

Shrimati G. Durgabai (Madras: General): Mr. President, Sir, while I support the new Article 15A moved by Dr. Ambedkar, I shall make a few observations on the subject under consideration. I know that I will be exhausting the patience of the House only if I have also taken some time to speak on this matter. But I feel strongly that I should make a few points and remarks on the speeches made during the debate in this House.

I have heard the honourable Members who were the enthusiastic champions of individual freedom and individual liberty, even to the extent of placing the exigencies of individual liberty above the exigencies of the State, describing this article as the Crown of all our failures. Sir, the question before us is this, whether the exigencies of the freedom of individuals or the exigencies of the State is more important. When it comes to a question of shaking the very foundations of the State, which State stands not for the freedom of one individual but of several individuals, I yield the first place to the State. I say this because I know that in my love and enthusiasm for individual freedom, I only stand for myself, and my interests; and the State is far superior, because it stands for the freedom and liberty of several individuals like myself. I do not think there can be a greater champion and advocate of individual freedom than De Valera the product of this century with the best democratic traditions. What is it that he has done? The very first thing that he did after becoming President was to pass a number of Public Security Acts. He had no other go. He had to do it, because a situation arose when he himself was to be murdered, what was he to do?

My friends who spoke here have criticised the power that is being exercised in the matter of arrests and detentions. But they have not examined the position when this power is to be exercised, and under what circumstances. The power is to be exercised only in cases when the individual tampers with the public order, as is mentioned in Concurrent List or with the Defence Services of the country. I need only ask you, to go to my part of the country, Madras, Malabar, Vijayawada. I may tell you, and I may draw your attention that no wife, no mother is feeling secure; they are not sure when their husbands would come back, whether they would return home or not. Such is the position. Also the menfolk, when they go out, are not quite sure by the time they return home, whether the wife or the daughters are safe there in the house. That is the position. In that case, what is the State to do? What is the Government to do, to assure some kind of safety and security to these people? Only in those conditions, when there is ample justification will the State resort to arrests and detentions.

This new Article 15A introduced by Dr. Ambedkar is a very happy compromise. Think of the 1818 Regulation which had no time limit at all. Thereafter, came the Public Security Acts of the various Provinces. Now the Board has been introduced in this new article. The Board has got to go through these cases. Also in no case is the detention to go beyond three months, and if it has to exceed, then the Board has got to report. The Court has got to examine the papers and representations made by the Executive, very carefully. Dr. Ambedkar has very ably explained the limitations and the restrictions over this power and I do not want to repeat them because I may be taking up too much time of the House. One point is that in no case is the detention to exceed three months. If it has to

exceed, then the Board has to get a report and on that report only can the detention exceed; and also there is Parliament which would make the law, describing all such cases in which such detention thus got to exceed this period. These are the restrictions which are there to limit this power.

Sir, I do not want to go into the various amendments introduced by my honourable friend Pandit Thakur Das Bhargava. He said: Give the right of appeal, at least once, and also the provisions for periodical reviews and conditional releases and so on. Dr. Ambedkar will deal with these points. I will only mention one or two points raised by my friend Shrimati Purnima Banerji in her amendments. I must say that I am very much in sympathy with two of her amendments. One of them provided for the personal appearance of the person detained, before the Board, to give reasons and explanations. I think the Drafting Committee should have no difficulty in agreeing to that. After all, the Board will not lose much by at least having a look at the person detained and receiving his explanations and reasons. I do not know whether it raises any administrative difficulty, but that will be dealt with by the Drafting Committee. I have confidence in the Government. Can there be a greater advocate and champion of personal freedom than our Government, our Prime Minister, and our Deputy Prime Minister who always are here to give relief to the poor and the needy and those who suffer?

Another amendment of Shrimati Purnima Banerji asks for the maintenance of the dependents of the person detained. Yes, here also I am very much in sympathy with her point, for if the person detained is a bread-winner, then his dependents, his immediate dependents have got to be provided. It would be better to give some sort of guarantee about this, instead of leaving it to Executive Power and to their sweet will. But how is it practicable? That is the question. There are many people who are poor in our country. Her point is that about fifty per cent of the cases would result in releases or discharges. And she also says that the benefit of doubt might be given to the accused in these cases. Are the dependents of the man detained to suffer indefinitely? That is her question. But I say, this is a question which has always been considered by the Government of the province and in deserving cases, the necessary relief is being provided. But in another way it might be argued that this is putting a premium on delinquency; if he is assured of provision for his family he might go on committing crimes and challenging the foundations of the State. I think it is better to leave this matter to the provincial Governments or which ever Governments might deal with these cases.

Then, Sir, I think the words "legal practitioner" in Article 15A (1) require some explanation. We know that Mr. Kasim Razvi engaged counsel from England whose appearance was refused. Now should it be open to this man to engage any one from any place? If there are rules to cover this point I have no objection: otherwise I suggest that after the words "legal practitioner" the words "qualified or authorised to appear in these cases" may be added.

Sir, I commend this article for the acceptance of the House.