

Dated.....

THE
PARLIAMENTARY DEBATES
(Part II—Proceedings other than Questions and Answers)
OFFICIAL REPORT

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HOUSE OF THE PEOPLE

Thursday, 10th July, 1952.

The House met at a Quarter Past Eight of the Clock.

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

9 A. M.

ELECTION TO COMMITTEES

(i) CENTRAL ADVISORY BOARD OF ARCHAEOLOGY.

(ii) ALL INDIA COUNCIL FOR TECHNICAL EDUCATION

Mr. Speaker: I have to inform the House that up to the time fixed for receiving nominations for the Central Advisory Board of Archaeology and the All India Council for Technical Education, four nominations in the case of the first, and three nominations in the case of the second were received. Subsequently one member from each of these Committees withdrew his candidature. As the number of the remaining candidates was thus equal to the number of vacancies in each of these Committees, I declare the following members to be elected:

I. The Central Advisory Board of Archaeology.—

- (1) Shri Shobha Ram
- (2) Shri Harendra Nath Mukerjee
- (3) Pandit Lingaraj Misra

II. The All India Council for Technical Education.—

- (1) Shri Syamnandan Sahaya
- (2) Prof. C. P. Mathew.

PAPERS LAID ON THE TABLE

NOTIFICATIONS UNDER SECTION 2 C OF THE INSURANCE ACT.

The Minister of Finance (Shri C. D. Deshmukh): I beg to lay on the Table a copy of each of the following Notifications of the Ministry of Finance under Sub-section (2) of Section 2 C of the Insurance Act, 1938:

(i) Notification No. Ins.A-87 (1)/50, dated the 7th June, 1952; [Placed in Library. See No. P-25/52.]

(ii) Notification No. Ins.A-74 (1)/51, dated the 14th June, 1952. [Placed in Library See No. P-24/52.]

CODE OF CRIMINAL PROCEDURE (SECOND AMENDMENT) BILL— contd.

Mr. Speaker: The House will now proceed with the discussion on the motion moved by Dr. Katju yesterday for the consideration of the Bill further to amend the Code of Criminal Procedure, 1898, and also the amendment moved by Shri Velayudhan that the Bill be circulated for eliciting public opinion thereon.

Shri Namdhari (Fazilka—Sirsa): I do not know why my hon. friends from the Communist party get upset, whenever Government proposes any affective action or brings forward any amending Bill for the effective maintenance of law and order in the country. Nobody who is law-abiding should be disturbed over it, unless he has got an intention or a future programme to continue unlawful activities in the country. I was listening to the speech of my hon. friend from the Communist Benches yesterday, and I could not get anything from it.

[Shri Namdhari]

This Criminal Procedure Code was enacted in 1898. Previously in India, in old times only military was there; later on things improved and the latest kind of military system was introduced in this country. In those days, there was no Air Force or Navy and nothing of that kind, all these modern weapons were not there. But today when we are equipped with all sorts of the latest surgical instruments to meet crime for keeping law and order, it is quite right that the hon. the Minister should try to utilise them also for the maintenance of law and order in this country, if necessary. The Government wants law and order. People who possess any unlawful arms should inform the Government, then they will be saved from the trouble of jails etc. My submission is that there are certain parties in India who have been so generously taken in the Parliament but they have not generously taken the Government's offer and still continue to possess arms and things like that, showing thereby their intention in the matter. With the ordinary civil law, we can only resort to tear-gas or some small things to restore law and order, but if the people are armed and a rebellion is created, you require a major kind of instrument for a major kind of operation. So, this is the necessary reason why we should amend the existing law immediately. I do not see anything wrong in this at all, as to why we should not support the Government in this measure. Existing Criminal Procedure Code gives power to the Magistrate etc. to have recourse to the additional military aid only. Now it is proposed to replace it by the words 'Armed Forces'. My submission is that there is no harm to us if we support this Bill. The Bill has been brought forward only with the pious intention of maintaining law and order and nothing more than that. Therefore we must support unanimously this measure, if we have got any good intentions to maintain law and order in this country.

Dr. Jaisoorya (Medak): I want some clarification with regard to this Bill. As far as I can see, people live on land and not on water. Up till now, we have had the police force, the City Police Force, or the District Police Force, which were not very well armed. But since then, we have got the Armed Reserved Police subsequently, which is a semi-military organisation. They are still under civil jurisdiction. Only when the situation goes out of hand, as far as

I remember, we requisition military aid, and the civil authority abdicates power for the time being to the military authorities until law and order have been restored. But in this Bill, certain modifications are sought to be introduced. They have said that the word 'Armed Forces' will mean the Military, Naval and the Air Force. As far as my information goes, we have always been using the infantry only in such emergencies. I am not aware of either the Navy or the Air Force having been used. If now you are going to use the air force, I would like to have some clarification from my hon. friend there, as to whether he has used the term in a very loose sense so that it will be all-inclusive, or what is the specific purpose of the Air Force in such cases. The Air Force can have only three purposes or functions to perform. They can bomb from high altitudes. They can machine-gun the population from low altitudes as for instance in 1942 the British machine-gunned the population of Bihar. That is reprehensible. (Interruption). 1942, I am talking about. The third possibility is that the Air Force can be used as transport for paratroops. I see no other possibility. I would like, therefore, a very clear statement from my hon. friend when he used the word "Air Force", how he is going to use it and how he is going to limit its action. I want to know from him in what specific manner he is going to use the Air Force. I can understand a naval detachment at headquarters; they have got an infantry and they know how to use it. But I have not as yet heard that the Air Force has got an infantry. Therefore, I want clarification on this point. It is only an explanation of the other thing.

The second point that I am still not very clear about is this. Up till now it was the Magistrate who had to keep the order and for any effective action, if he was incapable, he requisitioned the military and the military took over charge. But here I am rather surprised to see: "When the public security is manifestly endangered by any such assembly, and when no Magistrate can be communicated with, any Commissioned Officer of the Indian Army may disperse such assembly by military force....." Now, as far as I am aware, the military areas are segregated areas. They have got their own laws, they have got their own Military Police and they have got their own jurisdiction. They do not require, as far

as I am aware, a civil Magistrate for their purposes. Therefore, I am not quite sure what exactly is the intention of my hon. friend when he says—I want only a clarification, because I am not quite sure what he is intending—“...if...it becomes practicable for him to communicate with the Magistrate, he shall do so and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action...”. Now, as far as I know the Military Police has got authority, in the case of any disturbances, to take immediate action in their own areas. I want clarification from my hon. friend there. The third thing is: “Provided that no such prosecution shall be instituted in any Criminal Court against any officer or soldier in the Indian Army or any person subject to the Territorial Army Act, 1948, except with the sanction of the Central Government”. I agree to that. But does it exclude the possibility of prosecution for military excesses? This is the thing that we are very concerned with. We have seen the cases of Chimur and Ashti where terrible military excesses took place. Did we not all protest against it? Can this not occur again? What is the protection to the civilian population against military excesses in any form? I would like clarification from my hon. friend.

Mr. Speaker: May I point out to the hon. Member that what he has read and referred to are the existing provisions of the Criminal Procedure Code. It is not that these are intended to be enacted now.

Dr. Jaisoorya: I want only information, Sir.

Sardar Hukam Singh (Kapurthala-Bhatinda): The object of the Bill, as was explained yesterday by the hon. Minister, was to have powers to get the assistance of the other two wings of the military that may be more readily available at certain places where perhaps the first wing of the Armed Forces may not be available so easily. I agree with all that. If there be such cases and if as under the present law the assistance of every citizen can be obtained, there is no harm if the other two wings are also utilised, but only as citizens. The enunciation which the hon. Minister yesterday made about the object was very clear and everyone of us would agree if the object is simply to get their assistance. His observation was that in some stations these personnel were easily available, hence this amend-

ment. We do not take any exception to that. But what we fear is that if the Air Force is requisitioned, then certainly the Air Force shall come with all its paraphernalia, the bombs and aeroplanes carrying those bombs, and use them by methods that are available to it. The hon. Minister made it clear and he said that he was astonished at suggestions that the Government wanted authority for aerial bombing of the civilian population; he would only submit that the suggestion had never occurred to even 99 per cent. of the House or to the Government and nothing was farther from them. If that be the correct position, if really the Government does not want to use the Air Force for the purpose of bombing, if the only object is to utilise them to disperse these assemblies with the minimum force, then certainly it should be made clear. If this did not occur to Government, I pose this question to the hon. Minister: whether the amendment as now proposed is capable of the construction if it goes to any civil court, that when the Air Force is requisitioned, it would have full right to use all the forces available to it, and whether this amendment, when passed, would make that position clear as intended by the Government? If it does not, then the necessity arises that the Government should make their position clear in specific terms that would certainly convey their intention to everybody including the courts. Now, as the amendment stands, that does not convey the clear intention that was enunciated yesterday by the hon. Minister. Therefore, it is necessary that some amendment should come from the Government itself. I have proposed one amendment to the effect that when these naval forces or the air forces are requisitioned to render assistance, then they should be used only as if they were the land army and the methods employed, and the arms used should be such as would have been used by the land army, by the army alone, and not by aeroplanes or by naval forces. This is what I want to suggest to the Government and if certainly the intention is to use them as such, then either my amendment may be accepted or, if necessary, a suitable amendment may emanate from the Government itself to make that position clear.

Then there was another thing. Under section 128—though it is in a lighter mood that I say it—if, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show

[**Sardar Hukam Singh**]

a determination not to disperse, any Magistrate or officer in charge of a police-station, whether within or without the presidency-towns, may proceed to disperse such assembly by force, and many require the assistance of any male person. Now, that we are proceeding very far with our Constitution, I want that this discrimination should go.

Shri A. K. Gopalan (Cauhanore): Yesterday when this Bill was introduced by the hon. the Home Minister, he said that there was no intention of using the Air Force or the Navy. So many Bills have been passed, and the question before us is: whatever may be the intentions of Parliament or of the mover of the Bill, how has it been used in this country? If we look into that, we will see that in most cases, in 95 per cent. of the cases whatever the intentions of a certain Act, it was used in the other way. My main objection to the present Bill is that it refers to the dispersal of an unlawful assembly and there already exists a law in this country to disperse unlawful assemblies. As one hon. Member pointed out, I do not think it is against any party, because there is no unlawful assembly of any party. As we have seen, it is against the people. During the last two months we have heard of firings in Gorakhpur and in other places. In Gorakhpur it was not against any party; it was against railway workers. There was firing in Jodhpur against nurses and compounders and railway workers. We have also heard of the firing which took place at Pasumalai. It was mainly against workers. We have to examine whether there was any instance during the last so many years where the police force was not enough and the military had to be brought in. I have not seen any case where the military had to be brought in. There may have been very few cases. In the other cases, in Gorakhpur, in Pasumalai, and in Jodhpur, about which we heard two or three months ago—in all these places either it was done by lathi charge or it was done by the ordinary policemen firing on the crowd. . . .

Shri P. T. Chacko (Meenachil): Do you mean to say

Mr. Speaker: Order, order. The hon. Member should have his say uninterrupted.

Shri P. T. Chacko: If he is prepared to yield. . . .

Mr. Speaker: Order, order. It is not a proper method of carrying on a de-

bate to put questions and go on heckling every time. He may listen quietly. I will not allow him to put any questions before the hon. Member has finished his speech.

Shri P. T. Chacko: Sir, this is

Mr. Speaker: Order, order. No interruption.

Shri A. K. Gopalan: So what I say is this. There is the ordinary law of the land. As far as my knowledge goes, military force was used in only a very few cases, and in all the other cases police force was used. We know that in the Cooch Behar firing, military was not used, but only the ordinary police force was used. Therefore, as far as this Bill is concerned, the question is whether there is any necessity for this provision, whether the conditions in the country today warrant that such power should be taken and, if so, what is the check necessary on such power. We know that the existing law was introduced years ago—and we have the remembrance of Jalianwala Bagh, how that unlawful assembly was dispersed, if it was an unlawful assembly. From that day up to this day there have been several instances where in the name of dispersing an unlawful assembly the police as well as the army have been used. But what is the condition in the country today. If we had so many instances where the ordinary police force had not been able to disperse an unlawful assembly and where the military also had found it difficult to disperse such assembly—if there had been occasions like that, then we could have understood the need for such a provision. I have never heard, as the Home Minister said yesterday, of an unlawful assembly becoming in a second such that it threatens the security of the country. But even if there is such a situation in the country, there is another article in the Constitution which gives powers to the President. If the President thinks that the situation is so serious that the security of the country is threatened and that the ordinary police force is not sufficient to deal with it, then certainly he can declare an emergency and then everything can be done in order to deal with the situation. So, the provision is there in the Constitution.

Now, when this Bill is passed, I will not say what will be the reaction among the people in the country. There have been several instances—I do not want to go into all those details because it is unnecessary—where things have

happened which have created a fear in the minds of the people about the use of the authority given to one individual to judge whether in order to disperse a crowd, the police is to be used, or firing is to be used, or a lathi charge is to be made, and so on. As far as the firing in Cooch Behar is concerned, although the report is not published, the magistrate was transferred, and we have seen that there was an error of judgement. And in many places the magistrates have said that there had been an error of judgement. And today, this enlarged power is given even to an honorary magistrate. Honorary magistrates, wherever they are, in villages or in towns, can use this power. Supposing that in a village an honorary magistrate is of the opinion that the Navy must be used to disperse an unlawful assembly, he can use it. Suppose one day in Kolar about 25,000 workers go in a procession, and there the magistrate gets panicky and knows that there is this new power by which he can use the air force there, then certainly he will be able to use it. I do not want to go into details, but in most cases how did the unlawful assembly come into being, and what were the steps that were taken to disperse that assembly? Was the firing that was resorted to necessary, or was the lathi charge that was made necessary? All these details have to be gone into. When a power is given to an individual and he knows that he can use it, in many cases it is used, and we have seen that in many places this power given to the magistrate has been used in a wrong way.

What I say is this. There is in the Constitution some emergency clause. When the police force and the military force cannot quell a disturbance—my opinion is that if there is a police force and military force, of which there are different sections present and all of them can be used, but there is no necessity—then the President can himself take stock of the situation and see that something is done to quell the disturbance if it is a very big one. Generally the Air Force, the Army and the Navy cannot be used in order to disperse an unlawful assembly; they are meant only to defend our country, and it is only for that purpose that they are used. Now, in this Bill, power is given to the magistrate to use them for dispersing an unlawful assembly. The power is given; whether he uses it or not is not the question—he can use it.

Another important point is this. No check is provided over the use of the power which is given even under the existing law. There have been so

many excesses. There has been no check at all as far as its use by individuals is concerned to see whether there has been an error of judgment in the use of that power. And when the power is enlarged, we should certainly have a check on the individual to see whether he uses the power properly. An inquiry should be made. There are certain instances of inquiries being made but the results of those inquiries are not published, and there are several instances where a public inquiry is not made. There is no provision in the Bill that when this enlarged power is given to an individual there should be a check on it, there should be a public inquiry and the report must be published so that in the minds of the people there may be no fear about the misuse of this power by an individual. About the Gorakhpur firing there was a report by the officers who were concerned in it, but there was no other inquiry about it. Now more powers are sought to be given under which the Armed Forces can be used to disperse an ordinary crowd. We know that during the last so many years, in the name of dispersing unlawful assemblies, so many lives have been lost in our country, and even during the last three or four months there have been firings in this country. My opinion is that certainly there must be a very good check. The least that can be done is to provide a check on this power. The situation in the country today does not warrant this provision which is sought to be made by this Bill. To show that this is so, I have to read two paragraphs from an editorial in "The Times of India" which gives a warning to the Government that such things should not be done. It is written here:

"A fresh reminder of the trigger-happy ways of our police and their contempt for human life comes with Wednesday's firing in Jodhpur on a labour procession. This procession was taken out in sympathy with hunger-striking nurses and compounders of a local hospital and, according to eye-witnesses quoted by our correspondent, the crowd was peaceful when the police chose to open fire. It is difficult in any case to believe that the processionists would not have dispersed quietly after demonstrating their sympathy for the hunger-strikers. The incident demands a public inquiry. No responsible person claims that the guardians of law and order should take no action against an obstreperous or violent mob, but it has become the habit with too many of our policemen to panic at the first sight of

[Shri A. K. Gopalan]

the people. Tear gas or a calculated firing in the air over the heads of a crowd has apparently no appeal to the custodians of order....."

The Minister of Home Affairs and States (Dr. Kaitu): May I rise on a point of order? Can the hon. Member read a newspaper or a newspaper cutting in the House? I do not know myself.

Mr. Speaker: The hon. Member is making an argument that there are chances of excesses at the hands of the police force and it is in support of that, that he is quoting the opinion of another person, who according to him has entirely different political views. He is not reading the newspaper. Yes, the hon. Member can proceed.

Shri A. K. Gopalan: I do not know why the Home Minister should be so unhappy about it, because if I say something, it will be taken as coming from Communists. I only quoted this in order to show that it is not coming from Communists. But it comes from a responsible paper. It is a reflection of a certain section of the public opinion in this country. So it further says:

"Many thousands who in the past few weeks have accompanied Socialist and other satyagrahis in Bombay State have remained perfectly peaceful; so have the protesting students of Ahmedabad. These refute the police belief that a crowd is always potentially dangerous."

Among the more melancholy facts of the post-independence era is that police firings are more numerous in this period than they were under the British. In India the Government which along with its policemen appears to be allergic to the people, too often resorts to the simple expedient of banning meetings and processions calculated to embarrass it. On the ban being violated, they attack the crowds. Democracy recognises meetings and processions as two constitutional methods through which a people can express their approval or disapproval of official measures and also ventilate their demands and grievances. Unless a crowd is so menacing as to portend violence, there is no valid reason why the police should indulge in their own type of violence. Mr. Justice Guha, who inquired into last year's firing by the police at Cooch-Behar, posed a pertinent question at one stage

in the proceedings by asking what the people should do when they are prohibited from approaching the authorities for the redress of their grievances. Does the District Magistrate of Jodhpur, who has banned meetings and processions in the vicinity of the hospital, believe that the people expressing sympathy with the hunger-strikers would end by smashing up the hospital equipment and setting the building alight? It is high time that the authorities stopped treating the people as some sort of lesser breed outside the law."

This is what has been written by a responsible newspaper. What I say about the use of police and military force in this country for the dispersal of unlawful assemblies is that in many cases it has been used in such a way that so many human lives have been lost due to the carelessness or the error of judgment of one individual. So my opinion is that instead of having this enlarged power, it is always wise to protect the lives of the people in this country—the people who hold meetings and processions for no other reason but for redressing their grievances. They wanted to represent some of their grievances but the authority on the spot did not like it and because he did not like it he created some provocation. Some people were arrested and suspended and then afterwards there became a big crowd and afterwards there was a lathi charge. Then it slowly developed into firing. My submission is that in most cases the law could have been so used that the human lives should not have been lost. So even today when more powers are given, if there is no check on the people who are exercising those powers, I am sure there will be panic in the country. Even today we find there have been police atrocities. Of course I cannot go into that question because when the Preventive Detention Bill is coming we will be able to understand how these forces had been used in this country and how lives had been lost. This is not my opinion alone but the opinion of the Judges and others who went into those cases. So when this Bill is passed today the ordinary man in the country will think that there was the use of police; there was the use of military. Now the Air Force and the Navy also can be used and whenever there is a simple procession or a demonstration in order to give expression to grievances, it depends upon the magistrate to say whether it is a lawful assembly or not. What I want to say is that there are bound

to be some meetings and processions especially in those places where there are working class people. There may be meetings for the redress of their grievances. There may be some processions and demonstrations. And if there is no check, these assemblies may be declared as unlawful assemblies and thus the power that is given to them may be misused. That is what we have seen. That is what history has shown us.

So I strongly oppose the Bill not because—as the Home Minister said yesterday—that the unlawful assembly should not be dispersed but because there is certain power in the section itself that if the situation goes out of control of the police, the President can call for military aid. After all we have seen—and there were many instances at least in the last three or four months—that there had been so many firings in the country where no military had been used and where the policemen had been able to disperse the crowd and they would even be able to disperse the crowds, as the paper said, by just some methods other than firing. So if we give this power there is no clause in this to check the misuse of the power given to the officers. You can fire in any way you like and there is no enquiry. There is no remedy nor check on any man who has resorted to firing. Enquiry will be made by the same officers and they will give a report and on the basis of that report they can always say that the firing was conducted and there was the necessity for resorting to that firing.

So my opinion is that even today the conditions in the country are very bad—it is not only our opinion but it is the opinion of all of us—there is scarcity in the country. The workers are driven out and there is discontentment because there is unemployment and food scarcity in the country. It may happen that at some time the people may feel that somehow they must show their feeling and somehow they must make a protest. So the protests and demonstrations are there and even now if account is taken by the Home Minister as to how many times firing was resorted to and how many people were killed, this is going to create panic in the country and this will not solve the problem.

I will only say one thing and that is that by giving more and more powers to the Air Force and the Navy, we are not going to solve the problem of this country. You will find that although section 302 is there in existence according to which a man who kills another man will be hanged, yet crime is in-

creasing. Therefore it is not only the legal provisions that check crime. There is a growing discontent among the people of this country. A man who has nothing in life and a man who thinks that he cannot live, and has nothing left with him resorts to all sorts of these things. You have seen that protests, processions and demonstrations are not made by those people who are able to live happily. You do not see the demonstrations from those sections of the people who are happy and who have got some money or who have got some job. These protests and demonstrations come only from those classes of people who are today discontented and who think that by some kind of protest they may be able to show to their superiors or to the Government that they have got some grievances. If by resorting to such measures and enactments the Government thinks that order and peace can be restored in this country I do not think that that is a real approach to the problem. On the contrary there will be more hatred and more discontent in the country. Two Bills were introduced yesterday. One says: 'Arrest anybody and keep him in jail without trial.' There is no discrimination in that Bill against this party or that party. If however there is a suspicion against any man you keep him inside the jail without trial. The second Bill goes further than that. If there is a procession or demonstration today the power existing permits the use of lathi charge or firing only by the police or the Army. But under this Bill whatever Armed Forces there are in the country can all be used at the discretion of a magistrate. That power is being given and there is no check, there is no question or enquiry about it. And even if there is an enquiry the enquiry will be conducted by the man who was responsible for the firing and a good report, as you got about the Gorakhpur firing, will be given to you saying, "I killed only a few people whereas the situation warranted the killing of more, so I must be promoted", and that man will be promoted because he killed "only a few people". So, my opinion is that the existing law in the country is enough to disperse—if it is only to disperse—an unlawful assembly. Even the experience of the past proves that the existing law is quite enough for the purpose. What is necessary is only to have a provision saying that there must be an enquiry after the use of those powers. I have seen some hon. Member has given notice of an amendment seeking to lay down a public enquiry after such an incident. There must be some such check on the powers used by individuals. I strongly oppose this Bill and wish that this Bill will not be passed.

Dr. S. P. Mookerjee (Calcutta South-East): I had thought that perhaps the Home Minister would place before the House some report as regards the number of occasions when the military had to be called out for the purpose of dealing with unlawful assemblies. The matter that we are discussing now cannot be lightly brushed aside. The question is: When should the civil authority have the right to call in the military for assistance? At present such military assistance can be called for only from the Indian Army and the present Bill seeks to extend the field to the Indian Air Force and also to the Indian Naval Forces. The Home Minister yesterday in his speech tried to explain it away as a very simple matter. He said all that we want is that when the land troops will not be available we should be able to requisition the services of the Indian Air Force personnel or the personnel of the Indian Navy. I believe there will be no difference of opinion amongst the Members of this House or even outside as regards the circumstances when the military should be called in. Normally it is only when it is found impossible for an unlawful assembly to be dealt with by the police, by the armed police or by the auxiliary police or even by the ordinary citizens whose services may be called for under the provisions of the Criminal Procedure Code, only in such exceptional circumstances and as a last resort can the military be called in.

Now the law on this matter in our country follows more or less the law that is in existence in England, and as you know, Sir, in England this question was discussed on a number of celebrated occasions. Featherstone's case, though decided long ago, still holds the ground. It came before a special Committee of the House of Commons when the then Minister for War, Lord Haldane gave his evidence and narrated the circumstances under which such military assistance should be called for by the civil authority. I shall read only a few lines from Lord Haldane's evidence which would go to show how in England 44 years ago, that is in 1908, apprehension was expressed by the Minister of War, not the Home Minister, Sir, but by the Secretary of State for War, as regards the possible abuse of this extraordinary power which was being given to the civil authority. This is how he puts it in his own inimitable language. Of course, there the soldier and the ordinary British citizen stood

on the same footing in that Government was empowered to call for the services of either as citizens. This is what Lord Haldane says:

"The soldier is a person who is different from an ordinary person in this that he is armed with a deadly weapon and moreover he comes out in a military formation. The result is that if he appears unnecessarily he is apt to create an impression in the minds of those who are about of a hostile character. His very menacing appearance may lead to the very thing which it is his purpose to prevent, namely disturbance. For this reason in the War Office we are very averse to allowing the military to be employed. We are sometimes compelled to do so; we have no choice, we have to obey the law, but we always tend to insist and while I am there I shall always insist very strongly on this, that we are called out legally and not illegally."

And then I would draw the special attention of the Home Minister to the next sentence:

"We are called out illegally if we are called out under any circumstances which admit of being dealt with by a force less menacing than a military force necessarily is."

So we are dealing with an exceptional possibility. Normally the police should be sufficient to deal with any unlawful assembly, and today, as my friend, Mr. Gopalan has pointed out, every State Government in India and the Central Government also have at their disposal not only the ordinary police force but the armed police force, the special police force and so many other units which had been added for the maintenance of law and order. But still I am prepared to admit that a situation may arise when the Armed Forces may have to be called out. Now, there I think my friend Mr. Gopalan was not quite correct in saying that there was no remedy if there is any excess. Even according to our own existing law if any excess is committed, in other words if any of them acts *malice fide*, not in good faith then he is liable to be prosecuted. Of course that is not an easy procedure. Without wishing to go into details I may say that in our country as also in England when the military is called out it will be for the commanding officer to decide what force he will exercise. That will be a matter

entirely for him to decide. He will no doubt listen to the magistrate who is present on the spot, but the exact nature of force that is to be employed will be a matter for his discretion. But an exceptional circumstance may arise when the magistrate may not be available. In this matter the same provision exists in our country as exists in England. If the magistrate is not there and if the situation has gone completely out of control then a senior officer belonging to the Armed Forces may come to the spot and take necessary action while, of course, acting in close concert with the civil authorities. Now, all those provisions exist in our country. What is the reason now suddenly to add the Indian Air Force and the Indian Naval Force? The explanation which the Home Minister gave us was that if we do want their services on an occasion we want to take recourse to that advantage. Has any such case arisen? This is a matter which has to be taken very seriously not by the Government Party or the Opposition Party but by all of us as Indian citizens. We do not want that our military should be used in ordinary circumstances for dealing with unlawful assemblies such as we have contemplated here. If there is a rebellion in the country such as my friend, Mr. Namdhari referred to.....

Shri Frank Anthony (Nominated-Anglo-Indian): Declare martial law.

Dr. S. P. Mookerjee:.....you can declare martial law, you can use the emergency provisions and say that the entire Constitution is suspended—all those elaborate provisions have been incorporated in our Constitution. But let me remind the House that we are not confronted with any such situation in India. Today the scope of discussion on this Bill is extremely limited in character. All that we are discussing is that in dispersing an unlawful assembly what type of the military forces can and should be utilised? At present you can utilise the land forces. Should you extend it also to the Air Force and to the Naval Force? The Home Minister yesterday explained that it is absurd to suggest the possibility—he said somebody had told him outside—of the Air Force bombing or machine gunning from the air. He said he was amazed. In fact, I was one of those unfortunate persons who expressed that fear outside the House, but that was not an imaginary fear if you pass the Bill as it is worded.

It may be that Dr. Katju will not exercise that power. It may be that another Home Minister may exercise it. But let us be very clear about it. Once you say without any reservation that the civil authorities will be entitled to call in the Air Force or the Naval Force, you immediately clothe the civil authorities with the power and the Air Force may use its own resources of aircrafts and machine-gun the people or use bombs. That occasion may not arise. I am not saying that it will arise. But you are giving to the civil authorities today a power which does not exist in the hands of the Government just now.

We are entitled to ask, as I am sure every Member of this House is entitled to ask,—has such an occasion arisen in this country, whereby this power should be transferred to the civil authorities? It is not the Home Minister alone who will function. Ours is a vast country and in every part of the country, every magistrate—and there also, you have not made any classification—every magistrate is entitled to call in the aid of the Air Force or the Naval Force. I know that there are certain limitations. When the Commander of the Air Force comes, he will not lose his head and start bombardment. I know that is the sort of the reply that the Home Minister will give, but my question is: why are you taking this power? Has any occasion arisen? If you say that there is an emergency, that there are areas in the country which you cannot control with your Police Force or with your Auxiliary Force, or with the Armed Force and also the land force, and that is why you want these additional powers, let us discuss it coolly, dispassionately. But if you have not got such evidence before you, then I would beg of the Home Minister not to press with this Bill as it is worded.

I did not get the naval laws in England. I tried to search for the copy in the Library. I have got the Manual of Air Force Law in Great Britain and I would tell the Home Minister and the House that in England also they have proceeded with great caution with regard to the use of the Air Force for quelling riots and disturbances. Under the British law, it is open to the Government to call in the aid of all kinds of forces, whether it be the Air Force, Army or Navy, but they have laid down in their law very clearly the circumstances under which the Air Force could be utilised for quelling ordi-

[Dr. S. P. Mookerjee]

nary disturbances. This is how it is stated:

"It is only in exceptional circumstances, namely in urgent cases, when soldiers are not available in sufficient number that Air Force personnel is likely to be called upon to assist the civil power."

In support of the contention that I have put forward that as soon as you give this power, along with that goes the right of the Air Force to use whatever materials they have from their aircrafts, I would like to read the next sentence:

"Aggressive action by aircraft is not normally to be allowed."

So, that also has been provided for. It is no use the Home Minister saying, "I shall only get those men to stand on the ground and deal with the situation exactly as the land forces will do." Then another sentence is significant:

"The intervention of the Air Force will not be called for so long as sufficient troops are available and if called for in an emergency the civil authorities will secure the services of military forces to take the place of air-forces with the utmost expedition."

In other words, if such an exceptional case arises when the Air Force has to be utilised, the civil authorities will withdraw them as soon as possible and will replace them by the ordinary Armed Forces. I could not get any reference so far as the Naval Forces are concerned.

Now we very often talk here that bombing is going on in Korea, Manchuria etc. and we have expressed our horror and our indignation even in respect of such operation in course of war. We say that bombing of unarmed people is reprehensible. Just after making these pious declarations, which the Prime Minister has done from time to time—declarations which all of us share,—what necessity is there for the amendment of our law and for the taking of this power by the civil authorities for the purpose of dealing with unlawful assemblies where ordinary lathi charge is sufficient; the ordinary tear gas is sufficient; the Police is sufficient or even your Armed Forces in special cases, are sufficient? Why should you call in the services of the Air Force and the Navy?

Another difficulty may arise as regards command. You cannot have a kichri. You cannot mix up five from the Army, ten from the Navy and fifteen from the Air Force. Who commands them? What about the discipline? There is a legal liability in respect of all of them, and our law also recognises that liability. Military officers cannot run away, although you are granting them exemptions. You will see what is the nature of the exemption. If they do not act in good faith, in other words if they use more force than what is necessary—they will be liable. I can read out passage after passage from the English treatises; from our Indian treatises. Even under British rule the utmost precaution was taken and it was clearly indicated that at every step the Armed Forces will strictly watch what force, if any, is to be used by them. In one sentence it is observed they will watch and see the demeanour of the persons who are standing behind. May be that they are sight-seers; may be that they are persons who have come there just for the fun of it; and when the army shoots at the crowd it should do so in such a way that those people may not be affected. All these elaborate directions are given. How is it possible for the Armed Forces (and these include the Air Force) to observe these directions when they start operating from the air, or when they start operating from aboard a ship? That is not possible. These points of view have been discussed in the books relating to military operations in England and other countries. I would therefore suggest to the Home Minister with all the earnestness at my command that it is not a question of our quarrelling or doing anything of the sort. We concede that if an occasion arises, if a crisis comes, naturally peace and order have to be maintained and the Armed Forces have to be used. There is no difference of opinion with regard to that matter. But how far should we extend it? It is no use my hon. friend Mr. Tyagi saying, as he did yesterday during the Preventive Detention Bill, that Russia has it. I do not know whether Russia has such a law or whether this sort of law which the Home Minister is contemplating is in operation in other countries. We are not here to collect all the reactionary provisions from all parts of the world and become the epitome of reactionism in India. That is not our great objective. We are here to administer this country in accordance with laws

which are applicable to all decent, civilised countries. If you want the application of these principles, which have been in operation during the British times, or if you want to extend them a little, then let us do it after full thought. Refer it to a Select Committee. Let us sit round the table and see the position in other countries. We are not here to obstruct the Government in any way so far as these matters are concerned. How is it that the British people did not amend this law in the way in which Dr. Katju wants it to be done now? They were not fools. They were greater protectors of law and order than even Dr. Katju. There must have been some reason. The records are not accessible to us. Let us go through these records. Let us refer to the laws in operation in other countries and if you want to call in the Navy and the Air Force also, let us put in some restriction that they will be actually used on land, not otherwise, and also let us describe the circumstances under which they will be used.

If the hon. Minister is good enough to refer this Bill to a Select Committee, there will be no harm done. There is no immediate hurry. If we can sit down for two or three days, we may be able to come to some agreed conclusion. If we do that, the other point will be as to the sort of enquiry which may be made in case there is abuse. I agree that there may be a point of view urged by the Home Minister that if you have Damocles's sword hanging over the head of these people, they may be demoralised. They may hesitate to take action on occasions when action must be taken. At the same time, there are possibilities of abuse. We would like to have some statistics as to how many occasions there have been since independence was attained in 1947 when the Armed Forces had to be called in for the purpose of dealing with unlawful assemblies.

[MR. DEPUTY SPEAKER in the Chair]

On how many occasions did shooting take place? How many lives did India lose in such circumstances? These are general considerations which may have to be taken into account. I have put forward these matters from a constructive point of view, because I feel that the bald way in which the Bill has been drafted is not desirable. There is no imminent urgency and if you want to include some such provision, you can do so after a little more thought is given to the matter.

Shri S. S. More (Sholapur): Unfortunately I was not present here yesterday when the hon. Minister moved this Bill. In his introductory remarks the hon. Minister is reported to have said that this is a very innocent measure. I was surprised at his remarks and my mind went to the old *puranas* and to the old history of our country, because many innocent things have subsequently developed into very dangerous things for this country.

Going to the *puranas* I may say that Takshak, the King of Serpents, who wanted to take the life of Parikshit went to him as a small worm, but eventually he developed into a huge cobra and took away the life of Parikshit. Going to history, I may say the Britisher came to this country as an innocent looking trader. He prayed for some factories; but eventually the small trader and factory-owner became the emperor of this great country and we had to struggle for our liberation for more than one hundred and fifty years.

So, when the hon. Minister says that this measure is a very innocent one, we should not be deceived by that sort of description. On the contrary, in the interests of the public, in the interest of the masses who are fighting for their daily bread, we will have to subject this measure to a very careful and critical scrutiny.

My hon. friend Dr. Syama Prasad Mookerjee said in his remarks that we find similar provisions in the laws of other countries whereby whenever there is any disturbance, or any rioting, the Governments of those countries may call upon the Police Force, or the Military Force, and on certain occasions even the Air Force against tumultuous elements, to bring about law and order.

Mr. Deputy-Speaker: I would ask the hon. Member to resume his seat. Let the House settle down. It is impossible to go on like this. Sitting in the Centre, I am not able to follow a word of what the hon. Member is saying. If it is the general desire of the House to adjourn, I have no objection to it. But this kind of noise cannot go on eternally. The hon. Member may now proceed.

Shri S. S. More: I was saying that in this country any measure by which special powers are taken for the police or the military will have to be watched with the greatest care and anxiety and the mere fact that similar provisions have found their place on

[Shri S. S. More]

the Statute Books of other countries is not enough argument for making a provision of this sort on the Statute Book of our country.

I may say, Sir, that the police machine and the military machine here have been built up by the Britisher with a special objective. After the Britisher acquired some power here, disturbances began to take place because people began to resist their power. The Britisher naturally realised that for the expansion of his trade peace and tranquillity was of the utmost importance and with this end in view he took certain measures. The first British statesman who made a reference to the securing of peace and tranquillity in this country was William Pitt. In one of his speeches made in 1784 he said: "Our objective is for the happiness of the people of India, peace and tranquillity ought to be restored in the country." Immediately after this declaration, the Criminal Law was codified as "the Regulation of 1793". Its only object was to see that while the Britisher was exploiting the indigengous population, the latter should not rise in revolt to resist the exploitation that was going on. The Britisher talked of maintenance of peace and tranquillity through good Government. This was done more in the interest of the Britisher than to the advantage of the Indian people. "Maintenance of peace and order", "good government", these are frequent expressions that we come across in our historical documents. But they had a very special, and if I may say sinister meaning and that meaning was to bolster up their exploitation with a view to entrenching themselves. That was the meaning of peace and order.

10 A.M.

The same sort of phraseology has been used by the hon. Minister who has now moved this Bill. We have, therefore to critically analyse its provisions to find out their implication. I quite concede that Dr. Katju is moving this Bill with the most innocent intention. I may even concede that he is really interested in keeping peace and order in the country; to save the country from the turbulent, rowdy unlawful elements which may disturb the peace of the country. But the actual interpretation of these provisions will not rest with Dr. Katju nor with this House. We may legislate but the actual execution will be in the hands of the executive authority. The interpretation as to what will be the scope and ambit within which this measure can be utilised will lie with the Supreme

Court. So, whenever we are legislating and give such drastic power to the executive it is our first and foremost duty—I may say sacred duty—to analyse its provisions, and not dispose it off in a hasty manner.

I was referring to the Britishers. Under a facade of peace and order, they were all along exploiting this country and in order to facilitate this exploitation and wipe out all resistance, they built up a police machine and a military machine which were soulless, which were trained to obey the order of the exploiter and to fire ruthlessly and recklessly, without caring for the results, on the innocent and unarmed masses who were trying to put up a feeble resistance against the mighty Britisher.

I may in this connection remind the House that Congress history bristles with such instances. If we read the speeches of successive Congress Presidents, if we read the resolutions of the Congress, particularly, if we read the Congress reports covering the period 1930-34 and 1940-45, we come across so many references to the use of the police and the military in the name of maintenance of law and order. We find so many resolutions in which the Congress itself has complained that the police and the military have committed atrocities. Going back to the Jallianwala Bagh incident, Pandit Motilal Nehru, who presided over the Congress in 1919 referred to Dyre's atrocities and expressed his indignation. Then the Hunter Commission was appointed, but we were not satisfied with that Commission. During 1930-34 several Congress resolutions were passed of police and military atrocities. The Lucknow Enquiry Committee was appointed; the Dacca Enquiry Committee was appointed; the Peshawar Enquiry Committee was appointed. These were all non-official Committees appointed by the Congress to enquire into police and military excesses where human blood was spilt like anything. Congress every now and then came out with a resolution that the police acted in a cold-blooded manner and resorted to terrorism.

I may in this connection cite an incident which occurred in 1942 in Poona. The crowds were gathering to protest against the arrest of national leaders. They were innocent, they had no idea of creating any trouble. The magistrate developed a sort of panic. He called out the military and what did the military do? They paraded

the tanks through the streets, firing bullets which hit innocent persons watching the thing from their houses.

Chimur and Asthi have already been referred to. I need not refer to all those instances. When we are out to give larger powers to the police and the military, which have been trained by the Britisher and which have not yet shed their autocratic habits and the trigger-happy attitude, we are placing ourselves in a dangerous position. Therefore I submit we should not give them this sort of power.

There is one more argument which I want to advance in this respect. When the Penal Code or the original Criminal Procedure Code was framed we had no Constitution and we were not allowed to have any fundamental rights. But now the Constitution has been framed. It is the Constitution of an independent, sovereign State, and this Constitution in article 19 grants us some fundamental rights. Holding peaceful assemblies is one of those rights. Another right is that every person can go wherever he likes, provided his intentions are peaceful. These two rights can be utilized by every person. A can utilize these rights, B can utilize, C can utilize, two thousand, four thousand, or ten thousand people can utilize these fundamental rights and come together in a meeting. Possibly the meeting may be addressed by some leaders who are dissatisfied with the acts of the executive. The executive may not like the criticism made in the meeting. Then what would happen? The executive have a very sensitive heart. They are always prone to retaliate. Their propensities are such that to a very large extent they are out to retaliate whenever anybody ventures to criticize their actions or doings. Their idea is that they have to be treated like sacred things and that anybody, if he criticizes them, does an act of sacrilege. And they try to utilize all these sections against the people in the name of peace and order and cause blood-shed.

Therefore my submission will be this. A small magistrate getting a pay of Rs. 200 or so is allowed to decide on the fundamental rights of two thousand or four thousand persons. Suppose he makes an error of judgment and gets unnecessarily panicky and fearful and magnifies the outward manifestations of the meeting into thinking that something serious is going to follow, he calls the police and the military, the police and the military fire and so many deaths take place. And eventually it may turn out that he committed an

error of judgment and that his own decision was wrong. The fundamental rights have now been encroached upon. People have lost not only their fundamental rights, but some people have even lost their lives. And there is no remedy. Dr. Syama Prasad Mookerjee said that there is some remedy provided in the Act that they are liable to prosecution if we prove that they acted in a *mala fide* manner. I know as a lawyer, as a practitioner that it is absolutely impossible to prove the *mala fide* character of firing. It is as difficult as it is to prove corruption. So my submission is that in spite of these provisions they remain a dead-letter. I would request the hon. Minister in charge of this Bill to find out any case during the history of the last one hundred or one hundred and fifty years where the people have succeeded in proving the *mala fides* of those who ordered firing on the people and were guilty of shedding their life-blood mercilessly. That right of prosecution is nothing but an eye-wash. Therefore my submission is that this measure is a very dangerous and drastic measure.

There is another danger. The Congress Party may not look upon this measure as a measure in their own favour. But the lower officers, in their enthusiasm to serve the party in power, have been utilizing these provisions for the interests of the party in power. I can give some instances. In 1949, in a village in Satara District, my party had organized a meeting and some of my comrades were going to address that meeting.

Mr. Deputy-Speaker: Is it necessary for the hon. Member to go into all the police excesses for the purpose of the present Bill?

Shri S. S. More: I am giving one or two instances, just to illustrate my remarks.

Mr. Deputy-Speaker: A number of other hon. Members are anxious to speak.

Shri S. S. More: I propose to be very short.

An Hon. Member: Why 'propose'? Decide to be very short.

Mr. Deputy-Speaker: If we are going to repeal the very section itself which gives power to the civil authorities to requisition the help of any kind of Armed Forces, all these questions may be relevant—even then it is doubtful.

Shri S. S. More: These powers which may be innocently given by the party

[**Shri S. S. More]**

in power to the executive authority are likely to be utilized by the executive authority in a partisan manner, to the disadvantage of other political parties who have the misfortune to oppose the party in power, and it may have very serious consequences.

Mr. Deputy-Speaker: There is the power already existing. There is no non-official or official Bill to do away with that power. The only point is whether the Armed Forces, meaning the Army alone, should be requisitioned or whether it should be extended to the Air Force.

Shri S. S. More: My submission is, whatever power is given by the present statute, that the present provision itself is already being utilized against us. And if greater power is given, it will be utilised against us in a greater degree and with more serious consequences. That is my contention.

Mr. Deputy-Speaker: But he need not go into all the incidents that happened.

Shri S. S. More: I only wanted to illustrate my point. In the Bombay State I have been coming across many instances where under the leadership of the Congress, under the executive authority of the Congress, the lower officials have been utilizing these powers against the parties which have the temerity, I may say, to oppose the party in power.

There is just one more point and with that I will close. The Members of the other side every now and then talk about Mahatma Gandhi. I can understand if Dr. Katju introduces a Bill in which he says that whenever there are riots or people take to tumultuous ways or actions, then a batch of Sarvodayawaris, a batch of people who believe in Gandhism, a batch of people who can utilize their spiritual influence for converting the heart of the rowdy masses may be sent to help the civil authorities. I can very well understand that. But all along, trading on the name of Mahatma Gandhi, he is following with vengeance in the footsteps of the Britisher who utilized these provisions for smashing the resistance of the people. I can visualize the future, and I can have a peep into the mind of Dr. Katju, if I may say so. I believe that they are fearing that some revolutionary action is going to develop in this country, and they are planning in advance to sabotage, or to scotch that sort of action. The Finance Minister who spoke like a wizard, looking into the future, was of the opinion

that there would be no revolution, that there was no possibility of a revolution. I suppose he thought that revolution will come only if he makes a financial allotment for that purpose and not otherwise! But I say that in view of his Budget, the way he is talking, his contemplated taxes, the food shortage, and the great many hardships from which people are suffering, the people have become restless, they are seething with discontent, they are likely to come together, and they are likely to express their discontent in a vociferous and vigorous manner. But to nip in the bud such sort of resistance and protest the hon. Minister has introduced this Bill.

I need not repeat that if the Air Force is allowed to participate in quelling such assemblies, eventually bombing of the innocent masses will be the inevitable result. Dr. Katju was pleased to say that any such objection was based upon—I do not repeat his words—he said that it was something like a nonsensical thing. They are saying so many things about us, which are like one's looking into a mirror. The Leader of the House said that we are wanting in intelligence. Dr. Katju said that we are positively nonsensical. We may for the sake of argument accept all that. But my submission is that we can look into their intentions, we can see their fears, their perpetual fears. They are preparing all their machinery, mustering all their strength, gathering all their forces for meeting the revolutionary upsurge in the country. But I can very well tell Dr. Katju that the Czar attempted to do it but did not succeed. Chiang Kai Sheik tried to do it but did not succeed, and when these two mighty forces have failed I do not believe that Dr. Katju will succeed.

पंडित ठाकुर बास भाराव (गुहगांव) :

श्रीमान्, मैं ने बड़े अदब के साथ श्री श्यामा प्रसाद मुखर्जी की, श्री गोपालन साहब की ओर जो अब तकरीर हुई हैं उस को सुना मैं डाक्टर श्यामा प्रसाद साहब की तकरीर सुन कर बड़ा मुतास्सिर हुआ और यह सुन कर कि उन्होंने इस हाउस के बाहर हमारे होम मिनिस्टर (Home Minister) साहब की खिदमत में फ़रमाया कि इस एक्ट (Act) के नीचे बम्बिंग (Bombing) हो सकता

है मैं और भी चुपा हुआ। लेकिन जो अखिरी स्पीच (speech) में ने सुनी थी ताज्जुब ही नहीं हुआ बल्कि इस से बढ़ कर मुझ को थोड़ी हैरानी भी हुई। जब से ब्रिटिश गवर्नमेंट (British Government) यहाँ पर आई थी उस वक्त से ले कर आज तक की उन्होंने सारी हिस्ट्री (History) दुहरा दी और यही डर श्री गोपालन साहब ने जाहिर किया और दूसरे साहिबान ने जाहिर किया। मैं खुद भी उस डर से मुतास्सिर हूँ। अभी तक हमारे दिल से वह खीफ़ नहीं निकला है

बाबू रामनारायण सिंह (हजारी बाग पश्चिम) : कौसे निकले भाई।

पंडित ठाकुर दास भागवत : जो ब्रिटिश गवर्नमेंट ने हमारे दिल में बिठा दिया है। मैं बाबू रामनारायण सिंह जी से यह अजं करुंगा कि जो कुछ वह कहना चाहते हों वह खड़े हो कर कहें ताकि मैं भी उस को सुन सकूँ और उस का जवाब दे सकूँ और दूसरे लोग भी उस को समझ सकें। लेकिन बीच में कुछ कह देने का कोई असर नहीं हो सकता। अगर वह कोई इंटरप्शन (interruption) करना चाहते हैं तो इंटेलीजेंट इंटरप्शन (intelligent interruption) करें। ऐसे अनइंटेलीजेंट इंटरप्शन (unintelligent interruption) से किसी को फ़ायदा नहीं होता। अगर आप कोई इंटेलीजेंट इंटरप्शन करें तो मैं उस को सुनना चाहूँगा। मैं हर मेम्बर की स्पीच को निहायत अदब से सुनता हूँ।

बाबू राम नारायण सिंह : नेहरू जी के खेले हो गये हैं।

पंडित ठाकुर दास भागवत : नेहरू जी का भी खेला हूँ और काटजू साहब का भी खेला हूँ क्योंकि जो बिल वह एनफोर्स

(enforce) करना चाहते हैं और जिस बिल को लाया गया है मैं उसकी पूरी तरह से सपोर्ट (support) करता हूँ। और मैं आप की खिदमत में यह अजं करना चाहता हूँ किं मैं उस को किस तरह से सपोर्ट करता हूँ। लेकिन मैं यह मानने के लिये तैयार नहीं हूँ कि जो तकरीर हमारे डाक्टर श्यामा प्रसाद मुख्यमंत्री साहब ने की है वह मुदलिल और अच्छी नहीं है और उस में फ़ोर्स (force) नहीं है। न मैं यह मानने के लिये तैयार हूँ कि जो तकरीर हमारे हुकुम सिंह साहब ने की है उस में कोई फ़ोर्स नहीं है। इस बास्ते इस तकरीर को जो कि मैं करने जा रहा हूँ पार्टीबाजी की निगाह से नहीं देखना चाहिये और इस में हर एक भाई को यह देखना चाहिये और यह सोचना चाहिये कि जो हम करने जा रहे हैं यह जरूरी है या नहीं। मेरी अदब से गुज़ारिश है कि इस देश में मोजूदा क्रिमिनल प्रोसीड़्योर (Criminal Procedure) सन् १९८८ से रायज हुआ है। इस से पहले भी क्रिमिनल प्रोसीड़्योर कोड (Criminal Procedure Code) था। और उस के अन्दर भी इस किस्म के प्रावीजन्स (provisions) थे। इस वक्त इस हाउस को जो सब से पहली बात समझने की है वह यह है कि किसी देश की हुकुमत कायम नहीं रह सकती, कोई देश तरक्की नहीं कर सकता और किसी देश के अन्दर पीस (peace) नहीं रह सकती अगर उस मुक्त की हुकुमत पब्लिक पीस (public peace) और पब्लिक सिक्यूरिटी (public security) को कायम नहीं रख सकती। इस पब्लिक पीस और पब्लिक सिक्यूरिटी के लिये हम को बहुत दफ़ा ऐसे काम करने पड़ते हैं कि जो हम कभी न करते अगर इन अगाराज की जरूरत न होती।

[पंडित ठाकुर दास भाग्नव]

इन दोनों बातों को मदनजर रखते हुए आप इन दफ़ात को यानी १२८ से १३२ दफ़ात को पढ़िये। इन को पढ़ने पर हम को मालूम होगा कि क्यों हम ने यह अस्तियारात दिये हैं कि मिलिटरी (military) या कर बनलाफ़ुल असेम्बली (unlawful assembly) को डिसपर्स (disperse) कर दे। मैं तो इस से भी बागे जा कर यह अर्जन करना चाहता हूँ कि भीजूदा कानून की रु से इन अस्तियारात को उसी बक्त इस्तेमाल नहीं करना चाहिये जब कि कोई बनलाफ़ुल असेम्बली (unlawful assembly) पांच या इस से ज्यादा आदमियों की त्क उस बक्त भी इस्तेमाल करना चाहिये जब कि कोई पांच आदमियों की लाफ़ुल असेम्बली (lawful assembly) भी हो मगर उस से पब्लिक सिक्यूरिटी को नुकसान पहुँचने का अन्देशा हो। चुनावे आप मुलाहिजा फ्रमायें दफ़ा १२७ में जहां कि दिया गया है कि :

"Any Magistrate or Officer in charge of a police station may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly."

मेरी अदब से गुजारिश यह है कि एक मजिस्ट्रेट को जो यह अस्तियारात दिये गये हैं या एक पुलिस अफ़सर को दिये गये हैं यह दरअस्त बड़े बसीह अस्तियार हैं। लेकिन यह इतने बसीह क्यों हैं। यह इस बास्ते नहीं है कि कोई मजिस्ट्रेट जब चाहे तब पुलिस को और मिलिटरी को बुलवा कर लोगों के सिर फुड़वा दे। यह अस्तियारात दिये गये हैं पब्लिक पीस के बास्ते ताकि

आम शहरी, ऐसे शहरी जो कि अपन पसन्द हैं, उन के हुकूक को कोई पामाल न कर सके। लेकिन जनाव १२८ को देखें तो उस में एक बहुत बड़ा सेफ़गार्ड (safeguard) दिया गया है। वह कहता है कि अबल अबल तो न मजिस्ट्रेट को पुलिस बुलानी चाहिये और न मिलिटरी बुलानी चाहिये। अबल तो उसको शहरियों की बदल लेनी चाहिये। और हर एक शहरी का यह फ़र्ज है कि अगर कोई मजिस्ट्रेट (Magistrate) या पुलिस बाला उस की बदल चाहे तो वह उस को लुट बदल दे। ऐसी हालत में किसी पुलिस को या किसी मिलिटरी को बुलाने की जरूरत नहीं पड़ेगी। चुनावे जनाव मुलाहिजा फ्रमायें कि १२८ दफ़ा में यह दिया हुआ है :

"If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a police station, whether within or without the presidency-towns may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer, soldier, sailor or airman in the Indian Army, Navy or Air Force or a person subject to the Territorial Army Act, 1948, and acting as such, for the purpose of dispersing such assembly....."

तो मैं निहायत अदब से अर्ज करूँगा कि अबल तो उस को सिर्फ़ शहरी लोगों की ही बदल लेनी चाहिये। इस में यह दिया गया है कि अगर किसी प्रोसेशन (procession) या असेम्बली को डिसपर्स करना हो तो पहले शहरी फ़ोर्स से काम लेना चाहिये लेकिन अगर कहीं ऐसी हालत हो कि मामला दिगरां हो और शहरी और सिविल फ़ोर्स (civil force) से काबू न पाया जा सके तब

दफ्तर १२९ का आपरेशन (operation) आता है। उस में दिया गया है :

"If any such assembly cannot be otherwise dispersed....."

This is the first condition.

अगर और किसी तरह से उस को डिसपर्स न किया जा सकता हो तो फिर वह असेम्बली चाहे अनलाफुल हो या लाफुल हो लेकिन अगर उससे पब्लिक पीस को खतरा है तो उस भूरत में पुलिस बुलाई जाय और पुलिस भी काफ़ी न हो तो मिलिट्री, नौवी (Navy) या एयरफोर्स (Air force) बुलाई जाय :

"If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force."

तो मैं अदब से अर्ज करूँगा कि यहां पर एक दूसरा लफ्ज़ पीस के अलावा इस्तेमाल किया गया है। वहां पर डिस्टरबेंस आफ दी पब्लिक पीस (disturbance of the public peace) है और यहां पर पब्लिक सिक्यूरिटी का सवाल है। पब्लिक सिक्यूरिटी पब्लिक पीस से भी ज्यादा बड़ी चीज़ है। अगर पब्लिक पीस और पब्लिक सिक्यूरिटी दोनों को खतरा हो और वह असेम्बली जो चाहे अनलाफुल हो या लाफुल हो किसी और तरीके से डिसपर्स न की जा सके तभी मिलिट्री या एयर फोर्स को बुलाया जा सकता है। मैं अदब से अर्ज करूँगा कि हमारे इस इतने बड़े देश में आम तौर पर अनलाफुल या दूसरी असेम्बलीज़ ऐसी होती हैं जो कि सिक्कं कहने से ही अपने आप डिसपर्स हो जाती हैं। हमारे यहां के लोग बड़े ला ऐबाइडिंग (law abiding) हैं और यहां के लोगों में यह जज्जबा नहीं है कि वह किसी के दुकूक पर छापा मारें या और खराबी करें।

मैं अदब से पूछना चाहता हूँ कि अब तक कितने ऐसे मौके आये हैं कि गवर्नमेंट को मिलिट्री बुलानी पड़ी है सिवा ऐसे एरियाज (areas) के जहां पर कि पब्लिक पीस के सिलाफ आरणेनाइज़ अटेम्प्ट्स (organised attempts) किये गये। मैं अदब से अर्ज करना चाहता हूँ कि अगर हमारे होम मिनिस्टर साहब स्टेटिस्टिक्स (statistics) देखेंगे तो उन को मालूम होगा कि ऐसे बहुत ही कम मौके हुए होंगे कि मिलिट्री की बुलाना पड़ा हो। सिक्कं तीन भूरतों में मिलिट्री की बुलाया जा सकता है। एक तो वह कि अगर कोई बाहर से मुल्क पर हमला करे, दूसरे अगर देश के अन्दर इंटरनल सिक्यूरिटी (internal security) के डिस्टरबेंस (disturbance) का खतरा हो जिस की बजाह से गवर्नमेंट न चल सके। और तीसरे अगर कोई ग्रेव इमरजेंसी (grave emergency) पैदा हो गई हो। इस के मुतालिक हमारे कांस्टीट्यूशन (constitution) की दफ्तर ३५२ में यह अल्फाज दिये हैं।

"If the President is satisfied that a grave emergency exists whereby the security of India or part of its territory is threatened whether by war or external aggression or internal aggression, he may by proclamation, make a declaration to this effect."

मैंने देखा है कि जितने एमेन्डमेन्ट्स (amendments) इस समय आये हैं और अभी जिन मेरे लायक दोस्तों ने यहां पर इस बारे में तक़रीरें कीं और कहा कि जब कभी देश में इस तरह की इमरजेंसी हो तब मिलिट्री को बुलाया जाय। मैं अदब से अर्ज करना चाहता हूँ कि इमरजेंसी का मतलब यह नहीं है कि जिस समय चाहे मिलिट्री को बुला लिया जाये। इस का ३५२ में पूरी तरह से जिक्र किया गया है।

[पंदित ठाकुरदास भागवन्]

इमरजेंसी का मतलब यह है कि जब सिविल पावर(civil power) तकरीबन खत्म हो जाती है, जब सिविल पावर को किसी तरह का काम करने की ताक़त नहीं रहती है, जब किसी तरह के कोर्ट (court) बरीरा बजूद में नहीं रहते, उस समय इमरजेंसी ताक़त का इस्तेमाल किया जाता है। जब उस समय किसी तरह की सिविल लिबरटी (civil liberty) नहीं रहती है, न किसी तरह के सिविल राइट (civil right) ही रहते हैं और अनता के हड्डों पर पाबन्दी लगी रहती है तो मेरे लायक दोस्त कैसे कहते हैं कि इमरजेंसी का मतलब यह है कि जिस समय भी चाहे मिलिट्री को बुला लिया जायेगा। ऐसा परमात्मा न करे कि इस तरह की इमरजेंसी हमारे देश में पैदा हो जाये जिस की बजह से मिलिट्री की बुलाना पड़े। मगर असल बात तो यह है कि यह दूसरा प्राविजन (provision) जो है १२८ से १३२ तक वह इस के लिये बनाया गया है। १३५२ की तो कभी जरूरत ही नहीं पड़ी और १२८ और १३२ का कभी इस्तेमाल ही नहीं हुआ। हुक्मत ३५२ का इस्तेमाल इस देश के अन्दर तब कर सकती है जब कि यहां देश में गढ़बड़ी हो बत्कि इतनी गढ़बड़ी हो कि उस का अन्दाज़ा नहीं किया जा सका। तो मैं अर्ज करना चाहता हूं कि अगर मिलिट्री किसी सूरत में बुलाई जाय तो जनाब दला इस के साथ क्या सेफ गार्ड्स (safe-guards) हैं। जिस सेफ गार्ड्स के बारे में अभी मेरे लायक दोस्त श्यामा प्रसाद मुखर्जी ने जिक्र किया वह सब सेफ गार्ड्स तो पहिले से ही कानून के अन्दर मौजूद हैं। जनाब मुलाहिजा करमायें कि १३२ में यह दिया गया है।

"Officer acting under Sec. 31 in good faith".

मेरी अदब से यह गुणारिश है कि जैसा अभी मेरे लायक दोस्त सरदार हुक्म सिंह जी ने फ़रमाया कि एयर फ़ोर्स का इस्तेमाल हमारी इन्फैन्ट्री (Infantry) की तरह से इस्तेमाल किया जाय और डाक्टर जयसूर्य जी ने कहा कि एयर फ़ोर्स का इस्तेमाल सिङ्ग लैन्ड आर्मी (Land Army) की ही तरह किया जाये। मैं ने उन की बहस पूरी तरह से सुनी थगर मुझे यह पूरा यक़ीन है कि हमारे देश में इस तरह की जरूरत नहीं पड़ेगी कि हम इस ताक़त को काम में लायेंगे। जैसा कि उन्होंने बहस में कहा कि इस एक्ट के मुताबिक़ एयर फ़ोर्स बाले, शहर बालों पर भी बौम्बिंग करेंगे तो मैं निहायत ही अदब से अर्ज करना चाहता हूं कि इश्वर न करे कि हमारे देश के अन्दर इस तरह की सूरत आ जाये। अगर इस तरह की हालत आ ही जाय तो मैं समझता हूं कि इस एक्ट से काम लिया जाना चाहिये और अगर बौम्बिंग की भी जरूरत हो तो ऐसा भी होना चाहिये। मगर जब देश के सामने बहुत ही खराब हालत आ जायेगी तब ही इस तरह की कायंवाही करने पर सरकार मजबूर होती है।

आखिर जब मिलिट्री बुलाई जाती है तो मिलिट्री और अनलाफ़ुल असेम्बली में क्या फ़र्क है मिलिट्री के हथियार बहुत हीं मजबूत होते हैं और उन का असर बहुत जबर्दस्त होता है। माझूली आदमी के पास इस तरह के हथियार नहीं होते हैं। यही कारण है कि जब बहुत गढ़बढ़ हो जाती है तो मिलिट्री की मदद बुलाई जाती है। मगर मेरे दोस्त को यह बात मालूम नहीं है कि आजकल जो पुलिस है उस के पास भी इसी तरह के नये नये और जबर्दस्त हथियार मौजूद हैं। हमारे आर्मेड फ़ोर्सेज (Armed

Forces) के पास जिस तरह के बम और बन्दूक और दूसरे किस्म के हथियार आज कल हैं उसी तरह से पुलिस वालों के पास भी हथियार हैं। आजकल की पुलिस पुरानी तरह की पुलिस नहीं रही, आज उस के पास वह सब हथियार भौजूद हैं जो कि एक अच्छी मिलिट्री के पास होते हैं। अगर आर्मेंड पुलिस इस तरह की अनलाफ़ुल असेम्बली के लिये इस्तेमाल की जाय और वह उस को डिस्पर्स करें तो क्या बजह है कि फिर मिलिट्री को बुलाया जाय। अगर यह बात दुर्घट है कि आर्मेंड पुलिस इस तरह की अनलाफ़ुल असेम्बली को डिस्टर्ब (disturb) कर सकती है तो मैं समझता हूँ कि कभी भी मिलिट्री या एयर या नेवी फोर्स को इस्तेमाल में लाने का सवाल ही नहीं उठेगा।

अब रहा बीम्बिंग का सवाल, मैं निहायत अदब से अर्ज़ करना चाहता हूँ कि अगर मिलिट्री के एक्शन (action) को यह कानून जस्टीफाई (justify) करता है तो अब तक किसी साहब ने भी इसके बर-खिलाफ़ आवाज नहीं उठाई। न इस हाउस में किसी तरह का नानआफिशियल (Non-official) बिल ही लाये जिस के जरिये से यह कानून हटाया जाये या इस की कुछ बातों को हटाया जा सके। मैं नहीं जानता कि कोई भी मेम्बर इस हाउस का यह चाहता हो कि अनलाफ़ुल असेम्बली के डिस्पर्स करने का कोई कानून इस देश में न रहे। मैं अदब से अर्ज़ करना चाहता हूँ कि यह विल्कुल लाजिकल (logical) है कि जब देश की पीस डिस्टर्ब (disturb) होती है तो कोई बजह नहीं है कि आप आर्मेंड फोर्स, एयर फोर्स और नेविल फोर्स को बुला कर पीस को कायम न रखें। यह फोर्स तो तब ही बुलाई जायेगी जब इस की ज़रूरत पड़ेगी।

मगर मैं निहायत अदब से अर्ज़ करना चाहता हूँ कि यह महज स्थाली बात है। आज तक हम देखते आये हैं कि इस तरह की कार्यवाही करने का मौक़ा नहीं पड़ा। मिलिट्री को बहुत कम मौकों पर बुलाया गया। मैं नहीं समझता कि अनलाफ़ुल असेम्बली को डिस्टर्ब करने में कभी भी एयर फोर्स या नेवी को बुलाने की ज़रूरत पड़ी हो या पब्लिक पीस या पब्लिक सिक्योरिटी को कायम करने के लिये इस तरह की फौज को बुलाने की ज़रूरत पड़ी हो। मगर जब कभी फौज को बुलाया जाता है तो १३० के मुताबिक़ फौज वालों को बीजिस्ट्रेट के हृकम के मुताबिक़ काम करना होता है। जब वह कमान्डिंग आफिसर (commanding officer) के मातहत काम करता है तो उस की दूसरी जिम्मेदारी होती है। यह जिम्मेदारी १३२ में दर्ज है। मैं यह समझता हूँ कि इस बारे में हर एक वकील और हर एक क्रानूनद इस कानून से बखूबी वाक़िफ़ होगा। उस समय सोल्जर (soldier) की डब्ल्यू (double) जिम्मेदारी होती है। एक तरफ़ वह अपने आफिसर का हृकम न माने तो उस का कोर्ट मार्शल (court martial) किया जाता है और उस को फांसी दी जाती है। दूसरी तरफ़ अगर वह खिलाफ़ कानून किसी को मार दे तो उस को सिविल कोर्ट (civil court) से सजा मिलती है और वह उस समय सिविल ला (civil law) के मातहत आ जाता है। इस में शक नहीं है कि उस को-डब्ल्यू ला (double law) का सामना करना पड़ता है। मैं अर्ज़ करना चाहता हूँ कि उसके अन्दर यह अल्फ़ाज़ दर्ज हैं: इस के इलावा १३० दफा में लिखा है।

"In doing so, he shall use as little force and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons."

(विडिज़ डाक्टरेशन भांडि)

आखिर में आज इस कानून के अन्दर जो अख्यात बिलते हैं उन पर आप और सेफगार्ड्स (safeguards) लगा दीजिये। मैं इस बात के हक्क में हूँ क्योंकि आज भी इस के अन्दर १३० ब में वह चीज़ लिखी गई है।

यहां पर यह कहा जा सकता है कि अगर हम बिलिटरी फोर्स को बुलायें और एयर फोर्स और नेवी को न बुलायें तो उस सूरत में बिलिटरी को यह अख्यात है कि वह अपनी ताकत से काम के कर मजमे को तितर छितर करदे यह तो पुरानी गाथा है। मैं यह निवेदन करना चाहता हूँ कि जिस घमाने में यह भीजूदा कानून बना था उस समय आदमी ३०२ का जुर्म करने में आदमी लकड़ी और ढन्डे से काम लिया करते थे। उस समय के बाद से अब हालत बिल्कुल ही बदल गई है। अब तो हर तरह के हथियार काम में लाये जाते हैं। हम ने कलकत्ता और दूसरी जगहों पर देखा है कि द्वामों पर बम और दूसरी चीज़ फैकी गई (एक माननीय सबस्थः एटम बम इस्तेमाल होंगे।) अभी मेरे लायक दोस्त कहते हैं कि एटम बम भी इस्तेमाल में आने वाले हैं। इस के बारे में मुझे पता नहीं है, इस का तो उन्हें ही ज्यादा इलम होगा कि एटम बम काम में आने वाले हैं या नहीं। लेकिन मैं इतना कह सकता हूँ कि अब जो अनलाफुल असेम्बली होती है वह पहिले से ज्यादा आर्गेनाइज़ (organised) हुआ करती है और बहुत मुश्किल से क्राबू में आती है आज कल जितनी भी पार्टीज़ हैं वह बहुत ज्यादा आर्गेनाइज़ हो गई हैं और वह हर तरह के हथियारों का इस्तेमाल करती हैं और दूसरी चीज़ें इस्तेमाल करती हैं। इस का नतीजा यह हुआ है कि अब ऐसे मजमे लोगों के क्राबू के बाहर हो जाते

हैं और उन पर क्राबू पाना बहुत ही मुश्किल काम हो जाता है। इसलिये मैं निहायत अदब के साथ अर्ज करना चाहता हूँ कि हमारे आनरेबल होम मिनिस्टर साहब मामूली नर्म दिल न रखें। आज उन के सामने दूसरे ऐसे सवाल हैं जिन को उन्हें और इस हुक्मत को हल करना है।

जैसा बहुत से मेम्बरों ने यहां पर कहा कि इस एकट के पास हो जाने से एयर फोर्स और नेवी अपने सब हथियारों से काम लेगी और हो सकता है कि एयर फोर्स बौम्बिंग भी करें। तो मैं निहायत अदब से अर्ज करना चाहता हूँ कि परमात्मा न करे कि इस तरह की स्थिति हमारे देश के सामने आये। अगर पब्लिक पीस और पब्लिक सिक्योरिटी को किसी किस्म का खतरा हुआ तो उसको कायम रखने के लिये जायज़ इस्तेमाल इन चीजों का किया जाना जरूरी होगा। हमारे काट्जू साहब के दिमाग़ में और न हमारे दिमाग़ में यह बात आई कि कभी भी इस तरह की फोर्स का इस्तेमाल किया जायेगा। मैं आप से अर्ज करना चाहता हूँ कि सन् १९४८ ई० में हम ने इस जगह एक ऐकट ३, १९४८ और उस समय गवर्नमेंट अगर चाहती तो उस कानून के जरिये से बौम्बिंग करती और या दूसरी कार्यवाही करती। मैं निहायत अदब से इस हाउस से पूछना चाहता हूँ कि क्या इन चार पांच सालों के अन्दर कभी भी इस तरह की ताकत इस गवर्नमेंट ने इस्तेमाल की। मोरे साहब को और उनकी पार्टी को यह बात मालूम है कि कभी भी इस तरह की कार्यवाही सरकार ने की। अगर यह सरकार इस तरह की कोई कार्यवाही करती है तो हम सब लोग यहां पर भीजूद हैं। मगर मैं समझता हूँ कि कोई भी आदमी चाहे वह कांग्रेस का हो या विरोधी

पक्ष का हो, चाहे मोरे साहब हों या पंडित नेहरू हों। या पण्डित नेहरू ऐसा कर सकेंगे वा कोई मैजिस्ट्रेट या अफसर अगर ऐसी हरकत करे, तो क्या वह एक दिन के बास्ते भी क्रायम रह सकेगा। लेकिन जहाँ तक हक्क का सबाल है, आज के दिन भी एक मैजिस्ट्रेट को हक्क है कि वह मिलिट्री को बुलवाये और चाहे तो उस की ताक़त का इस्तेमाल करे। जिन लोगों ने इस बिल का विरोध किया है, वे मुझे बतलायें कि कौब सा मुल्क ऐसा है जहाँ इस तरह का अखत्यार गवर्नमेंट को हासिल नहीं है। डाक्टर पश्यामा प्रसाद मुखर्जी ने इंग्लैंड के कानून का हवाला दिया और उस पर उन्होंने रिलाई (rely) किया लेकिन मैं उन को बतलाऊं कि वहाँ भी सरकार नो यह अखत्यार हासिल है कि अगर जरूरत पड़े तो नेबी, ऐयर फ़ोर्स और लेंड आर्मी का इस्तेमाल किया जा सकता है, और मैं ने १३० बी को पढ़ कर सुनाया जिस में यह सेफ़गार्ड मौजूद है कि इस पावर का पुलिस और फ़ौज द्वारा दुरुपयोग न हो, लेकिन अगर कोई फ़रदर सेफ़गार्ड (further safeguards) की ज़रूरत हो, तो मैं चाहता हूँ कि हम ऐग्जेक्यूटिव डायरेक्शन्स (executive directions) बना दें, जैसा कि इंग्लैंड के कानून में डायरेक्शन्स दिये हुए हैं कि इन सरकमस्टान्सेज़ (circumstances) के अन्दर फ़ौज को ऐयर, लेंड और नेबी की आर्मी को इस तरह अमल करना चाहिये, उसी तरह से हमारे यहाँ भी डायरेक्शन्स होने चाहियें जिन के मातहत यह कार्यवाही अगर ज़रूरत पड़े तो की जा सके। हम जो यह अखत्यार देना चाहते हैं उस का यह मतलब नहीं है कि एक पुलिस का थानेदार व फ़ौजी जिस दिन उस के मन में आये, गांव के गांव तबाह कर दे, यह मुराद हमारी क़तई नहीं है और हम कांग्रेस के लोग जो यहाँ १८ करोड़ देशवासियों के प्रतिनिधि बन कर आये हैं,

इस तरह की कार्यवाही हमारे सामने हो सके नामुमकिन है। इसलिये विरोधी पार्टी के सदस्यों का यह शक करना और इंटेलेक्चुली (intellectually) अपने दिमाग़ से एक चीज़ निकालना कि ऐसा हो जायेगा, मुनासिब और उचित नहीं है। लेकिन जहाँ तक लीजिक और इस देश की सिक्योरिटी का तक़ाज़ा है यह ज़रूरी और मुनासिब है कि हम गवर्नमेंट को ऐसे अखत्यारत से आर्म (arm) करें ताकि अगर ज़रूरत पड़े और कोई इमरजेंसी आये तो वह उस को कामयाबी के साथ ढील (deal) कर सके। यह दूसरी बात है कि अगर आप को यह गवर्नमेंट पसन्द न हो, तो आप इस को निकाल दीजिये, उस के लिये प्रजातांत्रिक तरीके मौजूद हैं। मैं अपने दोस्तों को बताऊं कि यह गवर्नमेंट १८ करोड़ लोगों की राय और बोट के बल पर बनी है और इतनी बड़ी मेजारिटी (majority) का उसे समर्थन प्राप्त है, यह कोई आप लोगों की मेहरबानी से यहाँ नहीं है और आप को कोई हक्क नहीं है कि आप उस को हटाने का नारा दें। यह जो दफ़ा १९ कांस्टीट्यूशन एक्ट (Constitution Act) का यहाँ पर मेरे दोस्त हवाला देते हैं, तो उन्हें मालूम होना चाहिये कि इस कांस्टीट्यूशन (Constitution) को इसी गवर्नमेंट ने बनाया है और आप जो दफ़ा १९ का आधार ले कर कहते हैं कि इस में दर्ज है कि लोग असोसियेशन्स फ़ार्म (associations form) कर सकते हैं और यहाँ पर हर प्रकार की लिबर्टी (liberty) लोगों को हासिल है, मैं बहुत अदब से बर्ज़ करता हूँ कि मैं इन सब बातों को मानने के लिये तैयार हूँ, लेकिन क्या आप ने दफ़ा १९ के एक, दो और तीन जुओं को भी देखा है जिस में लिखा है कि यह सब हक्क और लिबर्टी और फ़ंडामेंटल राइट्स (fundamental rights) तभी

(पंडित ठाकुर दास मार्गेंद्र)

तक क़ायम है जब तक कि ला एन्ड पब्लिक बाउंडर (public order) पर कोई आंच नहीं आती। मेरी समझ में व्योजीशन (opposition) के भेस्टरों का पहले से ही यह सोच लेना कि अगर यह अखत्यार गवर्नर्मेंट को दे दिया गया तो देश के अन्दर कफ्फलूप्तन (confusion) हो जायेगा, दुश्स्त और मुनासिब नहीं है। आज भी सरकार के पास जो ताक़त भीजूद है, वह क़ानून के मातहत ही इस्तेमाल होती है और आजदा भी जो ताक़त हम उस को देंगे, वह क़ानून के डायरेक्शनस् के मुताबिक ही बक्त ज़रूरत पर इस्तेमाल होगी। लाजिकली इस ताक़त को गवर्नर्मेंट को देना चाहिये है, भले ही आप इस ताक़त को कुछ रेस्ट्रिक्ट (restrict) कर दीजिये या तो उसके यूस (use) को रेजुलेट (regulate) कर दीजिये। मुझे यह सुन कर बेहद बफ़ल्सोस हुआ जब एक भेस्टर साहब ने हमारे ऊपर बिलों दी बेट (below the belt) हमला किया और कहा कि कांग्रेस पार्टी के भेस्टर्स अपनी ताक़त के जोध में और अपनी कांग्रेसी द्वृकूप्त को और ज्यादा ताक़त दिलाने के बास्ते इस बिल को पास कर देंगे, मैं अदब से अज्ञ करना चाहता हूं कि जहां तक सिविल लिबर्टीज का सवाल है, हर एक कांग्रेसमैन देश की आज़ादी और बेहतरी को क़ायम रखने और बढ़ाने का खाहिशमंद है और मैं बहैसियत पार्टी के एक बदना भेस्टर होने के कह सकता हूं कि मैं क़र्त्तई ऐसी चीज और भेस्टर (measure) का पार्टी (party) नहीं होऊँगा जिस से हमारे देश की सिविल लिबर्टीज को बदका पहुंचता हो और जिस से हमारा देश नीचा हो, इस बास्ते कांग्रेस पार्टी को इसके लिये इलज़ाम देना मुनासिब नहीं है। और मैं कांग्रेस पार्टी के एक भेस्टर की हैसियत से बड़े जोर से इस क़ानून को सपोर्ट

करता हूं, लाजिकली यह मुनासिब चीज है और एक हार्मलेस (harmless) चीज है। और जैसा डाक्टर काटजू साहब ने बतलाया बिला शक व शुबहा यह वह चीज है जिस को हाउस को एक्सेप्ट (accept) करने में ताम्मुल नहीं होना चाहिये, लेकिन साथ ही मैं यह अर्ज करना चाहता हूं कि इस प्रानून के अन्दर जो हम सरकार को ताक़त देने जा रहे हैं, उस के इस्तेमाल का जहां तक सबाल है, हमें चाहिये कि जैसे दूसरे मुल्कों में उसके यूज़ को रेगुलेट किया गया है, वैसे ही हमें अपने यहां भी करना चाहिये। यह जो आप के दिलों में एक शक व शुबहा है कि इस ताक़त का नाजायज इस्तेमाल किया जायेगा, यह पुरानी गवर्नर्मेंटों के तर्ज़ुओं की बजह से आप के दिमागों में भरा हुआ है, लेकिन अब तो जनता की सरकार है और जनता ने उसे यहां भेजा है। इस लिये इस तरह के डर रखने की कोई ज़रूरत नहीं है और आप को उसे यह पावर देने में हिचक नहीं करनी चाहिये। दूसरी बात जो मैं अर्ज करना चाहता हूं, वह यह है कि इस पावर को ऐयर और नेवी फ़ोर्स को देने में क्या एतराज है, क्या यह आप की फ़ोर्सेज नहीं हैं और क्या इन का इस्तेमाल पब्लिक सिक्यूरिटी के बास्ते जायज़ नहीं है, ऐयर और नेवी क्या, देश की जितनी ताक़त है, क्या पुलिस और क्या मिलिटरी, इन सब का इस्तेमाल ऐसे भीके पर करना चाहिये। मिलिटरी में अगर आप देखेंगे तो पायेंगे कि लैंड आर्मी जितना नुकसान पहुंचा सकती है, वह कम नहीं होता जितना नुकसान कि ऐयर और नेवी की फ़ोर्स पहुंचा सकती है, लैंड आर्मी किन्हीं सूरतों में उन से ज्यादा नुकसान पहुंचा सकती है। नेवल फ़ोर्स आप का क्या बिगाड़ सकती है बमुकाबले लैंड आर्मी के जो बड़ा भारी

नुकसान कर सकती है। मिलेटरी तो एक बम से सारे हाउस को बीम कर के तबाह कर सकती है। इसलिये मैं अदब से अचं करना चाहता हूँ कि आपको ऐयर और नेबल फ्लोर्सेज को यह पावर देने में कोई ऐतराज़ नहीं उठाना चाहिये, लाजिकली यह आयज़ और मुनासिब है कि आप उन को यह ताकत दें और मेरी नाकिस राय में हाउस को इस एकट को पास करना चाहिये, लेकिन अगर हाउस की यह राय हो कि जहां तक इस पावर के इस्तेमाल का ताल्लूक है, उस को रेगुलेट करना चाहिये, तो मैं अदब से होम मिनिस्टर साहब की खिदमत में अचं करूँगा कि यहां हाउस में एक ऐसा अमेंडमेंट हो कि इस को सेलेक्ट कमेटी (Select Committee) में ले जाया जाय जहां कुछ घेम्बरों का जो यह शक़ और सुवहा है, वह भी दूर कर दिया जाय और इस के यूज़ को रेगुलेट कर दिया जाय। लेकिन जहां तक इस बिल का सबाल है, यह लाजिकली आयज़ है और हमें किसीकिस्म का ऐतराज़ नहीं होना चाहिये, जहां तक सेफ गार्ड रखने का सबाल है, मैं समझता हूँ कि दफ्तर १३२ खुद काङ्गी सेफ गार्ड है, लेकिन अगर हाउस और होम मिनिस्टर साहब यह समझें कि इस सिलसिले में और ज्यादा सेफगार्ड की ज़रूरत है और हाउस के घेम्बरान की ऐसी स्वाधिष्ठ हो तो उसको मानने में किसी किस्म के ताम्मुल का सबाल पैदा नहीं होता। मैं बड़े ज़ोर से इस बिल की ताईद करता हूँ।

Shri Tek Chand (Ambala-Simla): Sir, I am grateful to you for the indulgence which has been granted to me to participate in this debate. When I read the Bill the other day, I thought it was absolutely innocent. Even now, my opinion is that if the Bill is not allowed to be made a part of Chapter IX, it will leave a gap and an omission which would condemn the Code as illogical. Yesterday, an hon. Member of the House, distinguished himself in making a point which I thought was hardly

debatable, and converted it into a point which was most controversial. He was fretting and fuming all the time, and we had a barrage of vituperation. I thought he was a human volcano gushing out with a lava of venom through his vocal cavity.

Shri B. S. Murthy (Eluru): On a point of order, Sir. Is the hon. Member in order in calling a Member as a volcano gushing out with venom?

Shri Frank Anthony: It is a figure of speech only.

Mr. Deputy-Speaker: It is good to avoid personal references as to a volcano, but one could always say that the words that come out from a person are venomous.

Shri Tek Chand: The hon. the Home Minister was a target of vituperation and base motives were imputed to him because he had launched this Bill. I do not propose to meet the vituperation of my hon. friend. I shall endeavour to repel it by the force of cold logic and reason at my command.

I want hon. Members before they discuss the amendment to juxtapose Chapter IX and read the provisions side by side with the proposed amendment, and then see what sinister additions if any are being made by the amendment. If you allow me, Sir, within a brief span of time I may just endeavour to give the trend and tenor of Chapter IX. You will notice, Sir, that Chapter IX of the Code of Criminal Procedure begins with Section 127. Section 127 lays down that any Magistrate or a Station house officer, that is the gentleman in charge of a police station, can command an unlawful assembly to disperse. Having done so, Section 128 proceeds to say that the Magistrate or the Station house officer is empowered when the unlawful assembly does not disperse, to disperse it by use of civil force. There is a sharp distinction made in Section 128 and the sections that follow between civil force and military force and among those whose services can be requisitioned by the Magistrate are any able-bodied male persons excluding the members of the military. Their services can be commandeered for the purpose of quelling disorder. But if it appears that the attitude of the crowd is menacing, then Section 129, the next progressive section, comes to the rescue. It contemplates the use of a military force, as the section now stands, where an unlawful assembly cannot otherwise be dispersed. That is to say, if it can ordinarily be dispersed, civil forces will do; if it cannot otherwise be dispersed,

[**Shri Tek Chand]**

then and then alone there may be recourse to military force. Then we have Section 130. Section 130 imposes a duty on the officer in command of troops to come to the aid of the civil authorities in quelling disorder and in arresting and, if necessary, also in confining persons who are members of the unlawful assembly. It is unfortunate that in the Bill as printed and as circulated to the Members, Section 130, sub-section (1) was reproduced, but sub-section (2) had been omitted. If sub-section (2) had also been reproduced, certain arguments that were advanced today perhaps would not have been advanced. Sub-section (2) of Section 130 as it stands today—and it will remain untouched even by the Bill—runs: 'Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons'. That is to say, it is the statutory duty of the officer in charge of troops to use the minimum of force and to cause the minimum of injury to person or property having regard to the exigencies of the situation. That is a statutory obligation that he must.....

Shri S. S. More: May I ask a question. Sir? Before 15th August, 1947, was this statutory obligation ever observed by the police organisation? What about so many Congress resolutions on that?

Shri Tek Chand: I shall come to that and I assure the hon. Member if the learned Deputy-Speaker allows me time, I shall deal with that subject and deal with it as thoroughly as I can. But for the time being, my hon. friend on the opposite side will bide his peace for a second and, pray, let me proceed. Section 130, sub-section (2), I have read out to the House just now. It imposes a duty of using minimum of force. Then the next provision is Section 131 dealing with power of commissioned military officers to disperse the assembly. "When the public security is manifestly endangered"—these words are very important, they are not simply surplusage or redundant—public security should be manifestly endangered, it must be placed in a state of jeopardy and jeopardy should be imminent and then and then alone the military officer will function.

Mr. Deputy-Speaker: In case the Magistrate is not on the spot.

Shri Tek Chand: Yes, that duty is imposed.....

Babu Ramnarayan Singh: He is quoting the whole of Chapter IX.

Mr. Deputy-Speaker: He has come to the end of it.

Shri Tek Chand: That duty is cast and it is a very onerous duty cast on the Commander of the troops. If the Magistrate is not present or if he is not in a position to communicate with the Magistrate, then he has got to see if the public security is manifestly endangered. If there is a manifest danger to the public security, then and then alone he will take the responsibility on his own shoulders. And while in the process of discharging this onerous duty if at any time he can come into contact with the Magistrate, if he can communicate with him, then he must abdicate his authority forthwith and obey the dictates of the Magistrate. He shall 'thence forward obey the instructions of the Magistrate'.

Again, it is a regrettable fact that in this paper the provisions of section 132 (a), (b), and (c) have not been reproduced; only the earlier portion of the section and sub-section (d) are reproduced. The omitted provisions are.....

Mr. Deputy-Speaker: I find that quite a large number of hon. Members want to speak. As I understand the Bill—and I would submit it to hon. Members for consideration—it is not denied that the existing Chapter IX is there in times of emergency. After exhausting the civil forces, it is open to the Magistrate to call in the aid of military forces. Till now the military aid was confined to only the army—land forces. Now it is sought to be increased by the air force and the naval forces. What is the need for it? On the one side this need for the addition has to be made out. What is the objection to include those two also in case of emergency—that has to be made out on the other side. This is the simple point. There is no need to quote the various provisions of Chapter IX, one after the other, except by way of reference to say that there are sufficient safeguards and therefore, there is no danger. But the main point, according to me, is whether it will create any difference, whether there is any need for these additional forces to be called in when public peace and public tranquillity are endangered.

Shri Tek Chand: I am very grateful to you Sir, and I can assure you and, through you, the House that I will not permit myself to be side-tracked or deflected.

Mr. Deputy Speaker: It is not only for the hon. Member, but for all others.

Shri Tek Chand: Now, when I was referring to the provisions (a), (b) and (c) of section 132. I was endeavouring to answer that argument raised almost by every speaker on the opposite side—"Look, the forces of mischief are going to be let loose, they are going to run amuck, they are going to be revengeful. What about it? What are the safeguards?" To meet that argument I was trying to quote Section 132 (a), (b) and (c): The exemption which is granted against prosecution of members of the police and other members participating in quelling a riot, is not absolute, but it is conditional—conditional on their having shown 'good faith'. And the expression "good faith" is a term of art, it does not mean honesty only. "Good faith" is defined in section 52 of the Indian Penal Code, wherein it includes not only honesty, but also due care and attention. Therefore, want of due care and attention, or omission to exercise due care and attention is not good faith. And where you can prove that on the part of a magistrate or a police officer or military officer there has been want of due care and attention, he is liable to be prosecuted, and therefore it cannot be said that the Legislature leaves them to do whatever they wish according to their whim or caprice. Now, the change brought about by the amendment is with a view to seeing that the magistrate is not entirely helpless. Air Forces should be as easily available as members of the Army. "Army" according to the definition given in sub-section (8) of section 7 of the Indian Army Act, is an expression confined to land forces. And if land forces can be requisitioned if the exigencies of the occasion are such that the magistrate needs their assistance, why should the assistance of the Air Force and of the Naval Force be not made available? I want the hon. Members to picture to themselves a situation like this. Supposing there is a coastal village or a small town where there is no police force available, where there is no Army available. There is a hydra-headed rabble thirsting for revenge. I am sorry to say that in our country we have plenty of inflammable material. The embers are there—the embers of class hatred, the embers of communal hatred—and there

are organised bodies which would supply the spark and ignite the flame. And you know the result. A wants to marry B; therefore, stab X, Y and Z. These things happen in this country. But supposing a situation like that arises in an obscure part of the land where the magistrate cannot get the assistance of the police or the military, and let us assume the assistance of airmen is available and the assistance of naval ratings is available, what is he supposed to do? Wring his hands in helplessness or is he to fold his hands and ask for mercy? Is he to grovel on the ground and say: "I am helpless because of the law. I have got the force available. I can quell this disorder. I can save people from arson. I can save people from butchery. I can save womenfolk from being dishonoured. Here is a rabble. Here is also the force available. But I am helpless because the law says I can have recourse to the Army and they happen to be wearing airmen's uniform and therefore I am absolutely powerless." The fallacy in the argument of the opposite party is obvious. The fallacy is, they are afraid that vulnerable injury, lethal injury, deadly injury is going to be caused if airmen are on the scene or if naval men are on the scene. It is not the man in the uniform who can cause more or less injury: it is the weapon that he is using. It may be that according to the exigencies of the occasion a show of a baton will do the trick, or tear gas will serve the object. On other occasions it may be that recourse should be had, let us to say, to bayonets, or let us say, to bullets. It may be that recourse may be necessary to bombing. (Hon. Members: Oh!) — It all depends upon the exigencies of the situation. My learned friends seem to be struck aghast when I use the word "bombing". I wish they had been in my part of the country towards the end of 1947 and the beginning of 1948 when innocent women were disrobed and made to walk in processions and then violated and then butchered. (Interruption). What sympathy are you going to show to such people? Why should not adequate force be used to quell such disorderly crowds? Why do you hold a brief, I ask in all humility, for a bunch of murderers and 11 A.M. robbers, for people who are out for arson? It is ultimately the exigencies of the situation that will determine the use of force—the use of the weapon and the intensity and the extent to which that force is to be used.

Then again I submit there is another fallacy. They seem to imagine that

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the Air Force and the Naval Force are armed with more lethal weapons, forgetting that the Army has got equally lethal weapons. Apart from rifles and bayonets, the Army has also got sten-guns, and they have also got machine-guns, and they have also got tanks. Therefore, you have got to see to the nature of the weapon used and the intensity with which it is being used, and not to the uniformed man who is using that weapon. Therefore, so far as aid is needed, it should be requisitioned after circumspection, after having close regard to the security of life after having taken into consideration all that, if aid is absolutely necessary and the aid of the Air Force is available or the aid of the Navy is available, there is no reason in logic why that aid should be spurned. It is not reasonable. Our law will be illogical in the extreme. It will leave wide gaps if it lays down that in the event of there being a tumultuous crowd, in the event of a civil commotion, in the event of the lives and property of innocent people being in jeopardy, you must not use any weapon that an airman has got or any weapon that a naval rating has got. I contend that this is illogical.

What is more, it has been stated by a learned speaker that you are likely to err on the side of excess. There is a possibility of abuse. Possibility there always is, but the question is: Will that possibility become more proximate; will that possibility be converted into a probability if the assistance of the airmen and the naval ratings is forthcoming?

Babu Ramnarayan Singh: Quite possible.

Shri Tek Chand: Possible. I concede. I wish my learned and hoary friend would consult the dictionary and find out the meaning of the word "possible". Everything is possible. The question is: Does it become probable? Every section of the Penal Code is liable to be abused. It is possible. It is theoretically imaginable. I concede that. But the question is: What is possible? What can happen? What may happen? Is it more likely to happen, will it more probably happen, if there is an amendment and would not happen if the amendment were not there? In other words, does the amendment contain any sinister proposal on whereby there is going to be a greater menace for the civil population? We in this House yield to nobody in our solicitude, in our regard to the value to be placed upon the life of the people and

the honour of the people and the safety of the property of the people. Nobody wants that the blood of a citizen, even if he were a criminal, should be spilled unnecessarily. That blood has to be spilled only when there is a danger of the blood of law-abiding citizens being shed at the hands of disorderly rabble. That being so, to accuse us of callousness, to accuse us of want of feelings, is to accuse yourself of want of logic.

I wholeheartedly and with all the force of logic and reason at my command endorse every word of this Bill.

Dr. N. B. Khare (Gwalior): I am one of those who do not understand the intricacies of the law. [I am a practical man who has practised the profession of administering bitter pills and giving injections and incisions. I am reminded of the famous Sanskrit proverb

चिनायकं प्रकृत्वर्णो रघुगामास वानरम्

This means that a certain person set about to cast an image of God Ganesha and he just was successful in casting the image of a monkey. My friends—I mean the Government—are never tired of proclaiming outside this House of their love for non-violence Ahimsa, love of humanity and all those shibboleths. But when they come inside this House they demand power to use the engines of most ruthless destruction. I am surprised at their behaviour and it reminds me of a Hindu proverb: "Mooh main Ram Ram aur baghal main chhuree". They came here with great fanfare trumpeting their own activities and exploits and giving out their intentions to establish Ram Rajya but they have succeeded most eminently in establishing what is called Revana Raj for which I congratulate them.]

An Hon. Member: Because you wanted it.

Dr. N. B. Khare : I am surprised to find also a contradiction amongst themselves. The hon. the Home Minister stoutly said that there was no intention of aerial bombing by seeking this amendment. There is no provision for that. It cannot happen. But two friends of his party—one spoke just now and one spoke some time before—said that this Bill if properly interpreted will lead to aerial bombing. I will say 'God forbid'.

Well, Sir, I do not want to make a long speech at all. I do not believe in it. But one thing is certain that this measure was described to be an innocuous measure. Well my friend opposite just now said that the measure is not innocuous. They want that there should be air bombing done. I cannot understand the attitude of de-

crying or condemning the bombing of Korea or the bombing of Yalu river power plants. Do you want to have bombing in this country and make Korea of it? I ask that straight question.

Mr. Deputy-Speaker: The hon. Member must ask me.

Dr. N. B. Khare: I believe in idol-worship. It can be transferred to you, Sir, through an idol.

Mr. Deputy-Speaker: Order, order. There should be no reference made to the Chair as a dummy or an idol. The hon. Member is a Parliamentarian. Will he kindly resume his seat? I may remind the hon. Member that there should be no such aspersion cast on the Chair. I am not a dummy here. I only said that the hon. Member must address the Chair.

Dr. N. B. Khare: I stand corrected and I apologise. They say that there are in existence subversive elements in this country which may blossom forth any time into a bloody revolution. Somedays ago we were told by the Finance Minister—he was referring to the Communists—that they may go on stewing in their own juice and there is no likelihood of there being any revolution, in the near or foreseeable future. I want to know what that near future is. I am an ignorant man. I am rather confused. Therefore I am very much surprised to find that the Congress Party which preaches the principle of non-violence and condemned Dyer and O'Dyer is now seeking here authority much worse than that and they call themselves popular. They are not ashamed of doing that and calling themselves popular and want this authority to bomb unarmed masses for the maintenance of their own power, I should say. I say if my friend wants to stay in the company or in the galaxy of such blood-thirsty monsters as Dyer and O'Dyer, I have no objection. He is welcome to do so. And I will say one thing—it is really a humorous personal reference, it should not be misunderstood—I say it in a sense of humour that he is "Katju" which means "to cut Janata into pieces". He wants all power to cut the Janata into pieces) (Interruption). They want this power to establish peace in the country. I am sure if they proceed on these lines, they will succeed in establishing peace in the country alright. But what kind of peace? Not the peace of plenty and happiness but the peace of the graveyard. They will establish that peace. If they want to establish that peace let them do it. But I am fundamentally against it. Therefore, I should think

that instead of hastening with this measure, they should think over it. After all heavens are not going to fall if some delay is made. They should accept either the motion for circulation of the Bill or the motion to refer it to the Select Committee. I hope good sense will even now prevail and the Home Minister will not sit like a sphinx and will come out and accept either of the two motions.

Shri R. G. Dubey (Bijapur North): I rise to support the hon. the Home Minister for introducing this Code of Criminal Procedure (Second Amendment) Bill.

Mr. Deputy-Speaker: Louder please.

Shri R. G. Dubey: I am surprised to note the hue and cry raised by certain Members of the Opposition against a simple Bill that is moved this morning. I have listened very carefully and with due respect to the speeches made by some of the Opposition Members. Dr. Jaisoorya and also my friend Shankar Rao More quoted Chimur and Ashti which remind us of the days of 1942. But Dr. Jaisoorya gave only one side of the picture. He quoted an instance where in the then Government went against the wishes of the people but at the same time he forgot to say what role the Communist Party in India played in those days, when the people of India were fighting for the liberation of the country under Mahatma Gandhi whom they considered as a counter-revolutionary, never believed in revolution and at that time they were trying to support the alien Government to retain power. I was surprised at Dr. Syama Prasad Mookerjee, for whom I have great respect and I am not prepared to consider the arguments made by him in the light of what others have said. But he asked one question whether there is any justification for bringing forward a Bill of this nature. But may I ask him: What was happening in Calcutta—Calcutta which is one of the principal towns in India? Leave aside the things now. I am glad that Dr. B. C. Roy has been able to maintain a good deal of law and order. But till very recently—the hon. the Home Minister was the Governor of Bengal—the Calcutta city was known for disturbances. Not a day passed when we did not hear of any demonstration or any procession. All sorts of lawless activities were conducted in the city of Calcutta. It is on the border. It is adjoining Pakistan. Our safety depends upon Calcutta and Calcutta is on the shore. In spite of all this I fail to see how Dr. Syama Prasad Mookerjee, a man of an eminent position, should ask

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whether there is any justification for a Bill of this nature.

Dr. S. P. Mookerjee: Was not Calcutta controlled under this existing law?

Shri R. G. Dubey: Then I want to know what about Telengana? I am able to understand Dr. Syama Prasad Mookerjee taking up the cause of law and order or peace. I fail to understand my colleague A. K. Gopalan when he speaks in the name of individual liberties. I would ask him: What is happening in Telengana. I think Prof. Ranga also spoke in the Council of States. . . .

Shri B. Shiva Rao (South Kanara—South): On a point of order. The Congress Party was prevented from referring to these things. May I know whether the Opposition is entitled to more rights than this Party?

Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes): Do you know what happened yesterday?

Mr. Deputy-Speaker: All that the Chair can do is to protect a Member. If he refuses to yield I will insist upon the other Member who wants to interrupt to sit down. But if this gentleman himself yields and sits down what can I do?

Dr. S. P. Mookerjee: But these were answers to questions put to us. They were not interruptions.

Mr. Deputy-Speaker: Anyhow in the interest of peaceful discussion I would request all hon. Members to keep quiet and bear with patience what other hon. Members say unless they are absolutely unparliamentary. They will have their own turn. Therefore there need be no interruptions. The hon. Member need not yield if he does not want to but if he does I cannot prevent him.

Shri R. G. Dubey: Sir, I was stating what was happening in Telengana. Prof. Ranga correctly pointed out on the floor of the Council of State the other day that there are two Governments in Telengana: One, the Government of the day which is duly constituted, another which holds its administrative sway during the night. What are we to do against the latter Government? If this Government here commits any mistake or acts in a repressive manner there is a forum, this is the supreme forum, where we can come and discuss and there are also courts of law where we can seek

justice. But can we seek justice about acts committed in Telengana? Then what about the move planned by the Communist Party for a countrywide general strike? In all solemnity I want to ask the Communist Party: Have they given up the cult of violence? Have they given up their faith in a bloody revolution? The other day a Punjab Communist friend told me that they have not given up their faith and that if the Communist Party is within this House it is only as a part of the general plan of revolution. I want to ask Dr. Syama Prasad Mookerjee why he wants to associate himself with such people. On the other side there are some friends who are representatives of feudal relics.

Mr. Deputy-Speaker: All that is admitted. There may be a rebellion in which case the military can be called out. The question is whether the Army is not enough to meet the situation. Is it the hon. Member's contention that Telengana is a hilly tract and unless the Air Force is used the situation cannot be brought under control? That is the simple point.

Shri R. G. Dubey: I was only pointing out that there are some parties in this country, be it the Communists or any communal sections, and there are circumstances obtaining in certain parts of this country which necessitate the enactment of such a measure. It does not mean that if we pass this Bill today immediately the police will use it. Even under the present law the District Magistrate, that is the civil-power, has ample powers to use repression, but I do not see that human liberty has been in jeopardy. What is the objection if the powers are enlarged to provide for emergencies? I do think that there is justification for this. We are often given a sermon saying that people in this country are suffering from poverty and unemployment. My friend, Mr. Gopalan waxed eloquent about the hard conditions prevailing in the country. May I ask him how in China major works are constructed? I understand there major works are constructed through lakhs of people who are made to work entirely on a subsistence allowance—you may not call it a condition of slavery but then they are given only food and clothing. I admire the people's patriotic sense there. But here in this country when people are asked to produce more, then immediately you hear a strike is started and people are asked not to work. So, there is an inconsistency in their argument.

This is an innocent measure, an enabling measure. It is not necessary

that all the laws on the Statute Book should be brought into action and used. Also, it is admitted that in England there is a similar law. The question was asked: Is there any justification for this measure? If the hon. Home Minister considers that circumstances prevail so as to bring the law into operation then it would be used. That I leave to the hon. Home Minister, but all that I can say is that under the present conditions of this country which is passing through the stage of transition and considering the fact that ours is an infant Republic, I think there is justification for us to support the hon. Home Minister in introducing this measure.

Shri T. Subrahmanyam (Bellary): The scope of the Bill is not so extensive that we should debate upon it at very great length. The Criminal Procedure Code was enacted in 1898 and there are provisions in it for the Army to be used to quell disturbances and when the security of the State is in jeopardy. If circumstances necessitate the use of the Army under certain conditions, the same circumstances do necessitate and justify the use of the Navy and the Air Force. After all the towns and villages in our country where the Army, the Air Force or the Navy may be stationed are very very few. The 560,000 villages do not have any units of the Army in them. There are only a few ports, where there is navy, and some particular inland towns where we have the Army and the Air Force. Some hon. Members opposite have been saying that the occasions when the Army has been used during the last four or five years have been almost nil and therefore there is no need to enlarge the present provision so that the use of the Navy and the Air Force may also be brought in. But that is exactly an argument for the extension of the provision to the use of the Navy and the Air Force. The very argument that they try to use against this extension certainly justifies the contention that it should be there. It is simple logic. When the Cr. Procedure Code was enacted there was no Indian Navy or Indian Air Force. A foreign Government was functioning in this country at that time. The Navy and the Air Force came later on.

Dr. Syama Prasad Mookerjee was quoting that under certain conditions even in England the use of Air Force was considered justified, though he said normally people were averse to use it. He also quoted Haldane to show under what circumstances the army should be used. Everybody must agree with what Dr. Mookerjee has said.

Quite true, under normal circumstances the military forces should not be used in aid of the civil power. But when every other means available to the civil power fails the question of the use of the Army comes in, and if the use of the Army is justified or necessitated then under the same conditions where the Army may be useful the Navy or the Air Force also may be useful and its use may be absolutely justified and necessitated.

I do not see any valid ground for the objection taken to this on the other side. Some friends were voicing forth imaginary fears. One friend said these provisions are meant to crush any upsurge of revolutionary activity in this country; another said that this only seeks to introduce *Ravan Raj* and not *Ram Raj*. All such notions are drawn largely from imagination and are absolutely without any basis. They have been quoting at great length, how during the last four or five years when this regime was functioning there was no occasion when the Army was so used and therefore there is absolutely no basis for this extension to the other two Forces. I say that that itself is an argument that there is no fear that the Navy or the Air Force is going to be used. We have enacted a Constitution which gives fundamental rights and utmost civil liberty to the individual, about his person and property, and also about his exercise of the civil rights. We are not afraid that the Opposition or any group in it is going to take over power. They are welcome to take it; there is the utmost freedom, we have got free elections with adult suffrage based on universal, direct, secret ballot. So there need be no apprehension. Today the Opposition contains a chaotic diversity of elements drawn from the extreme right and the extreme left. Any party or group in the opposition is welcome to take power. They can do so only if they have the confidence and support of the people. Otherwise, constitutionally they have every right to take power. But even they cannot say that we should encourage unsocial elements or elements that make her insecurity, disturbance or injury to the life, liberty and freedom of this country. I am sure they would agree that unsocial elements should be quelled and that the security of the State and the safety of the individual should be always protected. Therefore, there is absolutely no question of crushing civil liberties, or introducing *Ravana Rai*. I shall be happy if at the time when any Opposition group comes into power, it will extend the same civil liberty for all people in India. Only if

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that were possible I shall be happy. But people in this country have confidence in us and therefore we shall continue in power for a long time to come.

In my opinion, the conditions which necessitate or justify the use of the Army also justify and necessitate the use of the Navy and the Air Force. This is an innocuous and simple measure and so much heat is not warranted. I suggest that the House should accept this extension and allow the use of the Navy and Air Force in certain circumstances. This is a perfectly reasonable measure and should be supported.

Mr. Deputy-Speaker: I understand that the hon. Minister wants to make a statement so as to clear the ground and place before the House the exact scope of the Bill.

Dr. Khatia: Just two sentences, Sir. I do not want to curtail the debate in any way, but I should like to point out the exact scope of this Bill. In the Statement of Objects and Reasons it is stated: "There may be occasions when units of the other two branches of the Armed Forces may provide military assistance more expeditiously, specially in places where major establishments of the Navy and Armed Forces are located." In one of the sections of the Bill itself, it is stated that the magistrate may require any officer thereof in command of any group of persons belonging to the Armed Forces to disperse such assembly with the help of the Army Forces under his command. Whatever may be the English law, the intention of this Bill is that whenever a magistrate considers it necessary and whenever he finds that groups belonging to the Air Force or the Naval Force are available he may send for them and as my hon. friend Sardar Hukam Singh has put it, he may use them as ground forces for dispersing the assembly before him. There is no question and there was never any intention under this Bill of bombing, of naval blockade or naval bombardment or anything of that type. I said this when I moved the motion for consideration of the Bill and I thought that if with your permission I intervened at this stage, the debate may be properly limited to the scope of the Bill. They are to be used as the ground personnel, as the soldiers of the Indian Army will be. That is all.

Sardar Hukam Singh: But would the present words bear that construction, or is some further clarification required?

Mr. Deputy-Speaker: This is the attitude of the Government. If there is some doubt, they would certainly make the position clear. Already there is an amendment given notice of. In view of this, it is unnecessary to have any further discussion. Even under the Criminal Procedure Code, which we have not repealed, it is open to a magistrate to send for the military if it is close by and if in his opinion the civil force is not adequate; he can call the naval or other forces on the land if perchance they are available. The hon. Minister has clearly said that they will be used just like the soldiers of the Army, that is, using only such force as the Army does and not those specialised weapons which the Navy or Air Force use. They will be doing only such work as the Army will be doing or the soldiers will be doing if they are close at hand. That is the limited scope. If the language is somewhat diffused, it can be made more definite. Barring that, no further discussion is necessary.

Shri S. S. More: If it is a question of interpretation, is the hon. Minister prepared to change the wording?

Mr. Deputy-Speaker: That is understood. The object will certainly be made clear and not left vague and indefinite.

Shri Bhagwat Jha (Purnea cum Santal Parganas): This pious intention of the hon. Minister may be interpreted otherwise. Therefore, it should be made clear by some amendment by the Government itself.

Mr. Deputy-Speaker: There are amendments already. After all, we are not bound down by the language. Language must be subordinate to our intention, and the intention has been made clear. In view of this, I shall now call upon the hon. Minister to reply.

Dr. N. B. Khare: What about the interpretation put upon this Bill by my hon. friend of the Congress Party who spoke just now?

Mr. Deputy-Speaker: The Minister has no intention to allow such an interpretation to be put and if the language is capable of being so interpreted, he is prepared to modify the language.

Shri H. N. Mukerjee (Calcutta North-East): Will you permit me, Sir, to submit a point which perhaps you overlooked? The hon. Minister, in spite of what he has said just now, intends to have at the disposal of the civil autho-

rities a very much more substantial number of Armed Forces in order to quell possible civil disturbances. This is a matter of principle which gives rise to all kinds of fears.

Mr. Deputy-Speaker: Does the hon. Member suggest the employment of inadequate personnel to quell the disturbances? Quelling the disturbances is the primary object. If the police force is not sufficient, they will go to the Army. If that is not sufficient, or is not available, they will go to the Navy or the Air Force, but the latter would only perform such functions as the Army personnel do. I am not therefore able to follow whether the hon. Member wants beating of the snake without allowing it to die.

- **Shri H. N. Mukerjee:** This seemingly innocent suggestion is fraught with so much danger to the life and liberty of the community that the matter needs further discussion.

Shri Raghavaiah (Ongole): May I point out that I had an interview with the Chair and I was promised a chance to speak. So far I have not been able to catch your eye and I want to say a few words.

Shri Nambiar (Mayuram): Let me continue. Sir, I have got a different understanding of the thing.

Mr. Deputy-Speaker: Order, order. He only stood up. I did not call upon him. I shall allow a few more Members to speak. Mr. Raghavaiah.

Shri R. K. Chaudhury (Gauhati): Before that, on a point of information may I ask the hon. Minister whether I am right in assuming that the aircrafts will be only used for carrying Armed Forces who need not necessarily be members of the Air Force? These people will get down on the ground and quell the disturbances. Is that so?

Mr. Deputy-Speaker: Before Mr. Raghavaiah makes his speech, I would like to say that I am not allowing further discussion merely for the purpose of hearing arguments. I shall see whether there are any new points, and if there is no new argument and nothing to clarify, I shall call upon the hon. Minister.

Dr. Jaisoorya: May I ask one question?

Mr. Deputy-Speaker: Later on. Now, Mr. Raghavaiah may speak.

Shri Raghavaiah: The hon. Minister in his introductory speech said that it would be decent and good if every hon.

Member would go through the ten lines stating the objects and reasons of this Bill. I have tried to go through these ten lines with the attention they deserve. It is said that this power is being taken for the "purpose of dispersal of any unlawful assembly". I would just like to make a point on this unlawful assembly. My question is: how can there be an unlawful assembly? Does an unlawful assembly exist? Of course, an assembly is considered unlawful because you have got a law that justifies your action. But the purpose of a law is also tested from the point of the needs of the people, the demands of the people, the justness, the morality and the modesty of their demands.

Mr. Deputy-Speaker: The hon. Member is going into fundamentals. The point made by the hon. Member is no doubt interesting but in the present case the existence of an unlawful assembly is assumed. An unlawful assembly is defined in the Penal Code. The only question for consideration is how it is to be quelled—whether the present provision is enough or whether it is necessary to empower the magistrate to requisition the help of the Air Force and the Navy. With respect to that a fear was expressed that the Air Force would be used for bombing of the civilian population from the air. It was on the other hand pointed out that the Air Force, whose help is requisitioned would only do the work done by the Army and none other. Their help is taken only because the army is not readily available. The matter is quite simple and I am not going to allow any further discussion, unless it is relevant to the point at issue.

Dr. S. P. Mookerjee: There is another important point which the hon. Minister did not touch upon—that is demand for an enquiry. If any shooting takes place, there should be an enquiry. There is an amendment to that effect. No reply has been given.

Mr. Deputy-Speaker: The hon. Minister will perhaps deal with it in his reply.

Shri Raghavaiah: I hope I will be exempted from this mathematical stipulation relating to the course of my speech.

Mr. Deputy-Speaker: Absolutely not. The Chair is entitled to say that what the hon. member said is not relevant. He must assume that there is an unlawful assembly. The question that arises is if the Army is not immediately available, can the assistance of the Navy and the Air Force be taken. That

[Mr. Deputy-Speaker]

is the limited scope of the Bill. Hon. Members may certainly have their own ideas. He will please reserve them for a future occasion.

Shri Raghavaiah: With all respect to your ruling, Sir. I shall reserve my ideas for an occasion which is going to arise when the discussion of the Preventive Detention Bill is taken up.

Mr. Deputy-Speaker: The Chair also reserves the right to find out then whether it is relevant or not.

Shri Raghavaiah: Sir, I shall restrict myself to the two points mentioned by you, namely, the need for calling the Navy and Air Force and how it endangers the public tranquillity and peace.

The hon. Minister for Home Affairs has stated in the Statement of Objects and Reasons that for the dispersal of an unlawful assembly, the need for calling the Air Force and Navy is required. I shall just illustrate this. Tomorrow there is very likely going to be a no-tax campaign in Andhra as has been given out in the statement of Swami Sitaram, a staunch Gandhi-ite, whose patriotism to this country cannot be questioned and who is second to none of us in this House, in his sacrifice.

An. Hon. Member: I do not think so.

Shri Raghavaiah: Supposing tomorrow an assembly of persons agitating for the creation of an Andhra province have got to be dispersed, for which the use of police force alone is not considered to be sufficient; and the help of the Navy and Air Force is considered necessary. Well, this is a matter which relates to the interpretation of a provision in an Act, by a single person, the Magistrate.

Now the term unlawful assembly—I am not going to deal with it in detail—so very elastic, so ambiguous, that it can be interpreted by seasoned lawyers and advocates like my hon. friend the Home Minister in any way they please. Especially in a country like ours, with so many problems from food to Andhra province, which are on the face of it modest and whose justness cannot be questioned by anyone, such occasions may arise very often, particularly at a time when such issues are moving even innocent persons from illiterate to intellectual. This term unlawful assembly can be interpreted by the hon. Minister and advocates in any way they please.

Pandit K. C. Sharma (Meerut Distt—South): May I interrupt by hon. friend to tell him that the term 'unlawful assembly' is clearly defined in law.

Mr. Deputy-Speaker: I am sorry I have to intervene. Hon. Members will please bear in mind one or two points—not that I want to cut short the discussion

The existing law is this. If an unlawful assembly is there and if there is need to disperse it, the Army may be requisitioned. It is already in the provision in the Statute Book. Whether this Bill is there or not, unless there is a repealing Act, that cannot be interfered with. The question for consideration is if an emergency arises and the necessity arises for calling in aid, can the Navy and the Air force be requisitioned? What is the object of going into the definition of an unlawful assembly and other things. The only point for consideration is, if there is no Army, notwithstanding there is an unlawful assembly, notwithstanding there is need to disperse it, notwithstanding that the police are inadequate, notwithstanding the emergency to call for aid, merely because the Army is not there, but the Air Force is ready to quell, are the authorities to be merely looking on. That is the only point for consideration. It is a very simple point. If any hon. Member goes beyond it I am afraid I will have to ask him not to digress.

Shri R. R. Chaudhury: Sir, the point is whether the sailors and airmen will fight from the land and whether they will come down to the land.

Shri S. S. More: Can we not say—of course I do not want to go into the fundamentals—but can we not say that the decision that a particular assembly has become 'unlawful' comes from a single soul, a magistrate; he is likely to commit a mistake; and if further powers are given, further mischief would arise?

Mr. Deputy-Speaker: There is no question of further powers. The hon. Member is making a mistake. It is open to the magistrate under the existing law, whether he is a small magistrate or a high-powered magistrate, to call in requisition the army. Then, at that stage, when the Army is not available, he will call in requisition the Air Force. That is the point. There is nothing more to argue in this matter.

Shri Velayudhan: Is there, not a difference between a police charge and a bombardment?

Mr. Deputy-Speaker: That is another matter. The Air Force will do only what the Army does.

Now the hon. Member will go on and I will ask him to stop whenever I find If his speech is irrelevant I have stated the general principles. Hereafter I am not going to argue.

Shri Raghavaiah: Sir, I shall accept what you have stated just now, every interpretation and all that the statement of objects and reasons implies and all that Chapter IX implies. I accept all those assumptions, because a world has got to be assumed. That world exists. Unfortunately such an unhappy world of assumption exists because there is a rule of the rod and not a rule of law. Having assumed all that I will come to this point. The hon. Minister in his speech says: "Is it your suggestion that the aid which may be requisitioned by a magistrate should be limited to the soldiers of the army who today are armed in a variety of ways?.....etc." in his own speech the hon. Minister definitely and clearly agrees that the Army today is armed in a variety of ways—from rifles, pistols, etc. to sten-guns, bren-guns, machine-guns, automatic revolvers and all these things. When they are armed with all these most up-to-date, highly equipped mechanized, and destructive weapons, I do not understand, and neither does it strike even the most illiterate or common man, why the Air Force and the Navy should be called upon to quell any such situation or to disperse an 'unlawful' assembly—when he himself has clearly admitted that the Army is armed today in a variety of ways. The people are not armed. After all, the hon. Minister knows very well, having been a participant in the Independence struggle, that the people may be armed only with sticks or things like that, whereas the Army, on his own admission, is armed in a variety of ways. So, on the face of it, his very argument shows that the necessity for calling the Air Force and the Navy does not exist today—because the Army is armed in a variety of ways and they can quell disturbances at any moment in anyway. With such destructive weapons like the machine-gun or something like that—I do not know the exact description of these weapons—even one single soldier can quell any disturbance. Then what earthly necessity exists for calling the Air Force and the Navy? How meaningless it looks on the very face of it, I leave to the hon. Minister and this respectful

House to think and decide for themselves.

There is another point to which I would like to refer. In his speech the hon. Minister says: "Now, the Bill is a short one. It can be disposed of here. Either pass it or reject it; finished. What is the use of troubling and wasting good paper and good ink by circulating it for public opinion?" I respectfully and humbly suggest through you, Sir, to the hon. Minister that good ink and good paper have got to be spent, not wasted as he says in his speech. The ink and paper are good because.....

Mr. Deputy-Speaker: There are other hon. Members anxious to speak. Many things are said in the course of arguments in a speech. The hon. Member may address himself to the point as to how he supports the motion for circulation, instead of expatiating on the pen and ink.

Shri Raghavaiah: I will take only two minutes, Sir. The ink and paper are good and their goodness can only exist when they are used in a struggle to defend justice against such wrong Bills which, on their very face and as the speech of the hon. Minister himself shows, do not require to be introduced in this House, because the Army is armed in a variety of ways.

I do not understand why the hon. Minister should shirk or be afraid of receiving the opinion of the public, both from the press and the platform. We are living in a democratic country and ours is a 'pure and simple democracy' as the hon. Minister himself has so many times expatiated upon. Then why is he afraid of receiving public opinion and getting good ink and good paper spent for a criticism of this Bill? I do not understand.

Another point to which I would like to draw the attention of the House is this. (*Interruption*).

Shri Velayudhan: Why this restlessness on the other side?

Mr. Deputy-Speaker: Order, order.

Shri Raghavaiah: The hon. Minister says: "This is a plain-sailing Bill and requires very short consideration, and it may be taken into consideration at once and passed". Very good. It is honeyed, sweet language. It is true that it is a 'plain-sailing' Bill, because you have got a sweeping majority. It will sail most plainly, without any trouble, storm or stress!

Mr. Deputy-Speaker: By all means hon. Members can go on just making humorous speeches. There is no harm. But the simple point here is that, *prima facie*, a motion for circulation for eliciting public opinion is a dilatory motion as against a motion for consideration.

Shri Velayudhan: It is not dilatory, Sir.

Mr. Deputy-Speaker: The hon. Member may keep his soul in patience. Therefore, hon. Members who move this motion or support it should place before the House as to what points will be elicited by sending it for public opinion. The hon. Minister says "It is a simple Bill, I am adding one more category". It is open to hon. Members to say that there is a lot of public opinion on this, that these are the points on which public opinion may be elicited and so on, instead of merely saying they have got a majority etc. How is it going to convince the House? I am only appealing to hon. Members. There are a number of hon. Members who want to speak on this Bill. This is a very important Bill. They should point out what is the object that is going to be served by sending it for circulation. They must address themselves to those points. Otherwise it is merely a dilatory motion.

Shri Raghavaiah: Thank you, Sir, for the light you have thrown on this point.

The points on which sufficient light will be thrown both by the public and the Press is the very employment of Air Force and Navy. That is the special point. On that, any amount of criticism will come from the Press and platform also. It is on that point that the hon. Minister is going to receive enough information by circulating it to the public.

Referring to the last point,—I hope I will not be interrupted by hon. Members.....

Mr. Deputy-Speaker: The hon. Member is not making any new point. It is open to the Chair to say either that the hon. Member is repeating what others have said or that he is not adding anything new, but merely just carrying on point after point. The time of the House is very precious. Unless the hon. Member adduces some new points, I will have to ask him to sit down.

Shri Raghavaiah: The hon. Minister expects us to go through not only the

objects and reasons of the Bill, but also, I suppose, to go through his speech that throws enough light on the Bill that has been introduced. Hence I am referring to the speech, as in duty bound I am expected to go through it. I refer to the last point in the speech that has been made by the hon. Minister, and I am in duty bound to refer to this, namely, that the Bill is such a plain-sailing one. When he himself assures us, and he can assure himself that it will certainly get passed, I put this simple question, why should he be disturbed when an amendment has been suggested that it should be circulated to elicit public opinion both from the Press and the platform. So, with all humbleness, I suggest to the hon. Minister and the House to bring enough pressure on the hon. Minister, to understand the justness and rationality that is involved in sending this Bill for eliciting public opinion, and I hope that he, in all fairness, as a seasoned advocate, as a seasoned parliamentarian, and a democrat will allow the Bill to be circulated and.....

Shri Velayudhan: And a bureaucrat.

Shri Raghavaiah:will certainly commend this suggestion to circulate this Bill to elicit public opinion both from the Press and platform, and give sufficient time, at least three or four months, and then get his plain-sailing Bill passed most safely, plain-sailingly and also smashingly, because it can smash and steam-roll the opposition however rational it may be.

बाबू रामनारायण सिंह : उपाध्यक्ष महोदय, आप का दृष्टिपात्र प्राप्त करना बहुत कठिन काम हो गया है, इस वास्ते में बर्च करता हूँ कि आप के दृष्टिपात्र में कोई और विचार नहीं थुसना चाहिये। आप का दृष्टिपात्र अगर शुद्ध रहेगा, तो काम बड़ी सुन्दर रीति से सम्पन्न होगा। अभी गृह मंत्री ने एक व्याख्या की थी, उससे आबजेक्ट्स ऐन्ड रीजन्स (objects and reasons) का विक करते हुए बतलाया कि उन में ऐसी कोई बात है जिस का मतलब है कि अल सेना और गगन सेना अगर

बल सेना की तरह आयेंगी तो काम करेगी । यह जो आबजेक्टस् ऐन्ड रीजन्स् की बात कही जाती है, तो सभापति महोदय, यह आबजेक्टस् ऐन्ड रीजन्स् कच्छहरियों और अधिकारियों के पास तो रहेंगे नहीं, उन के पास तो जो हम धारा पास कर रहे हैं वह रहेगी, इसलिये यहां पर उस एक्ट (Act) के आबजेक्टस् और रीजन्स् की दुहाई देना बिल्कुल गलत बात है और इस तरह ये लोगों को धोखा देना चाहते हैं । यहां तो सीधा सादा प्रश्न यह उठता है कि इस विधेयक को और इस धारा और सेक्शन को कानून का रूप आप देते हैं या इस के वर्तमान रूप में कोई आप दूसरा सुधार पेश करना चाहते हैं, या इसको आप सिलेक्ट कमेटी (Select Committee) में भेज रहे हैं, इस सम्बन्ध में आप को कुछ कहना और बतलाना चाहिये था, लेकिन आप एस्स और आबजेक्टस् की बातें करके लोगों को धोखे में ढालना चाहते हैं ।

उपाध्यक्ष महोदय, एक दूसरी बात जो मैं कहना चाहता हूँ वह यह है कि जैसा काट्टर काट्जू ने कहा कि यह बिल (Bill) बड़ा निदोष है, तो अस्ल में बात यह है कि काट्जू साहब ने अपनी जिन्दगी बिताई है कच्छहरी में और कोर्ट (court) में ।

12 NOON

गृहकार्य तथा राज्य मंत्री (डा० काट्जू) : नहीं बिताई, बहुत असें से मैं ने उस को छोड़ दिया है ।

बाबू रामनारायण सिंह : लेकिन यहां बहुत बार कहा करते हैं कि कच्छहरियों में जिन्दगी बिताई है, खुद ही आप यह बात कहा करते हैं । यह ठीक बात है कि आप बड़े ही चतुर और कुशल बकील हैं और वहां अलबत्ता जजों, और अदालतों में उन के

सामने अपनी चतुराई दिखा कर झूठ मूठ कह कर और चिकनी चुपड़ी बातें बना कर जज को अपनी राय में ले आते थे और अपने मन की बात कराने में कामयाब हो जाते थे, लेकिन काट्जू साहब और उनके बड़े चेले, पंडित ठाकुरदास भार्गव को मालूम होना चाहिये कि यहां पर कोई एक जज यां सात जजेज (Judges) नहीं हैं, बल्कि यहां पर १२७ जज बैठे हुए हैं और यहां उन की धोखे बड़ी की बात नहीं चलेगी । हम जानते हैं कि कौन आदमी क्या कहता है, सही कहता है अथवा हम को धोखा देने के लिये कहता है ।

उपाध्यक्ष महोदय : हर एक जज अलग अलग जजमेंट (judgments) दे दें ।

Shri A. C. Guha (Santipur) : Are we not also Judges just like the Opposition Members?

बाबू रामनारायण सिंह : नहीं मैं जज हूँ और कुछ नहीं । उपाध्यक्ष महोदय, सरकार जब कोई काम करती है या कोई विधेयक यहां पेश करती है तो उन लोगों को सोचना चाहिये और जानना चाहिये कि इस चीज़ की जरूरत है या नहीं । काट्जू साहब बहुत जबर्दस्त कानूनदां हैं, और थोड़ा बहुत मैं भी जानता हूँ । ला के माने यह नहीं होता है कि काट्जू साहब यहां पर कुछ पेश कर दें इन के साथ इतने लोग हैं, ये बिना समझे बूझे इस के पक्ष में बोट दे देंगे और यह कानून बन जाये । मैं आप से पूछता हूँ कि कानून का अर्थ क्या होता है ? कानून का अर्थ चेम्बर्स डिक्शनरी (Chamber's Dictionary) में इस प्रकार दिया हुआ है :

"Law is nothing but the will of the people expressed in terms of law."

यही तो ला के माने और परिभाषा है कि कानून और कोई चीज़ नहीं है, कानून तो

[बाबू रामनारायण सिंह]

जनता की इच्छा है जिसको कानून का रूप दे दिया जाता है। सीधी बात है कि अगर ये लोग वास्तव में देश के सच्चे प्रतिनिधि हैं या यह देश की सच्ची सरकार हैं तो उनको जा कर जनता से पूछना चाहिये कि उस की इस कानून के सम्बन्ध में क्या राय और इच्छा है।

एक भाषणीय सदस्य : जनता चाहेगी, जनता ने हमें भेजा है।

Shri Bhagwat Jha (Purnea cum Santal Parganas): I am not coming through the back door.

बाबू रामनारायण सिंह : उपाध्यक्ष महोदय, उन लोगों से कह दीजिये कि उन लोगों को हो हल्ला करने की कोई ज़रूरत नहीं है, उन लोगों ने तो अपनी बुद्धि जबाहरलाल जी के हाथों में घरोहर रख दी है, जबाहरलाल नेहरू अगर उन से इस कानून के पक्ष में बोट डालने को कहेंगे तो वे सब अपने बोट उधर डाल देंगे, हल्ला कर के व्यर्थ में यह अपना परिचय क्यों देते हैं?

Pandit K. C. Sharma: That is not in order, Sir. (*Interruptions*).

Mr. Deputy-Speaker: Order, order. It has been constantly held that there ought to be no reflection on the individual judgement of an hon. Member of the House. They may belong to a party as hon. Members belong to various parties here. They take a decision. To say that all their *buddhis* are in the hands of another...

Shri S. S. More: He is referring to the working of the party machine.

Shri Frank Anthony: It is a reflection on the collective wisdom and not individual wisdom.

Mr. Deputy-Speaker: Order, order. Hon. Member is too well aware that it is not as if an individual decides. The decision is taken by the majority in a particular manner. That is another matter. To say that the *buddhis* of these various Members are in the hands of one individual, whoever

it may be, is wrong and it is a reflection on the Members here. It ought not to be said.

बाबू रामनारायण सिंह : सभापति महोदय, मैं ऐसी कोई बात नहीं कहना चाहूँगा जिस से किसी भी भाई को मैं तनिक भी दुःख दूँ। लेकिन यहां पर जब वे लोग बोलते हैं और कहते हैं कि अनइन्टेलीजेन्ट इन्टरप्रेशन (unintelligent interruption) है। अभी मेरे भाई ठाकुरदास जी ने भी कहा था। वह मेरे बहुत दिन के साथी है और कभी कभी यह कहा भी करते थे कि वह मेरे चेले हैं।

उपाध्यक्ष महोदय : इस बात को छोड़िये और सब्जेक्ट मैटर (subject matter) पर आइये।

बाबू रामनारायण सिंह : मैं ने कोई बात छोड़ छाड़ करने के लिये नहीं कही। उन्होंने कहा कि अनइन्टेलीजेन्ट इन्टरप्रेशन है, इस पर मैंने कहा कि भाई मैं तो जानता हूँ कि मेरे भाई ठाकुर दास जी बहुत ही बुद्धिमान आदमी हैं, लेकिन आज तो उन की बुद्धि काम नहीं कर रही है।

पंडित ठाकुर बास भार्गव : मेरे दोस्त बड़े पुराने बकील हैं। 'ए जर्मन सेज आल जर्मन्स आर लायस' (A German says all Germans are liars)।

उपाध्यक्ष महोदय : अच्छा इसको छोड़ दीजिये, आप बिल के बारे में कुछ कहिये।

बाबू रामनारायण सिंह : सभापति महोदय, आप का कहना तो मझे मानना ही होगा। लेकिन एक बात यह है कि बहस में जीवन तब आता है जब जो लोग बोलते हैं उस का जवाब भी दिया जाय।

यह नहीं कि जो कोई जो चाहे बोल के और उस के विरोध में कुछ न कहा जाय।

Mr. Deputy-Speaker: The hon. Member may now come to the subject matter of the Bill.

बाबू रामनारायण सिंह : सभापति महोदय, मैं विषय पर ही हूँ और विषय में कोई बड़ी बात भी नहीं है। यहां पर इस विषेयक के सम्बन्ध में बात बहुत कुछ नहीं है केवल इतना ही है कि अमुक शब्द के बदले अमुक शब्द रखें। चालाकी से एक जगह यह धूसा दिया गया है कि थल सेना के साथ साथ जल सेना और गगन सेना का भी व्यवहार होगा। किस लिये कि जब जनता में कुछ अशान्ति हो तो उस अशान्ति को दूर करने के लिये। अब उपाध्यक्ष महोदय, मैं आप से यहां कहना चाहूँगा कि इस जगह पर सरकार को फिर गौर करना चाहिये कि सरकार है क्या चीज़। वह जनता के सम्बन्ध में यहां पर किस रूप में बैठी हूँ है, शायद काटजू साहब के दिल में भी यह बात उठती होगी कि वे यहां पर जनता के मालिक हैं या सेवक हैं। काटजू साहब को यह तय कर लेना चाहिये कि वह जनता के सेवक हैं या शासक हैं। काम तो वे ऐसे करते हैं जैसे जनता के शासक हों, मालिक हों, हां अगर पूछा जाय तो कह देंगे कि वे जनता के सेवक हैं। मैं आप से पूछता हूँ कि आखिर यह सब क्या बात है। देश में न जाने कितनी सरकारें आई और गई, देश में शान्ति भी रही और अशान्ति भी हुई लेकिन अब तक कभी जल सेना या गगन सेना का व्यवहार नहीं हुआ।

पंडित ए० आर० शास्त्री : (ज़िला आज्ञामगढ़ पूर्व व ज़िला बलिया-पश्चिम) : पहले गगन सेना थी कहां?

बाबू रामनारायण सिंह : क्या अब जनता में ज्यादा गड़बड़ी मच गई या सरकार में ही खराबी आ गई है। यह जानने की बात है। आज गगन सेना और जल सेना के व्यवहार करने की बात कहां से आ जाती है। यह उन्हें विचार करना चाहिये और इस के साथ साथ यह भी उनको विचार करना है कि इस का प्रभाव क्या होगा। मैं तो कहूँगा, उपाध्यक्ष महोदय, कि अब तक आप ने क्या देखा है। हाल ही में गोरखपुर में फ़ार्यारिंग (Firing) हुई। गोली चलाई गई। मैं तो कहूँगा कि अगर यह सरकार हमारे देश के हित के लिये यह सरकार है तो गोली चलाना सदा के लिये बन्द कर दे। किसी हालत में भी गोली नहीं चलानी चाहिये, और जो सरकार गोली चलाने के लिये तैयार हो वह सरकार हमारे देश से दूर हो जाय और हो जानी ही चाहिये। उपाध्यक्ष महोदय, आप ने देखा होगा कि जहां जहां पर गोली चलाई जाती है वहां पर क्या होता है। कहा जाता है कि लोगों को दोषी पाया जाता है जैसा आप के क़ानून में भी दिया हुआ है कि मालूम होता है कि वे लोग हटेंगे नहीं या कभी कभी यह भी कहा जाता है कि किसी ने ढेला चला दिया, किसी ने इंट चला दिया इसलिये गोली चलाई गई। मैं तो कहता हूँ कि जिस सरकार के पास इतनी सामग्री हो, जिस सरकार के पास इतनी शक्ति हो, वह सरकार निरस्त लोगों पर ढेला चलाने के बहाने गोली चला दे यह बहुत लज्जा की बात है। यह इस सरकार के लिये लानत की बात होनी चाहिये कि जनता की सरकार कहलाने पर भी लोगों पर गोली चला दे। कहा जाता है कि यह सरकार बड़ी बहादुर है मगर मैं कहता हूँ कि यह

[बाबू रामनारायण सिंह]

सरकार जरा भी बहादुर नहीं है। अगर बहादुर है तो आर्म्स एक्ट (Arms Act) उठा दिया जाय और जितने लोग हैं सब को हथियार दे दिया जाय जिस का कि उन को हड़ है, तब उस के बाद गोली चलाई जाय तो मैं देखूँ। मेरे कहने का मतलब यह है, उपाध्यक्ष महोदय, कि यह जो बिल (Bill) है जिस के लिये कभी कहा जाता है कि सिलेक्ट कमेटी (Select Committee) को जाना चाहिये, या सर्कुलेशन (circulation) में जाना चाहिये, इस को तो रद कर देना चाहिये। कमेटी (Committee) में इसे क्या भेजना है।

हमारे ठाकुर दास जी ने कहा कि यह विषय ऐसा है कि जिस में पार्टी का विचार नहीं करना चाहिये। उन की बात सुन कर मुझे बड़ी प्रसन्नता हुई। मैं दिल में खुश हुआ कि कांग्रेस पार्टी का सदस्य कह रहा है कि इस को पार्टी (party) का सवाल नहीं बनाना चाहिये। आज कांग्रेस पार्टी के एक सदस्य के मुंह से निकला तो कि इसे पार्टी क्वेश्चन (party question) भत बनाओ। न जाने कब वह दिन आयेगा हमारे लिये कि सब पार्टियां (parties) खल्त होंगी और हम किसी विशेष पार्टी के सदस्य की तरह बात नहीं करेंगे। मैं तो ऐसे समय का स्वागत करूँगा। मैं तो खुश हूँ कि हमारे ठाकुर दास जी आज भी इतना साहस रखते हैं कि कांग्रेस पार्टी में रहते हुए भी ऐसी बात कर सकते हैं। वह दिन सौभाग्य का होगा देश के लिये जब कि यहां पर पार्टीज़ (parties) न हों। उसी दिन देश के लिये स्वराज्य आयेगा, जब लोग किसी पार्टी में न हो कर स्वतंत्र प्रतिनिधि कर यहां बैठेंगे और देश हित की बात करेंगे।

शायद यहां पर कोई दूवे जी हैं। उन्होंने कहा कि तेलंगाना में शायद कोई दूसरी सरकार कायम हो गई, मैं ने पहली दफ़ा उन की इस प्रकार से कहते हुए सुना। उन की सरकार तो वहां है ही, लेकिन कम्यूनिस्ट पार्टी (Communist Party) के लोग भी हैं उनकी भी सरकार हो गई है। अब मैं अपने दिल की बात कहूँ। मैं उन से कहूँगा कि वह तेलंगाना की सरकार से कह दें कि जब वहां पर दूसरी सरकार कायम हो गई है तो वह लोग वहां से चुप चाप हट जायें। जब वहां दूसरी सरकार कायम हो गई तो यह सरकार कौन सा मुंह ले कर वहां ठहरी है। यह बड़े शर्म की बात है, उस के लिये कि जब दूसरी सरकार कायम हो गई तो भी वह वहां बनी रहे। मैं तो कहता हूँ और मेरा दिल कहता है कि दूसरी सरकार कायम हो गई तो मैं उस का स्वागत करता हूँ, मैं तो सारे देश के लिये दूसरी सरकार चाहता हूँ। कोई भी दूसरी सरकार इस से बुरी नहीं होगी। दूसरी सरकार ऐसी कायम हो जिस में न ऐसे विषेयक हों न हम लोगों को इस तरह से बहस करनी पड़े और न इस तरह की चचरी ही चले। इतना कह कर मैं आप से और सभी भाइयों से निवेदन करता हूँ कि इधर उधर की बात जाने दो, अगर यह विषेयक स्वेच्छा नहीं होता है या वापस ले लिया जाता है तो बुरा नहीं है। और उसी बक्त भालूम होगा कि देश की सच्ची सरकार है और देश का भला चाहती है। देश पर कानून पर कानून लादे जाने से तो देश को सताने का प्रबन्ध करना होता है। दो मैं कहता हूँ कि विषेयक को वापस लो। ऐसा नहीं करते हो तो बुरा काम करते हो और देश के प्रतिकूल करते हो।

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to move:

Mr. Deputy-Speaker: The question is:

"That the question be now put."

"That the question be now put."

The House Divided : Ayes, 254 : Noes, 89.

Division No. 8]

AYES

[12. 15 Noon

Abdullah, Mulla	Datar, Shri	Joshi, Shrimati Subhadra
Abdus Sattar, Shri	Dev, Shri S.C.	Jwala Prashad, Shri
Achint Ram, Lala	Desai, Shri K.N.	Kakkan, Shri
Achuthan, Shri	Deshmukh, Shri C.D.	Kale, Shrimati A.
Agarwal, Shri H.L.	Deshmukh, Shri K.G.	Kamble, Shri
Agrawal, Shri M.L.	Deshmukh, Dr. P.S.	Kanungo, Shri
Alagesan, Shri	Deshpande, Shri G.H.	Kailwal, Shri
Altekar, Shri	Dholakia, Shri	Katham, Shri
Alva, Shri Joachim	Dhulekar, Shri	Katju, Dr.
Asthana, Shri	Dhusiya, Shri	Kaushik, Shri
Balasubramaniam, Shri	Dube, Shri Mulchand	Keshavaiengar, Shri
Balmiki, Shri	Dube, Shri U.S.	Khedkar, Shri G.B.
Bansal, Shri	Dubey, Shri R.G.	Khongmen, Shrimati
Barman, Shri	Dutta, Shri S.K.	Kirolikar, Shri
Barupal, Shri	Dwivedi, Shri D.P.	Kolay, Shri
Basappa, Shri	Ebenezer, Dr.	Krishna Chandra, Shri.
Bhakta Darshan, Shri	Elayaperumal, Shri	Krishnamachari, Shri T.T.
Bharati, Shri G. S.	Fotedar, Pandit	Krishnappe, Shri M.V.
Bhargava, Pandit M.B.	Gadgil, Shri	Kureel, Shri B.N.
Bhargava, Pandit Thakur Das	Gandhi, Shri Feroze	Kureel, Shri P.L.
Bhatkar, Shri	Gandhi, Shri M.M.	Lal, Shri R.S.
Bhatt, Shri C.S.	Gandhi, Shri V.B.	Lallanji, Shri
Bheekha Bhai, Shri	Ghosh, Shri A.	Lakshmayya, Shri
Bhonsle, Major-General	Gopi Ram, Shri	Laskar, Prof.
Bidari, Shri	Gounder, Shri K.P.	Lingam, Shri N.M.
Birbal Singh, Shri	Gounder, Shri K.S.	Lotan Ram, Shri
Bogawat, Shri	Govind Das, Seth	Madiah Gowda, Shri
Borooh, Shri	Guha, Shri A.C.	Mahodaya, Shri,
Bose, Shri P.C.	Gupta, Shri Badshah	Mahtab, Shri.
Brajeshwar Prasad, Shri	Hari Mohan, Dr.	Majithia, Sardar
Brohmo-Choudhury, Shri	Hazarika, Shri J.N.	Malaviya, Shri K.D.
Buragohain, Shri	Heda, Shri	Malliah, Shri U.S.
Chacko, Shri P.T.	Hem Raj, Shri	Malviya, Shri B.N.
Chanda, Shri Anil K.	Hembrom, Shri	Malviya, Pandit C.N.
Chandak, Shri	Hyder Husain, Ch.	Mandal, Dr. P.
Chandrasekhar, Shrimati	Ibrahim, Shri	Masuodi, Maulana
Chatterjee, Dr. Susilranjan	Islamuddin, Shri M.	Masuriya Din, Shri
Chaturvedi, Shri	Iyyani, Shri E.	Mathew, Prof.
Chaudhary, Shri G.L.	Iyyunni, Shri C. R.	Mehta, Shri Balwant Sinha
Chaudhury, Shri B.K.	Jagjivan Ram, Shri	Mehta, Shri B.G.
Chavda, Shri	Jain, Shri A.P.	Mishra, Shri Bibhuti
Cettiar, Shri Nagappa	Jain, Shri N.S.	Mishra, Shri L.N.
Chaudhri, Shri N. Shafee	Jangde, Shri	Mishra, Shri M.P.
Dabhi, Shri	Jayashri, Shrimati	Misra, Pandit Lingaraj
Das, Dr. M.M.	Jena, Shri K.C.	Misra, Shri R.D.
Das, Shri B.	Jena, Shri Niranjan	Mohiuddin, Shri
Das, Shri B.K.	Jethan, Shri	Morarka, Shri
Das, Shri Bell Ram	Jha, Shri Bhagwat	More, Shri K.L.
Das, Shri K.K.	Jhunjhunwala, Shri	Mudaliar, Shri C.R.
Das, Shri Ramananda	Joshi, Shri Jethalal	Muthukrishnan, Shri
Das, Shri S.N.	Joshi, Shri M.D.	Nair, Shri C.K.
Das, Shri N.T.	Joshi, Shri N.L.	Namdhari, Shri

Narasimhan, Shri C.R.
 Naikar, Shri P.S.
 Natawadkar, Shri
 Natesan, Shri
 Nathwani, Shri N.P.
 Nehru, Shri Jawaharlal
 Nehru, Shrimati Uma
 Neogi, Shri
 Nijalingappa, Shri
 Pannalal, Shri
 Parikh, Shri S.G.
 Parmar, Shri R.B.
 Patakar, Shri
 Patel, Shri B.K.
 Patel, Shrimati Maiben
 Patil, Bhau Saheb
 Patil, Shri Shankargauda
 Pawar, Shri V.P.
 Prabhakar, Shri N.
 Prasad, Shri H.S.
 Raghubir Sahai, Shri
 Baghuramaiah, Shri
 Raj Bahadur, Shri
 Ram Das, Shri
 Ram Saran, Prof.
 Ramaswamy, Shri P.
 Ranbir Singh, Ch.
 Rane, Shri
 Rao, Shri B. Shiva
 Raut, Shri Bhola
 Reddy, Shri H.S.
 Reddy, Shri Viswanatha
 Roy, Dr. Satyaban

Roy, Shri B.N.
 Rup Narain, Shri
 Sahaya, Shri Syamnandan]
 Sahu, Shri Bhagabat
 Sahu, Shri Rameshwar
 Saigal, Sardar A.S.
 Sakhare, Shri
 Samanta, Shri S.C.
 Sanganna, Shri
 Sankarapandian, Shri
 Sarmah, Shri
 Setiah Chandra, Shri
 Satyawadi, Dr.
 Sen, Shri P.G.
 Sen, Shrimati Sushama
 Seval, Shri A.R.
 Shah, Shri R.B.
 Shah Nawaz Khan, Shri
 Sharma, Pandit Balkrishna
 Sharma, Pandit K.C.
 Sharma, Prof. D.C.
 Sharma, Shri K.B.
 Shivananjappa, Shri
 Shobha Ram, Shri
 Siddhananjappa, Shri
 Singh, Shri H.P.
 Singh, Shri L.J.
 Singh, Shri M.N.
 Singh, Shri T.N.
 Sinha, Dr. S.N.
 Sinha, Shri C.N.P.
 Sinha, Shri G.P.
 Sinha, Shri Jhulan

Sinha, Shri Satya Narayan
 Sinha, Shri Satyendra Narayan
 Sinhasan Singh, Shri
 Snatak, Shri
 Sodha, Shri K.C.
 Somana, Shri N.
 Subrahmanyam, Shri T.
 Swaminathan, Shrimati Ammu
 Tek Chand, Shri
 Telikkar, Shri
 Tewari, Sardar R.B.S.
 Thimmaiah, Shri
 Thomas, Shri A.M.
 Tiwari, Shri V.N.
 Tiwari, Shri R.S.
 Tripathi, Shri K.P.
 Tudu, Shri B.L.
 Ulkey, Shri
 Upadhyay, Shri M.D.
 Upadhyay, Shri Shiva Dayal
 Upadhyaya, Shri S.D.
 Vaishnav, Shri H.G.
 Vaishya, Shri M.B.
 Varma, Shri B.B.
 Varma, Shri B.R.
 Vartak, Shri
 Venkataraman, Shri
 Vidyalankar, Shri
 Vijayalakshmi, Shrimati
 Vishwanath Prasad, Shri
 Wilson, Shri J.N.
 Wodeyar, Shri

NOES

Ajit Singh Shri
 Ajit Singhji, General
 Amjad Ali, Jonah
 Anandchand, Shri
 Anthony, Shri Frank
 Bahadur Singh, Shri
 Banerjee, Shri
 Barrow, Shri
 Basu, Shri K.K.
 Bhawani Singh, Shri
 Biren Dutt, Shri
 Boovaraghassamy, Shri
 Buchhikotaiah, Shri
 Chatterjee, Shri N.C.
 Chatterjee, Shri Tushar
 Chattopadhyaya, Shri
 Chowdhury, Shri N.B.
 Damodaran, Shri N.P.
 Das, Shri B.C.
 Das, Shri Sarangadhar
 Dasaratha Deb, Shri
 Deo, Shri R.N.S.
 Deogam, Shri

Deshpande, Shri V.G.
 Doraswamy, Shri
 Gam Malludora, Shri
 Girdhari Bhol, Shri
 Gopalan, Shri A.K.
 Gurupadaswamy, Shri
 Hukam Singh, Sardar
 Jaisoorya, Dr.
 Jawant Raj, Shri
 Jayaraman, Shri
 Jena, Shri Lakshmidhar
 Kandasamy, Shri
 Kelappan, Shri
 Khare, Dr. N.B.
 Krishna, Shri M.R.
 Krishnaswami, Dr.
 Lal Singh, Sardar
 Mangalagiri, Shri
 Menon, Shri Damodara
 Mishra, Pandit S.C.
 Missir, Shri V.
 Mookeerje, Dr. S.P.

Mukerjee, Shri H.N.
 More, Shri S.S.
 Muchakl Kosa, Shri
 Murthy, Shri B.S.
 Mushar, Shri
 Naidu, Shri N.R.
 Nambiar, Shri
 Nathani, Shri H.B.
 Nosamony, Shri
 Punnose, Shri
 Raghavachari, Shri
 Baghavalah, Shri
 Ramnarayan Singh Baba
 Randaman Singh, Shri
 Rao, Dr. Rama
 Rao, Shri Gopal
 Rao, Shri K.S.
 Rao, Shri P.B.
 Rao, Shri Mohana
 Rao, Shri Vittal
 Reddi, Shri Madhao
 Reddi, Shri Ramachandra

Beddy, Shri Eswara

Bishang Keishing, Shri

Saha, Shri Meghnad

Shah, Shrimati Kamlesh Mati

Shakuntala, Shrimati

Sharma, Shri Nand Lal

Bastri, Shri B.D.

Singh, Shri C. Sharan

Singh, Shri G.S.

Singh, Shri R.N.

Soren, Shri

Subrahmanyam, Shri K.

Sunderam, Dr. Lanke

Swami, Shri Sivamorathi

Swamy, Shri N.R.M.

Tiwari, Pandit B.L.

Trivedi, Shri U.M.

Vallatharus, Shri

Veeraswami, Shri

Velayudhan, Shri

Verma, Shri Ramji

Waghmare, Shri

The motion was adopted.

Shri V. G. Deshpande (Guna): Sir, on a point of order.....

Mr. Deputy-Speaker: There is no point of order at this stage.

Shri V. G. Deshpande: Sir, this point of order is one bearing on the 'division' itself. An hon. Member who had voted with the 'Noes' approached the authorities and got his name erased from the 'Noes' list and instead had it included in the 'Ayes' List.

Mr. Deputy-Speaker: That hon. Member had made a mistake and he had therefore got it corrected. If the hon. Member makes a mistake and wants to have it corrected before the result of the Division is announced, I shall get it done.

Dr. Katju: We have had a very long debate and much ado about nothing, and a mountain made out of a molehill. I said from the very beginning that the object of this Bill was a very short one, namely, to make available to a magistrate whenever any contingency arose, the help in addition to the Army personnel of the personnel of the Navy and the Air Force.

The House knows that in the Naval Forces, there are naval detachments, people who are trained, disciplined. Similarly in the Air Force, apart from pilots, there are ground forces who are employed for various purposes on ground. Now, this Bill deals with a very small specific matter, namely, unlawful assemblies and dispersal of unlawful assemblies. One chapter of the Criminal Procedure Code deals with it. It does not deal with a commotion or, shall I say, a rebellion or general disturbances all over the country. It pictures to itself one unlawful assembly and the necessity for dealing with that unlawful assembly. One hon. Member read before you the whole of this Chapter. It covers the procedure stage by stage. It is for the Magistrate to see that public order should be maintained and there should be no

disturbance. So when he notices an unlawful assembly, he proceeds and directs it to disperse. If that order is carried out, well and good. If it is not carried out, then he uses such means as may be available to him, namely the civil police. Now we have got the Armed Constabulary Police. And then, one section says that if the magistrate comes to the conclusion that with the force at his disposal he cannot proceed to disperse the assembly and it is necessary that it should be dispersed, then it gives him power to requisition assistance from the Armed Forces. It was limited so far only to one branch of our Armed Forces. We say this, and it is clearly mentioned in the Statement of Objects and Reasons: supposing there is no Army, no troops available, no cantonment available there, and there may be an aerodrome where there may be 30 or 40 or 50 persons, and the disturbance is near about, the magistrate might send for these persons and ask them to come over and assist him. Similarly, supposing there is a disturbance near a port, near a seaport town—say Vizagapatam, Kandla, anywhere, it does not matter—then he says to the Naval Force: "Will you please come and assist me in putting down the disturbance?" That was the only object. I do not want to be disrespectful to the hon. Members opposite, but we have been hearing speeches as if the heavens were going to fall and the Ministry and the Members here were determined to bomb civilians. Yalu was mentioned and goodness knows what other places were mentioned. This was a simple Bill before you. And in this connection please remember it is an amending Bill and the object is a simple one, namely—the armed forces include those branches which have now come into existence. In 1898 there was no Naval Force in India, and there was no Air Force in India. You are now 50 years later mentioning that. In between we have long speeches about Gorakhpur firing, about firing in Calcutta, the necessity for making inquiry, the necessity for

[Dr. Katju]

holding inquests. Then there were long discourses on public liberties and civic liberties and what not. All that I respectfully submit to you, is completely out of order, completely out of the range of this Bill and cannot be dealt with here.

Shri Frank Anthony: May I interrupt the hon. Minister, Sir? I did not speak of this. It was one of his not unintelligent lawyers who made it clear that his interpretation of this was that aeroplanes could be invoked to bomb civilians.

Dr. Katju: That may arise under a different Bill. I am very glad to see that Mr. Anthony is sitting in very good company over there. (Interruption.) I have made it perfectly clear already.

Most of the speeches which were delivered were completely off the point, and most of the amendments which have been given notice of are off the point.

Shri S. S. More: May I know why the hon. Minister did not contradict the hon. Pandit Bhargava and the other Members when they were pleading?

Dr. Katju: The hon. Member had better deal with them in the lobby and discuss the matter with them. They are all entitled to hold their opinions.

It may be necessary. There may be general excitement and commotion. I do not know what may happen and what may not happen. But so far as this Bill is concerned, it deals with Chapter IX, with one particular question—unlawful assembly; and the question is: how is it to be dispersed by the magistrate?

Then there are several questions raised. I do not want to take up your time. I oppose this motion. There is really no need for circulating the Bill or for taking any of the steps suggested. I thought the Bill could be got through within five minutes, but I was rather mistaken. I am rather new to this House, and new to this Opposition.

Dr. S. P. Mukerjee: It was suggested that there was need to make the intention clear in the Bill itself, viz., that Air Force and Navy personnel will be used only for land operations.

Dr. Katju: I stated at the opening of my speech when I moved for consideration, and I, with your permission, intervened in the debate and said that so far as this is concerned, it is

absolutely clear from the language of the Bill, and, if necessary, it can be made still clearer. There is no other object in view so far as this Bill is concerned.

Dr. Lanka Sundaram (Visakhapatnam): Would you accept Sardar Hukam Singh's amendment?

Mr. Deputy-Speaker: We shall deal with the amendments later. There is no need to anticipate them.

Shri H. N. Mukerjee: The hon. Minister has made a suggestion which needs clarification at this stage, because naturally no amendments were tabled on that point. The hon. Minister said...

Mr. Deputy-Speaker: I am on the simple question whether this Bill has to be sent for circulation or not. When we go to the clauses, there is enough time for hon. Members to make submissions on the various clauses. Now I will put the question.

Dr. Jaisoorya: It would be better if we had a clarification of one point now, and it would save time: May I ask for a definition of the word "airman"?

Dr. Katju: So far as this Bill is concerned, any one who is employed in the Air Forces.

Dr. Jaisoorya: Ground personnel are not known as airmen.

Dr. Katju: If a pilot is on the ground, and if he is called in to assist in the maintenance of order, he will do it—not from the air, but from the ground. (Interruption.)

Mr. Deputy-Speaker: It is not a matter of question and answer now. The hon. Member may have his own views, and the opinion of the hon. Minister may be different.

Shri S. S. More rose—

Mr. Deputy-Speaker: I am not going to allow any more discussion.

Dr. N. B. Khare: What about an air hostess?

Mr. Deputy-Speaker: I am putting Shri Velayudhan's amendment to the House. The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon."

Mr. Deputy-Speaker: Noes have it.

Hon. Members: Ayes have it.

Mr. Deputy-Speaker: We had a division just now with respect to the closure motion. Rule 266(3) says:

"If the opinion of the Speaker as to the decision of a question is challenged, he may, if he thinks fit ask the members who are for 'Aye' and those for 'No' respectively to rise in their places and on a count being taken, he may declare the determination of the House. In such a case, the names of the voters shall not be recorded."

I do not adopt any other course than asking hon. Members to rise in their seats.

An Hon. Member: We want the names to be recorded.

Mr. Deputy-Speaker: It is not open to Members to have the names recorded. Under sub-rule (4) of rule 266 if the Speaker's opinion as to the decision is challenged and he does not adopt the course provided for in sub-rule (3), then he will order a division and Members will go to the right and the left. I do not think that in this matter there is any need to record the

names of any Members. I will merely count their number.

Shri S. S. More: May I ask what interpretation you put on sub-rule (4)?

Mr. Deputy-Speaker: I adopt the course provided for in sub-rule (3). I am going to ask hon. Members to rise in their seats. Those hon. Members who are in favour of the Motion will kindly rise in their seats. There are 82 for the Ayes. There is a preponderatingly large number for the Noes.

Opposition Members: Count.

Mr. Deputy-Speaker: Order, order. I am not bound to count. It is for me to decide whether the motion is carried or not. Anyhow I will count now. I will not count hereafter. I have counted upto 95 for the Noes. I need not count further.

The motion was negatived.

Mr. Deputy-Speaker: Now I will put the motion for consideration to the vote of the House.

The question is:

"That the Bill be taken into consideration."

The House Divided. Ayes, 262 Noes, 88

Division No. 9)

Abdullahai, Mulla
Abdus Sattar, Shri
Achint Ram, Lala
Achuthan, Shri
Agarawal, Shri H.L.
Agrawal, Shri M.L.
Alageean, Shri
Altekar, Shri
Alva, Shri Joachim
Asthana, Shri
Bajeebrahmanian, Shri
Balram Shri.
Bansal, Shri
Barman, Shri
Barupal, Shri
Bassappa, Shri
Bhakta Darshan, Shri
Bharati, Shri G.S.
Bhargava, Pandit M.R.
Bhargava, Pandit Thakur Das
Bhatkar Shri
Bhatt, Shri C.S.
Bhekha Bhai, Shri
Bhomale, Major-General
Bidari, Shri
Birbal Singh, Shri
Bogawat, Shri
Boroosah, Shri

AYES

Bose, Shri P.C.
Brajeshwar Prashad, Shri
Brohmo-Choudhury, Shri
Buragohain, Shri
Chacko, Shri P.T.
Chanda, Shri Anil K.
Chandak, Shri
Chandrasekhar, Shrimati
Chatterjee, Dr. Susilranjan
Chaturvdi, Shri
Chaudhary, Shri G.L.
Chaudhury, Shri R.K.
Chavda, Shri
Chettiar, Shri Nagappa
Chaudhri, Shri M. Shaffee
Dabhi, Shri
Damai, Shri
Das, Dr. M.M.
Das, Shri B.
Das, Shri B. K.
Das, Shri Bell Ram
Das, Shri K.K.
Das, Shri Ramanande
Das, Shri S.N.
Das, Shri N.T.
Datar, Shri
Deb, Shri S. C.

Desai, Shri K.N.
Deshmukh, Shri C.D.
Deshmukh, Shri K.G.
Deshmukh, Dr. P.S.
Dehpande, Shri G.H.
Dholakia, Shri
Dholekar, Shri
Dhusiya, Shri
Dube, Shri Mulchand
Dube, Shri U.S.
Dubey, Shri R.G.
Dutta, Shri S.K.
Dwivedi, Shri D.P.
Ebanezer, Dr.
Elayaperumal, Shri
Fotedar, Pandit
Gadgil, Shri
Gandhi, Shri Feroze
Gandhi, Shri M.M.
Gan
Ghosh, Shri A
Gopi Ram, Shri
Gounder, Shri K.P.
Gounder, Shri K.S.
Govind Das, Seth
Guha, Shri A.C.
Gupta, Shri Badshah

Hari Mohan, Dr.
 Hazarika, Shri J.N.
 Heda, Shri
 Hem Raj, Shri
 Hembrom, Shri
 Hyder Hussain, Ch.
 Ibrahim, Shri
 Islamuddin, Shri M.
 Iyyani, Shri E.
 Iyyunni, Shri C.R.
 Jagjivan Ram, Shri
 Jain, Shri A.P.
 Jain, Shri N.S.
 Jangde, Shri
 Jayashri, Shrimati
 Jena, Shri K.C.
 Jena, Shri Niranjan
 Jethan, Shri
 Jha, Shri Bhagwat
 Jhumjhunwala, Shri
 Joshi, Shri Jethalal
 Joshi, Shri Liladhar
 Joshi, Shri M.D.
 Joshi, Shri N.L.
 Joshi, Shrimati Subhadra
 Jwala Prashad, Shri
 Kakkan, Shri
 Kale, Shrimati A.
 Kanungo, Shri
 Kasliwal, Shri
 Katham, Shri
 Katju, Dr.
 Kaushik, Shri
 Keshavaiengar, Shri
 Khedkar, Shri G.B.
 Khongmen, Shrimati
 Kirolikar, Shri
 Kolay, Shri
 Krishna Chandra, Shri
 Krishnamachari, Shri T.T.
 Krishnappa, Shri M.V.
 Kureel, Shri B.N.
 Kureel, Shri P.L.
 Lal, Shri B.S.
 Lallanji, Shri
 Lakshmayya, Shri
 Laskar, Prof.
 Lingam, Shri N.M.
 Lotan Ram, Shri
 Madiah Gowda, Shri
 Mahodaya, Shri
 Mahtab, Shri.
 Majithia, Sardar
 Malaviya, Shri K.D.
 Malliah, Shri U.S.
 Malvia, Shri B.N.
 Malviya, Pandit C.N.
 Mandal, Dr. P.
 Mastodi, Maulana
 Masuriya Din, Shri

Mathew, Prof.
 Mehta, Shri Balwant Singh
 Mehta, Shri B.G.
 Mishra, Shri Bibhuti
 Mishra, Shri L.N.
 Mishra, Shri Lokenath
 Mishra, Shri M.P.
 Mishra, Shri S. N.
 Mira, Pandit Lingraj
 Mira, Shri R.D.
 Mohiuddin, Shri
 Morarka, Shri
 More, Shri K.L.
 Mudaliar, Shri C.R.
 Mumafri, Giani G.S.
 Methukrishnan, Shri
 Nair, Shri C.K.
 Namdhari, Shri
 Narastmhen, Shri C.R.
 Naskar, Shri P.S.
 Natawadkar, Shri
 Natesan, Shri
 Nathwani, Shri N.P.
 Nehru, Shri Jawaharlal
 Nehru, Shrimati Uma
 Nijalingappa, Shri
 Pannalal, Shri
 Pant, Shri D.D.
 Parikh, Shri S.G.
 Parmar, Shri R.B.
 Pataskar, Shri
 Patel, Shri B.K.
 Patel, Shrimati Maniben
 Patil, Bhau Saheb
 Patil, Shri Shankargauda
 Pawar, Shri V.P.
 Prabhakar, Shri N.
 Prasad, Shri H.S.
 Raghbir Sahal, Shri
 Raghubrimalah, Shri
 Raj Bahadur, Shri
 Ram Das, Shri
 Ram Saran, Prof.
 Ramaswamy, Shri P.
 Ranbir Singh, Ch.
 Rane, Shri
 Rao, Shri B. Shiva
 Raut, Shri Bhola
 Reddy, Shri H.S.
 Reddy, Shri Viswanatha
 Roy, Dr Satyaban
 Roy, Shri B. N.
 Rup Narain, Shri
 Sahaya, Shri Syamnandan
 Sahu, Shri Bhagabat
 Sahu, Shri Rameshwar
 Saigal, Sardar A.S.
 Sakhare, Shri
 Samanta, Shri S.C.
 Sanganna, Shri

Bankarapandian, Shri
 Sarmah, Shri
 Satish Chandra, Shri
 Satyawadi, Dr.
 Sen, Shri P.G.
 Sen, Shrimati Sushama
 Sewal, Shri A.R.
 Shah, Shri R.B.
 Shahnewaz Khan, Shri
 Sharma, Pandit Balkrishna
 Sharma, Pandit K.C.
 Sharma, Prof. D.C.
 Sharma, Shri K.R.
 Sharma, Shri R.C.
 Shastry, Pandit A.R.
 Shivananjappa, Shri
 Shobha Ram, Shri
 Sidhananjappa, Shri
 Singh, Shri H.P.
 Singh, Shri L.J.
 Singh, Shri M.N.
 Singh, Shri T.N.
 Sinha, Dr. S.N.
 Sinha, Shri C.N.P.
 Sinha, Shri G.P.
 Sinha, Shri Jhulan
 Sinha, Shri Satya Narayan
 Sinha, Shri Satyendra Narayan
 Sinhasan Singh, Shri
 Smatak, Shri
 Sodha, Shri K.C.
 Somana, Shri N.
 Subrahmanyam, Shri T.
 Swaminadhan, Shrimati Anmu
 Syed Ahmed, Shri
 Tek Chand, Shri
 Telkikar, Shri
 Tewari, Sardar R.B.S.
 Thimmalash, Shri
 Thomas, Shri A.M.
 Tiwari, Shri V.N.
 Tiwari, Shri R.S.
 Tripathi, Shri K.P.
 Tudu, Shri B.L.
 Ulkey, Shri
 Upadhyay, Shri M.D.
 Upadhyay, Shri Shiva Dayat
 Upadhyaya, Shri S.D.
 Vaishnav, Shri H.G.
 Vaishya, Shri M.B.
 Varma, Shri B.B.
 Varma, Shri B.B.
 Vartak, Shri
 Venkataraman, Shri

Vidyalankar, Shri
Vijaya Lakshmi, Shrimati

Vishwanath Prasad, Shri
Vyas, Shri Radheesh

Wilson, Shri J.N.
Wodeyar, Shri

NOMS

Ajit Singh, Shri
Ajit Singhji, General
Amjad Ali, Jonab
Anandchand, Shri
Anthony, Shri Frank
Bahadur Singh, Shri
Banerjee, Shri
Barrow, Shri
Basu, Shri K.K.
Bhawani Singh, Shri
Biren Dutt, Shri
Boovaraghavan, Shri
Buchhikotaiah, Shri
Chatterjee, Shri N.C.
Chatterjee, Shri Tusar
Chattopadhyaya, Shri
Chowdhury, Shri N.B.
Damodaran, Shri N.P.
Das, Shri B.C.
Das, Shri Sarangadhar
Dasaratha Deb, Shri
Deo, Shri R.N.S.
Deogam, Shri
Deshpande, Shri V.G.
Doraswamy, Shri
Gam Malludora, Shri
Girdhari Bhoi, Shri
Gopalan, Shri A.K.
Gurupadaswamy, Shri
Hukam Singh, Sardar

Jaisoorya, Dr.
Jaswant Raj, Shri
Jayaraman, Shri
Jena, Shri Lakshmidhar
Kandasamy, Shri
Kelappan, Shri
Khare, Dr. N.B.
Krishna, Shri M.B.
Kriahnaswami, Dr.
Lai Singh, Sardar
Mangalagiri, Shri
Menon, Shri Damodara
Mishra, Pandit S.C.
Missir, Shri V.
Mookerjee, Dr. S.P.
Mukerjee, Shri H.N.
More, Shri S.S.
Muchaki Kosa, Shri
Murthy, Shri B.S.
Mushar, Shri
Naidu, Shri N.R.
Nambiar, Shri
Nathani, Shri H.R.
Punnoose, Shri
Raghavachari, Shri
Raghavaiah, Shri
Ramnarayan Singh, Babu
Randaman Singh, Shri
Rao, Dr. Rama
Rao, Shri Gopala

Rao, Shri K.S.
Rao, Shri P.E.
Rao, Shri Mohana
Rao, Shri Vittal
Reddi, Shri Madhao
Reddi, Shri Ramachandra
Reddy, Shri Eswara
Rishang Keishing, Shri
Saha, Shri Meghnad
Shah, Shrimati Kamledu ~~modi~~
Shakuntala, Shrimati
Sharma, Shri Nand Lal
Shastry, Shri B.D.
Singh, Shri C. Sharan
Singh, Shri G.S.
Singh, Shri R.N.
Soren, Shri
Subrahmanyam, Shri K.
Sundaram, Dr. Lanka
Swami, Shri Sivamurthi
Swamy, Shri N.R.M.
Tiwari, Pandit B.L.
Trivedi, Shri U.M.
Vallatharas, Shri
Veeraswami, Shri
Velayudhan, Shri
Verma, Shri Ramji
Waghmare, Shri

The motion was adopted

Mr. Deputy-Speaker: Now we take up discussion of the Bill clause by clause.

Hon. Members: It is already past one o'clock Sir.

Mr. Deputy-Speaker: Then the House will stand adjourned till tomorrow.

The House then adjourned till a Quarter Past Eight of the clock on Friday, the 11th July, 1952.