shri B.N.
Lalit Sen, Shri
Malaichami, Shri
Manan, Shri
Maruthiah, Shri
Mathur, Shri Hariish Chandra
Mehrotra, Shri Braj Bihari
Melkote, Dr.
Minimata, Shrimati
Mishra, Shri Bibhut
More, Shri K.L.
Muthiah, Shri
Naik, Shri Maheswar
Nallekoya, Shri
Niranjan Lal, Shri
Pandey, Shri R.S.
Pandey, Shri Vishwa Nath
Paramasivan, Shri
Patil, Shri D.S.
Patil, Shri M.B.
Patil, Shri S.K.
Pattabhi Raman, Shri C. R.
Puri, Shri D.D.
Rai, Shrimati Sahodrabai
Rane, Shri
Ranjit Singh, Shri
Raut, Shri Bhola

Reddiar, Shri
Reddy, Shrimati Yashoda
Roy, Shri Bishwanath
Sahu, Shri Rameshwar
Samnani, Shri
Saraf, Shri Sham Lal
Satyabhama Devi, Shrimati
Shah, Shrimati Jayaben
Shankaraiya, Shri
Sharma, Shri K.C.
Shree Narayan Das, Shri
Siddananappa, Shri
Singh, Dr. B.N.
Singh, Shri D.N.
Singh, Shri S.T.
Sinha, Shri B.P.
Sinha, Shri Satya Narayan
Sinha, Shrimati Tarkeshwari
Subramanyam, Shri T.
Sunder Lal, Shri
Surendra Pal Singh, Shri
Thomas, Shri A.M.
Tiwary, Shri D.N.
Tula Ram, Shri
Verma, Shri K.K.
Virbhadra Singh, Shri
Wadiwa, Shri
Wasnik, Shri Balkrishna

Mr. Deputy-Speaker: The result of the division is:

*'Ayes' : 41

†'Noes' : 90

The amendment is lost.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 15, as amended, stand part of the Bill".

The motion was adopted.

Clause 15, as amended, was added to the Bill.

Mr. Deputy-Speaker: We now go to Shri Prakash Vir Shastri's Motion.

14.41 hrs.

MOTION RE: PRICE OF SUGAR-CANE

श्री प्रकाशवीर शास्त्री (बिजनौर) :

उपाध्यक्ष महोदय, मैं अपना प्रस्ताव उपस्थित करने से पहले वर्तमान कृषि मंत्री श्री एस० के० पाटिल की सूझ बूझ और परिश्रम की सराहना करना चाहता हूँ। आज से कुछ समय पहले इस प्रकार की भयंकर स्थिति हमारे देश की खाद्य समस्या के बारे में बन चुकी थी कि संसद के सदस्यों को विवश हो कर प्रधान मंत्री को यह शब्द कहने पड़े थे कि इस महत्वपूर्ण विभाग को वह अपने हाथों में ले लें। लेकिन जब से श्री पाटिल साहब ने अपने हाथ में यह विभाग लिया है और जिस प्रकार से अपनी दूरदर्शिता का परिचय दिया है—मैं उसके लिए जहाँ उनका सराहना करता हूँ वहाँ साथ ही साथ एक यह महत्वपूर्ण भाग जो इस मंत्रालय का है, उसके सम्बन्ध में भी आशा करता हूँ कि वह उसी दूरदर्शिता और अपनी कुशाग्र बुद्धि का परिचय देंगे।

अध्यक्ष महोदय : चीनी उद्योग भारत-वर्ष में दूसरे नम्बर का उद्योग है और इस समय कुल मिला कर १७० चीनी मिलें भारत में हैं।

श्री हरि विष्णु कामत : चीनी न कहिये, शक्कर कहिये।

श्री प्रकाशवीर शास्त्री : चीनियों से डरने की आवश्यकता नहीं है। उनका हमें मुकाबला करना है।

श्री हरि विष्णु कामत : डरने की बात नहीं। इतनी मीठी चीज को चीनी मत कहिये।

हां तो मैं कह रहा था कि १७० मिलें इस समय भारतवर्ष में चीनी बनती है। द्वितीय पंचवर्षीय योजना में गन्ने की उपज ४५ लाख एकड़ से बढ़ कर ५७ लाख एकड़ हो गई है। १९६१-६२ में ६० लाख एकड़ में हिन्दुस्तान में गन्ना पैदा किया गया। लेकिन दुर्भाग्य से किसान जो गन्ना पैदा करता है, उसको उसका उचित मूल्य नहीं मिल पाता है।

आरम्भ से ही गन्ने के भाव समय समय पर इस देश में बदलते रहे हैं। सब से पहले १९३४ में शूगर केन एक्ट और उसके आधीन प्रान्तों को यह अधिकार दिया गया था कि वे जितने एरिया को चाहें कंट्रोल्ड एरिया (सुरक्षित क्षेत्र) घोषित कर दें और क्वालिटी देख कर कीमतें तय कर दें। उसके बाद भी और कई इस प्रकार के हेर फेर गन्ने के भाव में किये जाते रहे। लेकिन किसान के हित में जो सब से पहले घोषणा हुई वह स्वर्गीय श्री रफी अहमद किदवई की थी। उनके आधीन जिस समय यह विभाग था, उस समय उन्होंने किसान के हितों को ध्यान रखते हुए ही नहीं अपितु सरकार के हितों को ध्यान में रखते हुए और चीनी मिल मालिकों के हितों को भी ध्यान में रखते हुए यह घोषणा की कि मोटे तौर पर अगर इस प्रकार की व्यवस्था बना ली जाए कि जितने रुपये मन

*Ayes: the names of two Members could not be recorded.

†Noes: the names of two Members could not be recorded.