

Shrimati Purnima Banerji (United Provinces : General): Sir, I move:

“That in amendment No. 1 of List I (Eighth Week), in Clause (1) of the proposed new Article 15A, after the words ‘as soon as may be’ the words ‘being not later than fifteen days’ be inserted.”

I further move:

“That in amendment No. 1 of List I (Eighth Week), in sub-Clause (a) of the proviso to Clause (3) of the proposed new Article 15A, after the words ‘a High Court has’ the words ‘after hearing the person detained’ be inserted.”

I further move:

“That in amendment No. 1 of List I (Eighth Week), in sub-Clause (a) of the proviso to Clause (3) of the proposed new Article 15A, after the words ‘such detention’ the words ‘but so that the person shall in no event be detained for more than six months’ be added.”

I also move:

“That in amendment No. 1 of List I (Eighth Week), the following proviso be added to Clause (4) of the proposed new Article 15A:-

‘Provided that if the earning member of a family is so detained, his direct dependents shall be paid maintenance allowance.’ ”

Sir, the Article with which we are dealing at the present moment is a very serious one as it takes away some of the liberties granted by Article 15 as fundamental rights and provides for arrests of persons and even detention of persons without trial. I am sure I am voicing the views of most of my colleagues here that any form of detention of persons without trial is obnoxious to the whole idea of democracy and to our whole way of thinking. Granting that we visualize a situation in which it may become necessary and occasions may arise, when powers of detention may have to be used and exercised by a particular Government, Clause (1) says that if a person has been arrested he shall soon after that be told the reason of his arrest and Clause (2) says that after twenty-four hours he shall be placed before a Magistrate. We are not quite sure as to what is the length of time which will be considered suitable for a person to be told why he is arrested. And if he is placed before a Magistrate, does it presume and presuppose that before he is placed before a Magistrate his charges will be given to him? Having our own experiences in our own short political lives and careers of what it is to be detained and on what laws one is detained, we feel that in this Clause a period should be specified; that is, if a person

is arrested and is placed before a Magistrate he should be given the charges for which he has been arrested, within fifteen days at the most if his presentation in twenty-four hours before a Magistrate does not involve such charge being framed within twenty-four hours.

Further it has been said that any detenu who has been put into jail shall be detained for three months till an Advisory Board decides whether he should be detained for a longer period. We feel that the detenu should be permitted to appear before this Advisory Board in person and state his case in full. We know the process how the person is detained. If a person is considered undesirable, the local Magistrates or the local authorities leave it to their subordinates to handle the situation and even to decide upon the situation. Then it happens that people in these situations have no manner or measure of relief because they are simply detained and not allowed to appear before any court and not told for the time being why they are being detained. Therefore we do feel that after being detained a detenu should have the right to appear before the Advisory Board in person before he is condemned or his detention is upheld. No facts regarding the detenu should ordinarily be withheld from the Advisory Board.

Thirdly, I have moved another amendment by which I say that if the Advisory Board should consider that such a person should be detained, in no case should that period exceed six months. I am sure that within that period if sufficient evidence is found against the accused the proper course would be that he should be placed before a proper court or he should be released. Continuous detention from month to month without a person getting a chance of appearing, or considering himself, sufficiently defended, before a properly constituted Board, is highly arbitrary.

Fourthly, whereas in our Constitution many provisions have been made as to how much salary one should draw, what allowance Members of the House shall get, what shall be each one's position and status, if a person is detained in prison and if he is an earning member of the family I do earnestly plead that he should be given a maintenance allowance. It should not be left to the arbitrary will of anyone to deprive anybody of his liberty and then later on to decide, by leaving it to their sweet will, as to how his dependents shall live and maintain themselves.

With these words I commend my amendments to the House.