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Volume 2

Wednesday
6th August, 1952

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Part II - Proceedings other than Questions and Answers)

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PARLIAMENT SECRETARIAT
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THE PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

HOUSE OF THE PEOPLE

Wednesday, 6th August, 1952

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

[MR. SPEAKER *in the Chair*]

(*No Questions: Part I not published*)

MESSAGE FROM THE COUNCIL OF STATES

Secretary: Sir, I have to report the following message received from the Secretary of the Council of States:

"In accordance with the provisions of Rule 125 of the Rules of Procedure and Conduct of Business in the Council of States, I am directed to inform the House of the People that the Council of States, at its sitting held on the 4th August, 1952, agreed without any amendment to the following Bills which were passed by the House of the People at its sittings held on the 28th and the 29th July, 1952, namely:

1. The Essential Goods (Declaration and Regulation of Tax on Sale or Purchase) Bill, 1952.

2. The Prevention of Corruption (Second Amendment) Bill, 1952."

PAPERS LAID ON THE TABLE

REPORT OF THE COMMITTEE OF PRIVILEGES REGARDING THE ARREST OF SHRI DASARATHA DEB

The Minister of Home Affairs and States (Dr. Katju): I beg to lay on the Table a printed copy of the Report of the Committee of Privileges including Minutes, Appendix and Debates in the House on the question of privilege

involved in the arrest of Shri Dasaratha Deb, a Member of this House, which was referred to the Committee on the 16th June, 1952. [*Placed in Library. See* No. IV c(b) (131).]

REPORT OF THE INDIAN DELEGATION TO THE FIFTH WORLD HEALTH ASSEMBLY

The Minister of Health (Rajkumari Amrit Kaur): I beg to lay on the Table a copy of the Report of the Indian Delegation to the Fifth World Health Assembly held at Geneva in May, 1952. [*Placed in Library. See* No. IV.E.O. (27).]

TARIFF COMMISSION'S REPORT ON THE CONTINUANCE OF PROTECTION TO THE MOTOR VEHICLE BATTERY INDUSTRY

The Minister of Commerce and Industry (Shri T. T. Krishnamachari): I beg to lay on the Table a copy of each of the following papers:

(i) Report of the Tariff Commission on the continuance of protection to the Motor Vehicle Battery Industry. [*Placed in Library. See* No. IV.R.103(32).]

(ii) Ministry of Commerce and Industry Resolution No. 5(2)-T.B./52, dated the 2nd August, 1952. [*Placed in Library. See No.* P-49/52.]

(iii) Ministry of Commerce and Industry Notification No. 5(2)-T.B./52, dated the 2nd August, 1952. [*Placed in Library. See* No. P-50/52.]

PREVENTIVE DETENTION (SECOND AMENDMENT) BILL

Clause 6.—(*Amendment of section* 7)

Mr. Speaker: The House will now proceed with the further consideration of the Bill to amend the Preventive Detention Act. Clauses 2 to 5 have been disposed of. Clause 6 with amendments Nos. 78 and 25 have been under consideration.

[Mr. Speaker]

I might just invite the attention of hon. Members to the fact that the clause by clause reading comes to an end today at one P.M. sharp and then the guillotine will be applied and if hon. Members wish to have a consideration of all the amendments that they have tabled, the speeches and the time taken on each amendment of the clause may be adjusted accordingly. Otherwise, the result will be that at one o'clock the clauses will be put to vote without any discussion or the amendments being taken into consideration.

The Minister of Home Affairs and States (Dr. Katju): Sir, when the House rose yesterday, I was submitting on the amendment then under discussion that in addition to the grounds of detention, particulars should also be supplied. I was saying that this clause had undergone prolonged judicial examination by all the High Courts and the Supreme Court in India and the position is practically settled and it would be unprofitable and it might lead to further litigation if we add any particular words or any more words to the clause, as it stands. I remind hon. Members that the point that I was venturing to make was that in article 22 of the Constitution, the Constitution framers had merely said that the grounds of detention should be supplied to the person concerned, so that on the basis of those grounds, he might make a representation to the Government. The indication clearly was that these grounds of detention should be sufficient by themselves and to be such as would enable the person concerned to make his representation. It may be that in the beginning the law was not clearly understood and therefore the grounds of detention were inadequate, vague or indefinite. All that had been corrected now by judicial pronouncements. But on the language of the Constitution, it was fairly clear that what was intended or what was enjoined to be supplied to the person concerned was nothing more than the grounds of detention.

I should like once again to make another point or rather to emphasize it a bit more. When the Preventive Detention Act of 1950 was passed, before that, there was no Advisory Board anywhere and the preventive detention laws were in force in all the States and for the years 1946-47 up to 1950, the State Governments enforced those laws. In 1950 we had the Advisory Board but with very limited jurisdiction, that is, only in what related to essential supplies and services. It was only in 1951 that the jurisdiction of the Advisory Board was extended to cover all cases. I could ask hon. Members to see one or two sections in the Preventive Detention Act of 1951. It says that the Government shall lay before the Advisory Board the grounds of detention *plus* the representation of the detenu and any report from the officer, namely, the district magistrate, who may have in the first instance, passed the order. These are the basic materials. Then it is said that the Advisory Board may ask for such further information as it may think fit, both from the appropriate Government and from the person concerned. I suggest that this clearly provides for the contingency that where the grounds of detention are considered by the Advisory Board to be lacking in any detail or there is any further point on which clarification might be intended, then the Advisory Board can ask for further information and also ask for further information from the person concerned, namely, by giving him a chance to reply and now when we are introducing the new provision conferring on the detenu a right to be heard, if he wants it, this point really loses all force. If the grounds of detention are originally not sufficient in the detenu's opinion to enable him to submit a proper representation, he can ask for it. If the Advisory Board says that the representation is lacking in this respect or that the answer is not complete, then, the person concerned may say, "Very well, I am prepared to do so now". With this Advisory Board's extended jurisdiction and further examination, I respectfully suggest to you that the point has really lost all its importance. It may have had some importance in the beginning; it has none now.

I am very reluctant to convert this forum into a law court. But, Sir, while you were not here, we had the great advantage of an hon. Member citing lots of rulings. It reminded me of my law court days. Finally, when we were rising, reference was made to one particular judgment. Sometimes I am at a loss when judgments are read out or extracts are read out whether the quotations are made from the dissenting judgments or from the majority judgments. In courts of law, it is the majority judgment which counts. But, in this House, sometimes, it is the dissenting judgment which is considered to be much more valuable than the majority judgment. Of course, we are the law making body and it is open to us to say that the dissenting Judge interpreted our intention much more soundly and knew what was passing in our minds more accurately than his brother Judges. But, then, the fact ought to be told.

Dr. S. P. Mookerjee (Calcutta South-East): The fact was told. I did say that I was quoting from the dissenting judgment and also from the majority judgment.

Dr. Katju: I cast no aspersions on anybody. I do not know why my hon. friend intervenes in this way.

I always ask for the date of the judgment; I always ask for the name of the learned Judge and whether he was in a majority or in a minority. First, there was a quotation from Mr. Justice Bose. Then, I asked whether it was a dissenting judgment and I was told it was. The majority Judges, it was said, had taken the same view, if I am not mis-quoting, but had dissented. Of course, the dissenting judgment was more important and the majority had dissented from Justice Bose on another point. Anyway, I took the book so that I may read it later at night. I should like to read a few lines from the judgment of the majority, namely Chief Justice Kania and Justice Patanjali Sastri:

> "This decision does not, in our opinion, support the broad proposition contended for by Mr. Hardy that wherever an order of detention is based upon speeches made by the person sought to be detained, the detaining authority should communicate to the person the offending passages.........

I pause here, because, the point, as I understood it, which was made was, what is the good of saying to a man, "you made a certain speech on such and such a day at such and such a place of which the trend was so and so." you must quote the offending passages so that he may meet the point raised by the offending passages and say, 'I have been misreported, I never said anything of the kind, and so on'. The learned Judges are dealing with that point.

> "the detaining authority should communicate to the person the offending passages or at least the gist of such passages on pain of having the order quashed if it did not. In the cases now before us, the time and place at which the speeches were alleged to have been made were specified and their general nature and effect (being such as to excite disaffection between Hindus and Muslims) was also stated. It is difficult to see how the communication of particular passages or their substance was necessary in addition to the particulars already given............

You will see, Sir, and hon. Members will see that the learned Judges have also used the word 'particulars'. I do not know whether there is any hon. Member who is a solicitor here. This is solicitor's language. The point is that the grounds of detention include the points on which the detention is sought to be ordered. I read again:

> "It is difficult to see how the communication of particular passages or their substance—one of the petnrs. denied having made any speech on the day specified—was necessary in addition to the particulars already given, to enable the petnrs. to make their representations."

I respectfully suggest once again that the whole position as to the interpretation of these words has been absolutely hammered out and now, if we are to add in the Act that grounds of detention should be given, that is, in terms of the Constitution, and then we add further that these grounds should further be accompanied by particulars, then, we will have another spate of discussion in the law courts as to what exactly is meant by 'particulars' because this must be something in addition to the grounds and you can see judicial discussions going on and on.

I suggest that in the first place the words 'grounds of detention' are quite sufficient if the document is properly drafted as it should be drafted to enable the detenu to frame his representation, and secondly, now that the Advisory Board has full jurisdiction, and the Advisory Board, let me remind the House, is not an ordinary tribunal, or an ordinary Committee, it is a high-powered Committee having a Judge of the High Court, retired or sitting, as its Chairman and two other Members who will be highly qualified, they will take pains to see to it that the detenu is not in any way prejudiced or damnified by not having sufficient opportunity of knowing what he has got to meet so far as grounds of detention are concerned. They will ask for further information and they will also ask him to give a further explanation. On these grounds, I respectfully suggest that we had better leave the Act alone as it stands at present in exact accordance with the language of the Constitution itself. Therefore, Sir, I oppose the amendments.

Mr. Speaker: I shall put the amendments to the House. There is a slight difference and so I think I shall put them separately.

Dr. S. P. Mookerjee: Yes, Sir.

Mr. Speaker: The question is:

In page 2, line 4, after "shall be substituted" add: "and for the word 'grounds' the words 'grounds and other materials' shall be substituted."

The motion was negatived.

Mr. Speaker: The question is:

In page 2, line 4, after "shall be substituted" add: "and the words 'and shall furnish him with all particulars, as are necessary for him to present his case' shall be added at the end."

The House divided: Ayes, 55: *Noes,* 186.

Division No. 13] AYES **[8-35 A.M.**

Achalu, Shri
Ajit Singh, Shri
Amjad Ali, Jonab
Bahadur Singh, Shri
Banerjee, Shri
Basu, Shri K. K.
Buchhikotaiah, Shri
Chatterjea, Shri Tushar
Chaudhuri, Shri T. K.
Chowdary, Shri C. R.
Chowdhury, Shri N. B.
Das, Shri B. C.
Das, Shri Sarangadhar
Dasaratha Deb, Shri
Deogam, Shri
Doraswamy, Shri
Gam Malludora, Shri
Girdhari Bhoi, Shri
Gopalan, Shri A. K.
Hukam Singh, Sardar
Jena, Shri Lakshmidhar
Kelappan, Shri
Khardekar, Shri
Krishna, Shri M. B.
Mangalagiri, Shri
Mascarene, Kumari Annie
Menon, Shri Damodara
Mookerjee, Dr. S. P.
Mukerjee, Shri H. N.
More, Shri S. S.
Narasimham, Shri S. V. L.
Nesamony, Shri
Pandey, Dr. Natabar
Pocker Saheb, Shri
Ramaswamy, Shri M. D.
Ramnarayan Singh, Babu
Randaman Singh, Shri
Rao, Dr. Rama
Rao, Shri Gopala
Rao, Shri K. S.
Rao, Shri P. R.
Rao, Shri Mohana
Rao, Shri Vittal
Reddy, Shri Eswara
Rishang Keishing, Shri
Shah, Shrimati Kamlendu Mati
Shastri, Shri B. D.
Singh, Shri R. N.
Soren, Shri
Subrahmanyam, Shri K.
Sundaram, Dr. Lanka
Swami, Shri Sivamurthi
Swamy, Shri N. R. M.
Veeraswami, Shri
Verma, Shri Ramji

NOES

Achal Singh, Seth
Achuthan, Shri
Agarawal, Shri H. L.
Agrawal, Shri M. L.
Altekar, Shri
Amrit Kaur, Rajkumari
Ansari, Dr.
Asthana, Shri
Badan Singh, Ch.
Barman, Shri
Barupal, Shri
Basappa, Shri
Bhakta Darshan, Shri
Bhandari, Shri
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhatt, Shri C. S.
Bheeka Bhai, Shri
Bidari, Shri
Birbal Singh, Shri
Bogawat, Shri
Boroosh, Shri
Bose, Shri P. C.
Brajeshwar Prasad, Shri
Brohmo-Choudhury, Shri
Buragohain, Shri
Chacko, Shri P. T.
Chanda, Shri Anil K.
Chandak, Shri
Chandrasekhar, Shrimati
Chatterjee, Dr. Susilranjan
Chaturvedi, Shri
Chaudhury, Shri R. K.
Chavda, Shri
Chettiar, Shri T. S. A.
Das, Shri B. K.
Das, Shri Beli Ram
Das, Shri S. N.
Das, Shri N. T.
Datar, Shri
Deb, Shri S. C.
Desai, Shri K. N.
Deshmukh, Shri K. G.
Deshpande, Shri G. H.
Dholakia, Shri
Dhulekar, Shri
Dhusiya, Shri
Dube, Shri Mulchand
Dutt, Shri A. K.
Dwivedi, Shri D. P.
Ebenezer, Dr.
Ebayaperumal, Shri
Gadgil, Shri
Gandhi, Shri M. M.
Gandhi, Shri V. B.
Ganpati Ram, Shri
Ghose, Shri S. M.
Gounder, Shri K. P.
Gounder, Shri K. S.
Guha, Shri A. C.
Gupta, Shri Badshah
Hari Mohan, Dr.
Hem Raj, Shri
Hembrom, Shri
Iyyani, Shri E.
Iyyunni, Shri C. R.
Jain, Shri A. P.
Jasani, Shri
Jayashri, Shrimati
Jena, Shri K. C.
Jena, Shri Niranjan
Joshi, Shri Jethalal
Joshi, Shri Krishnacharya
Joshi, Shri Liladhar
Jwala Prashad, Shri
Kakkan, Shri
Kale, Shrimati A.
Kanungo, Shri
Katham, Shri
Katju, Dr.
Keskar, Dr.
Khedkar, Shri G. B.
Khongmen, Shrimati
Khuda Baksh,
Kidwai, Shri R. A.
Kirolikar, Shri
Krishnamachari, Shri T. T.
Kureel, Shri B. N.
Kureel, Shri P. L.
Lallanji, Shri
Lingam, Shri N. M.
Madiah Gowda, Shri
Majhi, Shri R. C.
Majithia, Sardar

Malaviya, Shri K. D.
Malvia, Shri B. N.
Malviya, Pandit C. N.
Mathew, Prof.
Maydeo, Shrimati
Mehta, Shri Balwant Sinha
Mehta, Shri B. G.
Mishra, Shri Bibhuti
Mishra, Shri L. N.
Mishra, Shri Lokenath
Mishra, Shri S. N.
Misra, Pandit Lingaraj
Misra, Shri R. D.
Muthukrishnan, Shri
Narasimhan, Shri C. R.
Nehru, Shrimati Uma
Pannalal, Shri
Pant, Shri D. D.
Paragi Lal, Ch.
Pataskar, Shri
Patel, Shri B. K.
Patel, Shri Rajeshwar
Patel, Shrimati Maniben
Patil, Bhau Saheb
Pawar, Shri V. P.
Pillai, Shri Thanu
Prabhakar, Shri N.
Prasad, Shri H. S.
Rachiah, Shri N.
Radha Raman, Shri
Raghubir Sahai, Shri
Raghubir Singh, Ch.
Ram Das, Shri
Ramanand Shastri, Swami
Ramaswamy, Shri P.
Ranbir Singh, Ch.
Rane, Shri
Ranjit Singh, Shri
Rao, Diwan Raghavendra
Rao, Shri B. Shiva
Reddy, Shri Janardhan
Roy, Shri B. N.
Sahu, Shri [illegible]gahat
Sahu, Shri Rameshwar
Saigal, Sardar A. S.
Samanta, Shri S. C.
Sanganna, Shri
Sarmah, Shri
Satyawadi, Dr.
Sewal, Shri A. R.
Shahnawaz Khan, Shri
Sharma, Prof. D. C.
Sharma, Shri K. R.
Shastri, Shri H. N.
Siddananjappa, Shri
Singh, Shri D. N.
Singh, Shri H. P.
Singh, Shri M. N.
Sinha, Dr. S. N.
Sinha, Shri Anirudha
Sinha, Shri B. P.
Sinha, Shri C. N. P.
Sinha, Shri N. P.
Sinha, Shri S.
Sinha, Shrimati Tarkeshwari
Sinhasan Singh, Shri
Snatak, Shri
Sodhia, Shri K. C.
Somana, Shri N.
Subrahmanyam, Shri T.
Suresh Chandra, Dr.
Syed Mahmud, Dr.
Telkikar, Shri
Tewari, Sardar R. B. S.
Thimmaiah, Shri
Thomas, Shri A. M.
Tiwari, Pandit B. L.
Tiwari, Shri R. S.
Tiwary, Pandit D.N.
Tripathi, Shri H. V.
Tripathi, Shri K. P.
Tripathi, Shri V. D.
Tudu, Shri B. L.
Tyagi, Shri
Upadhyay, Shri M. D.
Upadhyay, Shri Shiva Dayal
Upadhyaya, Shri S. D.
Vaishnav, Shri H. G.
Varma, Shri B. B.
Venkataraman, Shri
Vyas, Shri Radhelal
Wodeyar, Shri

The motion was negatived.

Mr. Speaker: The question is:

"That Clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clauses 7 to 9

Mr. Speaker: It has been suggested to me that I should take up the next three clauses together, namely clauses 7, 8 and 9; they deal with one aspect or other of the Advisory Boards. If the House is agreeable we can take up these three together, so that there may be common discussion on all of them as also on the amendments to them, without any overlapping. Is the hon. Home Minister agreeable?

Dr. Katju: Yes, Sir.

Mr. Speaker: I shall now call upon the hon. Members who want to move their amendments.

Shri Pocker Saheb (Malappuram): I beg to move:

In page 2, for line 7, substitute:

"(a) sub-section (2) shall be omitted;".

Sardar Hukam Singh (Kapurthala-Bhatinda): I beg to move:

In page 2, for line 7, substitute:

'(a) for sub-section (2), the following shall be substituted, namely:—

"(2) Every such Board shall consist of—

(a) a Judge of a High Court who shall be the Chairman of the said Board, and

(b) two other persons who have been or are qualified to be appointed as Judges of the High Court." '

Mr. Speaker: Then Mr. Deshpande.

Shri G. H. Deshpande (Nasik—Central) May I request, Sir, that whenever there is any reference to the name Deshpande, the initials of the person also be mentioned, so that there may be no misunderstanding?

Mr. Speaker: I am mentioning initials in all cases where there is a chance of mistaken identity......

Shri G. H. Deshpande: My point is that I am very serious about it. Supposing you say that Deshpande has tabled certain amendments, it may be taken that I have tabled certain amendments...

Mr. Speaker: It is well known by now that no hon. Member of the Congress Party is moving any amendment, and so the Deshpande referred to with reference to an amendment

[Mr. Speaker]

is the Deshpande in the Opposition. There is no question of any doubt on that. It is not a question of his presence or absence.

Shri H. N. Mukerjee (Calcutta North-East): I beg to move:

In page 2, for line 7 substitute:

'(a) for sub-section (2), the following shall be substituted, namely:—

"(2) Every such Board shall consist of—

(a) a Judge of a High Court who shall be chairman of the said Board, and

(b) two other persons who are or have been Judges of the High Court."'

Shri Pocker Saheb: I beg to move:

In page 2, for line 7, substitute:

"(a) for sub-section (2), the following shall be substituted, namely:—

'(2) Every such Board shall consist of three persons of whom one is a Judge of a High Court and the other two are or had been Judges of a High Court or are qualified to be appointed as a Judge of a High Court and such persons shall be appointed by the Central Government or State Government, as the case may be.'"

Shri A. K. Gopalan (Cannanore): I beg to move:

In page 2, for line 7, substitute:

"(a) in sub-section (2) the words 'or have been, or are qualified to be appointed as' and the Proviso shall be omitted;".

Shri K. K. Basu (Diamond Harbour): I beg to move:

In page 2, line 7, after "sub-section (2)", insert:

'after the words "Judges of a High Court" the words "save as hereinafter provided" and after the words "shall be appointed" the words "for a period of one year or the duration of the Act, whichever is less", shall be inserted, and'.

Shri V. G. Deshpande (Guna): I beg to move:

In page 2, after line 7, insert:

'(aa) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) A Judge of the High Court who shall act as Chairman of the Board as laid down in sub-section (2) shall be appointed by the Chief Justice of the High Court concerned and the other persons shall be appointed by the Central Government or the State Governments as the case may be."'

Sardar Hukam Singh: I beg to move:

In page 2, for lines 10 to 20, substitute:

"(3) The Judge of the High Court who shall act as Chairman of the Board as aforesaid shall be appointed by the Chief Justice of the High Court concerned and the other two persons shall be appointed by the Central Government or the State Government as the case may be."

Shri S. S. More (Sholapur): I beg to move:

In page 2, line 11, omit "or has been".

Shri K. K. Basu: I beg to move:

In page 2, line 11, omit "or has been".

Shri Pocker Saheb: I beg to move:

In page 2, line 11, omit "or has been".

Shri S. S. More: I beg to move:

In page 2, line 15, after "concerned" add:

"and the other members of the Advisory Committee shall be persons who have been or are qualified to be appointed as Judges of the High Court."

Shri K. K. Basu: I beg to move:

In page 2, line 26, for "thirty days" substitute "twenty-one days".

Shri Vittal Rao (Khammam): I beg to move:

In page 2, line 26, for "thirty days" substitute "one week".

Shri A. K. Gopalan: I beg to move

In page 2, line 28, after "grounds" insert "and all relevant materials".

Shri K. K. Basu: I beg to move:

In page 2, line 28, after "grounds" insert "and all other materials".

Shri V. G. Deshpande: I beg to move:

In page 2, line 28, after "the order has been made" insert:

"all the materials in the possession of the said Government on which order of detention has been made".

Shri S. S. More: I beg to move:

In page 2, line 28, after "grounds on which the order has been made" insert "and all other material regarding the detenu in the possession of the said Government".

Shri Tushar Chatterjea (Serampore): I beg to move:

In page 2, line 28, after "grounds on which the order has been made" insert "all matters relating to the grounds of the order".

Shri Damodara Menon (Kozhikode): I beg to move:

In page 2, for lines 34 to 41, substitute:

'(a) for sub-section (1) the following shall be substituted, namely:—

"(1) The Advisory Board shall after considering the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government and after placing all the relevant information before the person concerned for the purpose of his defence and after hearing him in person or through a legal adviser and after permitting him or his legal adviser to call in such evidence as he may deem necessary, submit its report to the appropriate Government within ten weeks from the date specified in Section 9.";'

Shri Banerjee (Midnapore-Jhargram): I beg to move:

In page 2, for lines 35 to 38, substitute:

'(i) for the words "if in any particular case it considers it essential after hearing him in person" the words "in each case after hearing the detenu in person, failing which his legal representative" shall be substituted.'

Shri Pataskar (Jalgaon): Sir, I would move my amendment with a slight change.

Mr. Speaker: Let him move it and then inform me if he wants to make any change.

Shri Pataskar: I beg to move:

In page 2, line 35, before "for the words" insert:

"after the words 'or from the person concerned' the words 'and after getting any such information as it may deem necessary from any person called for the purpose through the appropriate Government' shall be inserted and".

Shri S. S. More: I beg to move:

In page 2, line 37, after "desires to be heard" insert "in person or by an advocate".

Shri Tushar Chatterjea: I beg to move:

In page 2, line 37, after "desires to be heard" insert "and given facility to place evidence to counter the grounds of the order".

Shri K. K. Basu: I beg to move:

In page 2, line 37, after "desires to be heard" insert "either in person or through lawyer".

Shri H. N. Mukerjee: I beg to move:

that in page 2, line 37, after "desires to be heard" insert "in person and /or by an advocate".

Shri K. K. Basu: I beg to move:

In page 2, line 37, after "desires to be heard" insert:

"either in person or through a lawyer and after hearing and examining the evidence that may be called *suo motu* or that may be adduced by the detenu or the authority".

Shri Pocker Saheb: I beg to move:

In page 2, after line 38, insert:

'(ia) after the words "after hearing him in person" the words "or the legal practitioner representing him" shall be inserted:'.

9 A.M.

Shri K. K. Basu: I beg to move:

In page 2,—

(i) line 39, before "from the date" insert "within ten weeks"; and

(ii) line 40, before "from the date" insert "within six weeks".

Shri Tushar Chatterjea: I beg to move:

In page 2, after line 41, insert:

'(aa) after sub-section (1) the following sub-section shall be inserted, namely:—

"(1A) the Advisory Board shall also have authority to call any witness for cross examination by the detenue.";'

Shri K. K. Basu: I beg to move:

In page 2, for lines 42 to 44, substitute:

"(b) sub-section (3) shall be omitted".

Shri Pocker Saheb: I beg to move:

In page 2, for lines 42 to 44, substitute:

"(b) in sub-section (3), the following shall be omitted namely:—

'Nothing in this section shall entitle any person against whom a detention order has been made to attend in person or to appear by any legal representative in any matter connected with the reference to the Advisory Board, and' ".

Mr. Speaker: The amendments for substitution of a new clause might be taken later. These are all the amendments to clauses 7, 8 and 9.

Now when the House has disposed of clauses 7, 8 and 9 and the amendments, there will remain three clauses, 10, 11 and No. 1. So I do not know if it is necessary—it is entirely in the hands of the Opposition Members who have tabled amendments—to have a sub-allotment of time if they are keen to go on with the other amendments; otherwise the result will be that those three clauses will go without discussion.

Dr. S. P. Mookerjee: May I suggest that we may keep two and a half hours for the discussion of these three clauses and one and a half hours for the rest?

Mr. Speaker: Is the hon. Minister agreeable?

Dr. Katju: Yes.

Shri Nambiar (Mayuram): Some time may be given for the new clause also.

Mr. Speaker: That will all come in the remaining one and a half hours. If the House is agreeable to that we shall say that the discussion on these three clauses and the amendments will proceed upto 11-30 inclusive of the hon. Minister's reply. So the hon. Minister may be called upon at 11.

Dr. Katju: I hope, Sir, that this is not an encouragement to go on for two and a half hours, good reason or no reason whatsoever.

Dr. S. P. Mookerjee: I thought the Home Minister would appreciate the way in which we are trying to co-operate. He is now making aspersions.

Dr. Katju: I am only saying that the discussion should be short.

Dr. S. P. Mookerjee: Why not see some good things of life also?

Mr. Speaker: Let there be no discussion on that now. The hon. Member will appreciate the wisdom of the rule here that the Chair should be addressed instead of Members addressing each other directly. Direct addresses always create some heat...So. I was saying that the standard of reasonableness would be judged by each party.

Dr. Katju: I generally speak nothing.

Mr. Speaker: I presume that every party is going to be reasonable and also relevant. Now, we will proceed with the discussion.

Pandit Thakur Das Bhargava (Gurgaon): May I suggest, Sir, that you may be pleased to call upon Mr. Pataskar to move his amendment so that the discussions may be curtailed to a certain extent.

Mr. Speaker: His amendment is already moved. I have no objection to call upon him to explain his amendment and to let me know the changes that he wants to make.

Shri Pataskar: Sir, while moving this amendment I wanted to make some changes in the draft of the amendment. The meaning will be the same and the purpose to be served will also be identical. My amendment as moved is as follows:

In page 2, line 35, before "for the words" insert:

"after the words 'or from the person concerned' the words 'and after getting any such information as it may deem necessary from any person called for the purpose through the appropriate Government' shall be inserted and".

I want the addition of the following words to be made before those words in my amendment:

"or from any person called for the purpose through the appropriate Government......".

After this amendment the section will read as follows:—

"The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if in any particular case it considers it essential, after hearing him in person, submit its report to the appropriate Government within ten weeks from the date specified in sub-section (2) of section 9."

The Joint Committee has also made an amendment. With the amendment proposed by the Select Committee the section would be as follows:—

"The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government, and if in any particular case it considers it essential so to do, or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government..." etc. etc.

Dr. S. P. Mookerjee: What is he moving, Sir?

Shri Pataskar: I will explain the object and then my hon. friend will be able to know. At the present moment the Advisory Boards have not only to consider the materials placed before them, but they are also empowered to call for any further information which they may deem necessary from the appropriate Government. Then we have made an amendment in the Select Committee that if the person concerned so desires he may also be called and heard. I want that the Advisory Board should also be empowered to call for any further information which it may deem necessary not only from the appropriate Government but from any person from whom they think it necessary to get such information, through the appropriate Government. That is, if after considering the material before them the Board feel that in their opinion it is necessary to get some information from some other person they can do so but through the appropriate Government. Of course, the latter provision is made so that the appropriate Government may also know the position. When an order of detention is passed under this Act it is a purely executive order. But we want to see that these Boards presided over by High Court Judges should be able to apply a judicial mind to the cases before them and come to a conclusion from the facts supplied to them. But there may be a case, for instance, where the report may be that on such-and-such a date the detenu delivered a speech in Madras. After going through the records and hearing the person concerned, the Board may have before it the contention that the detenu was not in Madras on that day, and that he was in Calcutta lying in a hospital. In that case the Advisory Board might think it necessary that they should get information on that point; not only information, but also have the Civil Surgeon of that hospital appear before them.

Sir, the idea underlying this amendment is that the Advisory Boards should be able to get such information from any person whenever they think it necessary that such information should be had. We are going to invest the Boards with these powers so that they can function effectively and come to just decisions according to their lights. Of course, I do grant that my amendment does not say that the person will be examined, cross-examined, and all that. For very valid reasons we do not want to convert the proceedings before the Board into a regular trial, because if that were to be done then it was not necessary to have an Advisory Board—the man could be produced before a magistrate and tried. The purpose of my amendment is that if after considering all the material available to them the Board feel some difficulty and think it necessary to obtain some more information from some person, they should be empowered to do so. This amendment will enable them to ask the appropriate Government to produce that person before them, or they may ask the Government to get such-and-such information from X, Y or Z. Some friends might contend, "You are not giving them power to summon that man directly, you are doing it through the appropriate Government". But supposing in a particular case the Board says, "We are not satisfied on this particular point, therefore we want information from X", and supposing the State Government, granting for the sake of argument, does not produce that person or make that information available to the Board, it is perfectly in the power of the Board to say that they do not confirm the order. After all the object of the creation of these Boards is to see that whatever has been done in these cases by the administrative branch of the Government is subjected to scrutiny of a judicial mind. Therefore, I have proposed that the Boards should get in-

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formation not only from the appropriate Government but also from any person called for the purpose through the appropriate Government. It may be argued—and I too believe—that even under the section as it stands the Boards could have called for such additional information. How does the existing section read? It says:

"(1) The Advisory Board shall, after considering the materials placed before it and after calling for such further information, as it may deem necessary, from the appropriate Government or from the person concerned, and, if in any particular case it considers it essential, after hearing him in person, submit its report to the appropriate Government within ten weeks from the date specified in sub-section (2) of section 9."

So, here there is, as a matter of fact, power given to the Boards to call for such information as they may deem necessary from the appropriate Government and in the course of calling for such information they might say, "We want information on this point. The man says he was not in Madras on the day on which he is alleged to have acted in a manner prejudicial to the interest of public order, security of India, and so on. He says he was somewhere else. Therefore we want information on this point." But in order to make the provision clear and in order to see that the Advisory Boards are effective, now that they are going to be presided over by people of the eminence of High Court Judges, we want that Government should not be in a position to keep back anything from them. Therefore, this new provision is added that they can also call for any further information from any person called for the purpose through the appropriate Government. The only objection might be to the proviso "through the appropriate Government", but the conclusion should be that if a person is not produced, the Advisory Board might refuse to confirm the order and the detenu will be set at liberty. Therefore, from all practical points of view, and from the point of view which this side takes of the nature of the powers of an Advisory Board,—it has been made amply clear by the hon. Minister that we are not going to convert it into a trial—I have moved this amendment. After all, in the nature of things this is an executive order based on suspicion, on the previous conduct of the person concerned and on certain other things which cannot in the public interest be disclosed in the ordinary courts. At the same time, the constitution of Advisory Boards is a precaution to see that this matter is placed before persons who are judicially-minded and who are in a position to appreciate what is happening and set right any wrong that may have been committed by the executive. It is from that point of view that this amendment is proposed. I am sure that the provision that the Chairman of the Advisory Board shall be either a High Court Judge or an ex-High Court Judge is sufficient to guarantee justice, and this matter can be entrusted to a Board of this character.

During the course of the debate, we have had so many rulings quoted from High Court Judges, that an atmosphere was created as if there was some sort of a conflict between the High Courts and the Government. There is nothing of the kind. In the majority of cases the courts have confirmed or ratified or upheld the orders of the executive. In some they have not done so and they have also passed some comments, but it is naturally their right and function to do so. With this facility of calling for any information from any person, I think the Advisory Boards are going to be very effective and with a High Court Judge or an ex-High Court Judge presiding, I have no doubt that the Government should also have no hesitation in entrusting this body with these powers. They are highly responsible men and are expected to look not only to the abstract liberty of the individual but also to the security of the State. At the present moment, an impression has gone round that our High Court Judges are more concerned with the liberty of the individual than with the security of the State or the maintenance of public order. It is entirely wrong to think so. Our present-day High Court Judges are imbued with a realistic approach and they appreciate that pre-independence India is not the same as the India of today and men of the eminence of High Court Judges or ex-High Court Judges are expected to correlate the liberty of the individual with the safety and security of the State and public order. I therefore think that the main feature of this Bill and the safeguard provided for this abnormal litigation is the way in which these Advisory Boards are constituted. The Boards are so constituted that they will be presided over by High Court Judges who are quite independent of the Government and the executive. It is only fair and natural that we should entrust such Boards with full powers and not merely say that they will have to proceed on materials supplied by Government. If you do so, they may say, "Well, we are not prepared to preside over the Boards." It is to meet that, that this provision has been made. This provision is more in the interests of the detenu than otherwise. It enhances the dignity and powers of the new Advisory Boards which we are going to constitute. I hope therefore that my amendment will satisfy not only this section of the House but all sections of the House and that it will be accepted by the hon. the Home Minister also.

Shri K. K. Basu: On a point of information, do the words "call for information through the appropriate Government" mean that only the summoning authority is given to the Government, or is it only those persons who are put up by the Government who can be called?

Shri Pataskar: There is no question of summoning and examining and cross-examining. If a Board, say in the State of Bombay, wants to examine or get information from a particular person, that Board will write to that Government which has issued the order of detention. That is the appropriate Government.

Shri S. S. More: Should that person be produced before it? They would write to the appropriate Government saying that that particular individual from whom they seek information should be produced before them.

Shri Pataskar: Yes.

Shri S. S. More: And if the information be not contained in a document and rests within the knowledge of the person concerned, will it not be necessary to examine that person?

Shri Pataskar: Yes. They can get the information from any person. If the information is contained say in a register of cases in a civil hospital in Calcutta, they will say, "We want the Civil Surgeon of Calcutta or somebody else" or they may ask for the register of that case also. Naturally, therefore information includes not merely oral information but information contained in documents. It is a matter of interpretation. I have put it as widely as possible.

Shri Nambiar: Whatever is available to the Advisory Board by this means—will that be made available to the detenu? It is only in that case the detenu can know what is happening. Otherwise, if he is only given the charge-sheet the Advisory Board may have in its possession some new things which the detenu does not know.

Mr. Speaker: Order, order. The hon. Member will see that the two are not co-extensive. The Board is, I believe, empowered to have even such information as Government would ordinarily look upon as confidential. but nothing is kept confidential from the Advisory Board. Am I right there?

Shri Pataskar: Yes.

Mr. Speaker: Obviously, such information cannot be available to the detenu and therefore whatever is available to the Advisory Board is not necessarily available to the detenu. As I said, the two are not co-extensive. It will depend upon the nature of the case.

Shri M. S. Gurupadaswamy (Mysore): Is it proposed to call for the information directly or through the appropriate Government? (*Interruption.*)

Mr. Speaker: Instead of asking for points of clarification, we had better discuss the matter. Already we have spent twenty minutes over this point. If the hon. Member had listened to the speech, he would have seen that the speaker had said that they did not want to keep the appropriate Government in the dark about any information that the Board wanted. That is what he said clearly. Let us take him at his word and try to understand him in our own way, because we do not know how the courts will interpret this.

Shri K. K. Basu: May I know whether the speaker delivered his speech as a member of the Treasury Bench?

Mr. Speaker: We need not go into that now. When a Member who is not a member of the Treasury Bench sits on the side of the Home Minister and moves an amendment, the inference is perfectly clear. We need not go into it. We shall proceed with the discussion.

Shri Kelappan (Ponnani): Sir, the amendment moved by Shri Damodara Menon is to section 10 of the principal Act. It reads thus:—

In page 2, for lines 34 to 41, substitute:

'(a) for sub-section (1) the following shall be substituted, namely:

"(1) The Advisory Board shall after considering the materials

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placed before it and after calling for such further information as it may deem necessary from the appropriate Government and after placing all the relevant information before the person concerned for the purpose of his defence and after hearing him in person or through a legal adviser and after permitting him or his legal adviser to call in such evidence as he may deem necessary, submit its report to the appropriate Government within ten weeks from the date specified in Section 9.";'

The Home Minister has characterised this amendment as being destructive of the Act itself. It is really so. My idea is to bring the enquiry under this Act to the same level as the trial in a court. There seems to be some misunderstanding about our attitude. We have been very often reminded in this House during the discussions on this Bill that we have accepted the principle of this Bill. I submit that we have not accepted the principle of this Bill. That was made plain by some of our representatives who went into the Joint Committee.

Shri K. K. Basu: It was thrust upon us.

Shri Kelappan: It is against the very principles of democracy to imprison a man without trial.

Mr. Speaker: I may make one point clear with a view to shorten discussion. I think a distinction has to be made. When it is said that the principle of the Bill has been accepted, it means it has been accepted by the House. Hon. Members may have their own mental reservations: nobody can come in their way. But it is accepted in the sense that, a discussion again on that aspect is not open in this House. If hon. Members were to go into that again, the two hours now left will be spent in the repetition of all the debate that took place for four or five days on the principle of the Bill. It does not mean that the hon. Member is bound by the decision of the House in the sense that he shall not have any mental reservations.

Shri Kelappan: I accept the position. As this amendment goes against the very purpose of this Bill, I just referred that this side of the House has not accepted the principle of the Bill.

The hon. Member opposite was asking what was the difference between a regular trial and detention. Of course, there is not much difference. The only difference is that in one case a person is convicted and sent to jail; in the other he is kept in detention on mere suspicion that he is likely to act in a way prejudicial to public safety. The disabilities attached to a convicted prisoner will be absent in the case of a detenu.

The Detention Act has undergone several modifications by now. In 1950 a detenu could not even reveal the grounds of his detention to a court. In the case of Mr. Gopalan the Supreme Court decided that a detenu could appeal to a court of law. So he could take the case to a regular court and have the grounds of detention examined. In the present Bill also several concession have been made. My request is that one more concession may be granted. We do not want to send a man to jail without giving him ample opportunity to defend himself by calling in evidence and being represented by an advocate. That is the only safeguard against the abuse of this measure

There is no doubt about the fact that in spite of all the safeguards that you give, this Act is going to be abused. If a man makes himself very troublesome to the authorities what will happen is that the police will approach the District Magistrate and the District Magistrate will issue an order of detention and the man will be detained. I know how this measure is going to be used. Even now there is much discontent in the country: it is certainly easy to foment that discontent. If a man goes about carrying propaganda and he gets popular, if large crowds begin to attend his meetings, then the police would naturally like to take action against him and a detention order will be issued against him. You know what the effect would be. The Government will be damned by the public. They will resent this sort of detention and this will only make the Government more and more unpopular. So, I do not want such an Act to be on the Statute Book. In normal times the ordinary law of the land is enough to meet any situation. If there is any danger to the security of the State or there is internal disturbance, and Government feel that they cannot adequately deal with the situation, they can resort to this measure. We tabled amendments to that effect; but those have not been accepted.

With these words I commend this amendment to the House.

Shri A. K. Gopalan: Sir, to clauses 7, 8 and 9 several amendments have been given. I want only to mention about some of the amendments that are given either by me or some other hon. Members.

It was pointed out that we have accepted the principle of arresting a man and keeping him inside the jail without trial. As has been pointed out by the previous speaker, we have repeatedly said that we are against it.

If, however, Government intends to proceed with the measure, the other alternative for us to consider is how far the rigours of detention can be reduced. One of the improvements made is the constitution of Advisory Boards. The other one is that the detenu should be made aware of his grounds of detention,—the reason why a man is arrested and kept in detention.

As far as the constitution of the Advisory Boards is concerned, we are of the view—which we expressed in the Joint Committee as well—that they should be sitting Judges of the High Court, not those who are likely to be appointed as Judges, or those who have retired from the High Court Bench. Our apprehension is that junior lawyers if they are appointed on the Advisory Board are not likely to act boldly.

As far as the function of the Advisory Board is concerned, if it is only to look into papers that are actually sent to it and not examine the cases by calling witnesses, the person detained will not be able to make a good representation. Nor will he be able to understand the reason why he has been detained, the circumstances in which he has been detained and the specific charges against him. That is why in some amendments it has been suggested that the grounds and other particulars that are necessary should be placed before the Advisory Board. Otherwise it will be impossible for the detenu to make his representation. I say this because even yesterday and the day before when there was a discussion about my grounds of detention. I was not able to represent my case well. Suppose my hon. friend Mr. Shiva Rao had been in the Advisory Board and I had been a detenu, certainly my detention would have been continued, because I was not able to represent my case well. So, in cases where a detenu does not know about the grounds of detention and does not know how to represent his case, certainly the advice of a legal practitioner is quite essential.

I do not want to go into details. The hon. Home Minister said that the aid of lawyers is not necessary. But as far as Madras is concerned, it is only the help of Rao and Reddy and other practitioners which has enabled several of the detenus to be released from detention. In this connection I would like to pay my tribute to those advocates who, whether by taking fees or by not taking fees have defended many a detenu and secured his release.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

In Bengal also we have seen that a batch of 300 detenus had been once released and that was the reason why hurriedly the other detention order had to be passed. I know about Madras when I was in Cuddalore jail. Among the 400 detenus there those who knew English or who could defend themselves or say anything before the Advisory Board were only 25 per cent. It always happens that when you detain a man and bring him before the Advisory Board, he does not even know to read the grounds of detention and even if he reads, he will not be able to say anything. 80 per cent. of the detenus who had been detained come under this category. I do not know about the prospective detenus about whom the hon. Home Minister referred yesterday. I am not talking of them. Perhaps the hon. Minister knows about them. I am talking of the past detenus, those who have been detained before and among them 75 per cent. did not know even to read and write. They were from the villages in Tamil Nad, Malabar and Andhra. If these detenus were brought before the Advisory Board and the Board puts some questions and they say something, it will only be a farce and nothing else. The Advisory Board will say that they have seen something. It is quite essential that the man who has been detained should be given a chance to prove his innocence and must know the grounds on which detention has been made. He has to prove that the grounds on which he had been detained are unreasonable and for this certainly the assistance of a legal practitioner is very essential. I also submit that effective particulars must but given. Supposing a man is called before the Advisory Board, he must get all the facts and figures about the case that had been launched against him, whether the case had been tried in a court and what is the result. If all the particulars are not given but the Advisory Board just reads the charges against the man and does not give

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particulars of cases and judgments, it is no use. Not only all the particulars must be there but the man must be able to defend himself. Those who are not able to defend themselves must certainly be given the advice of an advocate and he must be able to defend himself. This is the most important thing. It has been said that the detenu can go before the Advisory Board and call the witnesses. Even if he could call the witnesses, the detenu will not be able to make use of them. As I said, in my experience 80 per cent. of the detenus are those who can never plead for themselves or who can never understand a case. 25 per cent. of the detenus were peasants and workers and they did not know to read and write. Others simply knew to read and write but they did not know the legal position or what should be done and there were also no facilities to help them to defend themselves. Supposing the Advisory Board takes up a case and the man is detained for two years. But there should be another opportunity for the Advisory Board to take up that case again after three or six months for the purpose of reviewing it. For example, a man might be arrested because there is a Hindu-Muslim riot at the time and he might participate in it. It may be that at the time when the Advisory Board took up that case, the uneasiness might be continuing in the village but after three or six months there might not be rioting. The man had been arrested and detained only to prevent him from taking part in a certain situation, but that does not mean that for the next two years, he might be detained. The riot may cease to exist after some time. If after some time the Advisory Board reviews the case, they would come to the conclusion that the purpose for which the man had been detained is over. It is not therefore right to say that there is no question of the Advisory Board saying that the detention is certainly unreasonable. I submit that conditions may change after three or six months. The Government may say that the local Government is there and it can revoke the order. I consider it is the duty of the Advisory Board. They must have the right to say whether after three or six months the same situation on which some of the persons had been detained is there in that village. If that is not there, the object of the preventive detention is only to prevent a man from taking part in a certain riot in a certain village but that riot is not in existence after six months. The Advisory Board when it meets next must give an opportunity to the detenu to explain why he should be released. If the Advisory Boards are to be of any use to the detenu, he must be given all the opportunities that are given to the Advisory Board and he must be allowed to get two or three witnesses. In all cases it is the speech which the C.I.D. had reported. It is not the shorthand writers who had written out the speech, but it is the ordinary man who cannot transcribe anything. In connection with my speech, I told the Advisory Board: I spoke for two hours but the C.I.D. man had written five sentences about it. What is the context? He could not say anything. It would be very desirable that I should get three or four witnesses who attended the meeting. Then the Advisory Board may be able to question them and from that they will be able to understand what had been said by me. The detenus must be given the opportunity to call witnesses, examine and cross-examine them and the assistance of a lawyer should also be there to help him. If all this is done, the preventive detention Act would be used properly and there would be no complaint of its being misused. The least that could be done to make the Preventive Detention Act useful is that the Advisory Board should be made to work in such a way that the detenu must be able to represent his case well. He must have the witnesses before the Advisory Board and the Advisory Board must be able to understand the case and say: This is a case where a man has been detained without any reason. This is a case where the man is not guilty and he must be released at once. If the Advisory Board is only there to get something from the man and not to give the facts that he wants, it will be of no use. I therefore suggest that the amendments moved by me and some of the hon. Members may be accepted. Otherwise the Advisory Board would become a kind of farce where you would say that the detenus had been called and something had been shown and the Board had decided that the man should be detained. This is only another instrument by which his detention can be confirmed. I hope that these amendments would be accepted.

Shri V. G. Deshpande: For the last five years, since the Congress Party came into power, we are feeling that this Preventive Detention Act is not being administered for the purpose of suppressing the lawless elements in the country, but is mainly used for suppressing the political adversaries of the Congress Party. Hence we want to say that an Advisory Board, nominated by the Executive cannot fulfil the functions entrusted to it properly and impartially. That is why, in the Joint Committee, the Members of the Opposition had insisted that a Judge of a High Court and not a person who is qualified to be a High Court Judge or who has been a High Court Judge should be appointed Chairman. We at least wanted that a present Judge of a High Court shoud be the Chairman of the Board. Unfortunately, the Party in power, who were in a majority, did not see their way to accept this simple and innocent amendment. That is why we are here to press that amendment.

In the first place, my reason for opposition to an ex-Judge of a High Court is this. I accept that a person who has been a Judge of a High Court has got the mental aptitude and the necessary training for giving impartial verdicts. But, my fear is that persons who would be appointed Chairmen of the Advisory Boards may perhaps be members of certain political Parties. However impartial a High Court Judge may be, there is no bar to his joining the Congress Party or having leanings towards the Congress Party after retirement. Only such ex-Judges of the High Courts would be appointed to the Advisory Boards who would give their verdict in favour of the Party in power.

In the second place, my fear is this. Unless the other members are also there, presided over by a Judge of the High Court, the functions of this Advisory Board would not be fulfilled as they should be. Hence I appeal to the Party in power and Home Minister. Even after he has accepted these changes, we do not feel that this Preventive Detention Act would be administered in the interests of the country. As I have said in the beginning this is not meant for suppressing lawlessness in the country. For that, there are other measures. During the past five years, we have seen that persons who had nothing to do with lawlessness have been detained. When Mr. Liaquat Ali Khan came here, Vir Savarkar was arrested in Bombay. We have seen that this Government failed to suppress lawless elements in 1946 when the Muslim League was carrying on its activities, and when Mr. Jinnah and Mr. Liaquat Ali Khan could have been arrested under the Preventive Detention Act. There were analogous provisions; but they were not arrested. (*Interruptions*).

Mr. Chairman: May I just interrupt the hon. Member? The hon. Member will kindly resume his seat. I will just request the hon. Member not to go into instances, etc., at this stage. We have passed that stage. We have had full discussion for three or four days. Now we are concerned with attempts at improving the Bill. He may give his arguments in favour of his amendments. If he goes into past history, and indulges again in the recitation of old history and refers to 1946 and 1948 incidents, the time we have at our disposal being so short we may not be able to reach all the other clauses, and thus be able to do justice to the Bill before us. Many other hon. Members want to speak and so many amendments have been moved. I would request the hon. Member to be brief and make his points only.

Shri V. G. Deshpande: I only wanted to point out, Sir, how in that case it was not done impartially. In 1952 and 1953, we have to take precautions to see that this measure is not oppressive on the other political Parties. I just wanted to make a casual reference that in those times, Govind Ballabh Pant was the Prime Minister of U.P. where Mr. Liaquat Ali Khan was residing and Mr. Morarji Desai was the Home Minister of the province in which Mr. Jinnah was living, where direct action was started. I really want to use this measure only for suppressing lawless elements. As I said, if a present Judge of a High Court is appointed, it is very likely that things will be done impartially.

The second point that the Opposition is pressing is that unless all the grounds are provided to the detenu, unless all the materials in the possession of the Government are supplied to the Advisory Board, and unless the detenu has the right to be accompanied by a legal adviser who would be in a position to cross-examine and call witnesses, we feel that the Preventive Detention Act is likely to be misused. It has been said that they do not want to degenerate the Advisory Board into a regular court. In fact, I want to elevate it as much as possible into a regular trial. In fact, that is our intention in moving this amendment. It is said that the Opposition feels that the High Court Judges are greater guardians of civil liberties. I certainly say that High Court Judges are greater guardians of civil liberties than the Executive. The Executive and the Party in power should be proud of this. I must say that in spite of the partial and corrupt administration of this country, the High Courts and the Supreme Court have been sufficiently impartial to have the confidence of the people of this country. I see my friends smiling a derisive smile. They should not do that. Our High Courts and the Supreme Court are really the guardian angels of our Constitution and the administration of this country. Therefore, without making a long speech, I want to

[Shri V. G. Deshpande]

say on this measure which is intended to suppress all other political Parties, that all the grounds should go before the Advisory Board which is presided over by, not an ex-Judge, but a present Judge of a High Court, that all the materials in the possession of the Government must be supplied to the detenu, who should have the right to have a counsel with him, who will be in a position to cross-examine and call witnesses.

With these words, I place my amendments before the House.

Sardar Hukam Singh: Sir, we are discussing three clauses 7, 8 and 9. I have moved two amendments. One is, as has already been observed by my hon. friend, that the Chairman should be one who is at present a Judge of a High Court. And the second is that when a High Court Judge is appointed, it should be done by the Chief Justice and not by the Government. So far as these amendments are concerned, I have nothing more to add because we are very clear on the matter as has already been explained by my hon. friend.

So far as the three sections of the principal Act are concerned, I take it that section 8 deals with the constitution of the Board. We have dealt with that and stated that the Chairman should be a Judge of a High Court. In section 9, the amendment that has been proposed by the Joint Committee is that instead of six weeks, it should be 30 days and sub-section (2) is omitted. The most important section is section 10. Previously, in the old Act that we are trying to amend, it was laid down: "..........after calling for such further information, as it may deem necessary, from the appropriate Government or from the person concerned, and, if in any particular case it considers it essential, after hearing him........." That was the provision in the old Act that we are seeking to amend. Further information could be called for from the appropriate Government, and from the person concerned: information only; he will not be entitled to be heard. And if it is considered essential by the Advisory Board, they might send for him, and he may say anything that he had to say. The Joint Committee had made an improvement in the third category, namely adding the words "if the Board considers it essential, or if the detenu himself desires". So this further information can be sought not only when the Advisory Board itself considers it essential that he should be heard, but also when it is the desire of the detenu himself to appear before the Advisory Board to say something that he thinks necessary to convey. Of course, it was some advance.

The amendment that has now been proposed by Mr. Pataskar brings in another provision, *viz.*, that the Advisory Board might get this information from any other person also that might be called through the appropriate Government. This is what I have understood. I do admit that that is also an advance, and I welcome it certainly, however little it may be, though it is very tardy and grudging. But at least it demonstrates that there is room for improvement, that there is scope for liberalisation. If we admit that, then certainly we cannot say that we have just now come to the stage where we may call this a model measure, an ideal measure. That was the position of the Opposition, *viz.*, that there is scope for liberalisation, and therefore, though they have failed, they tried their very best to restrict the duration of the Act to one year. Mr. Pataskar's amendment has certainly brought out the fact that there is still room for progress and that it should be made.

Our position was that before the Advisory Board a detenu should have the right to cross-examine witnesses, to call witnesses and to be present there and be represented by a lawyer as well. Of course, we have heard instances and stories of atrocities that the terrorists were going round and terrorising people so that under such circumstances people would not come forward and give evidence in cases where such coercive methods are used. That is one side. Then again, on the other side, we have heard how it had been abused, how innocent persons had been brought within the mischief of the Act. Yesterday, it was, of course, disquieting to hear about the story of two old ladies whom the terrorists coerced and got money out of them, and the Government thought it fit to detain them. If such a case is there what is the Advisory Board to do?

In my opinion, there are cases where we can find out a *via media*. So that that objection might be obliterated *viz.*, that the terrorists might not allow any witnesses to moce forward, so that there might be no fear in the minds of the witnesses and there might be no need to call them also, we can provide for proper representation and a fair scrutiny by the Advisory Board in cases where the Advisory Board finds that there is no such contingency. If it is not given as a right to the detenu that he might call witnesses, or cross-examine them and conduct his own defence, at least we can depend upon the Advisory Boards to use their discretion to see whether there is no such danger and whether they can allow the detenu himself to come forward and be represented by a pleader where they feel that he is not proper person to defend himself. Because it is common knowledge, Sir, and you know it best, that the lawyers are unable to defend themselves. When it is a personal case, it is best for the lawyer not to defend himself. If the lawyer cannot defend himself, what to say of the poor accused, illiterate person who is brought before the Advisory Board.

Dr. P. S. Deshmukh (Amravati East): It is the knowledge of law that makes him incompetent.

Sardar Hukam Singh: Maybe. Then scrap the whole thing altogether. Have another structure. Unless you do that and you maintain this, you have to go by that. These revolutions cannot be brought about simply by words. Scrap the whole construction altogether, and let us proceed anew. Then we can eliminate these lawyers, but so long as you are following that old structure, you have to keep them, and even the Judges have felt that the faces of the lawyers are not offensive to them as it was said; they are rather helpful. And there is the power that if one is not defended in a serious case, the Courts shall provide him with a lawyer at Government expense.

10 A.M.

I was submitting, Sir, we may not give it as a right to the detenu himself, but in any case he might be entitled to call witnesses, to be represented by a pleader or to cross-examine the witnesses at the discretion of the Advisory Board in suitable cases where there is no question of any coerçion by the persons of the detenu or his party, where there is no question of any terrorism, where there is no such fear that the witness might be eliminated or liquidated. If the Advisory Board feels that it is a case where further scrutiny is required, then not only they may call for the information from the Government or the detenu or any other person where they think necessary, but it should be left to their discretion to allow the detenu to be represented by a pleader, to call witnesses and to cross-examine them. In my humble opinion that would eliminate all those fears that have been expressed about persons belonging to certain Parties or certain ideals, and also would give facilities to persons in cases where really they are not accused of any terrorism, coercion or violence, but are only accused that they might do something harmful, where perhaps the law is being abused, I may say.

My humble submission is that Mr. Pataskar's amendment does not go to that extent, and I would appeal to the hon. Minister to consider if he is prepared to give that discretion to the Advisory Boards that in suitable cases they may allow this opportunity to the detenu for defence which might be necessary in certain circumstances.

Several Hon. Members *rose*—

Shri Dhulekar (Jhansi Distt.—South): On a point of order, Sir. All these amendments have been taken to be moved, and so if every hon. Member who has given notice of an amendment goes on speaking, then the discussion will be confined only to one side. So I will submit, Sir............

Mr. Chairman: There is no point of order involved in this. Already all these amendments, as the hon. Member himself says, have been moved. They are before the House, but if only the Members on one side of the House stand up and are desirous of speaking, the Chair is helpless. If nobody stands up from the other side, and nobody wants to speak, I cannot order any person to speak. I have been looking round and wanting to give an opportunity to the other side also. It is not necessary that only those who have moved the amendments should be asked to speak. All these amendments have been moved and I want that both sides should be represented, but if nobody stands up on one side, I have got no option in the matter.

Shri Dhulekar: We may take it, Sir, that we can stand up.

Mr. Chairman: Certainly, there is no doubt.

Shri Dhulekar *rose*—

Mr. Chairman: But the hon. Member is standing up rather too late. Mr. Gurupadaswamy.

Sardar Hukam Singh: He is not sure of his legs, perhaps.

Shri M. S. Gurupadaswamy: Sir, I shall confine my remarks to one or two points on which I have got some doubt.

Mr. Chairman: Before the hon. Member starts, I would request him to be brief, so that as many persons as possible may get an opportunity to speak. As he has himself seen there are many Members on both sides who desire to speak.

Shri M. S. Gurupadaswamy: In the amending Bill it is provided that when a person is arrested and detained, the appropriate Government should furnish the grounds of detention to the Advisory Board within a period of 30

[Shri M. S. Gurupadaswamy]

days. In the original Act, the period was six weeks. From six weeks, it has been reduced to 30 days, *i.e.*, four weeks and two days. My humble submission is that usually detentions are ordered on mere suspicion, on some probability which may not be reasonabe at all. If there is no provision in the Act to the effect that persons should not be arrested and detained unless there are sufficient and reasonable grounds to do so, then a wide scope is given to the executive authority to misuse the power. The District Magistrate or any other officer acting on behalf of the Government may arrest any person under this Act without any strong grounds, on mere suspicion. My point is that grounds should be supplied to the persons concerned, before the arrest, so that when the arrest notice is given, they may not be taken unawares. I know of one or two cases where the executive authority has arrested a person on mere oral orders, without giving him any grounds. So I submit that the period should be short. My second point is that the grounds should as far as possible be supplied before the detention order is made......

Shri B. Shiva Rao (South Kanara—South): May I know to which period my hon. friend is referring?

Shri M. S. Gurupadaswamy: The period of 30 days may be shortened, for furnishing the grounds of detention to the Advisory Board.

Mr. Chairman: That has been settled already. The period for supplying the grounds of detention to the detenu has been decided already to be five days, and that particular clause has been passed already.

Shri M. S. Gurupadaswamy: My second point is about the legal advice to be given to the detenu. Many hon. Members have expressed their opinion in this regard, and have said that the detenu should have the privilege and opportunity of taking the aid of a lawyer. I feel that the Advisory Board may often go wrong, because there may be some issues which may not be clear and on which the detenu may not be able to clarify his position. In such cases it is always better to take the advice of the legal practitioner, and I feel that the Advisory Board should be advised in such cases; otherwise the decision of the Board may become arbitrary, and may not be really impartial. In order that right conclusions may be arrived at, it is better to allow the lawyers to appear on behalf of the detenus, and there should also be a provision in this Act that the detenu or his lawyer may be allowed to call any witness to appear before the Board to give evidence. According to my hon. friend's amendment, no person may be directly called to supply information. I want to ask what harm is there in asking a person to appear directly and through a lawyer to supply the additional information or evidence that is required? I suggest that that information may be passed on to the Government afterwards. My hon. friend said that to enable the Government to give the additional information, the medium of the Government should always be used. My submission is that if we employ the medium of the Government for supplying the additional information to the Board, the persons concerned may unconsciously come under the influence of the Government, and to that extent, the information may not be as impartial as it should be. So the information should be given direct to the Board. The Advisory Board should have complete freedom to communicate with those persons, without the Government coming into the picture at all. The Board may pass on the information to the Government afterwards. I hope my hon. friend will see this point clearly.

There is another point to which I would like to draw your attention. There is no definition of the grounds in the Act. Section 3 deals with certain grounds, but they are not very clear. In certain cases I have seen that there is great confusion as regards the satisfaction of the Government about the grounds of detention. I do not know what the term 'satisfaction' means. It should be, of course, reasonable satisfaction based on strong grounds. In many cases we have come across the Judges finding themselves not in a position to appreciate the satisfaction of the Government, because the grounds, according to them, have been frivolous. My hon. friends on this side have quoted many instances where persons have been arrested on very frivolous grounds. So my submission is that unless the grounds are strong, and reasonable, there should not be the arrest of a person.

Finally I again say that the Advisory Board should as far as possible have access to all the materials bearing on the case. It is necessary that the detenu should have the chance to take legal aid, and also to call witness to appear in his defence to give evidence, and also that the grounds of detention should be disclosed to the persons concerned, before the detention is made. That is all I want to say.

श्री घुलेकर (ज़िला झांसी—दक्षिण) : श्रीमान्, ऐडवाइज़री बोर्ड (Advisory Board) की शक्तियों के सम्बन्ध में जो यह संशोधन पेश किये गये हैं उन के सम्बन्ध में मैं यह कहना चाहता हूं कि जिन माननीय सदस्यों ने यह संशोधन पेश किये हैं या तो वह वास्तव में इन संशोधनों को पेश कर के केवल यह चाहते हैं कि वह इस बात का अपना ख्याल ज़ाहिर करें कि हम इस बिल को नहीं चाहते हैं। एक सज्जन जो वहां पर बैठे हुए हैं उन्हों ने तो यह कहा कि हमारी नीयत इस बात की है कि हम इस बिल को नहीं चाहते हैं। कुछ लोग यह कहते हैं यद्यपि हम इस को नहीं चाहते हैं लेकिन इस में एक हद तक ऐसे संशोधन कर देना चाहते हैं कि जिस से जो लोग कि डिटेन (detain) किये जायें उन को अधिक से अधिक लाभ मिले और अधिक रक्षा मिले।

ऐडवाइज़री बोर्ड की जो शक्तियां हैं, उन को कुछ हिस्सों में तो वह फैला देना चाहते हैं और कुछ हिस्सों में वह कम कर देना चाहते हैं। श्रीमान् जी, मैं आप के सामने पेश करना चाहता हूं कि यहां पर दो शब्द मौजूद हैं, एक शब्द है, "प्रिवेंटिव" (preventive) और दूसरा है "डिटेंशन" (detention)। यदि इन्हीं दो शब्दों के डिक्शनरी मीनिंग (dictionary meaning) हमारे मित्र देख कर समझ लेते तो मेरे विचार में २५ दिन की बहस करने की कोई आवश्यकता नहीं होती। "प्रिवेंटिव" शब्द का अर्थ यह है कि आगे को रोक देना और "डिटेंशन" पर रख देना। अब यदि हम इन दो शब्दों को समझ लें कि हम एक आदमी जो आगे काम करना चाहता है उस को रोकना चाहते हैं और दूसरा काम यह है कि हम उस आदमी को डिटेन करना चाहते हैं, यदि इन दो साधारण अंग्रेज़ी शब्दों को हमारे माननीय मित्र समझ लेते तो कोई ज़रूरत इस बहस की नहीं रहती कि आप यह कहें कि ट्रायल (trial) कीजिये। अंग्रेज़ी शब्द 'ट्रायल' के माने यदि अंग्रेज़ी डिक्शनरी में देखे जायें तो ट्रायल का अर्थ केवल यह है कि यदि किसी मनुष्य ने कोई जुर्म किया हो तो उस के लिये अन्त तक सारे मामले को समझ कर उस को सज़ा दे दी जाये। तो यदि कोई आदमी इस बात को कहे कि प्रिवेंटिव डिटेंशन बिल में आप ऐसी शर्तों को जोड़ दीजिये कि जिस से ट्रायल हो, तो मैं पूछता हूं कि फिर आगे क्या किया जाये ? क्या फिर डिटेन किया जाय ? यह दोनों बातें कैसे हो सकती हैं। यदि ट्रायल होगा तो सज़ा मिलेगी और ट्रायल नहीं होगा तो डिटेन किया जायेगा। दोनों बातें आप के सामने हैं।

लोग कहते हैं कि प्रिवेंटिव डिटेन्शन बिल में पूरा ट्रायल होना चाहिये। एक संशोधन है कि हम को वकील मिलना चाहिये। एक संशोधन है कि हम को सारे काग़ज़ात पेश करने चाहियें। एक संशोधन है कि हम को पूरे तौर से बहस कर लेने देनी चाहिये। मैं आनरेबुल श्री गोपालन और ऐस० पी० मुखर्जी साहब से कहना चाहता हूं और जो वकील वहां ऐन० सी० चैटर्जी वगैरह बैठे हुए हैं उन से कहना चाहता हूं कि आप को वकील दे दें, आप सारी बहस कर लें, सारी शहादत गवर्नमेन्ट पेश करेगी आप के गवाहों के बयानात हो जावेंगे, जब साबित हो जायेगा कि आपने जुर्म किया है तो मैं पूछना चाहता हूं कि क्या श्रीमान्जी

[श्री घुलेकर]

आप डिटेन किये जायेंगे । डिटेन क्यों किये जायेंगे । आप तो जेलखाने में सड़ेंगे । देखिये कि आप क्या कहते हैं कि हिन्दुस्तान में हम को सिक्योरिटी आफ इंडिया (Security of India) के खिलाफ़ चुप चाप घूमने दीजिये और हम हर जगह इस बात को कहते फिरें कि पाकिस्तान से झगड़ा करो, अंग्रजों से झगड़ा करो, कोरिया में फौजें ले जा कर कूद पड़ो, ब्रम्हा में झगड़ा करो, नैंपाल में गड़बड़ी मचा दो, अमेरीका से जो रुपये आदि की मदद हम आज ले रहे हैं उस को मत लो, क्योंकि वह एक दिन आ कर हमारे ऊपर राज्य कर लेगा, आप यह सारी बातें हिन्दुस्तान में करते फिरेंगे जिस से कि हिन्दुस्तान में साल दो साल या चार साल में लड़ाई हो जाय और हमारे दो चार करोड़ आदमी मर जायें, इतना बड़ा काम तो आप करते फिरें और उस के साथ आप कहते हैं कि आप के लिये वकील भी दिया जाय, बैरिस्टर भी दिया जाये, पेंशन (pension) भी दी जाय, प्राविडेंट फंड (Provident Fund) भी दिया जाय, इनहैरिटेंस फंड (Inheritance Fund) भी दिया जाय और आप को किताबें भी दी जायें, वह किताबें और वह पुस्तकें कि जिन से आप हिन्दुस्तान की संस्कृति का नाश कर दें, यह कैसे सम्भव है । हमारे डाक्टर काटजू साहब ने जिस वक्त यह बात कही कि मैं वहां डिटेंशन कैम्प में गया तो एक सदस्य ने मुझ से कहा कि मुझ को कुछ पुस्तकें मिलनी चाहियें । (*Interruption*).

Shri K. K. Basu: We are not discussing *'rasgoolas'*: we are discussing Advisory Boards.

Mr. Chairman: Order, order. I will request the hon. member to speak on the three clauses or the amendments. He is again going into a general discussion. He should come to the point and discuss these section or the amendments.

श्री घुलेकर : रसगुल्ले की बात फिर कहूंगा, अभी मैं यहां पर ऐडवाइज़री बोर्ड के बारे में कह रहा हूं । ऐडवाइज़री बोर्ड के सम्बन्ध में जो बातें आप के अमेंडमेंट्स में रखी गई हैं वह यह हैं कि पूरा मौका इस बात का दिया जाये कि सारी बातें हम जिस प्रकार से अदालत में रखते हैं उस के अनुसार रखें । उस के विरोध में मैं कह रहा हूं कि प्रिवेंटिव डिटेंशन बिल में सिक्योरिटी आफ इंडिया के खिलाफ हमारे मित्र इस प्रकार का काम करें कि हमारे सर पर एक लड़ाई आ कर खड़ी हो जाये जिस में हमारे करोड़ों रुपये लग जायें और जितनी हमारी हिन्दुस्तान की संस्कृति है उस का नाश हो जाये, यह सब तो वह करें और फिर यह सुविधा भी उन के लिये कर दें कि ऐडवाइज़री बोर्ड के सामने हम वह चीज साबित करें कि जो एक मुजरिम के खिलाफ साबित होती है । मुझे अफसोस है कि मेरे मित्र भाषा नहीं समझते । हम तो उस को बचाना चाहते हैं, जो जुर्म कि आप आगे करना चाहते हैं उस को हम बचाना चाहते हैं । ऐडवाइज़री बोर्ड का शब्द इसलिये रखा गया है कि गवर्नमेंट को इस बात की सलाह दे कि इस मनुष्य ने हिन्दुस्तान भर में घूम कर जो बातें कहीं हैं उन का असर कहीं ऐसा तो नहीं है कि जो सिक्योरिटी आफ इंडिया के खिलाफ़ पड़ता है या आगे चल कर हिन्दुस्तान में हिन्दू मुसलमानों का झगड़ा पैदा हो जाय या कोई क्लास स्ट्रगल (class struggle) हो कर ऐसी स्थिति हो जाये कि जो ऐसे न्शियल कामोडिटीज़ (essential commodities) हमारी तैयार हो रही हैं, जैसे गन फैक्टरीज़ (gun factories) वगैरह में, जिन से कि आगे हम कभी लड़ाई लड़ें

तो हमारी रक्षा हो । आप आगे जा कर यूनियन (Union) के जरिये ट्रेड, यूनियनिज्म (trade unionism) के बहाने से वहां इस बात का व्याख्यान दें कि लोग सिटिंग स्ट्राइक (sitting strike) करें, वह साढ़े चार घंटे ही काम करें, हमारे मित्र यह बहाना बतायें कि संसार में तो आठ घंटे काम होगा लेकिन हिन्दुस्तान गरम मुल्क है इस लिये हम यह दावा करते हैं कि हमारे यहां केवल छः घंटे ही काम होना चाहिये । श्रीमान् जी, मैं आप से निवेदन करना चाहता हूं कि यह लैक्चर प्लैटफार्म पर कितनी भारी बात है। यह कितनी सुन्दर बात लगती है कि जो आदमी कारखाने में पिस रहे हैं, उन के लिये हम छः घंटे रोजाना काम की बात कहते हैं, लेकिन देश के लिये यह कितना घातक है, यह मैं दिखाना चाहता हूं । हमारे मित्र जो बहुत मासूम अपने को बताते हैं, जैसा कि आनरेबुल श्री हुक्म सिंह ने कहा कि पूअर (poor), इल्लिटरेट मैन (illiterate men), ऐडवाइजरी बोर्ड के सामने आवेंगे । पूअर, इल्लिटरेट, कैसे ? वह तो पढ़े लिखे बी० ए० ऐल० ऐल० बी०, ऐम. ए., ऐसे लोग ऐडवाइजरी बोर्ड के सामने आवेंगे । यह इल्लिटरेट शब्द आप ने जो इस्तेमाल किया तो इन कम्युनिस्टों के लिये मैं अर्ज करता हूं कि वह ठीक नहीं है ।

सरदार हुक्म सिंह : मैं ने तो अपने लिये कहा, इन के लिये नहीं कहा ।

श्री धुलेकर : तो आप के मित्र कभी ऐसा जुर्म नहीं करेंगे, यह भी मैं आप से कहता हूं ।

सरदार हुक्म सिंह । हमारे ऐसे कई मित्र आगे इस में पकड़े गये ।

[MR. DEPUTY-SPEAKER *in the Chair*]

श्री धुलेकर : दूसरी बात जो मैं कहना चाहता हूं वह मैं आनरेबुल डाक्टर श्यामा प्रसाद मुखर्जी से कहना चाहता हूं । उन्हों ने हमारे पंडित जवाहर लाल नेहरू के सामने उन के स्वर्गीय पिता जी के कुछ शब्द पेश किये । मैं भी श्रीमान् आशुतोष मुखर्जी के नाम की दुहाई दे कर यह कहना चाहता हूं कि सन् १९०४ और सन् १९०६ से ले कर १९१२ तक मैं बंगाल में था । मैं जानता हूं कि उस जमाने में हमारे माननीय बाबू श्यामा प्रसाद मुखर्जी के पिता जी सर आशुतोष मुखर्जी ने बंगाल में कितनी बड़ी सहायता हमारे विद्यार्थियों को दी । कलकत्ता के मराठा लाजेज में कितनी उन्हों ने हमारी मदद की ।

उस वक्त यदि डाक्टर श्यामा प्रसाद मुखर्जी के पिता न होते तो हमारे हजारों आदमी जेलखानों में चले गये होते, उन के पिता ने हमारी रक्षा की । हालांकि हम गवर्नमेंट के बोर्डिंग हाउसेज (Boarding Houses) में नहीं रहते थे, तो भी उन्हों ने डिक्लेयर (declare) किया कि चूंकि हमारे बोर्डिंग हाउसेज में पर्याप्त जगह नहीं है, इस लिये कोई भी विद्यार्थी कलकत्ता में जहां कहीं भी रहता हो, वह हमारी छत्रछाया में रहता है । अब मैं दूसरी बात जो अपने मित्र डाक्टर मुखर्जी से कहना चाहता हूं वह यह है कि आप यह किस तरह से डिक्लेयर करते हैं कि वर्तमान हुकूमत द्वारा जो डिटेंशन एक्ट पास किया जा रहा है, और पबलिक सिक्योरिटी ऐक्ट (Public Security Act) जो अंग्रेज़ी के शासन काल में चलता था, दोनों एक हैं ।

Shri U. M. Trivedi (Chittor): On a point of information. Is it not on Advisory Boards that we are having the discussion?

Shri Dhulekar: Yes, Sir, on Advisory Boards.

Mr. Deputy-Speaker: Hon. Members will kindly confine themselves to the clauses and to amendments moved. The time is so short.

श्री घुलेकर : मैं यह अर्ज़ कर रहा हूं कि इस में यह लिखा हुआ है कि पबलिक आर्डर, (public order), सिक्योरिटी आफ इंडिया और ऐसेन्शियल सप्लाईज़ वगैरह को जो कट (cut) करते हैं उन के जो मामले हों, वह ऐडवाइज़री बोर्ड के सामने पेश किये जायें उसी तरह से जैसे कि मुकद्दमे अदालतों में पेश किये जाते हैं और उन को वकील करने की भी सुविधा दी जाय, अभी हमारे श्री गुरुपद स्वामी ने कहा कि उन को वकील रखने दिया जाय और उन को हर किस्म का मौका दिया जाय कि वह गवाहों से जिरह कर सकें और ज़रूरी कागज़ात पेश कर सकें। इस मांग के सम्बन्ध में श्रीमान्, मैं यह कहना चाहता हूं कि एडवाइज़री बोर्ड के सामने दो तरह के आदमी पेश होते हैं। एक आदमी वह थे कि जो देश के हित में लड़ाई लड़ते थे ताकि देश आज़ाद हो जाये, वह देश भक्त थे, दूसरी किस्म के वह क्रिमिनल्स (criminals) हैं जो ज़मीन के अन्दर छुपे रहते हैं और सिक्योरिटी आफ इंडिया, पबलिक आर्डर और ऐसेन्शियल सप्लाईज़ की चीज़ें हैं उन को बर्बाद करने के लिये जो लोग फिर रहे हैं, उन को और पहले किस्म के आदमियों को आपस में अगर आप तोलें तो दोनों में काफी आप को फर्क और क्लियर डिसटिंक्शन (clear distinction) मिलेगा। हम जो लड़ते थे तो साफ और सामने आ कर लड़ते थे, हम कोई तार वगैरह ऐसी चीज़ काटने के लिये तैयार नहीं हैं और न हमारी कोई सीक्रेट ऐक्टिविटीज़ (secret activities) हैं, हमें कोई बात छुपानी नहीं है और न ही हमें किसी बात की शर्म है, हमें अदालत या कहीं भी जाने में शर्म नहीं है क्योंकि हम तो अपने देश के हित के लिये लड़ते हैं, तो मैं डाक्टर श्यामा प्रसाद मुखर्जी को इन दोनों तरह के आदमियों में डिस्टिंक्शन बताना चाहता था। मेरे मित्र मुझ से लियाकत में बहुत बड़े हैं, लेकिन मैं उन से पूछूं कि ऐसे आदमी जो देश में गड़बड़ी पैदा करें, दूसरे मुल्कों से लड़ाई करा दें, या तो गवर्नमेंट फैक्टरियों में, मिलों में और हवाई जहाज़ के अड्डों पर ऐसी गड़बड़ी फैलायें जिस से हमारी ज़िन्दगी खत्म हो जाती है, इस प्रकार के लोगों को और पहली किस्म के आदमियों को एक साथ रखना कहां तक मुनासिब और न्यायसंगत है। पंडित मोती लाल ने जो कहा था वह ठीक कहा था, उन्होंने ऐसे लोगों के लिये नहीं कहा था जो देश को हानि पहुंचाते हैं।

Dr. S. P. Mookerjee: The hon. Member has forgotten that the speech which Pandit Motilal Nehru made was on a Bill directed mainly against British communists in India, not against the Congress Party. Even then he said that they must be given some opportunity to present their case before a tribunal. The hon. Member has forgotten it completely.

श्री घुलेकर : मैं अर्ज़ करना चाहता हूं कि हमारा तो उस समय नेशनल मूवमेंट (National movement) चल रहा था और हम तो हर क्षेत्र में ब्रिटिश गवर्नमेन्ट का और उस की चीज़ों का पूर्ण बहिष्कार कर रहे थे, यहां तक कि हम उन स्कूल, कालिजों और युनिवर्सिटियों को, जिन्हों ने मुझे और डाक्टर श्यामा प्रसाद मुखर्जी को पैदा किया, उन को हम उस समय गुलाम खाने कहते थे, और उस समय तो हम उन की हर चीज़ को गिराना चाहते थे, क्योंकि हम उस विदेशी शासन का अपने देश से अन्त देखना चाहते थे। मैं श्री मुखर्जी से पूछना चाहता हूं कि क्या आज आप वही चीज़ें

करना चाहते हो, जो अंग्रेजो के राज्य में हम करते थे, और अगर आप कहते हैं कि हां हम यह सब करना चाहते हैं तो ऐसी हालत में हम में और उन में ज़मीन आसमान का फर्क है। वह नदी के एक पार हैं और हम दूसरी पार हैं। अब आप उस क्लास की तरफ देखिये जिस के नेता हमारे मित्र श्री गोपालन हैं। उन का कहना है कि हम तो हिन्दुस्तानी सभ्यता नहीं रखेंगे, और हम किसी दूसरे मुल्क से मैत्री नहीं रखेंगे और हिन्दुस्तान के जितने कम्युनिटी प्राजैक्ट्स (community projects) हैं हम उन को भी नहीं चलने देंगे, आपकी जितनी इंडस्ट्रीज़ हैं, हम उनको नहीं चलने देंगे।

Mr. Deputy-Speaker: They are all grounds mentioned in section 3. Here the question is whether some more particulars ought to be given to the detenu, then comes the question of the constitution of the Advisory Boards and reference to them, then of lawyers being appointed, material being furnished, right to cross-examine, calling of defence witnesses, etc. Is it his point that the offences they are committing are so serious that none of these things ought to be given?

श्री धुलेकर : श्रीमान्जी, मैं यह अर्ज़ कर रहा हूं और उन दोनों क्लासेज़ में जो डिस्टिंक्शन है, उस को बतला रहा था.....

Mr. Deputy-Speaker: I have asked hon. Members as far as possible to restrict their speeches to ten minutes.

Shri Dhulekar: I am concluding, Sir.

श्री धुलेकर : मैं डिस्टिंक्शन बता रहा था दोनों क्लास के आदमियों में और उसी को दृष्टि में रखते हुए मैं आप को बतला रहा था कि अगर प्रीवेन्टिव है तो डिटेंशन होगा और ट्रायल में कनविक्शन (conviction) होगा। मेरे मित्र जो यह चाहते हैं कि प्रीवेन्टिव भी न हो और डिटेंशन भी न हो, वह चाहते हैं कि डिटेंशन हो और ट्रायल हो, तो यह कैसे मुमकिनहो सकता है। जब ऐसे लोगों का ट्रायल होगा तो यह मालूम पड़ जायगा और जैसा मैं ने आप को बतलाया कलकत्ता का पावर हाउस उड़ा देने के लिए उन्हों ने पांच प्रयत्न किये, अगर जुर्म उन का साबित हो जायगा तब तो उन को सज़ा हो जायेगी ट्रायल के बाद, लेकिन अगर हम उनका ट्रायल नहीं करेंगे तो उन को डिटेन करेंगे, देखिये कितना साफ डिस्टिंक्शन उन में है। इस लिये एडवाइज़री बोर्ड के सम्बन्ध में मैं यह कहना चाहता हूं कि ऐडवाइज़री बोर्ड को ऐडवाइज़री बोर्ड ही समझा जाना चाहिये और इस बोर्ड को किसी किस्म के अख्तियारात न दिये जायें जिस से ऐडवाइज़री बोर्ड कोई एक किस्म का मुकद्दमे करने वाला एक इजलास हो जाय। मेरे मित्र कहेंगे कि आखिर यह जो एडवाइज़री बोर्ड सरकार बनाने जा रही है, यह किस के लिये बना है, मेरे मित्र कहेंगे कि वह डेटेनयू (detenu) के लिए बना है, लेकिन मैं इस से सहमत नहीं, मेरी समझ में तो यह बोर्ड उन तीन पबलिक चीज़ों के सेफ गार्ड (safeguard) के लिए बना है, वह हैं पबलिक आर्डर, सिक्योरिटी आफ इंडिया और ऐसेन्शियल सप्लाई की चीज़ों को कायम रखना। इस बोर्ड के कायम करने का उद्देश्य ऐसे क्रिमिनल लोगों से इन तीनों चीज़ों की हिफाज़त करना है और चूंकि ऐसे लोगों के खिलाफ हम पूरा पूरा सबूत अदालत में नहीं दे सकते, चाहे वह किसी कारणवश हो, चाहे वह सेफ्टी आफ इंडिया (safety of India) की दृष्टि से हो या पबलिक कानफिडेन्स (public confidence) की दृष्टि से उसका गुप्त रखना आवश्यक हो, और हम यह फील (feel) करें कि अगर हम उस चीज़ को खोल देते हैं तो बड़ी गड़ बड़ी मच जायेगी, इस क्लास के लोगों से डील (deal) करने के लिये ही यह बोर्ड बनाया गया है।

[श्री घुलेकर]

हमारे यह दोस्त क्या चाहते हैं ? यह कहते हैं कि हम बम बनायें, सीक्रेट ऐक्टिविटीज में इंडल्ज (indulge) करें और जब पकड़े जायें, तो हमें अदालत में (cross examination) करने दिया जाय जिस में सारी दुनिया जान सके कि बम किस तरह बनाये जाते हैं, उस के बनाने का कायदा क्या है और किस तरह बड़े बड़े इलेक्ट्रिक पावर हाउसेज (electric power houses) उड़ाये जा सकते हैं। मैं हरगिज उन की इस मांग से सहमत नहीं और मैं तो सरकार व अपने होम मिनिस्टर से प्रार्थना करूंगा कि वह ऐडवाइजरी बोर्ड के सामने इस तरह की चीजें रखने की व्यवस्था न करें, क्योंकि यह समाज और देश के हित में अहितकर होगा। आखिर में मैं कहूंगा कि हमारे मित्र श्री पुन्नूस ने प्रीवेन्टिव डिटेंशन ऐक्ट पर बोलते हुए अपना जो सारा केस (case) प्लीड (plead) किया, मैं कहता हूं कि उन्हों ने अपना सारा केस खो दिया है।

उन्हों ने साफ कह दिया कि अगर मामला ऐसा पड़ जायगा कि मैं किसी वक्त में कहीं शान्तिपूर्वक जाता हूंगा और हम को अगर वह रोकेंगे, तो मैं नहीं रुकूंगा। यह उन के शब्द हैं कि अगर वह मेरे ऊपर फोर्स (force) इस्तेमाल करेंगे, मेरे ऊपर लाठी चार्ज करेंगे तो मैं उन को तमाचा दूंगा मैं उन को मारूंगा। इसलिये खत्म हो गया। आप के लिये प्रीवेन्टिव डिटेन्शन रखना बेकार है, क्योंकि आप ने तो अपने दिल का फोटो रख दिया। आप ने कह दिया कि आप शान्तिपूर्वक नहीं रुकेंगे, अगर वह रोकेंगे अगर वह मारेंगे, तो आप भी मारेंगे श्रीमान् जी, ऐसे ही लोगों को डिटेन्शन में रखने के लिये यह बिल बनाया जा रहा है।

Mr. Deputy-Speaker: The hon. Minister is not here.

Shri Venkataraman (Tanjore) *rose*—

Mr. Deputy-Speaker: I find that many hon. Members want to speak.

Pandit Thakur Das Bhargava: Nobody else has spoken on this side.

Dr. S. P. Mookerjee: May I say that it was decided by the Speaker this morning that clause 7, 8 and 9 will be debated till 11-30 A.M. including the hon. Minister's speech and the remaining clauses plus some new clauses which have been proposed will be debated till one o'clock.

Mr. Deputy-Speaker: Then I shall call upon the hon. Minister to reply.

Shri Venkataraman: Not now, Sir, but at 11 o'clock.

Several Hon. Members *rose*—

Mr. Deputy-Speaker: I shall call upon Mr. B. S. Murthy.

Pandit Thakur Das Bhargava: I have given notice of many amendments. I have not had a chance to speak.

Mr. Deputy-Speaker: I shall come to him. Five minutes each.

Shri B. S. Murthy (Eluru): I would only take two minutes. I do not want to make a speech but I only wish to make out a few points in connection with the giving of legal aid to the detenus. In Andhra Desa, as you know and as the hon. Minister Shri Jagjivan Ram who has received so many petitions and appeals knows, most of the Harijans have been locked up without trial for months on end simply because there were some agrarian disputes here and there.

Mr. Deputy-Speaker: When was this?

Shri B. S. Murthy: Last year. I think the Deputy-Speaker knows it as well as I do.

Mr. Deputy-Speaker: For purposes of refutation, the Government may like to have some particulars.

Shri B. S. Murthy: This happened in 1949, 1950, 1951 and 1952 as well. Most of the Harijans are illiterate. They are agricultural labourers. In the districts of West and East Godavaris, Krishna and Guntur there is political consciousness and there is a spirit of collective bargaining. A few Harijan leaders tried to bargain and get more wages. They were sent to the police station and unjustly detained.

Mr. Deputy-Speaker: Were they detained under this Act?

Shri B. S. Murthy: Some of them were. If you want I can furnish particulars.

Mr. Deputy-Speaker: It is enough if he says so.

Shri B. S. Murthy: Some of them are still in detention. One Mr. Bapannayya, a Harijan has been in detention for four years. Year after year the detention was being continued and even before his detention was lifted by Government his name was proposed and he is now an elected Member of the Madras Legislative Assembly. I can give more names but this has no relevance here. What I want to point out is this. Most of the Harijans and Harijan workers are as a rule illiterate and if they are detained and are brought before the Advisory Board and if the Government prepares a police case and says: "This is the information against this man on the basis of which we have detained him; therefore pass orders that the detention is in order"; this poor detenu will not be able to defend his case unless legal aid is given to him. If legal aid is not given even educated people and in any case most of the illiterate people who are today engaged in the agrarian revolution will be put to a lot of difficulty. Therefore, it is no use constituting the Advisory Board and letting it remain there. What will it do unless some information from the side of the detenu, either by himself or through his legal counsellor, is forthcoming? Only then will the detenu be able to say something to contradict Government's stand and vindicate his own position regarding the social or agrarian revolution. Otherwise, the Advisory Board will become a farce. It will not be of any help to the really innocent persons. You may say that the detenu will be allowed to cross-question or at least appreciate the significance of the information supplied and then state his own case. But there are many people who may not be able to face the Advisory Board and may not be able to prove their innocence unless some extraneous legal aid is given to them, especially in the case of the mute millions of Harijans who are today being lynched.

Mr. Deputy-Speaker: Language please. There are other words in the dictionary.

Shri B. S. Murthy: This word I use with particular significance. Lynching has been carried on in the Razole *taluk*. You know it.

Mr. Deputy-Speaker: Let me not be drawn into the picture.

Shri B. S. Murthy: I am sorry I have to do so, because people are talking of America, whereas I am talking about my own place where men and women have been lynched. Fingers have been cut off—

An Hon. Member: Where is that place?

Shri B. S. Murthy: Razole *taluk* of the Gudavari district in Madras State.

Shri Nambiar: In Tanjore district also.

Shri B. S. Murthy: There are reports from Shri Bulusu Sambamurthy and Shri Annapurnayya and the hon. Deputy-Speaker also knows. There are hundreds of such cases.

Shri Dhulekar: You may put them in detention.

Shri B. S. Murthy: I am glad my friend says that the people who have been lynched should be put into detention and that seems to be the order of the day.

Shri Dhulekar: No, no. That is not what I mean.

Shri B. S. Murthy: That is also the policy of the Congress, I suppose.

Mr. Deputy-Speaker: When hon. Members speak here, I would request them not to refer to my personal knowledge of any particular matter, when I am sitting in the Chair. If I were sitting in the seat I occupy on the floor of the House I could speak and say something in contradiction of a wrong statement. There I have a right to speak. But at present I am embarrassed because I cannot say anything in reply from here.

Shri Dhulekar: On a point of personal explanation, Sir.

Shri B. S. Murthy: I am not yielding.

Shri Dhulekar: The hon. Member says that I said that the persons who are lynched......

Shri B. S. Murthy: Sir, I am not yielding. I am on my legs. (*Interruption*).

Mr. Deputy-Speaker: Why should the hon. Member who is standing there in flesh and blood say that he is not yielding? The very fact that he is standing there shows that he is not yielding. I shall regulate the debate here. I shall try my best to do so and if I am unable to do so, I shall call in the aid of the hon. Member. Therefore, if he does not yield, let him go on with his speech.

Shri B. S. Murthy: I shall finish in one minute. That word "lynching" was deliberately used by me to carry a certain significance. I know that other words are in the dictionary.

Mr. Deputy-Speaker: It is a little irrelevant also. How are we concerned with lynching? These detenus want lawyers: that is the only point.

Shri B. S. Murthy: I am sorry I have to make an explanatory speech. Someone raised an objection to the use of that word and said that there are other words in the English dictionary.

Mr. Deputy-Speaker: I agree. I myself said it. But all that is quite unnecessary in this context. Why is he trying to sidetrack the issue?

Shri B. S. Murthy: Once again I appeal to the hon. the Home Minister to do justice to the people who are detained not on sufficient grounds but on suspicion or due to malice or for political reasons or due to rivalry in the villages. Legal aid should be provided, particularly with reference to the helpless Harijans who are passing through the throes of agrarian revolution today.

Shri U. M. Trivedi: Sir, I am not going to take much time of the House, but I cannot understand why this lawyer-phobia is growing. We have got this lawyer-phobia so far as enquiries against government servants are concerned. Every government servant who has to stand a departmental enquiry against him gets flabbergasted when confronted by his own officer at such enquiry. I remember the case of a government servant who was asked to explain his conduct on a particular date at a particular place about 186 miles away from his station. It was a departmental enquiry and the man received the telegram with such short notice that he could not be present. When he appeared before his officers he was asked: "You received this telegram—why did you not attend?" The man was not able to give any answer. The question was repeated: but no answer was forthcoming. The man was summarily disposed of with the reply we are not going to hear you any further. The man came out with tears in his eyes to me. I asked him: "Why did you not reply that you could not appear on that day, because you received the telegram only on that day?" He said it did not strike him.

When this can happen to educated persons, we are very sorry to say that this can ordinarily happen with anybody who may be arrested and produced before High Court Judges, big persons whose presence is awe-inspiring. In the presence of such persons how can an ordinary man, though he has got his self-interest at stake, who is generally nervous and will get more nervous in the presence of awe-inspiring Judges, present his case and defend himself? It is only for this reason that we are pressing for this amendment that legal aid may be allowed to the detenus.

I do not know how far this lawyer-phobia is justified? Is it some reaction which is coming from the Communist party? It is said that a congressman whenever he addressed election meetings used to get annoyed with lawyers and says this: "There are only three lawyers in the whole of Soviet Russia and I will also not allow more than three lawyers in the whole of India. If there are more than that, their heads would be chopped off". He had probably only three lawyer supporters in the whole of his constituency whom he wanted to retain.

After all lawyers are not a nuisance. You may think that they are a nuisance because they want to have facts proved. Perhaps my learned friend did not know the correct meaning of the word "trial" Trial means 'सत्य का ढूंढना' If you put a man behind bars without giving him an adequate opportunity to defend himself it is no trial. The hon. friend who preceded me did not understand preventive detention. He understood detention to mean preventive detention. He does not know that there can be punitive detention after a trial. What we are asking for is this that legal aid may be given to the detenu. The lawyers, from whom eminent Judges of the Bench are drawn all over India and who belongs to a noble profession, are patriots.—they are not your enemies. If that is so, they are not the persons who are going to help the detenu in any wrong and illegal manner. They would only be interested in presenting the case of the detenu in a manner that the Judges would be able to come to a correct decision. How many of us do not know that in spite of well worded appeals, if the lawyer does not appear, the hon. Judges do not care to go through a single word and summarily dismiss the case.

I only pray that the hon. Home Minister sees his way to accept this amendment about giving legal aid to the detenu.

Pandit Thakur Das Bhargava: I had tabled certain amendments before this House which I did not move, but the purport of those amendments was that the powers of the Advisory Boards should be enlarged. I am very glad, Sir, that Mr. Pataskar has moved an amendment which to a great extent meets the point I had in mind.

After all the basic principle of this measure is that the executive decides about the detention. They do not allow the highest courts even to pry into the reasons. Only certain aspects of the act are to be looked into by the Supreme Court. So far as the question of satisfaction is concerned, whether there are sufficient grounds or not, it is solely for the executive to decide. This is the cardinal principle underlying the whole Act.

But at the same time we know that the executive do not want to take the entire responsibility on themselves. Therefore they have provided us with a very good substitute in the shape of Advisory Boards. I must congratulate the Government that they have provided Advisory Boards for every case. According to the Constitution it was not necessary for them to do that. Now the question raised is whether the Advisory Boards are a farce or they would be effective.

Now, I can understand, if the Advisory Boards had only to go through the evidence produced before them and they had no discretion whatsoever. then I admit even they would not be able to do their duty. Even as the measure stood the interpretation of the provision relating to this was more liberal than we thought it to be. The Government thought that if the Advisory Boards wanted certain information from any person they could get it. I am glad that the hon. Home Minister has been pleased to further liberalise this provision.

Now, let us examine what the actual position is. For instance an accused detenu wants to prove *alibi*. Now the Advisory Board can very easily call any person who will be in a position to depose.

The other principle on which Government has stood is that there will be no regular court trial. This is a basic principle of this measure. Either have Preventive Detention Act, or have a regular trial. Therefore, Government is quite consistent when they say that there will be no regular trial. Here we are only concerned with anticipations and suspicions of the detenu. The Judges of the Advisory Board will go into the question whether a detenu is likely to commit an act prejudicial to public safety. Supposing a person a year back made a speech. No judge would come to the conclusion that today he is of the same mind as he was of when he made the speech. As the hon. Home Minister himself said if he were a member of the Advisory Board he would refuse to hold that there was sufficient ground unless all the materials that he wanted were placed before him. I would go further and say that High Court Judges have held that even in criminal cases they cannot take notice of incriminating circumstances on the file, unless these circumstances were put to the accused. It is in the interest of the Government that only such persons should be detained as are fit to be detained and none else. It is in the interests of the detenus. It is in the interests of the public also that only those who are really liable under section 3 should be detained. I am very glad that the powers of the Board are enlarged and they will be all to do better justice. I submitted three things. If the Advisory Board wanted that the detenu should further be supplied with better particulars I hope this power is already there. I agree with my hon. friends that there are many cases in which legal aid will be necessary. I can envisage to myself many cases in which even a literate detenu will require legal aid and I would have been happy if the Government accepted this amendment also that in proper cases the Advisory Board should be armed with the authority to allow the accused to be represented and in that case if the Government wanted they could also be represented by a lawyer of their own choice. I can understand that this thing is not very pleasant to the Governments all over the world. In England also this is not so. In America, it is not so. (*Dr. S. P. Mookerjee*: It is so). I am coming to the point you refer to. In England they said that a person should be allowed the aid of a counsel for the preparation of his case and I also gave an amendment to this very effect so that while in jail, the accused may fully understand what the grounds are. Therefore, it is necessary that in order to properly place the case before the court, he may be allowed to get his case prepared by a lawyer. At the same time, I request the hon. Home Minister will consider this point. I do not want him to put it in an Act. I would request him to issue instructions in this regard so that the accused may have the benefit. What happens today is that when a person is convicted he is given the first interview with a lawyer. That is not at all regarded as an interview and a lawyer comes for

[Pandit Thakur Das Bhargava]

consultation in respect of future appeal etc. When a detenu is brought to jail and he is given the grounds, if he wants a counsel, to prepare his case this facility should be given to him. I would request the hon. Minister to kindly make a statement in this House if he agrees with me that he will provide such facilities for a detenu to prepare his case because every detenu cannot be expected to represent his case. Government have given a High Court Judge and in some cases there are more than one High Court Judges to sit on the Advisory Board. At least there will be a High Court Judge presiding and two other persons, if not High Court Judges, but those who will be qualified to act as High Court Judges or retired Judges. When the Advisory Board sits, it will go entirely into the question and will do its duty. I do not quite understand what my hon. friend said just now about the lynching of Harijans etc. What my hon. friend Mr. Dhulekar said was quite different, namely that those persons who lynched should be brought to book. The hon. Member misrepresented Mr. Dhulekar when he stated that he said that such Harijans should be detained. If it is a fact that Harijans are being lynched there is no question of this Preventive Detention Act. Any person who injures another in this land and especially a Harijan is to be treated as a criminal and the intention of the preventive detention is not that he should go scot free. I am sorry to find there is an apprehension that the police officers may go to the extent of permitting criminals to do as they liked and save them from the consequences of penal acts and should recommend in certain cases that they should be dealt with under the Preventive Detention Act. In such cases every State is interested in seeing that the ordinary law has its course and they will never have recourse to such detention provisions. The Preventive Detention Act is only confined to cases in which the Advisory Board or the Government comes to the conclusion that unless detained this man is likely to act in a prejudicial manner. If a man has committed an offence and there are no witnesses available to prove the offence and it is likely such person is likely to commit acts coming into the purview of section 3 he ought to be detained. The effect of this would be that such a person shall sojourn for a year in the jail. think over his wrong behaviour and return sobered down. This Advisory Board has been invested with the powers we wanted to invest them with and if the accused is also allowed some latitude for the preparation of his case, I think this act should become acceptable to an ordinary reasonable man.

11 A.M.

Dr. S. P. Mookerjee: I wish to say a few words to help the Minister to make this Act a model one. I am speaking on the question of legal assistance referred to by Pandit Thakur Das Bhargava. I really cannot understand why Government is so obtuse on this matter. Our Government is behaving exactly as our previous Government used to behave. It does not yield gracefully and it yields not at the time when it should have yielded but later on when there is a persistent demand for a change. All that is asked for is that if the Advisory Board feels that legal assistance should be offered, then such legal assistance should be given. We are not saying that the detenu can claim this as a matter of right, although I see no harm in it. You have made a High Court Judge chairman of the tribunal. You have given the Board additional power. It is very good that it can call for any person from any part of the country and ask for additional information. Supposing the Board feels that on receiving all this information the case has become so complicated that the detenu should be given some legal assistance, either legal assistance for preparing the case as Pandit Thakur Das Bhargava has said or presenting the case before the Board itself, why should there be any objection? You are being asked to trust the Advisory Board. I shall refer to the law that obtains in England as well as in America. Pandit Thakur Das Bhargava contradicted me and said that this power does not exist. It does exist. Hansard, the copy of the proceedings of the House of Commons is with the hon. Home Minister. There the Home Minister will see that Mr. Morrison the then Home Secretary of England first opposed permission being given to the detenu to call for the assistance of lawyers, but the House of Commons decided that this matter should be left in the hands of the Advisory Committee. I have read in several books how progressively the Advisory Board asked many distinguished lawyers including King's counsel to come and take up the cause of the detenus, whose cases were being considered by the Advisory Committee. I have got here the American law, but on that day when I referred to it, I had not brought a copy with me. As I said, in America they have passed a preventive detention measures. It is called the Internal Security Act. It was passed in September 23, 1950 and there is a separate chapter dealing with emergency detention. In sections 100 to 116 the procedure is laid down:

"Within forty-eight hours after any person is arrested upon such a warrant, he must be brought before a hearing officer of the Detention Review Board. He must be informed of the grounds for his detention, of his right to retain counsel, of his right to a preliminary examination and of his right to refrain from making any statement. If the hearing officer decides that there is not probable cause for detention, the person shall be released. If the hearing officer decides that there is probable cause, the person shall continue in custody and may petition for a hearing on the merits of his case before the Detention Review Board.

The Detention Review Board consists of nine persons appointed by the President, not more than five of whom shall be members of the same political party. It may sit in divisions of not less than three for any given hearing. Within forty-five days after a petition for review has been filed, it shall hear and decide whether the person shall be released or detained, and it may award indemnification if there has been detention without reasonable grounds. The Act prescribes factors which this Board must take into account in deciding whether there is reasonable ground for detention.

The Court has 'power to affirm, modify, or set aside the order of the Board,' but presumably just for errors of law, because 'the findings of the Board as to the facts, if supported by reliable, substantial and probative evidence, shall be conclusive.' Also if the Court is satisfied that newly offered evidence is material, then the court shall refer the case back to the Detention Board."

Then lastly, it is stated:

"Nothing contained in this subchapter shall be construed to authorize the suspension of the privilege of the writ of *habeas corpus*."

[ere, as I said the other day, this Act 'as specially directed against the ommunist party and Communist :tivities in the U.S.A. They have iven a pattern of detention law which ertainly can be followed, if not in all s respects, in this vital respect, by ır own Government. I hope even at ıis late stage, the Home Minister, if not accepting our suggestions, will at least listen to the appeal of Pandit Thakur Das Bhargava, and make some provision for two things: legal aid to be given before the explanation is prepared, and Advisory Board to decide whether legal aid should be given when the case is being heard by the Advisory Board.

Mr. Deputy-Speaker: Mr. Sarangadhar Das. I will extend the time for the hon. Minister. Five minutes.

Shri Sarangadhar Das (Dhenkanal—West Cuttack): Sir. I have not very much to say as the field has been covered by the previous speakers, particularly Dr. Mookerjee. But, there is one thing. As all of us know, about 85 per cent. of our people are illiterate and their case has been pleaded by my hon. friend Mr. Murthy and others. But, 15 per cent of the people are literate and I happen to be one of them. The case of the educated people who are mostly the victims of this Act because they are in the forefront of every kind of agitation in this country, has not been put forward by any one particularly. I speak about myself for this reason. I am considered to be fairly educated. But, my education is in a particular line: in technical subjects, in agriculture. I know nothing about law. I happen to be a man who has never been involved in any civil or criminal cases and I have not gone to a law court. I am not acquainted with the sections of the Criminal Procedure Code. Consequently, if I am brought before an Advisory Board and am detained, I cannot plead my case. Therefore, in the matter of legal aid, whether the person detained is an educated man or an ignorant man or an illiterate man, it does not materially affect the case. In order to dispense justice, it is absolutely necessary that a person who is acquainted with that part of our education, that is legal education, one who is expert in law should be there to prepare his case and plead his case. In this connection, I have a little quotation from an authority, C. K. Allen—it is in the dissenting minutes.

"Speaking from considerable experience of the examination of conscientious objectors............

This refers to the two World Wars, particular World War I

"...the present writer (that is C. K. Allen) can say without hesitation that legal aid may make all the difference to that large class of persons who are inarticulate or discursive and quite

[Shri Sarangadhar Das]

unable to present their own cases; and this must be so however eminent, experienced or sympathetic the examining tribunal may be."

That answers the contention that Pandit Thakur Das Bhargava has made just now, that when a High Court Judge is the Chairman and there are two others who are either retired High Court Judges or qualified to be High Court Judges, legal assistance is not necessary. That will show that although we are educated, in these matters, we talk discursively and we will spoil our cases. We cannot present it well. Therefore, in addition to my friends who have pleaded for 85 per cent. of the people who are illiterate and ignorant, I plead for 15 per cent., that is the minority in this case. Both in the preparation of the case and in defending the case also, the assistance of the legal practitioner is very necessary.

It is not necessary for me to go into the other points in the amendments that are before the House. The principal thing that I wanted to say was that even though a person may be educated, he is not able to present his case and therefore legal assistance is absolutely necessary. I appeal even at this last minnute to the Home Minister who does not wish to talk about the past, but about 1952; I am going beyond him and I am talking of 1952 and 1954, when I may also be involved in detention. My requirement will be legal assistance. So, I request him to look to the future.

Mr. Deputy-Speaker: The hon. Home Minister.

Dr. S. P. Mookerjee: Accept it.

Dr. Katju: Sir, with your permission, I shall deal with the whole matter in due order of the sections.

First let us take the constitution of the Advisory Board. It was suggested that only sitting Judges should be Members of the Advisory Boards. I have drawn attention several times to the language of the Constitution. I notice a tendency that insufficient attention is paid, whenever it suits the purpose of an argument, to that language. Now, Sir, under article 22, clause 4, we have an express direction about the procedure of the Advisory Boards. It is said that the Advisory Board will consist of persons who are, or have been, or are qualified to be appointed as Judges of a High Court. These should be the Members of the Advisory Board. I submit that apart from the very doubtful legality of our laying down by an Act a restriction or a sort of modification of, or an amendment of, this particular provision, we cannot possibly say that the Advisory Board that we have in mind should only consist of sitting Judges or that retired Judges or the so-called qualified Judges should not be included. We are in duty bound to carry out the Constitution both in the letter and in the spirit. I must say one thing. I was rather pained to hear that this Government is going to use the Preventive Detention Act for the purpose of curbing the activities of any particular party, provided, of course, they are non-violent and constitutional or that the Act is intended to attack any particular party. When I was reading through the debates of 1951 I noticed that one particular amendment was moved saying that the Preventive Detention Act should either await or should be suspended during the coming elections. That was the fear expressed at that time, that the Government of the day might use, misuse, or abuse the provisions of the Preventive Detention Act for the purpose of curbing or restricting or hampering the activities of any political party. Now, I would ask hon. Members to consider this. The Preventive Detention Act was in force. The General Elections came on and what happened? Is there a single individual in India, any group, any party or any association which says that the Government of the day interfered with or in any way hampered their political activities? I do not want to travel over the ground again and again, but even persons who were in detention were allowed to go out on parole, were released and given all facilities for carrying on propaganda, popularising their own doctrines, seeking elections and voting in the elections, and I do submit with confidence that the charge which has been made is absolutely unjustifiable.

Shri A. K. Gopalan: I want to remind the hon. Home Minister of one fact, that in Travancore-Cochin...

Dr. Katju: It is not a point of order, or a point for information.

Shri A. K. Gopalan: He said not one was detained during the time of the election.

Dr. Katju: This one we have heard many times.

My hon. friend from Gwalior said: "Look at the retired Judges. This Government may be so dishonest as to appoint on the Advisory Board retired

Judges who have become members of the Congress Party, and thus try to pack the Advisory Board." That is—I may be pardoned for saying so—an entirely unjustifiable aspersion. Has there been a single example anywhere? I circulated the list of the members of the Advisory Board and can anyone say that retired Judges or District Sessions Judges have been made Members of the Congress Party?

Dr. S. P. Mookerjee: I do not think he said that.

Dr. Katju: He did not say so. Is that being done? Or if a retired Judge may become a member of the Party, where is Parliament gone? Where is the State Legislature gone? If supposing on an Advisory Board a retired Judge is taken for that purpose, well, you bring it to the notice of the Party. Then the thing disappears. The thing should not happen. These aspersions should not be cast which are entirely unparliamentary.

Then, so far as the constitution is concerned, in the Joint Committee we have gone to the utmost limit. On my own initiative, I said: "Very well, let us have a Judge, retired or sitting, because there will be maturity of judicial experience and knowledge and learning, and knowledge of human nature." And I went to this limit that in the Part "C" States where there is no High Court, I said: "We will see to it that any neighbouring areas may provide a High Court Judge for service on the Advisory Boards—for States like Bhopal or Himachal Pradesh and all that". No one has said anything in appreciation of this, shall I say, generous attitude, but here we have now all virtues attributed to the sitting Judges and so far as the retired Judges are concerned, they become, so to say, embodiments of all that is unworthy and all that is undesirable. I do not want to go any further into this. I may say, therefore, that I am not prepared to accept any amendment restricting the Chairmanship of the Advisory Board to sitting Judges. Hon. Members probably do not know the difficulties that Government is finding these days of recruiting competent members either from the Bar or from the services to High Courts. In every High Court, arrears are mounting up and every Chief Justice is complaining that he cannot get along. I do say that we should have sitting Judges wherever possible, but it is undesirable that sitting Judges should be from time to time diverted to discharge duties other than that of deciding cases pending before them. But that is a very minor matter.

Dr. S. P. Mookerjee: If lawyers are abolished, then everything would be all right.

Dr. Katju: That is a matter which I should like to discuss. I am prepared to discuss it today, but there is no time. But, as my hon. friend has intervened, I should like to remove one misapprehension. I have been a lawyer for 30, 40 years, and if opportunity affords, perhaps I will go back and defend them if they are prosecuted in a Court of Law. I am prepared to defend anybody worse than Mr. Gopalan.

Shri Nambiar: Without fees?

Dr. Katju: The question is this. A lawyer must work in a proper legal atmosphere before a proper judicial Tribunal. That is at least my personal view. If you ask me to go before an arbitrator—I once went, because I got a fee, before a Military arbitrator. In this case a contractor had some difficulty about payment of bills, and the matter was referred to arbitration, and a Brigadier was the arbitrator. It was a question of law, of contracts and all that. Some one said before I went, "Take books, law books and precedents". I went there just as I am sitting here, and when the particular point came up for discussion, this Brigadier looked at me, and said "Yes, Dr. Katju". I said: "Do you mean to say that I am going to cite cases or discuss law. You are not a Judge. This is not the atmosphere. You do what you like." And when I said this, he decided the case in my favour. I am certain that if I had put the case in the way in which I could have put it before a Judge in a civil Court, I should have lost the case. Therefore, when I say that the lawyers should be excluded—they are excluded at my instance; in some measure I am responsible for it in the Village Panchayats. You go with a case before a Village Panchayat, before a Tribunal which does not go into the case, which goes into purely administrative matters. If it comes before a Court of Law, I agree lawyers should go there, consider the enactment, put the rival sides of the case, examine, cross-examine, and argue difficult questions of interpretation in the Supreme Court, High Court. That is all very proper. They should do it. Lawyers are very good law-makers. I think lawyers are very good—pardon me saying so, but I have always held the view that the only section of the community which can provide legislators and therefore good Ministers, is lawyers.

[Dr. Katju]

A doctor meets only patients. An engineer meets only contractors and some others. A businessman is in his business office. The only community which comes into contact with every single section of the people is the lawyers. I have defended doctors—in a case in which the question was that he had not been sufficiently careful in a dog-bite case. I have defended lunatics. I have defended everybody.

Dr. S. P. Mookerjee: And got the lunatics released?

Dr. Katju: The art of advocacy is a very difficult one, because you have got Judge. Sometimes you flatter him and you get the judgment in your favour. The art of advocacy as I said the other day—I do not know if my learned friends will agree or not—I came to the conclusion after 30, 40 years of intense experience—I tell you honestly that the best art of advocacy is.....

An Hon. Member: Flattery!

Dr. Katju: ..to make the Judge forget that you are an advocate, to make the Judge feel that in you he has got a great personal intimate friend who can give advice as to how the case should be dealt with. I am afraid I am straying away.

Mr. Deputy-Speaker: I am afraid the hon. Minister has made out a case for allowing them to have lawyers!

Dr. Katju: Not at all.

The lawyers that they are thinking of are of a different kind. When I was summoned in the Allahabad case as a sort of 'contact man' there was the danger that I would also go away with them. So much for that.

Then I come to the next clause, namely clause 8. I do not think anything has been said against it, because nobody says even one word in appreciation of what has been done. The period has been reduced from six weeks to thirty days in this clause

Then we come to clause 9. Here again my hon. friend from Calcutta just referred to the procedure in England and U.S.A. I am just putting it forward before the House. without expressing any opinion. For the last four or five days, hon. Members on the other side are becoming very fond of the United States and the United Kingdom. But here is this Constitution of ours which says in clause 7 of article 22 that 'Parliament may by law prescribe the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4)'. I do not take that to mean that Parliament delegates the authority and allows the Advisory Board to proceed as it liked, and make its own rules of procedure. If that was the intention, then it should have been there in the Constitution, when it was drafted by the Constituent Assembly. In that case, it might have been said 'It would be open to the Advisory Board to frame its own rules of procedure'. But the Constitution clearly says that 'Parliament may by law prescribe the procedure to be followed....'. So, that means that the procedure must be laid down here, and not left to the discretion of the Board. This is the point of view that I am putting forward.

Dr. S. P. Mookerjee: There is no substance in it.

Dr. Katju: I am very glad that you are not a Judge, and that you have not been a practising lawyer for more than two years.

Then I come to the next point. You have also raised this point, in your speech. I am only appealing to you to consider this point. I have always found that a Judge is the most attentive—please do not take it lightheartedly—and most anxious person only when he has not got a lawyer before him. When I said this the other day, hon. Members took it very lightly. I did not mean any disrespect to the lawyers thereby. Mr. Herbert Morrison, in the course of the debate I referred to the other day, said that he had found from an examination of a large volume of cases that there was, if anything, a bias on the part of the members of the Advisory Board in favour of the detenu rather than otherwise. But I tell you once again—you may take it from me either as a Minister. or as a Congressman or as a lawyer, if that carries any weight—that here are these two people presided over by a Judge of the High Court, and here is the material placed before them, and here is the person, and there will be utmost anxiety on their part to find out the truth. And in practice when you are talking of legal aid, you will have in them three qualified advocates in favour of the detenu. What is the sort of legal aid you require then? There is no trial, no examination, no cross examination and nothing of that sort. There will be this person, and all the materials placed before the Board, and as per the provision we are now including, the detenu can ask for a personal hearing, and after this personal hearing, the Board could send for any information which they may require; and it was open to the Board to do so even under the older clause. I thought it was a very debatable point, that they could easily send for any person concerned, but now we make it clear in this Bill. The members of the Board would be persons of the standing of late Sir S. P. Sinha, Sir B. L. Mitter, or Pandit Motilal Nehru and practising advocates of that standing, or retired Judges. So they would be able to see through the material before them and come to a proper conclusion. What then is the legal aid you ask for? That would only be the engagement of a lawyer of some five or six years' standing. You can take it from me—and I am speaking from personal experience—the Judges would get suspicious if the lawyer comes in, if they talk to him, man to man and heart to heart, then I say......

Dr. S. P. Mookerjee: Our suggestion is that the matter should be left in the hands of the Judges themselves, and not with the detenu.

Dr. Katju: They do not want it. There is no question of compelling them. They would become the advocates themselves. I do not want to go into the reasons. It is not a question of legal aid only, but there are many other matters also. The case may be one where there may be information of various kinds—information going into the activities of people who are dealing with essential supplies, information dealing with foreign spies, the question of security of India, or public order. My point is that if a lawyer is allowed to give legal aid to the detenu, he may say: 'Well, I must have the complete papers, and all the material of this case, before I can give legal aid.' If all these papers are given to the lawyer, then there is no secrecy left at all. It may be said that when the grounds of detention are given to the detenu or when a *habeas corpus* petition is filed, then the grounds become public, and so we may ask the State Governments to see whether it would not be proper in individual cases to allow the detenu to interview his legal adviser in order to enable the lawyer to prepare the representations in his behalf in proper language and in suitable form. At that stage, there is no secret material disclosed to him. But when the matter comes before the Advisory Board, then the panorama becomes very wide, and there may be a lot of secret information, and the legal advisers may create various difficulties, and the State Governments may not be able to face them. It may not be in the national interest to bring in other people also into that case. We must leave it therefore to the members of the Advisory Board. As I said earlier, they are not lay or common people. Some of them must have been or may even still be practising advocates. Some of them may have been practising lawyers before they were elevated to the Bench. So I submit, Sir, that there will be plenty of legal aid available to the detenu in the personnel of the Advisory Board. This is what Mr. Herbert Morrison also said.

As regards my hon. friend Mr. Pataskar's amendment I should say that I shall be prepared to accept it. I thought at first that it was a bit unnecessary to move the amendment. I was just considering as to how the whole section will read, if this amendment is also added on. Consider just how full it will be, and how it will give all possible protection to the detenu. It will read:

> "The Advisory Board shall, after considering the materials placed before it and after, calling for such further information as it may deem necessary from the appropriate Government..."

The original materials were the grounds of detention, the representation, and any report by the officer who may have ordered the detention. Then comes my hon. friend's amendment:

> "...or from any person called for the purpose through the appropriate Government..."

We do not want any kind of judicial tribunal here. We do not want to issue summons, have bailiffs, court officers and all that kind of thing. The Advisory Board writes to the Government that they want a particular person A or B. If the Government has got any valid objection to producing A or B before the Board because there may be matters of intelligence relating to foreign countries, and the sources of such intelligence may have to be kept absolutely secret and confidential, they will say so to the Board.

I shall now read out the whole section as it will stand after the amendment is incorporated in it.

> "(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the

[Dr. Katju]

appropriate Government within ten weeks from the date of detention".

What more do you want?

Shri Nambiar: Something more, lawyers.

Shri Dhulekar: Not lawyers, but links.

Dr. Katju: I would respectfully submit that we have given the most ample opportunity to the detenu to put his case. We have given him the highly-powered Advisory Board who will look after him, who will give him every legal aid, and I am certain that if they gather any new information, they will ask him: 'Well, what is this new matter? What have you got to say about it?' Hon. Members may or may not believe me, but in the Allahabad High Court I always was the most apprehensive of an opponent whom we call 'nemo'. I do not know what they call him in Calcutta or other places. In the Cause List if no one appears, it is laid down 'nemo'. It is a latin word which means 'no one'. In such cases, I thought I would have to devote about three times my energy in winning that case, because when no one was there, the party or the person, the Judge becomes the advocate for the party. Every lawyer knows it. Therefore, I do submit,—I do not make it a party matter now—I do submit to every section of the House that it accepts this as adequate for the purpose and I say now that the three clauses that we have got, namely, sections 8, 9 and 10 of the original Act have been made as ideal as can possibly be made.

Shri Pataskar: Sir the amendment which I have moved will now read as follows:

In page 2, for lines 34 to 41, substitute:

'(a) for sub-section (1) the following shall be substituted, namely:—

"(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within ten weeks from the date of detention."'

Dr. Katju: Sir, I accept this amendment and oppose the other amendments. I do hope that these three clauses as amended by the Joint Committee will be carried with acclamation.

Mr. Deputy-Speaker: I will take the amendments one after the other.

Dr. S. P. Mookerjee: Sir, there are certain amendments for new clauses which the Speaker said would be taken up after these had been disposed of.

Mr. Deputy-Speaker: I shall put all the amendments together except the one moved by Shri Pataskar.

The question is:

In page 2, for line 7, substitute:

"(a) sub-section (2) shall be omitted;".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, for line 7, substitute:

'(a) for sub-section (2), the following shall be substituted, namely:—

"(2) Every such Board shall consist of—

(a) a Judge of a High Court who shall be the Chairman of the said Board, and

(b) two other persons who have been or are qualified to be appointed as Judges of the High Court."'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, for line 7, substitute:

'(a) for sub-section (2), the following shall be substituted, namely:—

"(2) Every such Board shall consist of—

(a) a Judge of a High Court who shall be chairman of the said Board, and

(b) two other persons who are or have been Judges of the High Court."'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, for line 7, substitute:

"(a) for sub-section (2), the following shall be substituted, namely:

'(2) Every such Board shall consist of three persons of whom one is a Judge of a High Court and the other two are or had been Judges of a High Court or are qualified to be appointed as a Judge of a High Court and such persons shall be appointed by the Central Government or State Government, as the case may be.' "

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, for line 7, substitute:

"(a) in sub-section (2) the words 'or have been, or are qualified to be appointed as' and the Proviso shall be omitted;".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

page 2, line 7, after "sub-section (2)", insert:

'after the words "Judges of a High Court" the words "save as hereinafter provided" and after the words "shall be appointed" the words "for a period of one year or the duration of the Act, whichever is less", shall be inserted, and'.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, after line 7, insert:

'(aa) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) A Judge of the High Court who shall act as Chairman of the Board as laid down in sub-section (2) shall be appointed by the Chief Justice of the High Court concerned and the other persons shall be appointed by the Central Government or the State Governments as the case may be." '

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, for lines 10 to 20, substitute:

"(3) The Judge of the High Court who shall act as Chairman of the Board as aforesaid shall be appointed by the Chief Justice of the High Court concerned and the other two persons shall be appointed by the Central Government or the State Government as the case may be."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 11, omit "or has been".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 11, omit "or has been".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 11, omit "or has been".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 15, after "concerned" add:

"and the other members of the Advisory Committee shall be persons who have been or are qualified to be appointed as judges of the High Court."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 26, for "thirty days" substitute "twenty-one days".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 26, for "thirty days" substitute "one week".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 28, after "grounds" insert "and all relevant materials".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 28, after "grounds" insert "and all other materials".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2 line 28 after "the order has been made" insert:

[Mr. Deputy-Speaker]

"all the materials in the possession of the said Government on which order of detention has been made".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 28, after "grounds on which the order has been made" insert "and all other material regarding the detenu in the possession of the said Government".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 28, after "grounds on which the order has been made" insert "all matters relating to the grounds of the order".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, for lines 34 to 41, substitute:

'(a) for sub-section (1) the following shall be substituted, namely:—

"(1) The Advisory Board shall after considering the materials placed before it and after calling for such further information as it may deem necessary from the appropriate Government and after placing all the relevant information before the person concerned for the purpose of his defence and after hearing him in person or through a legal adviser and after permitting him or his legal adviser to call in such evidence as he may deem necessary, submit its report to the appropriate Government within ten weeks from the date specified in Section 9.";'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, for lines 35 to 38, substitute:

(i) for the words "if in any particular case it considers it essential after hearing him in person" the words "in each case after hearing the detenu in person, failing which his legal representative" shall be substituted.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 37, after "desires to be heard" insert "in person or by an advocate".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 37, after "desires to be heard" insert "and given facility to place evidence to counter the grounds of the order".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 37, after "desires to be heard" insert "either in person or through lawyer".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 37, after "desires to be heard" insert "in person and/or by an advocate".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 37, after "desires to be heard" insert:

"either in person or through a lawyer and after hearing and examining the evidence that may be called *suo motu* or that may be adduced by the detenu or the authority".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, after line 38, insert:

'(ia) after the words "after hearing him in person" the words "or the legal practitioner representing him" shall be inserted;'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2,—

(i) line 39, before "from the date" insert "within ten weeks"; and

(ii) line 40, before "from the date" insert "within six weeks".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, after line 41, insert:

'(aa) after sub-section (1) the following sub-section shall be inserted, namely:—

"(1A) The Advisory Board shall also have authority to call any witness for cross-examination by the detenu";'

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, for lines 42 to 44, substitute:

"(b) sub-section (3) shall be omitted".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, for lines 42 to 44, substitute:

"(b) in sub-section (3), the following shall be omitted, namely:—

'Nothing in this section shall entitle any person against whom a detention order has been made to attend in person or to appear by any legal representative in any matter connected with the reference to the Advisory Board, and'".

The motion was negatived.

Shri Pataskar: Sir, what about my amendment?

Shri Venkataraman: Sir, the amendment was to the original clause; the other amendments were to the clauses in the Bill now before us.

Mr. Deputy-Speaker: Now, I come to Shri Pataskar's amendment.

The question is:

In page 2, for lines 34 to 41 substitute:

(a) for sub-section (1), the following shall be substituted, namely:—

"(1) The Advisory Board shall, after considering the materials placed before it and, after calling for such further information as it may deem necessary from the appropriate Government or from any person called for the purpose through the appropriate Government or from the person concerned, and if in any particular case it considers it essential so to do or if the person concerned desires to be heard, after hearing him in person, submit its report to the appropriate Government within ten weeks from the date of detention." '

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clauses 7 and 8 stand part of the Bill."

The motion was adopted.

Clauses 7 and 8 were added to the Bill.

Mr. Deputy-Speaker: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clauses 10 and 11

Shri B. D. Shastri (Shahdol-Sidhi): I beg to move:

In page 2, for lines 47 to 50, substitute:

"11A. *Maximum period of detention.*—(1) The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 11 shall be six months from the date on which the said person was arrested."

Shri S. S. More: I beg to move:

In page 2, lines 49 and 50, for "twelve months from the date on which the said order has been so confirmed" substitute "six months from the commencement of the detention".

Shri K. K. Basu: I beg to move:

In page 2, lines 49 and 50, for "twelve months" substitute "six months".

Shri H. N. Mukerjee: I beg to move:

In page 2, lines 49 and 50, for "twelve months from the date on which the said order has been so confirmed" substitute "six months from the date on which the detention commenced".

Shri Vittal Rao: I beg to move:

In page 2, lines 49 and 50, for "twelve months" substitute "three months".

Pandit Thakur Das Bhargava: I beg to move:

[Pandit Thakur Das Bhargava]

(i) In page 2, line 50, for "the date on which the said order has been so confirmed" substitute "the date of detention"; and

(ii) In page 3, lines 6 and 7, for "the date on which it was confirmed under section 11" substitute "the date of detention".

Shri Vittal Rao: I beg to move:

In page 3, line 4, omit "unless a shorter period is specified in the order".

Shri S. S. More: I beg to move:

In page 3, lines 5 to 7, for "1st day of April, 1953, or until the expiration of twelve months from the date on which it was confirmed under section 11, whichever period of detention expires later" substitute "31st December, 1952".

Shri K. K. Basu: I beg to move:

In page 3, line 5, for "1st day of April, 1953" substitute "1st day of January, 1953".

Dr. Rama Rao (Kakinada): I beg to move:

In page 2, line 50, for "on which the said order has been so confirmed" substitute "of arrest for detention".

Shri H. N. Mukerjee: I beg to move:

In page 3, lines 5 to 7, for "1st day of April, 1953, or until the expiration of twelve months from the date on which it was confirmed under section 11, whichever period of detention expires later" substitute "31st day of December, 1952".

Shri Vittal Rao: I beg to move:

In page 3, line 5, for "1st day of April, 1953" substitute "1st day of October, 1952".

Shri B. D. Shastri: I beg to move:

In page 3, lines 5 and 6, for "1st day of April, 1953, or until the expiration of twelve months" substitute "1st day of January, 1953, or until the expiry of six months".

Shri Vittal Rao: I beg to move:

In page 3, lines 5 to 7, for "or until the expiration of twelve months from the date on which it was confirmed under section 11, whichever period of detention expires later" substitute "or on the date of expiration of the order under section 11, whichever period of detention expires earlier and such detenu be forthwith released".

Shri K. K. Basu: I beg to move:

(i) In page 3, line 6, for "twelve months" substitute "six months".

(ii) In page 3, line 7, for "later" substitute "earlier".

Dr. Rama Rao: I beg to move:

(i) In page 3, line 7, for "later" substitute "earlier".

(ii) In page 3, line 19, after "fresh facts" insert "directly involving the detenu or indicating incidents in which he has taken part after release".

Shri K. K. Basu: I beg to move:

In page 3, line 19, after "have arisen" insert "and at least six weeks have elapsed".

Mr. Deputy-Speaker: Then we have amendments suggesting new clauses.

Dr. S. P. Mookerjee: They too may be moved now, Sir. We have an hour and ten minutes. We can have a general discussion on all these amendments within the time left.

Mr. Deputy-Speaker: Including the new clauses?

Dr. S. P. Mookerjee: Yes, Sir.

Mr. Deputy-Speaker: Then the amendments may be moved.

Shri Nambiar: I beg to move:

In page 3, after line 22, insert:

"12. *Amendment of section 14 Act IV of 1950.*—After sub-section (5) of section 14 of the principal Act, the following sub-section shall be inserted, namely:—

'(6) Members of the Legislatures and of Parliament under detention shall be released on parole for the duration of the sittings of the Legislatures or of Parliament, as the case may be, so as to enable them to take part in the deliberations of the Legislature or of Parliament to which they are elected.' "

Shri Vittal Rao: I beg to move:

In page 3, after line 22, insert:

'12. *Insertion of new section 14A in Act IV of 1950.*—After section 14 of the principal Act, the following section shall be inserted, namely:—

"14A. The appropriate Government shall guarantee to the nearest of kin of the detenu absolute personal safety of the detenu held in custody and shall return the detenu to the nearest of kin on expiry of the order. In case of sickness of the detenu the appropriate Government shall inform the nearest of kin within twenty four hours of sickness and shall also permit nearest of kin to visit the detenu twice daily." '

Shri S. S. More: Sir, amendment No. 142 stands in my name. In moving it I would like to omit the provision relating to family allowances and move the rest of it. I beg to move:

In page 3, after line 22, insert:

"12. *Insertion of new section 14A.*—After section 14 of the principal Act, the following section shall be inserted, namely:—

'14A. *Detention of Members of Parliament or State Legislature.*— (1) When a member of any of the Houses of Parliament or any State Legislature has been detained the detention order and a detailed statement of the grounds on which the detention order has been made, together with all the relevant papers, shall be forthwith forwarded to the legislature concerned and the legislature shall enquire into the propriety of the detention order.

(2) When a member of any of the Houses of the Parliament or any State legislature has been detained he or she shall be allowed reasonable facilities to attend the meetings of the legislature concerned whenever they are held during the period of detention.' "

Shri Mohana Rao (Rajahmundry—Reserved—Sch. Castes): I beg to move:

In page 3, after line 22, insert:

"12. *Insertion of new section 14A and 14B in Act IV of* 1950.— After section 14 of the principal Act, the following sections shall be inserted, namely:—

"14A. The appropriate Government shall guarantee the right of modesty of the detenus both men and women. Any officer who breaks the above said right shall be liable to be punished and sentenced to seven years rigorous imprisonment and the detenu shall be entitled to move the High Court directly in such cases for suitable compensation.

14B. *Letters and interviews to detenus.*—The detenu shall be entitled to write letters and interview any person, every day except on Sundays." '

Shri Nambiar: I beg to move:

In page 3, after line 22, insert:

"12. *Insertion of new section 14A in Act IV of* 1950.—After section 14 of the principal Act, the following section shall be inserted, namely:—

'14A. If on any account elected members of State Legislatures or of Parliament are detained under this Act, they shall be taken to the Legislature or Parliament as the case may be, when it is in session under police escort so as to enable them to discharge their responsibilities to the electorate.' "

Shri V. G. Deshpande: I beg to move:

In page 3, after line 22, add:

'12. *Insertion of new section 15A in Act IV of 1950.*—After section 15 of the principal Act, the following section shall be inserted, namely:—

"15A. The Central Government shall appoint a judicial commission consisting of High Court Judges to enquire periodically into the grounds on which the persons were detained throughout the length and breadth of India and the officers found guilty for detaining persons without sufficient grounds or *malafide* would be dealt with according to rules to be prepared by the Home Minister of India." '

Jonab Amjad Ali (Goalpara-Garo Hills): Sir, I beg to move:

In page 2, after line 44, insert:

'*9A. Amendment of section 11, Act IV of 1950.*—After sub-section (2) of section 11 of the principal Act, the following sub-section shall be inserted, namely:—

"(3) The Advisory Board may also order that compensation be paid to the detenu while directing his release." '

Shri B. D. Shastri: I beg to move:

In page 2, after line 44, insert:

'*9A. Amendment of section 11, Act IV of 1950.*—For sub-section (2) of section 11 of the principal Act, the following sub-section shall be substituted, namely:—

"(2) In any case where the Advisory Board has reported that

[Shri B. D. Shastri]

there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith, and pay due compensation for unnecessary detention, the amount of compensation to depend on the period for which the person was under arrest and according to the person's status." '

Mr. Deputy-Speaker: Now clauses 10 and 11, and amendments to them, as also new clauses 9A and 12 are before the House.

Pandit Thakur Das Bhargava: May I submit, Sir, that the new clauses have no bearing on clauses 10 and 11 and so they may be disposed of first, within five or ten minutes? Otherwise the arguments will be mixed up and the real purpose of the discussion will be lost.

Mr. Deputy-Speaker: I think it is better to have all the amendments and the clauses before the House so that all hon. Members may have an opportunity of speaking, but only once, on whatever clause or amendment they want to speak.

Shri Nambiar: Sir, clause 10 seeks to add a new section 11A to the Act which says:

> "11A. *Maximum period of detention.*—(1) The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 11 shall be twelve months from the date on which the said order has been so confirmed."

If it is the intention of the Treasury Benches and of the hon. Home Minister to detain a person only for twelve months, why should the detention start from the date of confirmation of the order? As if during the period up to the time of confirmation he is not in detention and actual, real detention starts only after the date of confirmation! From the date of his arrest and detention he is under detention and therefore the period of one year should be calculated from the date of arrest and not from the date of confirmation. Otherwise it will amount to a period of fifteen months against the twelve months intended. This change has to be made so as to restrict the detention to twelve months.

Coming to the question of detenus already in detention the provision suggested might make the detention in their case more than fifteen months. The Bill says that their detention will continue until the 1st day of April, 1953. Why should it be so? Sub-section (2) of the proposed section 11A says:

> "Notwithstanding anything contained in sub-section (1), every detention order which has been confirmed under section 11 before the commencement of the Preventive Detention (Second Amendment) Act, 1952, shall, unless a shorter period is specified in the order, continue to remain in force until the 1st day of April, 1953, or until the expiration of twelve months from the date on which it was confirmed under section 11, whichever period of detention expires later."

I would suggest, "whichever period of detention expires earlier".

Coming to section 13 of the Act, the amendment proposed says:

> "(2) The revocation or expiry of a detention order shall not bar the making of a fresh detention order under section 3 against the same person in any case where fresh facts have arisen........."

Here there is a lacuna. It is said "fresh facts have arisen". I want it should be, "fresh grounds have arisen". For instance, a particular detenu may be in jail for a contemplated strike in an industry or in a Railway. There may not be a ground to say that this detenu should continue in detention but there may be a fact to say that the threat of the strike continues. If it is said that there must be a fresh fact, then there must be a justifiable reason for detention. The threat of the strike may continue, but this particular person may not be concerned with the proposed strike and therefore because of this proposed fresh fact there cannot be any fresh ground for that particular man to be detained. Therefore, instead of saying "fresh fact" you should say "fresh ground". Then only it will be justified.

Coming to the additional clause which I have suggested, I want to clarify my original speech. This clause deals with Members of Parliament and Members of the State Legislatures.

Mr. Deputy-Speaker: May I point out to him that grounds are under four categories and are covered by section 3. The general grounds relate to defence, security, foreign relations etc. Facts are those which lead to these grounds. If a fresh fact does not lead to any of these four points, then there would be no legal ground. In stating the grounds, the authorities may not give the facts but in stating the facts they must give the grounds, because from facts only the grounds arise.

Shri Nambiar: May I ask a simple question. Supposing a particular man happens to be in detention already. At present there are so many detenus from Telengana. They are to be released on a particular date. For the last one year or two years they have been in detention and therefore during that period they could not have done anything which is prejudicial to the safety and security or public order in the country. Therefore, they are about to be released. But just at that time the Government may say that there are fresh facts, that there are some agrarian troubles brewing in Telengana and on the basis of these facts the detenu who is about to be released may not be released. In his case, they may bring a fresh detention order on the basis of a fact, whereas if it is a ground they may not be able to show any fresh ground, because the man has been already in detention for two years and during detention he could not have done anything prejudicial. Therefore, I suggest that by putting in "fact" there you are trying to circumvent the position.

Shri Dhulekar: May I put a question to the hon. Member. Supposing letters are intercepted....(*Interruption.*)

Shri Nambiar: I do not yield. There is no doubt that for a detention there should be a ground and it is not enough if there is a fact. If therefore the intention of the law-makers, i.e. ourselves, is that a particular detenu should not be detained again unless there are any fresh grounds,—if that is really our intention—and that is the impression which I have gained from the hon. the Home Minister's speech—then we should substitute "ground" for "fact". Although the Home Minister said that there should be some ground, yet when I scrutinised the Bill I was deceived. If I have been deceived for no reason whatsoever, let him explain the correct position. If the intention is really covered, it is up to him to clarify. Or else, if he can accept my amendment, it would be a very good thing.

Now, coming back to the point about the detention of legislators, there is a real fear in our minds. I was myself a detenu while I was a member of the Madras Legislative Assembly. I was detained. The same point comes in here. I do not like to think that I am a prospective detenu; that I am a past detenu and I am a prospective detenu. Therefore, if and when I am detained

for the period that I continue to be a Member of Parliament, will I have the right to come and attend the Parliament session and discharge my duties to my electorate which is guaranteed to me under the Constitution? This right is guaranteed not only to me but to the people who elected me. If that is so, let me be told so. But there is no provision which says that this thing can be done. Therefore I have moved two amendments. One says that the legislator—whether he be a Member of a State Legislature or a Member of Parliament—may be released on parole while he is in detention, so that he can come and attend to his duty inside the Parliament or the State Legislature, as the case may be.

Shri Dhulekar: If he is normal.

Shri Nambiar: He can be normal only inside the Parliament according to you. He cannot be normal outside. If he is already abnormal outside, then how can you expect that he will not be abnormal inside the Parliament. You cannot say that when a Member of Parliament or a Member of a State Legislature speaks inside the Parliament it is prejudicial to the security and safety of the country. If that is your stand, then take away the right of speech also. You are already taking away so many rights. You can take away this also. The right of speech inside the Parliament is considered to be a privilege. Is that also to be taken away? Therefore, my humble submission with regard to that is that, in the first place, those legislators may be released on parole. There is a provision in the parent Act (section 14) relating to paroles. If the Government so desires, it can release them on parole. That is a general clause. I want it to be made specific that when there is a session the Member or Parliament or the Member of a State Legislature who is in detention should be released on parole. It should not be left to the option of the Home Secretary or Home Minister of a particular State. Without this clause, there cannot be anything binding on them and if there is nothing binding of them, they will never release the legislator on parole. I have experience of the State of Madras where even letters addressed to the Speaker are intercepted and never reach their destination and the Chief Secretary had to be ordered by the issue of a writ from the court. In that State, therefore, you can never expect a detenu to be released on parole for the purpose of attending the session of the legislature.

12 Noon

In case you do not accept this amendment, I have another. You have

[Shri Nambiar]

been refusing everything. You have refused even to give us lawyers. Therefore, I have very little hope in you. It is because of that that I have moved another amendment. This one says that the detenu may be escorted to the Parliament or Legislature building. You can put the *bandan* which appeared in the newspapers yesterday in the cartoons. You can handcuff the man till the very gate and remove the handcuffs at the gate, so that he can go inside Parliament and at least talk. He can be escorted to the Parliament building. If he is allowed to go in, you can post the C.I.D. and additional police all over the building with armed escort and if necessary machine guns. But at least allow the Member of Parliament to talk inside the Parliament and discharge his duties, which he owes always to his electorate. These are the two amendments which I have suggested and I hope against hope that the hon. Minister will consider them and do some justice.

श्री वी० जी० देशपांडे : उपाध्यक्ष महोदय, मेरा संशोधन यह है कि एक नया सैक्शन १५ ए इस कानून में जोड़ दिया जाय :

In page 3, after line 22, add:

"12. *Insertion of new section 15A in Act IV of 1950.*—After section principal Act, the following section shall be inserted, namely:—

"15A. The Central Government shall point a judicial commission consisting of High Court judges to enquire periodically into the grounds on which the persons were detained throughout the length and breadth of India and the officers found guilty for detaining persons without sufficient grounds or *mala-fide* would be dealt with according to rules to be prepared by the Home Minister of India." '

उपाध्यक्ष महोदय, अभी तक यहां यह बताया गया है कि हिन्दुस्तान में पिछले पांच वर्षों में इस प्रिवेंटिव डिटेंशन ऐक्ट (Preventive Detention Act) का प्रयोग अपने प्रतिस्पर्द्धियों को दबाने के लिये किया गया है । यहां पर बहुत से व्यक्तियों ने बहुत से उदाहरण पेश किये जिन में ऐसे लोगों का स्थानबद्ध किया गया कि जिन का राजनीति से और इस प्रिवेंटिव डिटेंशन ऐक्ट से कोई सम्बन्ध नहीं था। अब मैं इस के बारे में ज्यादा समय नहीं लेना चाहता । मुझे मालूम है कि एक स्त्री को इसलिये डिटेन किया गया कि उस के पति प्रांतीय संघ के सरसंचालक थे, इसलिये कमला बाई सोने को डिटेन किया गया। यह भी बताया गया कि पार्लियामेंट सभाओं के सदस्यों को डिटेन किया गया । इस सम्बन्ध में हमारे यहां के गृह मंत्री जो थे, श्री चक्रवर्ती राजगोपालाचार्य, उन्होंने बताया कि प्रिवेंटिव डिटेंशन ऐक्ट का जो कोई कर्मचारी गलत प्रयोग करेगा तो वह ऐनीमी आफ दी रिपबलिक (enemy of the Republic) है, वह राज्य का शत्रु है और उस को उस के अनुसार दंड दिया जायेगा । लेकिन हम ने अभी तक नहीं देखा कि राष्ट्र के शत्रु को दंड दिया गया हो। यह बातें कहने के लिये तो ठीक हैं, लेकिन प्रिविलैंज कमेटी (Privilege Committee) की रिपोर्ट आप के सामने आई है और उस से साफ पता चलता है कि डिस्ट्रिक्ट मैजिस्ट्रेट ने यह चीजें बताई कि देशपांडे ग्वालियर में था और ग्वालियर में बैठा वह दिल्ली में बग़ावत मचा रहा था। इस प्रकार की बातें हमारे कर्मचारी करते हैं। यह सब के सामने आई हैं और वाक़ई जैसा हमारे पूर्व गृह मंत्री ने आश्वासन दिया था उस के अनुसार कार्यवाई नहीं हुई । मैं समझता हूं कि सरकार की तरफ से और कांग्रेस पार्टी की तरफ से भी वह माना गया है कि कहीं कहीं गलतियां ज़रूर हुईं । गलतियां जब आप मानते हैं तो ग़लतियों से जब आप नागरिकों की व्यक्तिगत स्वतंत्रता ले रहे हैं तो आप को पूरी सावधानी रखनी चाहिये, और बिना अपराध के, बिना कानन के, या किसी के दबाव से कोई

डिटेन किया जाता है तो उस की इनक्वारी और इनवैस्टिगेशन होना अत्यन्त आवश्यक है और मैं समझता हूं कि इस के लिये हमारे गृह मंत्री और कांग्रेस पार्टी भी इस का विरोध नहीं करेगी कि समय समय पर एक ऐसा ट्रिब्यूनल (tribunal) नियुक्त किया जाय और उस के सामने जितने लोग डिटेंशन में रखे गये हों उन के केसेज रखे जायं जिस से पता लगे कि कितने गलत केसेज़ हैं। पिछले वर्ष ही कई केसेज़ ऐसे थे कि जो ऐडवाइज़री बोर्ड के सामने गये और वहां जा कर उन को छोड़ दिया गया। इसी से पता चलता है कि बहुत से लोग विना अपराध के पकड़े जाते हैं। इसी के लिये हम पार्लियामेंट की तरफ से यह कम से कम मांग करते हैं कि आप हम को जेल में रखते हैं, आप मानते हैं कि गलतियां होती हैं, तो जो कर्मचारी गलतियां करते हैं, उन के लिये उन के ऊपर शासन होना चाहिये। यही हमारी मांग है और मैं आशा करता हूं कि यह जो संशोधन है इस को गृह मंत्री स्वीकार करेंगे।

श्री बी० डी० शास्त्री : उपाध्यक्ष जी, मैं अपना संशोधन नम्बर १७० उपस्थित करता हूं :

In page 2, after line 44, insert:

'9A. *Amendment of section 11, Act Act IV of* 1950.—For sub-section (2) of section 11 of the principal Act, the following sub-section shall be substituted namely:—

"(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith, and pay due compensation for unnecessary detention, the amount of compensation to depend on the period for which the person was under arrest and according to the person's status." '

उपाध्यक्ष जी, डिटेंशन ऐक्ट (Detention Act) पुलिस की मनमानी कार्यवाही के लिये एक बहुत बड़ा पुरस्कार है। चूंकि यह ला (law) की बात है इस लिये क्रिमिनल प्रोसीज्योर कोड (Criminal Procedure Code) के अनुसार पुलिस जो केस अदालत में पेश करती है मुमकिन है कि उस में कुछ ज़िम्मेदारी महसूस करती हो। वह मुकदमे एक न्याय विभाग के सामने बड़ी अदालतों तक जाते हैं और इस कारण जो चीज़ ताईद के लिये लानी पड़ती हैं, अपने गवाह वगैरह लाने पड़ते हैं, उस के लिये काफी प्रमाण अपेक्षित होते हैं। लेकिन जहां डिटेंशन ऐक्ट का प्रश्न है, वहां यह देखा गया है कि पुलिस कतई कोई ज़िम्मेदारी महसूस नहीं करती। मैं दावे के साथ इस बात को सप्रमाण रखने को तैयार हूं कि ५० प्रतिशत ऐसे केस होते हैं जिन में निरपराध व्यक्ति डिटेंशन (detention) के शिकार होते हैं। यह कहा जाता है कि वारंट (warrant) जारी करने वाले तो डिस्ट्रिक्ट मैजिस्ट्रेट होते हैं, लेकिन यह भी कोई युक्तियुक्त चीज़ नहीं है। पुलिस जैसी सूचना डिस्ट्रिक्ट मैजिस्ट्रेट को देती है, अपने शक के मुताबिक, वैसे ही डिस्ट्रिक्ट मैजिस्ट्रेट वारंट जारी करते हैं। वास्तव में अधिकांश ऐसे लोग पुलिस के शिकार होते हैं कि जिन की पुलिस से रंजिश होती है, जो पुलिस की मनमानी कार्यवाही में रोड़े अटकाते हैं और जो पुलिस द्वारा जनता पर अत्याचार को रोकने की कोशिश करते हैं। ऐसे लोग इस डिटेंशन ऐक्ट के शिकार होते हैं।

मैं जो एक उदाहरण रख रहा हूं उस को जानकर आप लोगों को आश्चर्य होगा

[श्री बी० डी० शास्त्री]

कि पुलिस के लोग कहां तक ज़िम्मेदारी महसूस करते हैं, किसी भी व्यक्ति को डिटेन करने के सम्बन्ध में। मिरज़ापुर ज़िले के डिस्ट्रिक्ट मजिस्ट्रेट एक वारंट ईशू करते हैं, "बैजनाथ दुबे, साकिन वैरदहा के नाम पर," और वह वारंट रीवां स्टेट आता है। पुलिस उस वारंट में जो "वैरदहा" गांव था, उसे काट कर वरदी" गांव जोड़ती है, इसलिये कि उसे किसी भी उस व्यक्ति को गिरफ्तार कर लेना है जिस का नाम बैजनाथ दुबे हो, चाहे दर असल वह व्यक्ति हो या नहीं कि जिस के लिये मिरज़ापुर के डिस्ट्रिक्ट मैजिस्ट्रेट ने वारंट ईशू (issue) किया है। कोई भी व्यक्ति बैजनाथ दुबे के नाम से मिल जाना चाहिये और वह जेल में भेज दिया जाना चाहिये। उस ने यह ज़िम्मेदारी महसूस नहीं की कि उसे सबसे पहले तहसील में इस बात का पता लगाना चाहिये कि वैरदहा नाम का कोई गांव है या नहीं। अगर दरअसल वैरदहा नाम का कोई गांव नहीं होता तो फिर यह शक कर सकती थी कि दूसरे गांव में हो सकता है कि वह व्यक्ति हो। लेकिन पुलिस के अधिकारी प्रस्तुत अभियोग के सम्बन्ध में कतई तहसील से सम्पर्क नहीं रखते और उस गांव के नाम का पता लगाने के बजाय हो सकता है कि उन्हों- ने अपने मातहत पुलिस कर्मचारियों से कहा हो कि भाई जहां दुबे लोगों की बस्ती ज्यादा हो कम से कम उस गांव का पता लगाओ। उन्हें पता लगता है कि वरदी गांव है जहां दुबों की ज्यादा आबादी है। तो वहां पुलिस गई और बेचारे एक किसान को जिस का राजनीति से कोई सम्पर्क नहीं था, मिरज़ा- पुर ज़िले को जिस ने स्वप्न में भी नहीं देखा था, ऐसे एक किसान को डिटेन कर लिया। उस के घर में स्त्री बच्चे रोने लगे बेचारा किसान भी रोने लगा, और कहने लगा कि मैं आप से प्रार्थना करता हूं कि मैं नहीं जानता कि राजनीति किस चिड़िया को कहते हैं, मिरज़ापुर ज़िले को मैं ने स्वप्न में भी नहीं देखा, फिर मुझे क्यों आप पकड़ते हो। लेकिन पुलिस ने कुछ नहीं सुना और उस बेचारे किसान को ले गयी।

बाद में जो ठीक बैजनाथ दुबे थे उन को पता लगा कि हमारे नाम के पीछे एक बेचारे किसान को पकड़ा गया है और वह जेल में यातना भोग रहा है। तो उन्होंने किसी न किसी तरह पुलिस के कानों तक आवाज़ पहुंचाई कि मैं बैजनाथ दुबे हूं और हो सकता है कि मेरे नाम का वारंट हो। अन्त में पुलिस को पता चला तो वह वैरदहा गांव गई और उन बैजनाथ दुबे को गिरफ्तार किया और बहुत परेशानियों के बाद वह बेचारा किसान छूटा। तो पुलिस की ज़िम्मे- दारी का यह नमूना है। जहां पुलिस यह पता नहीं लगाती जब कि उस के पास सारे साधन हैं कि जिन के द्वारा वह आसानी से पता लगा सकती है कि वैरदहा नाम का कोई गांव है या नहीं। तो इस प्रकार की ग़ैरज़िम्मेदारी के बावजूद, उस के कामों पर कहां तक विश्वास किया जा सकता है। क्या आशा की जा सकती है कि वह ज़िम्मेदारी और उत्तरदायित्व को इस डिटेंशन ऐक्ट में महसूस करेगी।

इसलिये मैं अपना संशोधन इस आशय का पेश कर रहा हूं कि जो ऐसे लोग डिटेन किये जाते हैं जिन का कोई अपराध नहीं, कोई जुर्म नहीं, महज़ पुलिस की रंजिश के कारण, पुलिस की मनमानी न होने देने के कारण डिटेन किये जाते हैं, और इस डिटेंशन के सम्बन्ध में एक अरसे तक डिटेंड (detained) रहते हैं, महीनों बीत जाते हैं, ऐसे लोगों को कम्पेनसेशन (compensation) मिलना चाहिये।

मैं तो उस दिन देख रहा था कि जब नन्दलाल जी अपना श्लोक पढ़ रहे थे :

—"अदण्डयान्दण्डयन्राजा दण्डयांश्चैवाप्यदण्डपन् ।
अयशो महदाप्नोति नरकञ्चैव गच्छति" ।

तो हमारे माननीय मंत्री बहुत पुलकित हो रहे थे । इस का मतलब यह है कि न्यायशीलता उन के हृदय में है । तो वस्तुतः यदि वह न्याय की रक्षा चाहते हैं, और चाहते हैं कि डिटेंशन के शिकार ऐसे व्यक्ति न हों जिन्होंने कोई अपराध न किया हो । उन की यह भावना है । फिर भी पुलिस की निन्दनीय गलती से, सम्भव है, ऐसे निरपराध लोग डिटेन किये जायें और फिर वह बोर्ड के ज़रिये निरपराध सिद्ध हों तो उन्हें उस का कम्पेनसेशन मिलना बहुत ज़रूरी है । जब आज हमारी बेहद उदार सरकार राजाओं की कम्पेनसेशन देने में नहीं हिचकती, ज़मींदारों को कम्पेनसेशन देने में नहीं हिचकती तो क्या वजह है कि बिला वजह, बिला कारण, जो लोग डिटेन किये जाते हैं उन को कम्पेनसेशन न मिले । मैं इस संशोधन की ताईद में पुनः इस बात को स्पष्ट करता हूं कि उन को कम्पेनसेशन मिलना बहुत आवश्यक है और मुझे आशा है कि हमारे माननीय मंत्री इस को स्वीकार करेंगे ।

Jonab Amjad Ali: Sir, the amendment which I have moved reads thus:

In page 2, after line 44, insert:

'9A. *Amendment of section 11, Act IV of 1950*.—After sub-section (2) of section 11 of the principal Act, the following sub-section shall be inserted, namely:—

"(3) The Advisory Board may also order that compensation be paid to the detenu while directing his release." '

To economise the time, I would simply give the points for the consideration of the House. Let me quote an analogous section, namely section 250 in the Criminal Procedure Code, in that section in case of vexatious or frivolous complaints the accused may get compensation through the Court. I do not propose to send the detenu to the court of law but what I want is that while the Advisory Board goes into this question thoroughly they may come to the conclusion that there is no good reason why the man should be detained or orders release, at the same time they should be competent by this new sub-section to give compensation to the detenu. There are cases where we have found that good lawyers are being detained. They lose much of their lucrative practice. Good businessmen go to prison for nothing and they lose a large part of their profits while in detention. I have found doctors, for nothing, were being detained in jail and they lost large sums of money from their clientele. It is due to the vagaries of the local officials that play an important part in detentions of this nature. I hope the hon. Minister in charge of Home Affairs will give some attention to what I am speaking...

Mr. Deputy-Speaker: There are others who are taking notes.

Jonab Amjad Ali: I have known of a case where four or five persons during the visit of the Chief Minister in a State were discussing something about the maladministration of district officials and these persons found themselves inside the jail after one day. That is an instance of how a district magistrate or his officials behave. If the administration is not allowed to be criticized, there is an end of democracy. Then there is another incident which came to my knowledge. A servant or some person under the patronage of a district magistrate could secure his services to stage the come-back of a run away wife. A wife had run away and the district magistrate found it handy to invoke the sections of the Preventive Detention Act to get the wife to jail and after locking her up for a few hours, she was let off to her husband.

Mr. Deputy-Speaker: Where was this?

Jonab Amjad Ali: In my own State.

Mr. Deputy-Speaker: In what year?

Jonab Amjad Ali: Only last year.

Mr. Deputy-Speaker: What date? Because sometimes we get these things by report. The other side may have the opportunity...

Jonab Amjad Ali: I will tell the hon. Home Minister about it.

Mr. Deputy-Speaker: What kind of compensation does the hon. Member want for this. We are on the point of compensation.

Jonab Amjad Ali: Compensation would always mean reasonable compensation and I think the Advisory Board will apply their minds to it, and give compensation as they judicially think fit. I would finish by saying that I hope the hon. Home Minister would accept my amendment. It would be only in conformity with other sections and also the practice which obtains in America and in the U.K. and I suggest that this sort of compensation may be given to the detenu when he is detained.

Shri Mohana Rao: The amendment that I have moved reads as follows:

In page 3, after line 22, insert:

'12. *Insertion of new sections 14A and 14B in Act IV of 1950.*—

After section 14 of the principal Act, the following sections shall be inserted, namely:—

"14A. The appropriate Government shall guarantee the right of modesty of the detenus both men and women. Any officer who breaks the above said right shall be liable to be punished and sentenced to seven years rigorous imprisonment and the detenus shall be entitled to move the High Court directly in such cases for suitable compensation.

14B. *Letters and interviews to detenus.*—The detenu shall be entitled to write letters and interview any person, every day except on Sundays." '

I have already told the House the other day that under this Preventive Detention Act so many women were arrested and raped in the public streets. In that connection, I have already told you that my own sister was raped in the Police Camp. After this she became sick and was observing a 21 day fast and when her temperature was rising to 104 degrees, she was again dragged to the Police Camp and tortured severely because she gave a statement before the enquiring commission that she was raped in the Police Camp before hundreds of people in that Camp. Therefore, there is no guarantee to protect the modesty of womenfolk in this Preventive Detention Act. Not only that; in Rayavellore Central Jail in 1948-49 the clothes of so many women detenus were removed violently. The Superintendent and the Jailor removed their clothes and beat them severely because they refused to remove the clothes themselves.

Mr. Deputy-Speaker: I know that at Vellore there is a separate jail for women. No male member is allowed to go there except the Superintendent and others. (*Interruption*). Order, order. These are very serious allegations. The incident if true, it is a serious one. It is really unfortunate. The House had the benefit or otherwise of hearing that statement. So far as the other incidents are concerned, of what took place in a female jail etc. unless the hon. Member has some reliable evidence to go upon, such statements need not be made. A single instance is enough for the House to come to the conclusion whether safeguards are necessary. It is unnecessary for him to go into other matters. There is nobody here to refute those allegations.

Shri Mohana Rao: A. Anausuya was forced to remove her clothes in the Rayavellore Central Jail. The male Superintendent of the jail entered the detention camp and forced her and others to remove their clothes. She is still alive. I will bring her here if the House is so willing. I can produce the evidence wherever you want. I can cite so many instances like this. I can produce so much evidence like this from my constituency. Therefore, I request the hon. Home Minister and the House to insert this clause and protect the modesty of women detenus, who are being arrested under this Act. There must be some guarantee that those brutal officers who rape women like this will be punished. Unless there is such a guarantee under this law, unless protection is given to women, there will be no law. You speak of law and order. Law and order should not be administered in this fashion.

The other amendment is:

'14B. *Letters and interviews to detenus.*—The detenu shall be intitled to write letters and interview any person, every day except on Sundays."

Mr. Deputy-Speaker: That has been disposed of. Mr. Gopalan referred to that in detail; but the House did not accept that.

Shri Mohana Rao: With these words, I commend my amendment.

Mr. Deputy-Speaker: Pandit Thakur Das Bhargava.

Shri Raghavaiah (Ongole): Sir, on a point of information,...

Mr. Deputy-Speaker: I have called the other hon. Member. I shall come to information later.

Shri Raghavaiah: Just one minute, Sir.

Mr. Deputy-Speaker: I have no information to give. The hon. Member will kindly resume his seat. I have called the other hon. Member. What is the hurry for this information? Yes; Pandit Thakur Das Bhargava.

Pandit Thakur Das Bhargava: The amendment which I have moved reads as follows:

(i) In page 2, line 50, for "the date on which the said order has been so confirmed" substitute "the date of detention", and

(ii) In page 3, lines 6 and 7, for "the date on which it was confirmed under section 11" substitute "the date of detention".

The idea is this. While we were considering article 22 of the Constitution, there was a great discussion in the House as also outside as to what should be the period for which this detention should continue. Some Members were of the opinion that it should not be more than six months; others were of the opinion that it should be much more. Ultimately, we arrived at a sort of a compromise that it should be twelve months. As a matter of fact, an amendment was brought in the Constituent Assembly to the effect that the period of detention should be twelve months. Ultimately, we agreed to leave it to Parliament for future legislation. So, this matter did not form part of the article. I do not see any reason why this period should be counted from the date of confirmation. There is good ground for considering that this period should be counted only from the date of detention. I respectfully urge before the hon. Home Minister that the original idea will be given effect to if he accepts this amendment that the period of twelve months is from the date of detention.

As regards some other matters, with your permission, Sir, I shall say a word. Mr. Nambiar had something to say about clause 11. He said that as far as fresh facts were concerned, the conditions prevalent and an adverse atmosphere would constitute fresh facts. If there were a Hindu-Muslim riot and the detenu had been let off just before that riot, that would constitute a fresh fact. I may just disabuse his mind. So far as section 13 is concerned, this would not constitute fresh facts. Fresh facts must be against the person sought to be detained. The wording of section 3 is: 'if the Central Government or the State Government is satisfied with respect to any person'. So, the fresh facts must relate to that person. It is wrong to think that an amendment that we have made is so perverse that even the existence of facts over which a person had no control would be enough to put him in jail again. That is not the purpose.

You have been pleased to hear other arguments also. I was rather amazed at some of the arguments, specially that relating to the placing of a clause here about bad faith. In my humble opinion, so far as the law goes, every person who acts in good faith is protected. We have specifically provided in section 15 that—

> "No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act."

I know that out of the cases *chalaned* by the police, 50 per cent. fail. I know a good many cases in which the sessions court awards a sentence of death, but the High Court or the Supreme Court acquits the accused. Are we to take it that the persons who convicted them or the Government should be proceeded against or that the Government should pay compensation? Now that we have changed the law, the Home Minister himself is practically responsible in the States as well as in the Centre, and the need for the new clause goes away. Once we accept that principle, the finances of this country or any other country in the world cannot stand this burden. I know that something was quoted from the American Act, that indemnification should be provided. May I respectfully submit that the circumstances of each country are quite different.

When we were considering the question of making available the services of a legal practitioner, I was reminded of what we did in article 22. In article 22, it is not as a matter of right that he can demand that a lawyer should be made available. It was by way of favour that request was made to the hon. Home Minister to agree that in the preparation of the reply, the services of a lawyer should be allowed. Otherwise, according to the Constitution, under clauses (1) and (2), it would appear that the difference between an ordinary criminal and a detenu is, whereas the former has got the fundamental right to being defended by a pleader, the latter has no such right. On the contrary, it is

[Pandit Thakur Das Bhargava]

specifically stated in clause (3) that this right conferred in clause (1) shall not apply to preventive detention.

Similarly, Sir, it is very easy to make statements that the police does this, the police does that. My hon. friend there has come forward with statements that in some cases the modesty of women was violated. Do we not know that even now, in many cases, the police behave wrongly? There are some police officers who are very bad. I know of certain cases, ordinary criminal cases, where the police officers behaved badly. They were brought to book. There is nothing in the Preventive Detention Act itself which would give occasion for making a legislation like this. I have known some cases in which people have been tortured to death by the police. Many sub-inspectors have been brought to book, and they have been sentenced to various terms of imprisonment. If such an offence is committed, there is no person in this House who will say, that such a police officer should be protected. We want that such police officers should be prosecuted and dealt with according to law. But, to make a special provision that in such cases, if any officer commits a mistake, he would be liable, would be entirely wrong. After all, the officers have to do their duties and the sword of Damocles should not hang over their head. In many cases, there may be mistakes. My hon. friend was mentioning the case of Vaidyanath Dube. It is not known whether the police officer out of enmity went out of his way to arrest him. Mistakes are likely to occur. In murder cases. for instance, a man of the name of Ram Sarup is charged. In a village, there are ten persons of the name of Ram Sarup. These people are
My plea is that a Member of the
fied. In many cases, this sort of thing is likely to happen. If you say that because of a mistake, every person should be asked to pay damages, that would be difficult to accept. It will be difficult for the Government to bear the burden. This is a burden which the tax-payer will have to bear. I do not want any bad official to be protected. I would rather like that every bad officer should be proceeded against. I would rather like that every bad official should be proceeded against, but at the same time, I do not see how we can provide in this legislation that every official who makes a mistake must be punished. If any person by mistake is kept in prison, and after some time is released, he may have to be paid compensation. When the principle is applied in every case, it will apply to an under-trial prisoner as to a person detained under the Preventive Detention Act. If the House is prepared to accept it in every case, I can understand there is a case for such contingency. Otherwise, my submission is that it will not be right to do so.

Shri Raghavaiah: On a point of information, Sir.

Mr. Deputy-Speaker: What is the point of information?

Shri Raghavaiah: I wanted to know if those who have moved the amendments will be allowed to speak as otherwise they will not get a chance in the third reading when it will be only a question of "Aye" or "No".

Mr. Deputy-Speaker: Is the hon. Member arguing for the general community here, or for his own amendment? If he wants to speak, then he may do so. He may start immediately. The hon. Member first of all wanted to have information if I would call upon him to speak. I have called him.

Shri Raghavaiah: I am saying the third reading will begin in the evening and there will be no scope for any Member to speak on amendments.

Mr. Deputy-Speaker: What is the number of his amendment?

Shri Raghavaiah: My amendments are Nos. 141, 137 and 139 which have been moved by Shri T. B. Vittal Rao.

Mr. Deputy-Speaker: Then, let him proceed at once.

Shri Raghavaiah: Sir, it is unfortunate that Members of Legislatures and the House of the People also do come under this Preventive Detention Act. They are also likely to be detained whenever the Home Ministry suspects that they are likely to commit an act prejudicial to or that may not be in the interests of the maintenance of defence, foreign affairs or rather the peace and tranquillity in this country. In all such cases, a provision is not made that they will not be proceeded against under this Act.

My plea is that a Member of the Legislature or the House of the People has to attend the House, and should not be detained under the Preventive Detention Act because of his responsibility to lakhs of people, because he is expected to discharge his responsibilities towards them. He is expected to give his opinion on every piece of legislation that is brought before the House. He will put forth his arguments for or against a piece of legislation that is brought before the House which reflects the views of the people of his constituency, and after the session is over, it is his duty to go and report to the people of his constituency as to the nature of the piece of legislation that has been passed, as to the various arguments that were put forward for and against the piece of legislation. All this work he has to carry on as a representative of the people of his constituency. If he is detained, he will be denied this supreme responsibility which he shoulders as a Member of the Legislature or the House of the People. I want the Home Minister, with due regard to the responsibility which a Member of the Legislature or the House of the People shoulders, to relieve him from being detained, making himself sure that he is not likely to indulge in any acts of violence that may bring the safety of the State or the peace and tranquillity of this country into danger. After all, every Member representing the lakhs of voters of his constituency here or in the Legislatures is going to plead for the people of his constituency. Supposing....

Shri B. Shiva Rao: May I ask on which clause is the hon. Member speaking? As far as I can see there is no amendment which suggests that Members should be immune from arrest or detention.

Mr. Deputy-Speaker: A new clause that is provided for.

Shri B. Shiva Rao: Which one? May I know the number?

Shri Raghavaiah: I am speaking in support of Mr. Nambiar's amendment, No. 164. Of course, I will come to my own amendments also.

Shri B. Shiva Rao: I think there is no immunity from detention there.

Mr. Deputy-Speaker: There is no harm. He is concluding his speech.

Shri Raghavaiah: Even in such cases, as far as I can understand, it is a practice in certain countries like France that Members of the Legislature or Parliament are not arrested, or are not detained without the prior consultation with the authorities governing the Parliament or the Legislature, *i.e.*, the Deputy-Speaker or the Speaker for the matter of that. We as ideal democrats, should follow certain countries, as we have been following the United States of America and the United Kingdom, our best friends. At least, I hope the Home Minister will follow democratic countries like France and implement such traditions that will enable the Members of the Legislature and the House of the People to discharge their responsibilities to the people.

Another thing which I would like to bring to the notice of the House in this connection is that even if a Member of the Legislature or the House of the People ought to be detained under this Act, when he is sick or in a serious condition, his relatives should be informed. Whenever there is danger to his safety, when he is hanged or anything like that, because such things are also going on; people who are kept in detention are being hanged or killed also. Just within two or three days, I would like to bring to the notice of the Home Minister a special case which has been referred to in the Madras Legislature by the Leader of Opposition, Mr. Nagi Reddi and for which the hon. Chief Minister there, also has asked for notice. Certain cases like that I would like to bring to the notice of the Home Minister. In view of these dangerous incidents that are happening in detention camps, I would like to see that my amendment No. 141 is accepted. After all it is the human heart that demands the inclusion of this clause. After all, nothing is going to prevent the Government of India from doing anything to the detenu or from killing him, when his acts are considered prejudicial to the security of the State or the maintenance of public order. But I would only request that in case there is any danger to his life or he is sick, information may be given to his relatives. I hope the hon. Home Minister does not lack that humaneness to concede at least this much. In all humility, I would appeal to the hon. Minister to include the new clause and satisfy this human demand of ours, and I hope he will accept our amendment in this behalf.

Shri K. K. Basu: I would be very brief, and I shall take only two minutes.

I shall first deal with clause 10 of this Bill which seeks to introduce a new section 11-A after section 11 of the principal Act. The idea of the inclusion of this clause seems to be to limit the period of detention. In the proposed section 11-A in sub-section (2) it is stated:

> "Notwithstanding anything contained in sub-section (1), every detention order which has been confirmed under section 11 before the commencement of the Preventive Detention (Second Amendment) Act, 1952, shall, unless a shorter period is specified in the order, continue to remain in force until the 1st day of April, 1953, or until the expiration of twelve

[Shri K. K. Basu]

months from the date on which it was confirmed under Section 11, whichever period of detention expires later."

That means that persons who have been in detention for more than two or three years and are still in detention will continue to be under detention till the 1st April, 1953. The spirit of sub-section (1) of Section 11A is that no detention should continue for more than one year. I would humbly request the hon. Home Minister to consider those cases. I know in Bengal there are detenus who have been in detention for more than two and a half years, and I request the hon. Home Minister that they should be released forthwith, instead of being kept under detention for six months from the date of confirmation of the order.

As regards clause 11, I want to emphasize that the principle underlying it is that before a fresh detention order is made, there should be fresh facts for doing so. But from the clause as it stands, it cannot be concluded like that. The same fresh orders may continue to be supplied to the detenus in the jail itself, as has been the case for the last three or four years. We have now a new Home Minister, and may be, a new principle of detention may be enunciated by him. But to honour and respect the principle underlying clause 11, I would request that before a fresh detention order is supplied to a detenu, there must be an intervening period during which he may be allowed to behave like a normal gentleman; if he behaves so, there should not be any detention.

These are two submissions, which I wanted to make to the hon. Minister.

Jonab Amjad Ali: I would seek your guidance, Sir, in regard to the procedure we should follow with regard to the amendments which have not been moved. Are they all going to be guillotined?

Mr. Deputy-Speaker: All the amendments have been moved.

Dr. Katju: Sir, let me take the various points which have been raised, one by one. I begin by saying that to meet with the wishes of my hon. friend Pandit Thakur Das Bhargava and Mr. Nambiar, I am willing to accept the amendment which seeks to reduce the maximum term of imprisonment from twelve months from the date of confirmation to twelve months from the date of detention. (*Cheers from the Opposition Benches*). I am very glad, Sir, that for once, I have received congratulations from the other side.

Then I come to the next point which was raised by my hon. friend from Calcutta, I believe, as to the question of the release of detenus who are in custody. I shall be quite frank about it, particularly with reference to Bengal. The House is aware that during the last three or four months, there has been a most intensive review of all the cases of detenus. And everyone, whom the State Government thought they could possibly release, they have released. The result is that today only genuine Communists who are considered to be members of the Communist Party of India alone are under detention, and I think they are probably very few in number.

Shri K. K. Basu: Yo do not have this only for Communists, but for all persons.

Dr. Katju: So far as the Bengal Communists are concerned, whoever they may be, and I am not naming them—the cases of people who have been in detention for more than a year or two have been examined, and the State Government has come to the conclusion that they would not be justified in releasing them. If we were to say that they should be released after twelve months from the date of detention which might have been a year or two ago, that would practically mean that we are over-riding the discretion of the State Government straightaway. Therefore what I have done is that as far as these detenus who have been in jail for more than twelve or thirteen months, or more, they will be out of custody on the 1st of April, 1953, *i.e.* to say six months after the older date of 30th September. There may be cases of persons who have been detained during the last two or three months. As to them we have provided that they would also be entitled to release after twelve months from the date of detention or on 1st April, 1953, whichever is later. Having regard to what has taken place throughout the whole of India as regards this review, that is the maximum that I can go, and I would not be justified in going further, because as I have said times out of number, the primary responsibility of maintaining peace and tranquillity is that of the State Governments, and not my own. When they have examined every single case most carefully and most anxiously and have come to such a conclusion, I cannot go further to over-ride their decision.

The next point that was raised was with regard to compensation. The House will recollect that if there are *mala fide* acts under this Act, there is already section 15 of the main Act, which only controls the officers who have acted in good faith. If they have acted in bad faith or not in good faith, they can be sued, and prosecuted for damages. There is nothing to prevent that. If there are any cases of that kind which were referred to by the hon. Member from Gwalior, then action can be taken. So far as compensation is concerned, I do not know why there should be this intense anxiety for compensation for people who have been detained in good faith and then released because the same principle will apply to hundreds of thousands of cases of under-trial persons whom the district magistrate or the judge may release, and they would not be getting any compensation. So my submission is that we should not make any difference between the two cases.

So far as sickness of the detenus is concerned, we discussed this matter yesterday thoroughly. That is a matter entirely for the State Government. They have to make rules and I imagine they have already made rules that if any detenu is sick, he should be removed from jail to the hospital at large, that information should be given to his relatives and so on.

I now come to another big question, namely the treatment of the Members of the Legislature who may be detained under this Act. That is a matter of great importance. We had that question some time ago in the Committee of Privileges also in relation to a particular Member here, and I imagine in the usual course, that report will come up for discussion before the House, when it will have an opportunity of expressing its opinion. The question is not only confined to the Preventive Detention Act alone, but it is a much larger question. Now, first we have this: whether there should be any distinction between a private citizen and a Member of the Legislature in regard to the operation of the Preventive Detention Act? This question has not been raised here, but it is a vital question which will be raised on the Report of the Committee of Privileges. Then comes the point: 'Allow them police escort, give them parole, let them come here'. I should have thought that if they were in detention, then they would not be aware of what was passing in the country or what was passing in their constituencies and probably they would not be able to make any very useful contribution to the debates. But leaving that aside, please remember this. We are all talking of the normal action under the Criminal Procedure Code. Now, all those preventive sections which have been referred to, section 107 to section 110, they are intended to prevent offences. So and so is a receiver of stolen property; he is locked up or ordered to give security, so that he may not receive stolen property in future. Similarly, so and so is a dacoit, he is given some punishment so that he may not commit dacoity in future. This is according to the preventive sections. Now, are you going to say that if a Member of a Legislature, unfortunately, is ordered to furnish security and he does not furnish it or ordered to be detained for a period of one year because he has been disseminating what is called seditious literature, then the same immunity should apply to him though he has been ordered to be detained by a magistrate after a judicial trial? You cannot make any distinction between a detenu under the Preventive Detention Act and a person ordered to be imprisoned or detained under the preventive sections of the Criminal Procedure Code. That is a matter of great importance. It cannot be discussed piecemeal under one section. If the House is anxious as to what the privileges of Members of the Legislature should be, it is very desirable that we should discuss it on a fuller canvas in regard to large principles as they may be applicable to everybody—in every particular case. You will have to consider whether this particular right of the electorate to be represented here, the right of the House to have the services of a particular Member, the right of the constituencies to have the benefit of the services of their elected Members should be confined to the Preventive Detention Act or should be applicable or not applicable to ordinary people who have been detained under the Criminal Procedure Code or even, say, people who may be convicts. Supposing somebody beats someone else. There is no question of moral degradation, no question of moral depravity. Suppose there is a fight in a village and in a fit of temper a Member of the Legislature beats somebody, and is sentenced to 'nine months' imprisonment. The electorate may say: 'Well, we elected this Member, we are entitled to his services. Give him the right of access, give him parole, allow him police escort and bring him to Parliament. He has done nothing. He has just beaten someone during a fight in the village'. Sir, I submit that this is a question which involves extensive consideration.

1 P.M.

Sir, it is now one o'clock and I only wish to say that I accept the amendment which has been moved by my hon. friend, Pandit Thakur Das Bhargava, and as to the others I would ask the House not to press them.

Shri Nambiar: May I have a clarification from the hon. Minister? With

[Shri Nambiar]

regard to hon. Members of the State Legislatures or of Parliament if they are detained, when there is already a provision under section 14 of the parent Act, why can't they be guaranteed parole, Sir? He need not put it in the Act, but will he at least give an assurance that they will be released on parole for the purpose of attending sessions of Parliament?

Dr. Katju: That may be a matter entirely for the discretion of the State Governments. When such people come here, goodness knows what they would do here. (*Interruption*).

Mr. Deputy-Speaker: We have had enough questions. I allowed the hon. Member to speak and he put questions.

Shri Raghavaiah: I am not anxious to make any speech......

Mr. Deputy-Speaker: When he has not an opportunity, he must speak. now, I will put the amendments. First I will put Pandit Thakur Das Bhargava's amendment to the vote of the House.

The question is:

(i) In page 2, line 50, for "the date on which the said order has been so confirmed" substitute "the date of detention"; and

(ii) in page 3, lines 6 and 7, for "the date on which it was confirmed under section 11" substitute "the date of detention".

The motion was adopted.

Mr. Deputy-Speaker: I will put all the other amendments to the vote of the House. The question is:

In page 2, for lines 47 to 50, substitute:

"11A. *Maximum period of detention.*—(1) The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under Section 11 shall be six months from the date on which the said person was arrested."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, lines 49 and 50, for "twelve months from the date on which the said order has been so confirmed" substitute "six months from the commencement of the detention".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, lines 49 and 50, for "twelve months" substitute "six months".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, lines 49 and 50, for "twelve months from the date on which the said order has been so confirmed" substitute "six months from the date on which the detention commenced".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, lines 49 and 50, for "twelve months" substitute "three months".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, line 4, omit "unless a shorter period is specified in the order".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, lines 5 to 7, for "1st day of April, 1953, or until the expiration of twelve months from the date on which it was confirmed under section 11, whichever period of detention expires later" substitute "31st December, 1952."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, line 5, for "1st day of April, 1953" substitute "1st day of January, 1953".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, line 50, for "on which the said order has been so confirmed" substitute "of arrest for detention".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, lines 5 to 7, for "1st day of April, 1953, or until the expiration of twelve months from the date on which it was confirmed under section 11, whichever period of detention expires later" substitute "31st day of December, 1952".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, line 5, for "1st day of April, 1953" substitute "1st day of October, 1952".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, lines 5 and 6, for "1st day of April, 1953, or until the expiration of twelve months" substitute "1st day of January 1953, or until the expiry of six months".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, lines 5 to 7, for "or until the expiration of twelve months from the date on which it was confirmed under section 11, whichever period of detention expires later" substitute "or on the date of expiration of the order under section 11, whichever period of detention expires earlier and such detenu be forthwith released".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, line 6, for "twelve months" substitute "six months".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, line 7, for "later" substitute "earlier".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, line 7, for "later" substitute "earlier".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, line 19, after "fresh facts" insert "directly involving the detenu or indicating incidents in which he has taken part after release".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, line 19, after "have arisen" insert "and at least six weeks have elapsed".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, after line 22, insert:

"12. *Amendment of section 14 Act IV of* 1950.—After sub-section (5) of section 14 of the Principal Act, the following sub-section shall be inserted, namely:—

'(6) Members of the Legislatures and of Parliament under detention shall be released on parole for the duration of the sittings of the Legislatures or of Parliament, as the case may be, so as to enable them to take part in the deliberations of the Legislature or of Parliament to which they are elected.' "

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, after line 22, insert:

"12. *Insertion of new section 14A in Act IV of* 1950.—After section 14 of the principal Act, the following section shall be inserted, namely:—

'14A. The appropriate Government shall guarantee to the nearest of kin of the detenu absolute personal safety of the detenu held in custody and shall return the detenu to the nearest of kin on expiry of the order. In case of sickness of the detenu the appropriate Government shall inform the nearest of kin within twenty four hours of sickness and shall also permit nearest of kin to visit the detenu twice daily.' "

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, after line 22, insert:

"12. *Insertion of new section 14A.*—After section 14 of the principal Act, the following section shall be inserted, namely:—

14A. *Detention of Members of Parliament or State Legislature.*—(1) When a member of any of the Houses of Parliament or any State legislature has been detained the detention order and a detailed statement of the grounds on which the detention order has been made, together with all the relevant papers, shall be forthwith forwarded to the legislature concerned and the legislature shall enquire into the propriety of the detention order.

(2) When a member of any of the Houses of the Parliament or any State legislature has been detained he or she shall be allowed reasonable facilities to attend the meetings of the legislature concerned whenever they are held during the period of detention.' "

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, after line 22, insert:

"12. *Insertion of new section* 14A *and* 14B *in Act IV of* 1950.—After section 14 of the principal Act, the following sections shall be inserted, namely:—

'14A. The appropriate Government shall guarantee the right of modesty of the detenus both men and women. Any officer who breaks the above said right shall be liable to be punished and sentenced to seven years rigorous imprisonment and the detenu shall be entitled to move the High Court directly in such cases for suitable compensation.

[Mr. Deputy-Speaker]

14B. *Letters and interviews to detenus.*—The detenu shall be entitled to write letters and interview with any person, everyday except on Sundays.' "

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, after line 22, insert:

"12. *Insertion of new section* 14A *in Act IV of* 1950.—After section 14 of the principal Act, the following section shall be inserted, namely:—

'14A. If on any account elected members of State Legislatures or of Parliament are detained under this Act, they shall be taken to the Legislature or Parliament as the case may be, when it is in session under police escort so as to enable them to discharge their responsibilities to the electorate.' "

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 3, after line 22, add:

"12. *Insertion of new section* 15A *in Act IV of* 1950.—After section 15 of the principal Act, the following section shall be inserted, namely:—

'15A. The Central Government shall appoint a judicial commission consisting of High Court Judges to enquire periodically into the grounds on which the persons were detained throughout the length and breadth of India and the officers found guilty for detaining persons without sufficient grounds or *male fide* would be dealt with according to rules to be prepared by the Home Minister of India.' "

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, after line 44, insert:

"9A. *Amendment of section 11, Act IV of* 1950.—After sub-section (2) of section 11 of the principal Act, the following sub-section shall be inserted, namely:—

'(3) The Advisory Board may also order that compensation be paid to the detenu while directing his release.' "

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 2, after line 44, insert:

"9A. *Amendment of section 11,... Act IV of* 1950.—For sub-section (2) of section 11 of the principal Act, the following sub-section shall be substituted, namely:—

'(2) In any case where the Advisory Board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate Government shall revoke the detention order and cause the person to be released forthwith, and pay due compensation for unnecessary detention, the amount of compensation to depend on the period for which the person was under arrest and according to the person's status.' "

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Mr. Deputy-Speaker: The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clause 1.—(*Short title and commencement*).

Shri S. S. More: There are some amendments to clause 1.

Mr. Deputy-Speaker: Clause 1 has already been discussed.

The question is:

"That clause 1 stand part of the Bill."

The motion was adopted.

Clause 1 was added to the Bill

The title and the Enacting Formula were added to the Bill.

Dr. Katju: I beg to move:

"That the Bill, as amended, be passed."

Sir, I wish to say a few words in this connection.

Mr. Deputy-Speaker: The hon. Minister may resume at 3 o'clock.

The House now stands adjourned till 3 P.M.

The House then adjourned till Three of the Clock.

The House re-assembled at Three of the Clock.

[SHRI PATSKAR *in the Chair.*]

Dr. Katju: Sir, we have now come to the end of a rather long chapter and I have no desire at this juncture to enter into any controversial debate. I have neither the heart nor the inclination to enter into any analysis of this Bill and to say how far we have gone and what changes we have made, how liberal we have made this particular enactment, and how many concessions we have made in the Joint Committee or on the floor of the House. The House will believe me when I say that it is no pleasure to me or to any Member on this side, and I imagine on the other side too, to enact any legislation of this description. Even in the British regime we were brought up in a tradition of pure and normal administration of justice. While we Indians had no field for national service it was a matter of pride to us that even under foreign domination we produced jurists and Judges of eminence, and we clung to the highest traditions of natural justice. That was our demand, and that was consistent also with our own ancient traditions and our own ancient culture. India has now become free after. I think, about one thousand years, and so far as Republican India is concerned—I am not a historian though I believe in our national history—this is the first time that the inhabitants of this land, irrespective of class and creed, have attained equal opportunity for service and equal freedom for all to enjoy. We have endeavoured under the leadership of Gandhiji to establish a true and genuine Republic without distinction of wealth, rank and position. I am sure that the one thing which is uppermost in the mind of all of us is an intense desire, an intense longing to see that this independence which has come after such a long effort, such a long enterprise, and such an intense suffering for at least a generation or two, this precious freedom should be preserved at all costs. Another intense longing is that we should profit by lessons of history and see to it that the unity of India is preserved, again at all costs, because it is not a mere slogan but a literal truth that in unity lies our strength, our splendour, our glory, our prosperity, and in disunity lies chaos.

These are two factors uppermost in my mind, in your minds. And if independence remains, and if unity remains, then all these questions which are called economic questions, which require solution, which appeal to all of us as difficult questions, will be solved. Because, their solution will lie in our hands—we do not want any foreign agency coming from no matter which part of the globe, East, West, or North, to tackle these problems for us. We shall be masters of our own homes and therefore literally masters of our own destiny. This House, in spite of all seeming opposition, I am sure, is united in one endeavour, namely that this unity should be preserved, this independence should be preserved, this freedom should remain undimmed, and then these questions should be solved to the lasting benefit of every citizen of this country. That is the aim and aspiration of all of us. It may sound to you as though I were uttering platitudes, but it seems to me that it is the basis of all this law. As I said, I am not going to enter into details or refer to a section here or a section there. Do you know nobody would be happier than the Prime Minister if we could have no such legislation? I am a very small man, as my hon. friend said the other day, and therefore I would like to tear it up—not only this particular Act but many other Acts which in any way constitute an infringement upon individual liberty. But sitting as we do on this side we have to consider our responsibility. Some of the hon. Members, younger people, over there will, I have no doubt come over here some day—there is no contamination attached to these particular benches and no particular sanctity attached to those benches over there. But we are all anxious to promote individual liberty with ordered freedom. That is the basis of this Act. If I were assured—if you were assured—that freedom would not be endangered, that security would not be endangered, do you mean to say that it is a matter of pleasure or happiness to anybody to undertake legislation of this kind? I tell you honestly, when I heard applause on this side and on that side for the concessions, I was really hurt in a way. What is the concession? The so-called concession of two months? The real concession would be that there should be no legislaton for all time. People should become law-abiding. There should be no talk of *satyagraha* of fasts, of breakings of the law; no breakings of section 144 or any other section, and we should be able to get along. Let us look at the traditions of our race. The other day I read in the newspapers that a man of great sincerity was fasting unto death because he did not want cows to be slaughtered in this land. That is the tradition of this country; that is the genius of our race, which Gandhiji picked out, namely, non-violence and an endeavour to mould the hearts of others through voluntary suffering. That is what achieved freedom for us No legislation of this kind would be necessary if we followed this teaching, this ancient doctrine. Whether this legislation goes

[Dr. Katju]

to this length or that length is immaterial, but why this legislation has become necessary is because we are following alien doctrines and other paths. Let us recognise it. That is the patent fact. That endangers us.

During the course of the debates for the last ten days I ventured sometimes to raise the question myself about violence and the abjuration of violence and policies of violence. There were charges from the other side. A particular Member protested against what he called the exposition of the philosophy of violence. We do not want it at all. We are not accustomed to that philosophy at all. We are not accustomed to this doctrine that there should be a sweep of the masses, that the masses should rise and slaughter somebody else. That is not in our line. The moment you have that, you get legislation of this kind. Whichever Government may be in power, when you ask the masses to rise, that Government will have to undertake some such legislation before it goes under. You may have your own justification for it, but this is the position. I do not want to enter into any controversy and what I am saying I am saying in all humility. The endeavour here is to preserve freedom, restore freedom, safeguard the security of the country, at a cost of one year's detention. It may be said that if other people were to come into power and if other philosophies were to gain currency in this country, then the detention would not be for one year but it would be something much more beneficial—complete liberation of the body from the soul: liquidation. I would welcome it from the Hindu point of view because life itself is an imprisonment and I would like to get away from it. (*An Hon. Member*: This is a secular State.) That is the basic thing here and I should like the House to consider it.

This Bill was enacted by our late lamented leader to whom we owed so much after Gandhiji. He wrought a miracle. He said that he had spent sleepless nights before he brought this Bill forward and got it enacted by the Provisional Parliament. Similar were the sentiments expressed by my honoured predecessor. Do you mean to say that I have got any pleasure in this? I should have been doing something much more useful. Listening to everything which you have so kindly said on account of this Bill, I feel that the time spent on this has been completely wasted. I regard these fifteen days as completely wasted. I do not know whether you consider it a great achievement, but there is nothing on the credit side by sponsoring this Bill. That is the spirit in which I am looking at it—in a spirit of humility. I should like to send up a prayer that we should all unite, that conditions should become so normal—honestly and sincerely—that everybody would be free to popularise his own ideology, his own philosophy, his own solution of the problems which are so manifest, namely, the eradication of hunger, of disease, of poverty and so on, without danger to anybody. That is what Parliament is meant for; what parliamentary democracy is meant for. If people listen to your appeals and are converted to your way of thinking, come along and take up the government, but we do not want a reign of terror, minor or major. We do not want a bogey to be raised, namely, the bogey of the "lathi"—the doctrine of saying "Either you do this or we will not allow you to do anything".

In the course of the debates, I heard a lot about the brute majority, but nobody talked of the tyranny of the minority. It seems that so far as parliamentary debates are concerned, all constructive suggestions are limited to the minority and all destructive energy is to be found on this side of the House. That is not so. I suggest that no minority should attempt to force its own doctrine, force its own will upon an unwilling majority. You see what is going on every day. I read in this morning's papers that the eastern districts of U.P. are almost in the grip of famine. In West Bengal there is acute scarcity. There is bound to be. We are not a small country. We are a vast sub-continent with thirty six crores of people. We cannot expect the monsoon to be favourable uniformly and show its kindness and benevolence throughout the country. Something has got to happen somewhere and we have got to manage somehow. We have got to provide education, medical relief and everything. In order to enable us to provide all these things, we want tranquillity, we want unity and above all we want freedom in this country—complete independence to manage our own affairs.

I do not want to take up your time. I have heard many comments about myself from the other side. It may be that I am over-sensitive, and that chapter is closed. But one chapter remains open and that is that many harsh things have been said about the officers, and about State Governments which should not have been said. So far as the State Governments are concerned, they are our valued comrades, comrades in arms. (*An Hon. Member*: Yours.) It is not a question of there being Congress Governments. The P.E.P.S.U. Government, so long as they are in charge of the State, are as much entitled to our co-operation, our assistance, as any other Government. They carry a very heavy burden of responsibility of maintaining stability in the country.

So far as the officers are concerned, they are our kith and kin, our flesh and blood. How far are we justified in uttering day in day out, all the twenty-four hours of the day, week in week out, violent denunciations—to my mind grossly exaggerated, completely unfounded, on most occasions. And then please consider what will be the reaction. If you go on denouncing, denouncing, denouncing, and putting them to public odium,—your own people—what will be the reaction on their morale? Your District Magistrates, your police officers and every servant of any grade, high or low, in this free India has to carry a burden of responsibility.

Shri S. S. More: Did you not denounce them before you got power?

Dr. Katju: I carry a burden of responsibility.

Conditions have been abnormal. The British left: along with them left a number of officers. Pakistan came,—with the consent of all of us, including the consent of my hon. friend from Calcutta. It came: he (Dr. Mookerjee) was a consenting party to it.

Dr. S. P. Mookerjee: Not to Pakistan.

Dr. Katju: Does not matter. He did not do it. He went to Bengal and said please divide. I do not want to say anything on that matter at this stage. But the result was the going away of a number of officers. A heavy burden of responsibility, therefore, fell upon the staff which remained here. Some of them were inexperienced. While great leaders like Sardar Patel and the Prime Minister gave the directions, they were carried out in the lower scales. Some of them may have made mistakes. I heard some hon. Members saying: "Oh, they exist to carry out Congress Committees' orders. They are oppressive: they are tyranical." It may be said with some justification that because of this constant, insistent, persistent outpourings of condemnation, the danger is that your District Magistrates and your police officers may not have the courage to take up responsibilities when the time comes. You want initiative in them. You want that they should be able to do their duty when the time comes and shoulder responsibilities. So I would respectfully say that it has hurt me greatly. They are not here to defend themselves. You may criticise, you may condemn—you are entitled to do it—people who are here, the Ministers, my colleagues. The burden of responsibility rests to some extent even on the Members of the majority party. You may condemn them as much as you like, but not the officers who are not here to defend themselves. I do not wish to pursue this matter further.

I would end by saying that God may give us—all sections of the people, Hindus, Muslims, Christians, Parsees—the wisdom to consider that we are Indians first and everything else next, in order to see to it that our freedom is maintained, that peace and tranquillity is maintained and our unity is preserved. Then comes the united endeavour, according to one's own likes, of the solution of many problems which beset us every day. It is in that spirit, I assure the House, that this Bill was produced.

My hon. friend said that I gave an undertaking in February. I did. I am inexperienced in a way. I should have given no undertaking. What I should have done was just to have produced a Bill saying it may be re-enacted for twelve months, or twelve years. Then there would have been a very short debate of a day. But I made a mistake. I thought we might go further and see how far the measure could be softened down. We hate this measure; we do not want it. But now that chapter is also closed. It is in that spirit that I would like the House to consider this Bill, to pronounce your condemnation or benediction upon it as you like during the remaining two hours, and part with this Bill. I do hope when the time comes next year and Government is called upon to consider the whole situation, conditions may have so improved, having regard to everything, foreign affairs, internal affairs, the various political parties and their attitude on different problems, that the Government of India may be able to say: we do not want this measure, we will not use it. And if I am here then, that would be a very bright day in my life. But assist me in doing that. I hope I will get your co-operation.

श्री एस० एन० दास (दरभंगा मध्य) : सभापति महोदय, जब से यह नज़रबन्दी का क़ानून इस संसद् में विचारार्थ उपस्थित हुआ है और इस संसद् के सदस्यों ने इस पर पक्ष में या विपक्ष में विचार प्रकट करना शुरू किया है, तब से मैं ने बराबर इस संसद् में रह कर उन को समझने की कोशिश की है। यद्यपि इस के पहले मुझे इस विधेयक पर बोलने का मौका नहीं

[श्री एस० एन० दास]

मिला, फिर भी आज मौका मिलने पर सब से पहली बात इस सभा के सामने मैं यह कहना चाहता हूं कि इस विधेयक पर विचार करते समय इस सभा में एक कृत्रिम वातावरण पैदा हो गया था । हम सभी, चाहे वह पक्ष के हों चाहे विपक्ष के हों, इस सभा में जनता के द्वारा इस उद्देश्य से भेजे गये हैं कि देश की परिस्थिति का ख्याल रख कर, देश की अवस्था का ख्याल रख कर जनता के हित को सदा सामने रखते हुए, जो भी हम उचित समझें उस के सम्बन्ध में कानून बनावें । लेकिन मुझे यह अफसोस के साथ कहना पड़ता है कि जो विवाद यहां हुआ उस में अधिकांश सदस्यों ने इस मंच को इसलिये इस्तेमाल किया कि एक पार्टी बहुत गन्दी है, खराब है, प्रतिक्रियावादी है, जनता के हित को मद्देनजर न रख कर काम करती है और सारी प्रतिक्रियावादी जितनी शक्तियां हैं उन की वह प्रतिमूर्ति है, और साथ ही साथ मुझे यह कहने में भी कुछ हिचकिचाहट नहीं है कि इस तरफ के बहुत से सदस्यों ने इस मौके पर अपने विपक्षी को, चाहे वह उस लांछन के योग्य पूरे तौर पर हों या न हों, बराबर इसी रंग में रंगने की कोशिश की है कि वह हिंसा के अवतार हैं, देश में तमाम उपद्रव उन्हीं की वजह से हो रहे हैं और इस कानून का बनाया जाना इस लिये जरूर है कि वह जनता में उपद्रव कराना चाहते हैं । मैं समझता हूं कि अगर इस बात को हम यहां मान लें कि जितने भी सदस्य विरोध पक्ष के यहां आये हैं वह सब हिंसावादी हैं और इस विधान में उन का पूरा विश्वास नहीं है तो मुझे इस परिणाम पर पहुंचना होगा कि जनता ने अगर उन को हिंसावादी समझ कर के वोट दिया है तब तो इस देश में लोग हिंसा में विश्वास रखते हैं। लेकिन मेरा ऐसा ख्याल नहीं है ।

मैं समझता हूं कि जो विरोधी पक्ष के लोग आये हैं चाहे उन के सिद्धान्त से हमारा मतभेद क्यों न हो, फिर भी इस बात को मानने में मुझे जरा भी हिचकिचाहट नहीं है कि वे कुछ ऐसे कार्य करते हैं जिन में जनता रस लेती है और इसलिये उन्हें यहां भेजा है। इसलिये जब हमें किसी बिल पर, और खासतौर से इस प्रकार के बिल पर, विचार करना हो तो किसी पार्टी के मत का ख्याल न कर के जनता के हित को ख्याल में रख कर विचार करना चाहिये था । इस कारण इस संसद् में जो अधिकांश भाषण हुए उन से मुझे दुःख हुआ । यह बात सही है कि इस तरह का कानून, कि जिस कानून की वजह से व्यक्ति के अधिकार का, वैयक्तिक स्वतन्त्रता का हनन हो, ऐसे कानून को देख कर किसी भी प्रजातंत्र के प्रेमी को दुःख हुए बिना नहीं रह सकता । कोई भी प्रजातन्त्र का मानने वाला और खास कर जो विधान हम ने अपने यहां हिन्दुस्तान के लिये क़बूल किया है और जैसे ऊंचे आदर्श हम ने उस में रखे हैं और जो व्यक्ति की स्वतंत्रता के लिये हम ने संरक्षण रखा है, उसको देखते हुए किसी भी माननीय सदस्य को खुशी नहीं हुई होगी कि ऐसे समय में इस सभा को इस तरह का बिल पास करना पड़ रहा है। लेकिन साथ ही साथ हम यह भी महसूस करते हैं कि प्रजातन्त्र के सिद्धान्त को लेकर हम किसी खाली जगह में काम नहीं करते । हम तो इस दुनिया में रह रहे हैं कि जहां चारों तरफ आज संघर्ष ही संघर्ष दिखाई दे रहा है । जहां सब के सब रहने वाले कानून को पूरे तौर से मानने वाले नहीं हैं । हम ऐसे देश में रह रहे हैं कि जहां प्रजातांत्रिक सिद्धान्त के पक्ष में करोड़ों हैं तो विपक्ष में भी कुछ

लोग जरूर हैं। इस तरह के कानून को जिन्दगी को बढ़ाने के लिये हम जनता के द्वारा चुनी हुई संसद् के सामने उपस्थित करेंगे। उस सरकार के जो हमारे माननीय नेता हैं, उन्हों ने और सरकार ने पूरी तरह से ग़ौर कर के इस बात को विचारा, और जैसा कि हमारे माननीय प्रधान मंत्री ने कहा था कि हम अगर इस तरह का कानन आज संसद् में पेश कर रहे हैं तो यह हमारे लिये हिम्मत का काम है, तो सचमुच में जनता के द्वारा चुने हुए प्रतिनिधि और उस के वह नेता, जो व्यक्ति की स्वतन्त्रता में, विश्वास करते हैं, उन के लिये यह कानून लाना हिम्मत का काम है। वह सरकार जो अधिकार में थी, वही सरकार चुनाव में जाती है, अपने तमाम विरोधियों को मुकाबला करने का मौका देती है और उस मुकाबले के बाद जनता के द्वारा चुनी जा कर बहुत बड़ी तादाद में यहां आती है। जब वह इस कानून को इसलिये पेश करती है कि चूंकि वह समझती हैं कि हिन्दुस्तान में प्रजातंत्र की रक्षा के लिये, समाज में शान्ति और व्यवस्था कायम रखने के लिये यह कानून आवश्यक है, तब विरोधी पक्ष के लोग जिन्हें जनता के द्वारा चुने जाने का अधिकार है, वह हलके तौर पर, हंसी और मज़ाक उड़ाते हुए इस सरकार को प्रतिक्रियावादी शक्तियों का प्रतिरूप बता कर यह कहें कि यह कानून लाने का हक इस सरकार को नहीं है, यह प्रजा को दबाने का कानून है, यह राजनीतिक पार्टियों को दबाने का कानून है, मैं सझता हूं कि हमारे माननीय सदस्य अपने चुनाव को जितना महत्व देते हैं, इसी तरह जो सैंकड़ों की तादाद में चुन कर इधर के लोग आये हैं, उन के महत्व की तरफ ध्यान नहीं देते। सभापति महोदय, जहां बहूत मतान्तर के लोग रहते हैं। और इस बात्त को मुझे दु:ख के साथ कहना पड़ता है कि जिस देश में गांधी जैसा महान व्यक्ति गोली का शिकार हो उस देश में यह मान लेना कि यहां साधारण अवस्था है, मैं नहीं समझता कि यह किसी भी व्यवस्थापक, कानून बनाने वाले, के लिये शोभनीय है। हम जिस हिन्दुस्तान में रह रहे हैं, जैसा कि हमारे माननीय प्रधान मंत्री ने बताया था कि, यद्यपि हम स्वतन्त्र हो चुके हैं, आज़ाद हो चुके हैं, निर्माण के काम में लगे हुए हैं, फिर भी आज समाज में विध्वंसकारी शक्तियां, कहीं ज़मीन के ऊपर, और कहीं ज़मीन के अन्दर, नीचे विद्यमान हैं। मुझे यहां यह कहने में ज़रा भी संकोच नहीं होता कि यदि महात्मा गांधी गोली का शिकार न हुए होते तो हिन्दुस्तान में स्वराज्य के जिस बच्चे का जन्म हुआ था, उस का हनन हो गया होता। महात्मा गांधी ने अपने खून से इस हिन्दुस्तान के स्वराज्य के नये बच्चे को बचाया और आज इस बात का हमें गौरव है कि हम इस छोटे स्वराज्य के बच्चे को हर तरह से रक्षा कर के, बचा करके, आगे बढ़ायें, ताकि यह देश के लिये और दुनिया के लिये भी कल्याणकारी हो।

इसी लिये मैं यह कहना चाहता हूं कि जो सरकार आज अधिकार में है, वही सरकार चुनाव के पहले अधिकार में थी और चुनाव में जाने के पहले उस ने कहा कि इस तरह के कानून की आवश्यकता हम समझते हैं। लेकिन चूंकि आम चुनाव होने वाला है और जनता को अपने प्रतिनिधियों को चुनने का मौका मिलेगा, इसलिये जब हम अधिकार में आयेंगे तो फिर इस सभा में बराबर कई सदस्यों ने जो हम यहां बहुमत में आज इधर बैठे हुए ह, उन की तरफ हिकारत की नज़र से बहुत से रिमार्क्स (remarks) किये ह, खास कर हमारे माननीय सदस्य खंडे-

[श्री एस० एन० दास]

कर साहब वह इस समय नहीं हैं, वह जब बोलते हैं तो कहते हैं कि यह सदस्य जितने वहां बहुमत के पक्ष में बैठे हुए हैं, उन्होंने अपने सोचने का पूरा भार माननीय प्रधान मंत्री को दे दिया है। यह सोचने समझने वाले जीव नहीं हैं। जैसा हमारे नेता कहते हैं हम आंख मूंदकर दिमाग़ बन्द कर के वैसा ही करना चाहते हैं। मैं समझता हूं कि यह उन की उदारता है कि वह कहते हैं कि इतने सैंकड़ों आदमियों के सोचने का भार एक आदमी को दे दिया। क्या वह किसी पार्टी के सदस्य नहीं हैं ? जिस समय इस सरकार ने इस कानून को यहां लाने के लिये सोचा उस के पहले और उस के बाद भी हर एक सदस्य को इस पर विचारने का मौका मिला है। अगर हम समझते कि देश की अवस्था वह नहीं है कि जिस में इस तरह का कानून पेश करना चाहिये तो एक ही नहीं, सैंकड़ों मैम्बर यहां मौजूद हैं जो हमारे नेता के मत का विरोध कर सकते थे। लेकिन जनता के प्रतिनिधि के रूप में हम यहां आ कर सोचते हैं। हम ने पहले भी देखा और आज भी देखते हैं और जो विधेयक, जो कानून हमारे गृह मंत्री ने हमारे सामने पेश किया उस को सब समझते हैं। और बावजूद इस बात के कि किसी भी प्रजातन्त्र के प्रेमी के लिये किसी भी प्रजातान्त्रिक सरकार के लिये इस तरह का कानून लाना दुःख का विषय है, फिर भी देश के सुख के लिये, देश में शान्ति और व्यवस्था के लिये ज़रूरी है कि थोड़ी सी बड़ाई का बरताव हम करें। इसलिये हम ने और हमारी तरफ से हमारे गृह मंत्री ने इस कानून को पूरे विश्वास के साथ उपस्थित किया है। जब हम आम जनता में चुनाव के लिये गये थे तो जनता जानती थी कि हम ने नज़रबन्दी का कानून पहले पास किया था और वह जनता जानती थी कि हम चुनाव लड़ने आये हैं तो यह तय करके आये हैं कि हम बहुमत में जायेंगे तो संसद् में इसी तरह का कानून पास करेंगे। तो इस तरह का कानून पेश करते हुए हमारे पीछे जनता का समर्थन है।

मैं दूसरी बात यह कहना चाहता हूं कि बिल पर यह दलील दी गई कि नज़रबन्दों की तादाद बहुत घट गई है और इस वजह से अब इस तरह के कानून की कोई ज़रूरत नहीं है। मैं अपने साथी सदस्यों को बताना चाहता हूं कि कोई भी कानून हम बनाते हैं उस के पीछे दो विचार होते हैं। एक विचार यह होता है कि जनता में इस प्रकार की भावना का प्रकाश हो कि वह स्वयं उन कामों के करने से बाज़ आये कि जिन को रोकना हम कानून से चाहते हैं। एक विचार तो यह है। दूसरा काम यह होता है कि जो इस तरह का काम करने वाले हैं कि जिन कामों को हम रोकना चाहते हैं तो अगर वह इच्छा से न करें, मन से न करें, तो कम से कम डर से करें। मैं कहना चाहता हूं कि इस कानून को लागू करने के बाद देश की स्थिति में अवश्य सुधार हुआ है और नज़रबन्दों की तादाद कम होने के साथ साथ ऐसे कामों के करने वाले भी कुछ कम हो गये हैं। लोग डर के मारे रुक गये हैं। इसलिये कानून का एक मंशा यह होता है कि कानून की किताब में यह बातें रहनी चाहियें कि बहुत से लोग जो कानून की वजह से ऐसे काम कर सकते हैं कि जो समाज के अहित में हों तो उन को डर रहे।

मेरा ख्याल है कि देश में बहुत से ऐसे लोग मौजूद हैं जिन को अगर आज़ादी मिल जाये, स्वतंत्रता मिल जाये, सज़ा का डर न रहे, और नज़रबंदी का डर न रहे, तो वे स्वेच्छापूर्वक इस देश के अन्दर ऐसी स्थिति लाने में नहीं

हिचकेंगे जिस से कि देश का अकल्याण होने वाला हैं। इसलिये इस कानून के रहने की आवश्यकता है। साथ ही साथ में यह समझता हूं और जैसा कि इस सदन में बहुत से सदस्यों ने पक्ष के और विपक्ष के यह कहा कि इस कानून का अमल और व्यवहार जैसे ठीक ठीक और सही मानों में होना चाहिये, वैसा ठीक ठीक और सही मानों में नहीं हुआ है और इस के विषय में हमारे माननीय प्रधान मंत्री ने भी अपने भाषण के सिलसिले में कहा कि हो सकता है कि इस तरह की गलती हुई हो। इस मौके पर जब कि हम इस कानून को पास करने जा रहे हैं, एक सदस्य की हैसियत से में सरकार का ध्यान इस बात की ओर खींचना चाहूंगा कि जिस तरह से जनता में सभी लोग कानून के मानने वाले नहीं हैं, उसी प्रकार से सभी सरकारी कर्मचारी देवता नहीं हैं और सभी सरकारी कर्मचारी जिन को अपने कर्तव्य का पालन ईमानदारी और निष्पक्ष तरीके से करना चाहिये लेकिन अक्सर देखा गया है कि वे ऐसा नहीं करते, इसलिये यह आवश्यक हो जाता है कि जब सरकार इस तरह का कानून इस संसद् के सामने रखती है और देश की वर्तमान अवस्था में उस कानून को जरुरी बता कर उसे पास कराना चाहती है, उस समय सरकार का यह ज़बर्दस्त कर्तव्य हो जाता है कि वह सदा जागरूक रहे और सदा इस बात को देखती रहे कि इस कानून का दुरुपयोग न हो, और वह अधिकारी, जिन पर इस कानून के अमल करने की ज़िम्मेदारी है, अपने कर्तव्य को सही माने में, सही आदमी के प्रति और ठीक समय पर पूरा करते हैं, ऐसा न हो जिन्हें इस कानून के लागू करने का अधिकार दिया गया है, वह अपने कर्तव्य को ठीक तरह से न निबाहें।

Shri Sarangadhar Das: Would it be necessary to limit the time for speeches?

Mr. Chairman: I was just thinking about it. I thought I had better not limit the speeches in the beginning. He has been speaking for only ten minutes.

Shri Sarangadhar Das: The hon. Member has taken about 20 minutes.

श्री एस० एन० दास : श्रीमान्, मैं थोड़े ही समय में दो, एक मिनट के अन्दर खत्म कर दूंगा। मैं कह रहा था कि हमारी सरकार जिस के कहने से यह कानून यह सभा पास करने जा रही है, उस कानून के बर्त्तने में पूरे ऐहतियात से काम लेगी और इस बात की सावधानी रखेगी कि जो उस कानून को अमल में लाने वाले हैं, वह उस कानून का दुरुपयोग न करें। इस विषय पर सभा में जो वादविवाद चला, उसके दौरान में बराबर इस बात की आशंका प्रकट की गई कि यह पार्टीज़ विशेष और ग्रुप्स (groups) के खिलाफ इस्तेमाल होगा, बावजूद इस के कि हमारे माननीय प्रधान मंत्री और गृह मंत्री तथा और सदस्यों ने इस बात पर बराबर ज़ोर दिया कि यह कानून किसी पार्टी के खिलाफ या विचार प्रकट करने के खिलाफ इस्तेमाल करने का विचार नहीं है। हमारे जो विरोधी पक्ष के लोग हैं, उन के मन में इस बात का डर बना हुआ है कि यह यहां पर बहुमत में हैं, और वह सब विरोध को समाप्त कर के भारत में अपना निर्बाध राज्य एक छत्र राज्य हमेशा के लिये कायम करना चाहते हैं और वह व्यक्ति की स्वतंत्रता वह विचार प्रकट करने की स्वतंत्रता को सहन नहीं करते, इस प्रकार की जो एक आशंका उन के मन में है उस का तो निराकरण हमारे काम से ही होने वाला है, समय ही इस बात को प्रमाणित करेगा कि उन की यह आशंका ठीक सिद्ध हुई निर्मूल साबित हुई। बार बार गृह मंत्री व प्रधान मंत्री ने इस सभा वचन दिया है कि यह कानून किसी पार्टी के खिलाफ नहीं बर्त्ता जायगा, यह तो कुछ व्यक्तियों के खिलाफ अमल में लाया जायेगा। समाज

[श्री एस० एन० दास]

और देश के हित में खतरनाक सिद्ध होंगे, अगर इस पर भी विरोधी पक्ष के दिल में कोई आशंका बनी रहती है, तो फिर इस भय का निराकरण अगले एक वर्ष में ही हो जायेगा और वे इस कानून को जिसे संसद् पास करने जा रही है अपने विरोध में न पायेंगे। अन्त में, मैं हर सदस्य से और विपक्षी सदस्यों से सरकार के साथ इस विषय में सहयोग देने की प्रार्थना करूंगा और मुझे पूरी आशा है कि वे सरकार के साथ पूरा पूरा सहयोग करेंगे।

Mr. Chairman: There are a very large number of Members who want to speak. I have received a note saying that they had taken no part in the debate up till now. We have got hardly, I think, more than two hours.

A suggestion was made by hon. Mr. Sarangadhar Das that there should be some time limit, the only object being that we would be able to accommodate a larger number of Members. I think I should fix it in the beginning to 15 minutes......

Hon. Members: Ten minutes.

Mr. Chairman: Very well, I will fix the time limit at ten minutes. I have heard all the suggestions...

Shri G. H. Deshpande: There is only one suggestion that I wish to make and that is that some hon. Members in this House have repeatedly participated in this debate and they should have some consideration for those who had not had an opportunity.

Mr. Chairman: I am trying to accommodate within the short time at my disposal Members belonging to the several sections in the House. But I cannot promise that all sections would be satisfied. In the beginning it should be 15 minutes. Ten minutes would be hardly enough for a member who has to put in something. All the same, if hon. Members are going to say the same thing, it would be much better if they finish their speeches within ten minutes.

Shri Radhelal Vyas (Ujjain): My suggestion is that some of the hon. Members got no opportunity at all and particularly those from the States. As for the hon. Members from the States who have not spoken, they should be given the first opportunity. I may say that no member from Madhya Bharat has spoken and I would like to speak.

Mr. Chairman: I will take into consideration all the suggestions that have been made and I will give opportunities to as many people as I can.

Shri V. G. Deshpande: Sir, I oppose this Bill in its entirety. In the beginning I must congratulate the Home Minister for having expressed some very beautiful sentiments. I must particularly congratulate him for having looked at the whole situation which from the Hindu point of view was not accepted in this secular State. I must further congratulate the Home Minister for the first time having agreed with a Hindu Sabha leader of mine. I refer to V. Ramachandra Sharma who is going on a hunger strike in order to ban cow-slaughter in this country and it seems that his fast has appealed to the Home Minister of India and I have no doubt and I have the fullest confidence that in the next session......

Mr. Chairman: May I suggest to the hon. Member that he may avoid reference to this particular matter, because that has no relevancy.

Shri V. G. Deshpande: I just want to congratulate him and I expect that a Bill would be moved in the next session for completely stopping the cow-slaughter in this country. Then the Home Minister has referred to the creation of Pakistan and that he feels that there is justification for this extraordinary measure. I want to bring to your notice, Sir, what the Home Minister said namely that every section of the House and every opinion in the country was with the Congress while establishing Pakistan. He made references to certain Members. I want to state on behalf of the Hindu Maha Sabha, of which a Member to whom he referred was an eminent leader at the time, that the Hindu Maha Sabha was not a party to the creation of Pakistan. It was opposed to it. On my own behalf, let me explain that on the 3rd June, 1947, I was arrested and handcuffed for having staged a demonstration against the creation of Pakistan in front of the All India Radio. Now these are the difficulties created by these very votaries of non-violence and now it is too late in the day for them to come into the House and say, "we have created Pakistan, and we have created these difficulties and we should have the complete right to arrest you without any trial" and for that he wants the vote of this House. Sir, we all stand for complete tranquillity and peace in this country. We also stand for the integrity, unity and independence of this country. It is really an irony of fate that the very deity which brought about disintegration and disruption to this country should appeal to us for unity. What is our fault? They say that we are preaching for the integrity and unity of India, *Akhand* Hindustan and therefore these votaries of a United India would put us in prison without a trial. The Treasury Benches have failed to make out any case and to convince this House that but for this measure it is not possible to estabilish peace and tranquillity in this country. We have armed them with all the powers; they can shoot us; they can have other recourse; we have all the penalties. Sections 307, 302, 144 are there and sections 107 to 110 to which the hon. Minister made a reference are there. With all these sections and all these powers, if the Government cannot maintain peace, I ask what magic power lies in this Preventive Detention Act? They say that as soon as this is enacted, there will be peace in this country. My own feeling is that peace has been established in this country, not because they have arrested certain number of people and put them behind the bars, but because the situation is coming to normal. There was no peace in this country because they created Pakistan in this country and because this Preventive Detention Act was being used for suppressing all the Opposition parties in this country. Now, they come to quote the Constitution of India. That is another irony of fate. The greatest pride of this Constitution of India is that it has guaranteed certain fundamental rights to the citizens of India. That very chapter on fundamental rights is quoted here. What fundamental right has been conceded to the citizens of India? They say that according to the fundamental rights, the Indian citizens have the right to be arrested without any trial. Preventive Detention is the greatest fundamental right that has been conferred upon us. According to that section in the fundamental rights chapter, we are being detained and jailed here.

I do understand that the Home Minister has expressed the desire that he is waiting for the day when it would be possible for the Treasury Benches and for the Home Minister to rise in the House and say, that this Preventive Detention Bill is no longer necessary. But my fear is that this Preventive Detention Act is not necessary: not at all. In fact, this Preventive Detention Act would be necessary as long as the party in power has the desire to assume all powers to it. We are finding that the party in power is steadily, but surely progressing towards dictatorship. They are accusing others that there are Members here who believe in violence. The Home Minister himself admits that he was accusing the communalists. But, in his enthusiasm to talk of high and noble things, he unconsciously said that he is looking at it from the Hindu point of view. He is saying that there are Communists in this country. I want to ask the Home Minister: whether India is the only country where the Communist Party is functioning and whether during the last four years only the Communist ideology is there. I find that for the last 180 years this Communist ideology and Marxist theories are being spread all over the world. If I may say so, if to any one the credit or discredit of introducing the Communist ideology goes, it goes to the Prime Minister of India, on whose behalf this Bill has been introduced. If the Communist Party is there in America, if it is in England, if in all the democratic countries, it is possible to suppress any violence on the part of Communist elements. I ask why in this country of all the countries, where we take pride in saying that the genius of Indian public is law abiding, we should have this Act. The people do not believe in violence. Here, the public generally do not have recourse to violent methods. If for these peace loving people, when there is no justification for this, when they have not made out any case about the existence. of an emergency where such an extentions. That is the reason why we are naturally suspicious of their intentions. That is the reason why we feel that the party in power, just like a tiger when it tastes the blood of man, does not touch any other prey but indulges in drinking the blood of man, that party which was once in the wilderness for a long time, has now come to power and now that they have tasted it, they want to retain this power for ever. They are finding that the country is rising against them. The last general elections have shown that more than 55 per cent. of the general electorate has voted against them. We feel that power corrupts and absolute power corrupts absolutely. That is why the present Government wants to use this measure for retaining its hold on the administration of the country. On behalf of the Opposition, I record my strong opposition to this extraordinary measure.

श्री राधेलाल व्यास : सभापति महोदय, आप ने मुझे इस अवसर पर बोलने का मौका दिया है, इस के लिये में आप का आभारी हूं। हमारे माननीय गृह मंत्री जिस योग्यता से, जिस सहनशीलता से और जिस शान्ति से इस बिल को इस स्टेज पर लाये हैं उस के लिये मैं उन का अभिनन्दन करता हूं।

वास्तव में जो कानून पिछले सालों से यहां रायज था उस पर काफी विचार करने के बाद उस को हमारे गृह मंत्री महोदय ने हाउस के सामने उपस्थित किया और उस के बाद जब वह प्रवर समिति में गया तो प्रवर समिति में भी उस में काफ़ी सुधार हुआ और उस के बाद जब बिल फिर सदन के सामने आया तो माननीय गृह मंत्री ने यह आश्वासन दिया कि एक वर्ष के बाद फिर वह नये आंकड़ों के साथ नये तथ्यों के साथ, नई परिस्थिति से हाउस को अवगत करते हुए, अगर इस बिल को आगे बढ़ाने की जरूरत हुई तो फिर हाउस के सामने आयेंगे। तो इस प्रकार से इस में जो कुछ भी थोड़ी बहुत खामियां हैं, वह भी दूर कर दी गई हैं। और इस बिल को अधिक से अधिक उदार रूप में पास करने के लिये उन्हों ने हाउस से आग्रह किया है। लेकिन मुझे बहुत नम्रता से हाउस के माननीय सदस्यों से यह निवेदन करना है कि अगर एक साल के बाद फिर इस बिल की आवश्यकता भी हुई, माननीय गृह मंत्री कहें कि इसे और भी आगे बढ़ाया जाय, तो इस की बहुत कुछ जिम्मेदारी माननीय गृह मंत्री पर या कांग्रेस पार्टी पर नहीं बल्कि उस की अधिकतर जिम्मेदारी हमारे माननीय विरोधी दल के सदस्यों के ऊपर होगी।

माननीय सभापति जी, इस बिल के सम्बन्ध में जो कुछ बातें कही गई थीं उन में से एक दो को सुन कर मुझे बहुत ही आश्चर्य हुआ। हमारे विद्वान सदस्य माननीय श्री चटर्जी ने तो यहां तक कहा कि जो यह बिल सामने लाया जा रहा है तो जब रौलट ऐक्ट आया था तो क्या वह ऐसा ही नहीं था? क्या उस के इतिहास को भुला दिया गया कि सारे देशव्यापी हड़-ताल हुई, प्रदर्शन हुए, सत्याग्रह हुआ, जलियांवाला बाग़ हुआ? कांग्रेस का एक लम्बा इतिहास था, क्या कांग्रेस पार्टी उस को भूल गई कि वैसा ही कानून आज हमारे सामने ला रही है। वह एक विद्वान वकील हैं, सफल वकील हैं, कमज़ोर से कमज़ोर मुकद्दमे को बहुत अच्छी तरह अदालत के सामने रख सकते हैं। जब मैं ने उस को सुना तो मालूम हुआ कि वह कमज़ोर मुकद्दमे को कितनी अच्छी दलील के साथ रख रहे हैं, लेकिन थोड़ी देर के विचार के बाद मालूम हुआ कि उस दलील में कोई तथ्य नहीं है। वह बात यहां लागू नहीं हो सकती है। अगर एक शस्त्र के लिये कहा जाय कि वह बहुत कड़ा शस्त्र है, वह गला काट सकता है, शरीर के टुकड़े टुकड़े कर सकता है, पर जब उसी शस्त्रो का प्रयोग किसी आदमी की बीमारी को दूर करने के लिये जो कि सेप्टिक (septic) हो जाय, किया जाय तो उस शस्त्र के बारे में यह नहीं कहा जा सकता है कि वह खराब शस्त्र है। रौलट ऐक्ट के समय यहां पर एक विदेशी हुकूमत थी लेकिन आज यहां का शासन आप के हाथों में है, आप के देश की हुकूमत है, वह जो कुछ करते हैं उस से देश में अमन रखना चाहते हैं, देश की शान्ति की रक्षा के लिये, देश की आर्थिक स्थिति को सुधारने के लिये, देश के स्तर को ऊंचा उठाने के लिये, देश के हित में, अगर वह इस का प्रयोग करना चाहते हैं और योग्य और सफल प्रकार से कर रहे हैं, उस के लिये यह कहना

कि रौलट ऐक्ट की ही यहां के शासन की नीति है यह बहुत बड़ी भूल होगी और मैं समझता हूं कि यह यहां पर लागू नहीं होता ।

हमारे माननीय प्रौफ़ैसर मुखर्जी ने कहा था कि गांधी जी की एक अमरीकन से बात हुई तो उन्हों ने अमरीकन से कहा कि अगर इस तरह की कोई चीज़ अमरीका में हो तो सारे अमरीका में सत्याग्रह करना चाहिये और उस की खिलाफवर्ज़ी करनी चाहिये । यह सुन कर मुझे एक कहावत याद आ गई, और मुझे मुखर्जी साहब माफ करेंगे मैं उन के लिये यह नहीं कहना चाहता । हां, तो कहावत यह है कि "बन्दर क्या जाने अदरक का स्वाद ।" जिन व्यक्तियों ने गांधी जी की विचार धारा का रसास्वादन नहीं किया, जिन्होंने उसके दर्शन नहीं किये जिन्होंने कभी गांधी जी की विचार धारा का अनुभव नहीं किया उन का गांधी जी की विचार धारा की दुहाई दे कर समझाना कि हम आज गांधी जी की विचार धारा का पालन नहीं कर रहे हैं, कहां तक ठीक है ? गांधी जी की विचार धारा में सत्य भी था, उस में अहिंसा भी थी, उस में राग द्वेश नहीं था । वह शासन को किसी प्रकार की उलझन में नहीं डालना चाहते थे, वह प्रेम से, मुहब्बत से, अपने सत्य से, अपने सिद्धान्तों की रक्षा के लिये सत्याग्रह करने की बात कहते थे ।

4 P.M.

उस में कोई छुपाव नहीं, उस में कोई दुराव नहीं उस में हिंसा की भावना नहीं । उस में प्रेम और मुहब्बत होती थी और वह तरीका भी तब काम में लाया जाता था जब कि तमाम कांस्टीट्यूशनल मैथड्स (Constitutional methods) खत्म हो जायें । वह सत्याग्रह के शस्त्र को आखिर में ही हाथ में लेना चाहते थे । और इतिहास इस बात का साक्षी है कि गांधी जी उन महा पुरुषों में से हैं कि जब भी उन के साथियों ने उन के सिद्धान्तों के विपरीत अमल किया तो सब से पहले उन्हों ने उस के खिलाफ आवाज़ उठाई । वह कभी भी यह बरदाश्त नहीं कर सकते थे । उन्हों ने इसी कारण चौरी चौरा का सत्याग्रह बन्द कर दिया था । जब हमारे हिन्दुस्तानी भाई अंग्रेज़ों की हत्यायें करते थे तो सब से पहले गांधी जी उन के खिलाफ आवाज़ उठाते थे । राउंड टेबिल कानफ़्रेंस में गांधी जी ने कहा था कि चाहे गंगा जी के पानी की तरह आज़ादी हासिल करने में हिन्दुस्तानियों का खून बह जाये लेकिन एक अंग्रेज़ का खून नहीं बहेगा । इस बात को हमारे साथी ने नहीं देखा पर जो कुछ गांधी जी ने एक अमरीकन से कहा उस को ले लिया । मैं समझता हूं कि हमारे भाई जो विरोधी दल के कम्युनिस्ट पार्टी के हैं अगर वह गांधी जी के सिद्धान्तों को अपना लें और उन के अनुसार चलें तो मैं समझता हूं कि देश का बहुत कल्याण हो सकेगा । आज देश में जितनी बुराइयां और खराबियां हैं उन को दूर करने में सब से पहले उन का हाथ होगा और वह उसी तरह से पूजे जायेंगे जिस तरह से कि गांधी जी के कट्टर से कट्टर अनुयायी पूजे जा रहे हैं और पूजे जायेंगे । तो उन की इस दलील में भी कोई तथ्य नहीं है ।

अभी हमारे पुन्नूस साहब ने कहा कि अगर पुलिस किसी पर अत्याचार करती है, तो फिर चाहे उस को, किसी नाम से पुकारा जाय, वह मानते हैं कि ऐसे पुलिसवालों को कत्ल किया जाय । मुझे यह सुन कर ताज्जुब हुआ क्योंकि जिस विचारधारा को वह मानते हैं उस के अनुसार और जिस देश से वह प्रेम करते हैं, वहां का एक किसान और मजदूर अगर उसे

[श्री राधे लाल व्यास]

जितना उत्पादन करना चाहिये नहीं करता है तो यह समझा जाता है कि उस ने डिसिप्लिन (discipline) को नहीं माना और उस को सज़ा हो सकती है । ऐसे लोगों को ऐनीमी आफ दी नेशन (enemy of the nation) माना जाता है और अगर वह थोड़ा सा और आगे बढ़ें तो उन को फांसी की सज़ा हो सकती है और शूट (shoot) तक किया जा सकता है । ऐसे एक देश में जहां कि कानूनी शासन हो जहां वह डिमाक्रेसी में बैठ कर काम करना चाहते हों, वहां अगर वह कानून को हाथ में ले कर मुकाबला करेंगे और इस में आनन्द का अनुभव करेंगे तो मैं समझता हूं कि वह गलत तरीका है । उस से देश में शान्ति नहीं हो सकती है और हमारे देश के लोग ऐसे भाइयों का साथ नहीं देंगे । अगर आप चाहते हैं कि इस कानून का उपयोग न हो तो मैं विरोधी दल के नेताओं से और खास तौर से अपने माननीय डाक्टर श्यामा प्रसाद मुखर्जी साहब से यह अपील करूंगा कि जिस तरह से गांधी जी ज्यादा से ज्यादा अच्छाई की ओर ध्यान देते थे और कांग्रेस में जो बुराई होती थी उस को दूर करने के लिये वह बार बार आह्वान करते थे और आवाज़ उठाते थे, लिखते रहते थे, उसी तरह से वह भी करें । हम ने पिछले चुनावों में देखा है कि कितनी बातें हुई हैं, कितना गलत प्रचार किया गया है विरोधी दल की तरफ से, किस तरह से ज़ोर ज़बरदस्ती की गई है । वह एक लम्बा इतिहास है । लेकिन आज राजस्थान में क्या हो रहा है, सौराष्ट्र में क्या हो रहा है । मध्य भारत की कहानी तो मैं आप को बतला ही नहीं सकता । वहां एक एक दिन में छः छः कत्ल चुनाव के बाद किये गये हैं । उन हरिजन भाइयों ने, जिन्हों ने मुरेना आदि में जागीरदार आदि प्रतिक्रियावादियों को वोट नहीं दिया था, उन को आज यह कह कर सताया जा रहा है कि तुम ने हम को वोट नहीं दिया है । एक जगह ६ चमार एक दिन में मार दिये गये और एक जगह ६ बलाई भी इसी लिये मारे गये । उन से कहा जाता है कि तुम फी आदमी दस दस रुपया का चन्दा हम को दो । अगर वह नहीं देते हैं तो उन को सताया जाता है, मारा जाता है और कत्ल किया जाता है । यह स्थिति है राजस्थान की और यही स्थिति मध्य भारत में भी होने वाली है । लेकिन मैं देखता हूं कि हमारे विरोधी दल के नेताओं ने इस लालैसनैस (lawlessness) के खिलाफ एक शब्द भी नहीं कहा । इन हत्याओं, डकैतियों और इस लूट के खिलाफ उन्हों ने कभी भी अपनी आवाज़ नहीं उठाई । उन को यह समझना चाहिये कि देश हमारा है और हम सब को मिल कर इस देश में शान्ति कायम रखनी चाहिये । इसी में देश का भला है और सभी का भला है । हमारे डाक्टर श्यामा प्रसाद जी कहते हैं कि वह हिन्दुस्तान को उस रूप में देखना चाहते हैं जैसा कि स्वामी विवेकानन्द चाहते थे । मैं उन से अपील करूंगा कि वह बहुत बड़े आदमी हैं । उन की आवाज़ में वजन है । अगर वह चाहें तो हिन्दुस्तान में जो आज बुराई और खराबी है उस को दूर करने में अपनी शक्ति का उपयोग कर सकते हैं । लेकिन मैं ने इस बारे में एक चीज़ भी उन से नहीं सुनी । मैं उन से अपील करूंगा कि वह देश में दौरा करें, अपनी संस्था के लोगों से कहें और दूसरी संस्थाओं के लोगों से कहें कि वह शान्ति से रहना सीखें । मैं यह नहीं कहता कि वह शासन की बुराई को बरदाश्त करें । उस के विरुद्ध ज़रूर आवाज़ उठायें और

मैं समझता हूं कि अगर वह शासन के सामने कोई बुराई ला सकेंगे तो निश्चय ही शासन उस को दूर करने की कोशिश करेगा क्योंकि आखिर वह जनता का शासन है, वह ब्रिटिश हुकूमत का शासन नहीं है जिस का उद्देश्य यहां अपनी सत्ता कायम रखना था ।

हमारे देशपाण्डे साहब ने कहा कि इस कानून का उद्देश्य विरोधी दलों के सदस्यों को गिरफ्तार करने का है । लेकिन वह एक भी ऐसी मिसाल नहीं दे सके । वह चुनाव में खड़े हुए और कामयाब हुए और उन के प्रेसीडेंट डाक्टर खरे भी कामयाब हुए । उन्होंने शिकायत नहीं की कि उन को प्रचार करने में रुकावट हुई । चाहे जितना गन्दा और झूठा प्रचार उन्होंने किया लेकिन फिर भी कांग्रेस सरकार ने उसे बरदाश्त किया और उन को पूरा मौका दिया । लेकिन यह परिस्थिति ज्यादा दिन नहीं चल सकती है । और कोई भी शासन ऐसी चीज को बरदाश्त नहीं करने वाला है । हम तो एक बड़ा नरम बिल पास करने जा रहे हैं । मैं तो चाहता हूं कि अच्छा हो कि हम सब मिल कर देश में शान्ति और अमन कायम करने में लग जायें और कानून की कोई जरूरत न पड़े । हम शान्तिमय और वैद्य तरीकों से जो कुछ खराबी है उस को दूर करने में लग जायें । अगर हम इस काम में लग जायें तो एक साल बाद इस को आगे बढ़ाने का मौका ही नहीं आयेगा । अगर ऐसा नहीं हुआ तो मैं कह देना चाहता हूं कि अगर इस मौके से फायदा न उठाया गया और ठीक अमल नहीं किया गया तो शासन न चाहे लेकिन मुझे विश्वास है कि कांग्रेस पार्टी शासन को इस के लिये मजबूर करेगी कि ज्यादा सख्त कदम उठाया जाय । हिन्दुस्तान में ढीले शासन से काम नहीं चल सकता । आज कांग्रेस पार्टी के सदस्यों में बहुत क्रोध है । वह यह अनुभव करते हैं कि शासन कमजोरी से चल रहा है । वह अनुभव करते हैं कि आज खराबी है और इस वातावरण में वह खराबी बढ़ती ही जाती है । अगर यही स्थिति रही तो पार्टी शासन को मजबूर करेगी कि वह ज्यादा सख्ती से काम ले । मैं माननीय सदस्यों से अपील करूंगा कि वह जो कुछ हो चुका है उस को भूल जायें और देश में शान्ति कायम करने में और कानून का राज्य कायम करने में सहायता करें । जो खराबी है, जो हिंसा है और जो गलत वातावरण पैदा किया जाता है और गन्दी गन्दी बातें फैलाई जाती हैं उन से उन स्कूल और कालिजों के बालकों पर क्या असर पड़ता होगा । झूठा प्रचार उन पर कितना बुरा असर डाल सकता है यह हम को सोचना चाहिये । कल इन्हीं लोगों के हाथों में देश का शासन आने वाला है । अगर इन लोगों पर यह प्रभाव डाला जायगा तो देश का भविष्य कैसा होगा । इस, प्रश्न पर हम को गम्भीरता से विचार करना चाहिये । हम सब की भलाई चाहते हैं । इसलिये जो कुछ हम बोलें सोच समझ कर और गम्भीरता से बोलें । देश का हित अच्छी तरह से समझ कर बोलें । मुझे कुछ और अधिक नहीं कहना है । पर मैं डाक्टर श्यामा प्रसाद मुखर्जी साहब के चेहरे पर ऐसे भाव देखता हूं कि अब वह मिनिस्टर साहब को कांग्रेच्यूलेट (congratulate) करना चाहते हैं क्योंकि उन्हें सन्तोष है कि इस में बहुत कुछ उन्नति हो गई है । बस इतना ही कह कर और आप को धन्यवाद देते हुए मैं अपना भाषण समाप्त करता हूं ।

Mr. Chairman: Hereafter, it is better each Member takes only ten minutes. Mr. Pocker.

Shri Pocker Saheb: Sir, I may at once say that I am one of those who have been thinking that it is the sacred duty of every citizen of this country to support a measure like this particularly in view of the experiences that we recently had in several parts

[Shri Pocker Saheb]

of this country, and I am very glad that I have this opportunity of expressing my views on this Bill, particularly having regard to the fact that I am speaking from this side of the House. If you go through the objects and reasons, it is quite clear that a measure like this is absolutely necessary in order to protect the safety and integrity of this country and it is not disputed also that in this country there has been a subversive movement, the object of which is to subvert the Constitution. On this admitted fact, nobody can deny the necessity of a measure like this. I know, coming as I do from Malabar, that certain parts of that district have been made a real hell for the people living there for a long time. And it is only by the co-operation of the people, that even the most inefficient police of the Government has been able to control the situation. But for that co-operation, it would have continued to be hell, because the police being inefficient was absolutely unfit to control the situation. But I do feel that in administering a measure like this or in enacting a measure like this every right-thinking citizen must necessarily think not twice but a hundred times before giving his seal of approval to it, because I am conscious that it goes against the fundamental rights of the citizens. I am fully aware of the fact that the fundamental right of personal liberty and the right not to be imprisoned without trial are very sacred rights, and nothing ought to be done to violate them, unless there is the absolute necessity to do so in order to safeguard the security of the State on the various grounds mentioned in the Act. There may be dangers from within or without, and the security of the State has to be maintained in the face of all these, and it is the sacred duty of every citizen to maintain the safety of the State, by shedding his blood if necessary. The existence of such a duty cannot be denied. At the same time, we must remember how this government has been administering the Act which has been in existence till now. I cannot but state that the Act was being administered in the most atrocious manner that was possible. It is a fact that cannot be denied. As a matter of fact, the hon. the Prime Minister has been magnanimous and honest enough to admit that there has been misuse of the Act. I can tell you from my own experience as to how and in what manner the Act has been administered. I have had occasion to conduct many cases of *habeas corpus* applications and applications for *certiorari*, in connection with detentions under this Act. Within the short time at my disposal I do not want to go into the details. At the same time I must say that the grounds that were given to some of these detenus as the reasons for their being detained, without trial, were amusing at times, and I found them to be inhuman sometimes. For instance, one of the grounds was that a "person has all along been a member of the Muslim League". I can tell you, Sir, that not only was the Muslim League co-operating with the authorities for the maintenance of law and order, but they had been receiving at any rate in the Madras Assembly great encomiums for their great contribution towards the maintenance of law and order. Minister after Minister, and Governor after Governor have acknowledged their indebtedness for the great co-operation of the Muslim League in this matter. But yet, one day hundreds and hundreds of Muslims in the State of Madras were arrested and put in jail, and these included some very respectable persons on whom the government can rely at any time for the maintenance of law and order in the country, some so-called 'Nationalist' Muslims, and also Congress Muslims. The real reason for their detention could only be that they were all Muslims. No other reason could be imagined. As was pointed out by one of my hon. friends the other day, in one of the judgments the Judges had observed that for supplying grounds of detention cyclostyled copies were kept ready. They were utilised whenever necessary without any reference to facts. That shows, Sir, that the Act was being administered in the most atrocious manner. Now, my hon. friends would ask why then I am supporting this measure. My short answer to them is this. If such an Act had not been enacted and is not continued now, the result is that this will be a land without any government. Subversive elements are there in the country. I am not naming any particular party, let anybody whom the cap fits, wear it. So long as the subversive elements are there—by whatever name they might be called, terrorists, Communists or anybody else, I am not concerned with the label of the party to which they belong—there must be a proper weapon in the armoury of the government to check them, in order to save the country from the dangers consequent on their activities. It cannot be denied that many of these activities are carried on underground. That is also an admitted fact. Some of my hon. friends from this side of the House also were admitting that after such and such a thing, they went underground. It was stated by the leader of the Communist party that in North Malabar, a certain Jenmi died without heirs and his properties escheated to the Government. The land was lying fallow without being cultivated, and so some of the people of the locality, evidently of course his own followers went and cultivated the lands, and his contention was that some of the people of the locality took the law into their own hands and had trespassed on his lands with a view to cultivating them and that it is only for that reason they were harassed and prosecuted. He makes a complaint of it. Therefore, their theory is—of course they have got their economic programme about which I am sorry I have no time to speak now—whenever a land is there available, anybody can go and cultivate it. Such a state of affairs was going on not only in Malabar, not only in Tanjore, not only in some parts of Andhra Desa but in many other parts of the country.

Now Sir, as I have no time further to dwell on these points, I do not say more about these things. But I must warn the Government about one thing—that they should not get intoxicated with the power that they have got under this Bill. They ought to learn the lessons which they had occasion to learn during the last elections. I told you, Sir, how the Act was administered atrociously in the State of Madras and it is in that State that the people have shown their resentment by defeating the [illegible] one after the other without any compunction. They all knew how atrociously and in what inhuman manner the Act was being administered. I do believe that the Government will learn their lesson. I feel really happy and thank God that the State of Madras is in very safe hands now. I do believe that the Government of India will also take their lessons from the results of the last elections and will administer the Act in a humane manner.

I will only mention two facts in one sentence and then resume my seat.

Mr. Chairman: The hon. Member has already taken 13 minutes. *(Interruption).*

Shri Pocker Saheb: It is not your business. It is the business of the Chair. Now, Sir, I only want to express my regret that the Government did not find their way to accept one suggestion, namely, that the detenu should be allowed legal assistance both before the Advisory Board or in the preparation of his case. Before concluding, Sir, I must congratulate you for the amendment that you had moved and which was accepted by the Government.

पंडित के० सी० शर्मा (जिला मेरठ—दक्षिण) : सभापति महोदय, इस क़ानून पर जब यहां बहस हो रही थी तो मैं बड़ी ग़ौर और तवज्जह के साथ उस को सुन रहा था । हमारे प्रोफ़ेसर मुखर्जी ने हमें बतलाया कि जो असली समस्या जनता के सामने है, वह भूख और बेकारी को दूर करना है और मैं भी उन के इस कथन से सहमत हूं कि हमारी यह स्वतन्त्रता अधूरी है और बेमानी है, अगर जनता में खुशहाली न हो, कोई स्मृद्धि न हो, कोई इंडिपेंडेंस (Independence) बग़ैर अबंडेंस (abundance) के कुछ महत्व नहीं रखती अगर देश में लोगों के पास खाने को खाना न हो, तो भूखे और नंगे आदमी का स्वतन्त्र होना कोई मानी नहीं रखता । अगर खाना हमारे पास न हो, तो भूखे और नंगे आदमी का स्वतन्त्र रहना अर्थहीन है । हम को इस प्रकार की अर्थहीन स्वतन्त्रता में जान डालने के लिए कुछ न कुछ प्रबन्ध करना है । इस को करने के लिये तीन चीज़ों की आवश्यकता है । पहली यह कि हमारे अन्दर एकता हो, दूसरी यह कि हम काम करना सीखें और तीसरी यह कि हम में अनुशासन हो । इन तीनों चीज़ों के लिये यह बहुत आवश्यक है कि हमारे देश में पूर्ण शान्ति बनी रहे, हमारे देश के आसपास जो पड़ौसी देश हैं, उन से हमारी दोस्ती और मित्रता बनी रहे, हमारी जनता सुखी हो, उस में अमन चैन हो, उस में जान हो, और आपस में वह एक दूसरे का गला न काटें, एक दूसरे के साथ लड़ाई झगड़ा न हो और मारधाड़ न हो और उस को देश में जो कुछ कपड़ा व रोटी मयस्सर हो, वह उस को आसानी के साथ सुलभ हो, इन चीज़ों के बग़ैर देश में शान्ति नहीं रह सकती । अगर देश में शान्ति नहीं रहती है, तो आप आगे नहीं बढ़ सकते और कोई उन्नति नहीं कर सकते और अगर आप आगे नहीं चल सकते, तो

[पंडित के० सी० शर्मा]

यह स्वतन्त्रता जो क़ाग़ज़ के कान्स्टीट्यूशन (Constitution) म लिये बैठे हैं, उस का कोई महत्व नहीं है। क्या आप समझते हैं कि जिस स्वतन्त्रता को देशवासियों ने हज़ारों वर्ष के बाद पाया और जिस की प्राप्ति में लगातार तीस, चालीस वर्ष तक देश ने कांग्रेस के नेतृत्व में इतनी मुसीबतें झेलीं और कठिनाइयों का सामना किया, उस नवप्राप्त स्वतन्त्रता को भारत के देशवासी महज़ आप के इस तरह शोर और एक होहल्ला मचाने से या आप के एक दो किताब अपनी सपोर्ट (support) में पढ़ देने से और इधर उधर का प्रचार करने से खामोशी से इस स्वतन्त्रता को अपने हाथ से चला जाने देंगे ? अगर आप का ऐसा मत है, तो मैं आप को बतलाना चाहता हूं कि आप बड़ी भूल में हैं और मैं कहने पर मजबूर हूं कि आप बेवक़ूफ़ी की बातें करते हैं। मेरी समझ में देश शान्ति का इच्छुक है। मैं डाक्टर मुखर्जी के इस मत को नहीं मानता कि यह क़ानून बहुत बुरा है, मैं समझता हूं कि इस से सख्त से सख्त क़ानून अगर देश के हित और स्वतन्त्रता को क़ायम रखने के लिये आवश्यक हो, तो सरकार को उसे ज़रूर लागू करना चाहिये। जिस स्वतन्त्रता के हेतु हज़ारों आदमियों ने अपनी जानें दीं और जिस के लिये इतनी मुसीबतें झेलीं, उस को आप समझते हैं कि क्या इन लोगों के महज़ इधर उधर की किताबें पढ़ देने और लेक्चर देने से जनता उस आज़ादी को अपने हाथ से निकल जाने देगी ? यदि आप का ऐसा ख्याल हो, तो मैं कहूंगा कि आप ख्वाब देख रहे हैं, देश और जातियां केवल मीठी मीठी और लम्बी लम्बी बातों से आगे नहीं बढ़ती हैं, जिस [illegible] के साथ और जिस मुसीबत के साथ वह यहा तक पहुंचे हैं, उसी मेहनत और शक्ति के साथ वह आगे चलना चाहते हैं। और जनता के रास्ते में चाहे वह हिन्दू सभा के रूप में या कम्यूनिस्ट्स के रूप में कोई रुकावट आती है उसे वह कुचल डालेगी, यह बात पक्की है। यह कहना कि हम क्या करते, हम तो अलग खड़े थे और देश बंट रहा था, मैं अपने उन दोस्तों से पूछना चाहता हूं कि जब देश बंट रहा था तो आप क्या सो रहे थे ? आप ने उस का उस समय विरोध क्यों नहीं किया, और यदि आप की कोई आवाज़ नहीं थी तो मैं कहूंगा कि वह आदमी जिस में कोई जान न हो नपुंसक है। इस के क्या मानी कि देश बंट रहा हो, आप उस के खिलाफ़ हों, और आप सोते रहें, मैं कहता हूं कि ऐसे नपुंसक इंसानों की कोई क़द्र नहीं होनी चाहिये और इतिहास उस को बुरी दृष्टि से देखता है और वह सब जगह तिरस्कृत होता है। एक बात यह भी याद रखिये कि यह रामराज्य परिषद् व हिन्दू महासभा आदि जो संस्थायें हैं यह भूत जीवित संस्था हैं। इन का जीवन उस बच्चे के समान है जिस के दरवाज़े के सामने कोई रीछ नाचता हो और वह बच्चा रीछ से डर कर मां की गोद में रोता हुआ जाता हो। जो जातियां और संस्थायें भूत को पकड़ कर ज़िन्दा रहना चाहती हों, संसार में उन के लिये कोई जगह नहीं है, रामराज्य परिषद् व हिन्दू सभा मुर्दा संस्थायें हैं उन में कोई जान नहीं है और इन संस्थाओं की मौजूदगी हमारे राष्ट्र में बदबू पैदा कर रही है। जहां तक कम्युनिस्टों का सवाल है वह उस बच्चे के समान है जो एक स्वप्न देख रहा हो और अंधेरे में स्वप्न में देख रहा हो कि एक बड़ा महल खड़ा है, उस में बहुत सी सामग्री पड़ी है और हम को बहुत आनन्द आ रहा है, लेकिन एकाएक सूरज दिखाई देता है और मालूम पड़ता है कि वह खराब घर है, उस में न

चिराग़ है और न कोई रोशनी है और न जिस में खाने को सामान है । सामने मैदान पड़ा है, वक्त का तक़ाज़ा है कि तुम हल ले कर खुद जा कर खेत में मेहनत करो, खेती करने में काफ़ी मेहनत पड़ती है और खून पसीना एक करना पड़ता है, काफ़ी मशक्क़त उठानी पड़ती है । यह चीज़ हमारे उन दोस्तों के लिये जो ६ हज़ार मील का ख्वाब देखते हैं और जिन्होंने १८वीं और १९वीं शताब्दी की किताबें पढ़ी हों और जो इधर उधर की बात सोचते हों, उन के लिये यह हल और बैल के साथ जा कर खेत में मेहनत करना और मशक्क़त करना असंभव है, क्योंकि वह तो एक दूसरी दुनिया में विचरते रहते हैं और स्वप्न देखा करते हैं वर्तमान काल की जो समस्यायें हैं उन के लिये कष्ट उठाने की न उन में हिम्मत है और न बहादुरी, उन का सिर्फ़ दिमाग़ चलता है, इसलिये उन का यहां होना और शोर मचाना और इधर उधर प्रचार करना कोई ज्यादा मानी नहीं रखता, उस में कोई अर्थ नहीं तत्व नहीं । इस वक्त जो देश की समस्या है, वह यह है कि हम सब मिल कर किस तरह काम करें और यक़ीन मानिये कि इस देश को बनाने में जो भी रुकावट आयगी, उस को जनता कुचल डालेगी ।

यह कहना कि साहब, यह एलेक्शन (election) के लिये हुआ, या किसी पार्टी को पावर (power) में रखने के लिये यह किया जा रहा है, यह बहुत भूल है । सीधी बात यह है कि इस वक्त जो समस्या है वह यह नहीं है कि यह पालिसी (policy) सही है, या यह पार्टी और गवर्नमेंट सही है, या यह क़ानून खराब है और वह क़ानून खराब है । इस वक्त समस्या यह है कि कौन से ज़रिये अख्त्यार किये गये हैं । किस तरह की कोशिश की जाय कि देश आगे बढ़े, देश के लोगों को काम करना आये, देश के आदमियों को मेहनत करनी आये और वह हिम्मत से काम कर सकें, इस के लिये जो करना आवश्यक हो वह करना ज़रूरी है । चाहे वह क़ानून सख्त हो चाहे नर्म हो । इस दृष्टिकोण से मैं समझता हूं कि यह बिल अति आवश्यक था और मै काटजू साहब को बधाई देता हूं कि उन्होंने इतनी हिम्मत से काम लिया ।

Shri Kakkan (Madurai—Reserved—Sch. Castes): Sir, I congratulate the hon. Minister for Home Affairs on behalf of the poor people, especially on behalf of the Harijans. And in doing so, I believe through the help of this Bill the Harijans will be free from the hands of the Communists and the anti-social elements. (*Interruption*). Yes, I know the facts. The anti-social elements, taking advantage of the illiteracy and the simplicity of the poor Harijans exploit them. They stir them to create confusion and class conflicts in the villages. On the one side, the Communists will urge for food, but on the other they will go and ask the Harijans to strike work in the paddy fields, they will even ask them to go and set fire to the crops. This is their way of helping the Government in the Grow-More-Food Campaign. The hon. Member, Mr. Murthy told this House this morning that the Madras Government lynched the Harijans. Let me tell him. He was fed and brought up by the Congress, he was a Parliamentary Secretary in Madras. The Government of Madras have done very much for the uplift of Harijans by all the means at their disposal. In 1946 they allotted Rs. 1,00,000 for the uplift of the Harijans. They have helped hundreds of Harijan students. I am one of those who were educated with the help of the Harijan Sevak Sangh started by Mahatmaji. The Madras Government passed the disability Acts and they have also given legal assistance to the Harijans. Sir, during the elections the Communists were telling the people that they would bring back the toddy shops, and they made false propaganda that they will give 16 oz. of rice to the people. During the elections they said they were in favour of decontrol, but now when Rajaji has introduced decontrol they are against it. What is good for the people is bad for them.

I would request the Government to help the Harijans. The Harijans are bound to establish Gandhism in this land. Gandhiji died for the Hari-

[Shri Kakkan]

jans just as he lived for them. Whenever he went out in car or train or at public meetings he collected money for the uplift of the Harijans. Therefore, I say that Harijans are bound to establish Gandhism in this land. They will not put their faith in violence or join the Communists.

Lastly, I would request the hon. Minister to use this measure for the arrest and detention of only those who are active behind the screen and not the poor innocent people. Before I conclude I would only hope and trust that Government would render all help to the Harijans and free them from the hands of the anti-social elements.

Shri G. H. Deshpande: Sir, I rise to support the Bill as it has emerged from the second reading. And I want to tell you, Sir, and through you the entire House that I rise to do so not being inspired by the brute in me, but I am inspired to support the Bill by the high sense of patriotism that I have and by the intense love for democracy that I have. I am not one of those who go on paying lip-sympathy to democracy. I have in my life paid a very high price for democracy. I was a detenu for twenty-nine months and I was a political convict for five and a half years. The best part of my life I have spent in working for democracy and for the freedom of my country.

I was surprised when my friend, the hon. Member from Calcutta who occupies such a high position in this country today, referred to this great Party in this House as the brute majority. If we would not have acted in that wonderful way in which we have been acting, united and with a high sense of discipline for the last twenty or twenty-five years, what would have happened to India? The freedom of the country owes much to the way in which we behaved during this period. Instead of paying tribute to the unity and discipline with which we work, what did he do? I was very much pained to find that those very qualities which go to make a nation were ridiculed by the hon. Member who occupies such a high position here. I was really surprised when my namesake who has been elected from Gwalior—where feudalism still reigns supreme, which was the reason, why he was able to enter this House through that door,—said, "Oh, it was you who divided the country and we, the Mahasabhaites, stood for unity". But let me tell him very humbly, and also the august Member from Calcutta who at this time is absent from the House because he thinks that it is only he who can teach and others may learn. He comes to the House, indulges in oratory, criticises everybody and refuses to be criticised. That betrays the totalitarian character of the mind. I would request the hon. Members who represent the Mahasabha and the Jan Sangh to very carefully read the address of the Mahasabha President who presided over the session at Ahmedabad in 1935. The great leader, Veer Savarkar, for the first time introduced the theory of two nations in this country. Poor Jinnah—he simply borrowed that theory from him and then built up his own theory of division of the country. If Jinnah was responsible for the division of this country, if the Muslim League was responsible for the partition of the country, the blame not entirely goes to them—it goes to their counterparts, the Mahasabha also, and they cannot escape that responsibility. However, that is past history and I do not want to indulge in it. I want to act in the living present.

I rise to support this Bill as it has emerged from the second reading because I think it is necessary. I do realize that immediately there is no emergency demanding its application and I am glad that there is no emergency. But I would ask the House through you, Sir. Is it the course of wisdom to try to dig a well when the house is on fire? It is not. Let this weapon be in the armoury of the Government. If need be it will be used, if there is no need for its use all will be glad. Nobody wants to use it unless it is absolutely essential. Many a time we were told: "Why not follow England? Why not follow America?" There was no mention of Russia. The great and learned professor who occupies the bench over there on that side said, "Oh, in no civilised country of the world is there any provision of this type". I would ask the hon. Member, the learned professor: What is the condition of civil liberties in that great adopted Fatherland of his? How is the opposition met there? What has happened to those august personalities who occupied the Politburo seats for a number of years along with Stalin and Lenin? They were victims of the firing squad of the ruling party there. Is that the way individual liberty is enjoyed? Is that the way the opposition is treated? We are told "Follow the English model; follow the American model". The Opposition wants us to follow the British model and the American model. But sitting in these benches they will follow the Russian model. How can both the things go together? We are prepared to follow the American or English model and even go a step further, but are the Opposition prepared to say unequivocally that the means they would adopt for achieving their ends would be pure? One thing that the Father of the Nation taught not only Indians but the entire humanity is that the means must be as pure as the ends. I would ask the Members of the Communist Party to place their hands on their hearts and say whether they are prepared to lay stress on the means they adopt being pure? I was glad to listen to the great revolutionary leader of the Opposition, Shri Gopalan, when he said that he would be non-violent while sitting on these benches in the House but outside he will be something else. Those were his actual words.

Shri A. K. Gopalan: That is correct. When you are violent, I will also be violent. (*Interruption.*)

Shri G. H. Deshpande: So, that is the atmosphere in which we have to move. I do not for a moment believe that peace in this country can be achieved by this measure alone. We are rich with experience. We have very seriously read the history of other countries. This Bill alone is not going to help us to consolidate our freedom. It is only going to be a means. We want to advance economically and socially and for that we have our programmes, some of which we have already launched. For implementing those programmes we want peace and tranquillity in the country. If anybody is going to disturb that peace, if anybody is going to endanger that freedom, if anybody is going to make a serious attempt to destroy this democracy in its infancy, then I want to tell them very humbly that the country is not going to stand that nonsense any more. That attempt will be met and met very resolutely. It is for that purpose that we want this measure to be in the armoury of the Government and not for any other purpose.

In America the Communists cannot play any mischief all of a sudden, because that country achieved its freedom long long ago and it has advanced economically. A friend of mine who visited America a few months ago and returned recently related to me the story of an American friend who took a Russian friend around. They went to a factory and just outside the factory hundreds of cars were standing. The Russian asked, "How many managers are there in this factory? Why are there so many cars?" The answer was, "The cars do not belong to the managers. They belong to the workers." The Russian was simply amazed. The Russians have not achieved that standard of living yet which an average American citizen enjoys. So, America has consolidated its freedom and there is no danger of Communist uprising there. They can afford to have the luxury of freedom and latitude. If the same latitude were to be given here, then I want to tell my hon. friend from Calcutta that there are men and men in this country who are seriously waiting for an opportunity. They say. "Let this Act be removed once, even for six months. Then we shall see." They think that when that opportunity comes, they will drive their coach and four over the Parliament Street. Sir, the Opposition may abuse us. We have patiently heard thousands of abuses hurled at us. I tell my friends opposite: You may abuse us; you may call us names, but that is not going to deter us from the path of our duty. We are not here for sticking to office. My hon. friend from Sholapur said that these title-hunters, these office-seekers, these black-marketeers want favours and that is why they have passed this legislation or they want to insist upon it. Yes, Sir. In Maharashtra it was in the year 1936 when there were signs on the political horizon that the Congress would come into office, then all sorts of people rallied round our banner and we were also somewhat uneasy, but under the leadership of the hon. Member from Sholapur all those elements have left us and rallied round the banner of the Kamgar and Kisan Sabha and the ranks of the Congress in Maharashtra are now purified and there is not a single black-marketeer, not a single job-seeker in our ranks. They have found a place in the Kamgar and Kisan Sabha, because all the sins under the Sun can be covered easily under the name of that party. It is very convenient for them to be there. So, I want to say that it is out of sheer duty that I am supporting this Bill and I am glad that I have had this opportunity to record my views rather than remain a silent spectator.

Shri Raghavaiah: How many permits has he enjoyed, may I know?

Shri A. K. Gopalan: Sir, within two or three hours this House may have passed the Preventive Detention Act. What will be the reaction of the country and not only here but outside in the world about the Preventive Detention Act being passed by this Parliament not for the first time but after five years? The extension of the Act this time is not for one year but for

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two years. Whatever may be the arguments of the Home Minister to the effect that it is a waste of money, energy and so on, the people will understand that whereas in 1950 and 1951 the Preventive Detention Act was extended only for one year, it is now demanded that the extension should be for two years. Both people here and outside will know that there is something very bad in the country, that the party in power is not able to carry on and there is something wrong and they have not only been able to restore order and peace in the country but that things have gone wrong, on account of which they want an extension of two years more for this drastic measure.

I am not going to say anything about the speech of the last Member who talked about violence. He asked, "Will the Communist Party Members put their hands on their chests and say that they will not use violence?" To that I will say that if anybody in this country. if any executive officer or anybody else, comes to my house and wants to burn my house or to trouble my sister or mother, then even if I have not got a revolver in my hand I will beat him with any stick that I may get hold of. So, when you talk about violence and non-violence, I want to tell you that we have seen violence and non-violence. We have understood what violence is; and what non-violence is. I do not want to give a reply, because again and again we have told the Government about violence and non-violence. Let there be an enquiry into the violence of the Government, the violence of the people, the violence of the parties. Let there be an understanding; let the people know. It has been said in this Parliament so many times, "The police station had been attacked; this man had been killed and that man had been killed etc." We have denied it. Let there be an enquiry, so that this kind of challenges and counter-challenges may not be there. We have made this offer. In spite of it, my hon. friend spoke eloquently about violence and non-violence. We know how people have been treated in this country and therefore I have nothing to say about that.

I only want to refer to the reasons given by the Home Minister and also the Prime Minister as regards the background in the country, the circumstances in the country today. What are the circumstances? They say that there is a stormy situation in the country. What is the stormy situation? Is it a secret stormy situation? Somebody referred to black clouds, red horizons and stormy situations. These words were thrown at us. Even to the House, even to the Members of Parliament, neither the Home Minister nor the Prime Minister shows any serious situation that is facing the country. They did not give any instance of that seriousness. Making a speech is not a stormy situation.

It was repeatedly said on the other side: there is a social revolution; there is an agrarian revolution in the country. Yes. I ask the Home Minister. He has read so much. He is a lawyer having forty years of standing. I ask him: "Have you read anywhere of a social revolution or an agrarian revolution in a country being stopped by passing a Detention Act?" Certainly not. So there is an agrarian revolution in the country. There will be agrarian revolutions, and by repression, by shooting people and by passing Detention Acts no country has hitherto stopped any revolution, whether social or agrarian.

The agrarian revolution they were speaking of referred to the resistance of the peasants when they are evicted. The Preventive Detention Act is not the remedy for that. There are thousands and thousands of peasants in the country—he talked only of P.E.P.S.U. —in P.E.P.S.U., in Punjab and other provinces of India, who have been holding the land and cultivating it for the last so many years. They are now being ejected out of their land. They waited for five years that the Government would do something to give them permanency of tenure, by passing legislation. When they found that no steps were taken to protect them from ejectment, they resisted. If that is a stormy situation, certainly by passing this Preventive Detention Act, you are not going to stop it. On the other hand, it is only going to help the stormy situation in the country.

Sir, it has been said times without number that anti-social elements are in the country; there is violence in the country and there is terrorism in the country and the people want this Act. I want to ask Members on the other side, who time and again say that they represent the people, which class of people they represent. Do you represent the workers? Do you represent the peasants? (*Interruption*) Do you represent the middle classes? Or do you represent the other sections of the people. If you represent the workers, are you bold enough to say that the workers, the peasants, the middle class people want the Preventive Detention Act? I say, come out with me; come to my constituency; address a meeting and tell the people that you have passed a very patriotic Act, the Preventive Detention Act. Inside the

Parliament you have been defending this Act well. You tell that to the people: then you will understand what the reactions of the people are.

I am glad that sixty Members of the Congress Parliamentary Party are going to the country. Let them tell the people: we as defenders of civil liberties have passed the Preventive Detention Act. Of course, let them please give advance notice to the people. Then by the next session you will understand what the reactions of the people in the country are. *(Interruption)*.

Unfortunately from my part of the country only one Member from the Congress Party is here. I invite a few Members from the other side to come to my place and talk to the people about the Preventive Detention Act which you are now going to pass and convince them. Of course, inside the Parliament it is very easy to talk. But please try to convince the people outside about the necessity of this measure and see how far you succeed.

You are not going to improve the economic condition of the country by passing this measure. You do not know what the needs of the peasants are. You have not been able to do anything during the past five years. You want to extend the life of the Preventive Detention Act for two years, because you are not going to change your policy. You want the support of certain classes in the country, and yet you say people want this Act.

One hon. Member was saying that it was hell for the people of Malabar for some time. Yes it was hell. But for whom? For the landlords who had kept bags and bags of rice when people were starving. Yes, it was hell to some section of the people in Malabar. It was a hell and it will be a hell for them even hereafter. When people were actually starving, when not even a handful of rice was available in the ration shops for about a week, there were landlords who in their houses had hoarded bags and bags of rice. So people collected—the Communist Party was not there, because they were inside the jails—went to the house of the landlord, and said: "We are ready to give you money; give us the rice that you have hoarded. For the last one week we have not got any rice and we are dying." As the House knows, Malabar is not a surplus district; it is a deficit area. So, when people were starving and ration shops were closed, landlords were keeping bags and bags of rice hoarded with them. Of course, it was hell for them and it will be hell for them.

Then there are acres and acres of land lying fallow and uncultivated, which the peasants are ready to cultivate, but which they are not allowed to. So, they collected into a body and went in a deputation to the authorities. They urged: "Here is land lying fallow. There is scarcity of food in the country and we want to cultivate this land." If the Government does not permit them to do that they want to take the law into their hands. They want to cultivate the fallow land for the good of the State—it is to grow more food—it is to increase production. You ask, how can the people take the law into their hands. But what can the people do? There is plenty of land lying uncultivated; people only want permission to cultivate them. They are prepared to pay you rent or tax. Even then permission is not given.

So you have brought this Preventive Detention Act. For the past four or five years you have used this measure to crush the anti-social elements in the country. You have not only detained thousands of people, but shot and killed hundreds of people. During the past five years there has not been peace in the country. There is not going to be peace in the country by extending the life of the Preventive Detention Act for another two years. In 1947 the situation in the country was much better. It was in 1947 for the first time in the whole of India that the Security Act and other similar Acts were passed. It was then that the power of detention was given to the executive. It was during 1948 and 1949 when the power was being misused, when people were beaten, when houses were burnt that the people began to attack police stations and do other things. If you again want such a situation to be created in the country, the life of this Act may be extended. I was expecting that hon. Members on the other side would have at least felt sorry that after having been in charge of Government for the past five years, they have even now to take recourse to this measure, to keep people in jail without trial! But I am surprised that that is not the case. On the other hand they say: this Act is for the good of the country; this is passed to deal with the anti-social elements in the country.

I am sure hon. Members would have read from the papers that about 20,000 textile workers in Nagpur have gone on strike. They are the anti-social elements, because they have gone on strike. What were their demands. Their demands were that they must be given a basic pay of Rs. 35 and a dearness allowance. Some of them were arrested because they were anti-social. Why are they anti-social? Because they ask the mill-owners to give them a pay of Rs. 35 per month and some bonus. You do not consider about two

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dozen mill-owners who have for the past so many years hoarded money. They are not anti-social! But the workers who wanted to demonstrate their protest by a strike,—they are the anti-social elements in the country! So, the peasant who wants land to cultivate and the worker who wants more wages are the anti-social elements. You tell them: "No more demonstrations, no more strikes. You are all anti-social elements. You do not want peace in the country. If you do anything, there is the Preventive Detention Act; we will keep you inside jails without trial." You are going to say that.

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I have nothing more to say than this. You have forgotten the people in the country. You went to the people at the time of the elections. You asked them votes. But you have forgotten the people; you have forgotten the voice of the people: you have forgotten what is happening in the country. Today you think only of the Parliament, of getting the Bill passed. You have to understand, you have to move with the people. When the session is over and you go and tour your own constituencies and ask the people whether preventive detention is something which they want, you will find that not one section—not their friends, the landlords—but the entire people of the country are against it.

You have passed the Act and had it for the last five years and understood what the result is. Certainly you can have it. But do not call it the Preventive Detention Act. This is not a Preventive Detention Act. If even after five years you want such an Act, I say this is the death knell of the Government.

Shri B. Shiva Rao: Sir,.........

Shri E. Iyyani (Ponnani—Reserved—Sch. Castes): Sir, I am a Congress representative from Malabar.

Mr. Chairman: I have already called upon the other hon. Member.

Shri B. Shiva Rao: Sir, I would not have intervened in this debate but for the fact that the Home Minister's speech seemed unduly modest in placing this Bill before the House. Before I proceed to supplement his observations, I would like to say a word or two about the last speech that has been made. If I may make a confession, I am fond of Mr. Gopalan. (*An Hon. Member*: Oh!) He and I come from neighbouring constituencies. We owe much to him in my district, because the fact is, the more frequently he came to my district the brighter grew the prospects of success of the Congress candidates. In my district we secured ten out of the eleven seats. He asked: whom do you represent? I will give him an answer. All of us put together in this House secured 52½ million votes of which the Congress Party secured 38½ million votes. These are the people whom we represent. And may I ask in return: whom do they represent? They who speak for the workers and the peasants all over the country, Sir, such a party could not find more than 59 candidates in the general elections for the nearly five hundred seats in this House.

Shri A. K. Gopalan: Because you have put them inside the jail.

Shri B. Shiva Rao: Communists proper got three million votes in the general elections, and their friends and associates, the fellow travellers and the ticketless travellers, all put together, got another two million—that is the position, Sir, of some of the parties in this House.

Shri V. P. Nayar (Chirayinkil): May I ask whether, Mr. Shiva Rao has ever been in jail?

Mr. Chairman: The hon. Member does not yield. And people on this side should know that I specially called Mr. Gopalan as a representative, and he was listened to with patience.

Shri V. P. Nayar: No, Sir.

Mr. Chairman: Whatever quantum of patience was there should at least be here now.

Shri H. N. Mukerjee: Look at it, Sir. He is standing when you are on your legs.

Shri B. Shiva Rao: Sir, I will give an instance of violence.

Shri V. P. Nayar: Persons who have no experience of detention like Mr. Shiva Rao......... (*Interruptions*).

Mr. Chairman: Order, order.

Shri B. Shiva Rao: Sir, Mr. Gopalan said: give me an instance. I did not come prepared for that question. But from this morning's copy of *the Statesman* I may read just one news item.

The heading is: "Rs. 10,000 REWARD FOR ARREST OF A RAILWAY SABOTEUR". This is from Amritsar, August 5, where some of our friends have recently been.

> "Under instruction from the Inspector-General of Police, Punjab, the Railway Police have announced a reward of Rs. 10,000 to anyone who helps them in arresting or gives information leading to the arrest of people

responsible for cutting railway lines near Sonepat on June 27".

That is my answer to his question.

Shri H. N. Mukerjee: So what? (*Interruption*). Sir, on a point of order.

Mr. Chairman: What is the point of order?

Shri H. N. Mukerjee: The hon. Member said a little while ago, not more than thirty seconds back, that there is a report of a sabotage in Amritsar, somewhere near Amritsar. And he said "some of the hon. Members had been to Amritsar". The insinuation is so very clear that I should like to know, Sir, whether he is going to be permitted to insinuate in this manner?

Mr. Chairman: There is no point of order. The hon. Member can proceed.

Shri B. Shiva Rao: Sir, I recognize that truth smarts on the very thin skins of my hon. friends opposite. I have been learning a little English from my hon. friend!

Shri Nambiar: He must withdraw it.

Mr. Chairman: It is not unparliamentary.

Shri Nambiar: It is not a question of it being unparliamentary.........

Mr. Chairman: He did not say that any hon. Member did any particular thing. I do not think there is any point of order. The hon. Members may listen a little more patiently.

Shri Raghavaiah: May I respectfully make a submission? In the interests of maintaining order in calling up names of speakers.........

Mr. Chairman: If there is any point for suggestion he had better make it after the hon. Member has finished.

Shri Raghavaiah: Not a point of order, Sir, but a point of submission.

Mr. Chairman: He may make it afterwards.

Shri B. Shiva Rao: Sir, I have picked up two gems from those scattered by my hon. friend opposite. When a police officer or a constable shoots down an armed Communist either in self-defence or in the unpleasant performance of his duty, then it is an inhuman atrocity. But when an armed Communist or a Communist guerilla band shoots down a policeman or a police officer, then it is all just, the prick of the thorn on the rose bush! Sir, so long as this mentality persists, however much we may feel reluctant to place a measure like this on the Statute Book, we will be compelled to do so.

Now let me proceed with the main points of my speech. The Home Minister, as I said, did not indicate the changes that have been made in the Bill on the floor of the House after this Bill emerged from the Joint Committee; and I want to point out that a great deal has been done for which there has been no recognition from the other side. So far as the changes are concerned, the Advisory Board hereafter will be empowered, if this Bill is placed on the Statute Book, to call for such information as it may deem necessary from any person, besides the detenu himself and the State Government concerned.

Secondly, this morning another change was made. The maximum period for which any person may be detained will be twelve months from the date of his detention, instead of the date of confirmation of the detention order.

Apart from that, the Home Minister has given a number of assurances the cumulative effect of which must be recognized, I think, by the House. He said that he would be quite prepared to bring forward a Resolution in the autumn of next year, couched in such terms that this House and the Upper Chamber would have an opportunity of expressing their views on the necessity or otherwise of Government continuing to make use of this Act. That was his first assurance. He also said, in reply to Dr. Syama Prasad Mookerjee I think, that before such a debate takes place, Members of both Houses will be given a statement containing as much information as is then available regarding the working of the Act during the next twelve months. Further he said that he will have the Preventive Detention rules in the various States examined, so that, if necessary, he may advise the State Governments to allow a detenu at his request to have an interview with a lawyer of his choice in order to prepare his reply to the grounds of detention communicated by the State Government. Lastly, Sir, he accepted the desirability of having some uniformity in the rules regarding the grant of family allowances so that cases of hardship of the type that have been brought to the notice of the House may not occur.

I want to proceed to another aspect of this thing. When I spoke last Friday, on the Bill as it emerged from the Joint Committee, I gave figures to indicate how the number of cases of detention had steadily diminished;

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and I also pointed out that the number of cases in which there were complaints of either hasty action or action taken on inadequate grounds had also gone down. I will not cover that ground again, but I would like to point out that so far as releases are concerned, on the orders of High Courts or of the Supreme Court, the same conclusion emerges: in 1950 the number of cases released on the judgments of High Courts or of the Supreme Court was 583. In other words, those cases which relate to the period of 1948 and 1949 leave a great deal to be desired in the manner in which the Preventive Detention Acts of the various States were administered. The number fell from 583 in 1950 to 324 in 1951 and this year so far the number is only 52. I have not had the time to analyse the figures for this year further, but I am quite sure that if an analysis could be made, it would be found that of these 52 cases which were discharged this year, a majority of them belong to the period before the Act was amended in February of last year on the initiative of the then Home Minister, Mr. Rajagopalachari.

I would like to say one word about the speech made by Mr. Pocker, before I sit down. He is the lone spokesman of the Muslim League in this House, and I was glad to hear from him some very frank observations regarding the nature of the subversive elements which are active in his part of the country, which is also mine. Having said that I hope that if the Muslim League has recognized the danger so vividly, it will not co-operate with those subversive elements at the time of the next general elections.

An Hon. Member: It will vote for the Congress.

Shri B. Shiva Rao: He made a very serious charge against the Madras Government; he said that hundreds of Muslims had been detained just because they happened to be Muslims. I do not know whether he had brought any of these instances to the notice of the Chief Minister in Madras or of the Home Minister here.........

Shri Pocker Saheb: I do say that I saw the then Chief Minister. I brought all these facts to his notice. If you Sir, give me a chance, I shall make a statement in the House. I myself waited in deputation.

Shri B. Shiva Rao: Are we to understand that the grounds of detention said that a Muslim is being detained just because he happens to be a Muslim? I come from a part of the country where there is a good proportion of Muslims; during the last general election campaign I used to see Muslim volunteers parading the streets with Pakistan flags.

Shri Pocker Saheb: Question. That has been found to be an incorrect statement by the Madras Government and that has been reported. In answer to a question the hon. the Home Minister said that this allegation has been found to be false by the Madras Government.

An Hon. Member: It was about pro-Pakistani activities and not being a Muslim.

Shri B. Shiva Rao: Speeches were made that Pakistan has benefited the Muslims of Northern India, but there was no second Pakistan for the special benefit of the Muslims of the South. If such speeches are made and the flag of a foreign State is paraded, as was done during the general election, I am afraid, the State Government is bound sometimes to take action. I will not dwell on it any longer. I am quite sure that if there have been cases of injustice, of detentions of the kind that my hon. friend mentioned, it is his duty to bring them to the notice of the Home Minister and I have no doubt that suitable action will be taken. I have no further observations to make except to say this, that we who sit on this side of the House do not feel happy about the extension of this Act for a period of one year or it may be two years: but I do say that so long as the mentality of the kind which we have seen during the last few days and this afternoon persists on the benches opposite, I think, we have no alternative but to support the Bill as it stands.

Mr. Chairman: What is the hon. Member's point of order?

Shri Raghavaiah: I submit that reference to an incident which cannot be proved by the speaker or which has been already proved or has already been answered by responsible people controlling the administrative machinery in provinces may be avoided in the course of speeches. Secondly I request that you will be good enough to call upon speakers from both the Opposition and the Government benches alternatively.

Dr. S. P. Mookerjee: Sir, within 45 minutes the curtain will drop on the drama which has been enacted in this House for nearly a month. I must say at the outset that in consideration of this momentous measure, although there have been occasions when we witnessed scenes which were of an unprecedented nature, yet this Parliament both Government and the Opposition have acted in a manner which would be worthy of any Parliament (*Hear, hear*) in the consideration of such a big measure. Sir, knocks have been given and taken. There need be no regret for them. Many aspersions have been made from both sides and I am sure we are not going to carry the message of those aspersions outside this House. I am even prepared to say that Government has brought forward this measure in a *bona fide* spirit. I may not agree with it but I am prepared to concede that, just I hope the Government will also concede that those of us who opposed the measures strenuously did so not from a propaganda point of view but we felt that a sufficient case had not been made out for the enactment of a measure like this in free India. Sir, a reference was made by one of the speakers this afternoon that we do not refer to those cases of loot, arson or murder taking place in different parts of the country. Obviously if there are such cases, they must be checked. No one wants that there should be lawlessness in this country. I go further and say that freedom and violence are inconsistent with each other. If there is to be freedom, there cannot be violence. At the same time it will not do for Government merely to point its accusing finger at the Opposition or at the people who may have the misfortune of disagreeing with Government today and say that Government is bound to bring forward such measures because such parties or people are going astray or opposing Government. That is not the correct approach to the problem. My hon. friend, the Home Minister on various occasions in the course of the debate had said that the situation has changed today because India has attained independence. I ask him in all humility: Is it only in countries which have been under a foreign tutelage that the people have revolted against the Government of the day? What about England? What is the history of England? It is not lawyers that transformed the freedom of England into reality. It is not particular parties as such that did it. But, that magic was performed by the people at large. Who executed the English King? Was there a body of foreigners who came and did it? Who compelled an unwilling King to write out a charter of liberty for the people of that country? The people of that country and no one else. What happened in France? Was there a foreign ruler presiding over the destiny of that country? What happened in Russia? I know the Home Minister will reply, that they were despots. They were not elected on adult franchise. Who elected Hitler? Did not Hitler also claim that he had the support of 99·99 per cent. of the people of Germany? Did not Mussolini put forward that claim? What happened to them? This is a fact which is perennial, that if the Government of a country proceed only on the basis of force and ignore the legitimate grievances of the people, there cannot but be a challenge thrown out by the people at some stage or other. We do not want it. Take it from me, I am saying it from the depth of my heart. This freedom that has come to our country has to be cherished, has to be maintained, has to be strengthened. Obviously, in normal circumstances there should be general support from the people at large so that this freedom cannot be upset. The Home Minister developed in his speech this afternoon this point. I ask him one straight question, and I ask the Prime Minister also to consider it. Now, suppose the people or some parties feel that Government has gone seriously wrong in certain essential matters. What is the remedy? You say, wait till the next election. Even in the next elections, the Congress may be returned to power. Already a prediction has been made by Minister astrologers that for 25 years more the Congress will remain in power. But, Sir, suppose the people feel that something has gone wrong and they cannot get redress. What are they to do? Of course, I do not say that they will resort to violence. They come and express their point of view before the Government. Government does not move in the matter. Government feels solid because it is supported by a large volume of Members inside the House or even outside. I am prepared to admit that Government commands a large support. In such a case, if some resistance has to come, —I am not saying in normal cases— if a law is passed which is intensely disliked by the people and which leads to consequences which go to injure the basic interests of the people, then, the fundamental right of the people to resist must be there, and is there.

[MR. SPEAKER *in the Chair*]

What is happening in South Africa today? It may be in a different set of circumstances. Today, the Prime Minister of that country has announced that he is tired of arresting the people and that he is going to resort to whipping. I do not find Mr. Pant here. It is not detention alone, arrest and imprisonment alone; but whipping. He has made that declara-

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tion today. Does he seriously think that he could put down the movement by whipping these people who are fighting a non-violent struggle against the barbarous provisions of a law which has been enacted by the Parliament of that country: a law, not an Ordinance, not *obiter dicta* but a law passed by that country. They are carrying on a non-violent resistance. I am not giving exaggerated importance to that aspect. I know that in normal circumstances, people are to accept the law as it is passed. In normal circumstances, people are to argue and to press upon the Government to make changes, and by sheer force of public opinion, compel the Government to make changes, not resorting to violence. But, if an extreme case arises, when a law is passed, when a measure is undertaken which is intensely disliked by the people, then that resistance of a non-violent character, which has been, as the Home Minister said today, the message of India from time immemorial, must also continue to be the message and hope of the people of free India as well. I hope, Sir, that such an occasion will not arise.

Now, what is it that we have done in this Parliament? This is the first elected Parliament of free India. We have considered a measure of a momentous character. Let us not forget what we are doing. We have sugar-coated it. I am thankful to the Government because in several respects important concessions—I hate the word concessions—important changes have been made. The Home Minister said today that he also did not like the word concessions. It is not only charity that the Government is giving to the people. But, certainly, important changes have been made. For what purpose? For reducing the possibility of abuse of this extraordinary measure. But, forget not, that, as I said the other day, the basic objectionable feature of the Act continues: that is, you are allowing the Executive to detain people without placing the accused person before a court of law, and permitting an independent tribunal to decide the matter on the evidence that will be adduced before the said tribunal. As the Home Minister admitted today, he did not like this measure. I liked his speech. He started by saying that none in the Government, none on the Congress Benches liked a measure of this nature. That is what should be.

What makes me apprehensive is that the result of such a provision is to turn the whole country, if the Executive so desires—not otherwise; if the Executive so desires—into a playground, hunting ground for informers, spies and *agent-provocateurs*. The son will spy against the father, the husband will spy against the wife, a brother against a brother. I remember in Bengal nearly 20 years ago, when the terrorist movement was at its height, there was a Home Minister, Mr. Prentice who was regarded as one of the stalwarts of the British Government in India in those days and he dealt with the terrorists in Bengal. He himself admitted openly on the floor of the House in Bengal when we were opposing the passage of the Criminal Law Amendment Bill, nearly 20 years ago, "True, East Bengal has given us the most patriotic sons, the most daring terrorists; but it is from East Bengal itself that I have got the most competent spies, with whose help I am trying to keep a hold on these people". None of us wants to reduce our country to that state of things. This must be a temporary measure. We must return to the normal operation of the law as quickly as possible.

I admit it is not Government alone, but we also have a responsibility to the people in this connection. Every leader in the country, no matter with which party he is associated, must be able to stand up before the people and say that the path of progress does not lie through violence. Through violence we will not be able to achieve anything. We may achieve something temporarily, but again other people will come and they will be more violent and we shall get round a vicious circle. But, the powers which we have taken are so extensive and so wide in character, that everything that Government dislikes and wants to stop, may come into the picture, irrespective of real national interest.

The other day, the Prime Minister said that four categories of offence are contemplated: communal, Communist, terrorist and Jagirdari; but he added one more condition—violence. If it was merely a question of expressing one's viewpoint, it did not matter. He might dislike it personally, but what he wanted to stop was any possibility of a violent outburst on the part of these groups, or it may be, other groups. Have you made a provision like that in the Bill? There is no such provision. I asked for an assurance from the Home Minister yesterday. Of course, an assurance was given of some character, but unless you draw the line somewhere, this Bill has the potentiality of creating a situation which it will be very difficult to control.

Lastly, Sir, I would beg of the Government to go to the root of the matter whenever an occasion arises for the application of such provisions, whether it is due to trouble among *ryots*, or it is due to trouble amongst, labour workers, or the trouble is due, as the Home Minister said yesterday, to something happening in Dacca, and the repercussions coming to this side of the country. You have got to go to the root of the matter and quickly find a solution. Otherwise, if you allow the drift to continue, naturally things may burst up at any moment, and then if you proceed with your only measure, the Preventive Detention Act, it is worse than the disease itself; it will not give you a solution.

I would conclude by saying that we have expressed our viewpoints in the last few days without any restraint on either side. There have been both give and take. The Bill is going to be passed into law. We do not like this Bill for the two reasons I have said. Firstly, we are not satisfied that a case has been made out for the passage of this Bill, and secondly, we do not like the Bill because of the inherent objection to the basic principle of the Bill, *viz.*, that you take away the liberty of a person without placing him before a Court of Law even though there may not be an emergency. But I hope, Sir, when the Bill is passed into law and when it will fall on the Government to operate it for the next year, it will be done in such a manner that the Act does not react on the Government itself and create increased bitterness and discontent in the country.

I liked the Home Minister saying today that with the goodwill and co-operation from all sides, it may be that next year Government itself will come forward with a proposal that the Bill should be dropped. If you do not agree with the viewpoint of any of the Opposition Parties, no matter which viewpoint is expressed, do not immediately think that they are traitors to the country, or that they are enemies of the nation. We may agree to differ on certain things; let us all approach the people and try to convert them to our viewpoint. We are here to lend our co-operation to the Government in respect of any measure whose object is to ameliorate the sufferings of the people. We are here to oppose Government when we feel it is going astray. Let us build up this country on a pattern which will be worthy of the traditions of the people of this great land. We are not here sitting as enemies facing each other. We have all come here with certain ideologies, with certain objectives in view. Let us look at the background undoubtedly, but let us look at the future also. It is not the Preventive Detention Act that will consolidate the social or economic freedom of the people of this country. It is a negative measure. It is a measure which has to be used with extreme restraint, and only under exceptional circumstances, and in every case where it is used, let it be the Home Minister who will take the responsibility for justifying the action taken, but normally let us make the people feel that restrictions have disappeared and India is going to be governed according to the rule of law.

Several Hon. Members *rose*—.

Mr. Speaker: I think there is hardly any time. The hon. Home Minister.

Dr. Katju: Sir, I entirely agree that we should all co-operate in furthering ameliorative measures of all descriptions. But I must say with some sadness—the House has listened to me this afternoon—that some of the speeches which were delivered this afternoon a short while ago might be used by those who say that a measure of this kind is really unnecessary. There is no point, no difference, nobody has ever said that there should not be freedom of expression of opinion in writing or verbally on the platform. The whole question is: incitement to violence. I come back to the fundamental thing over and over again.

My hon. friend there in eloquent language put forward his case: "Look at the peasants. They are hungry. They wanted rice in Malabar. Rice was not available, and therefore they went to the landlords who were hoarders and they did some thing", and he said they were justified in doing it. What those some things were the people in Malabar know. Then he went further. He said: "Look at the peasants in the Punjab, in Pepsu. Oh, the country is short of food, they are short of food. There is plenty of fallow land, and they have been carying for an opportunity to cultivate it. They are tenants of long standing. They want laws in which there might be security of tenure." I entirely agree. But then, he suggested—I do not know, but that is what it comes to—"If you do not pass that law—they are patient; they have been patient for five years —if you do not pass that law, then they are entitled to take the law into their own hands". That is the root of the matter. That is the crux of the situation which hon. Members will have to consider. "Taking the law into their own hands"—what does that mean? I do not blame these hon. Members, and this is not the moment to talk in any provocative manner. But while you are sitting here, you see sometimes how they speak; if they speak

[Dr. Katju]

in that tone here, in what tone they speak outside goodness only knows. Now, they get up on the public platform, and what do they say? They say: "Form guerilla bands. You have got arms. Use them. Seize lands. If anybody comes, shoot." That is what has been said. That is the method by which to give to these cultivators lands which they want. Now, that is the crux of the situation. I repeat the phrase once again. Would my hon. friend from Calcutta support that?

Now, I am not going into past history about the "sweep of the masses" and the "innocent workers". I am not attributing blame to anybody, whether they were this party man or that party man; these innocent workers in Jessop & Co., in Calcutta just did the soft thing of throwing five people into the furnace. They did it, may be not led by the members of the Communist Party, it might be some other party, but they did it;—I think it was sometime in 1950. The "sweep of the masses" was, as the Prime Minister hinted, stopping tram cars. Had any one travelling in those tram-cars done any harm to anybody—women, children, and people going to offices? Throwing bombs, acid bulbs, burning tram-cars for what? What had they done? That is the question.

Let me make it clear so that there might be no difficulty whatsoever. I do not like the Preventive Detention Act. Nobody likes the Preventive Detention Act. The Prime Minister here, if I may make that personal observation, has been a devotee of personal liberty for the whole of his life, after having spent I do not know how many years in prison.

The amelioration of all difficulties and economic questions, will take some time. We require our united efforts to cure that, to solve those problems. They are not solved in a day. But if there is any party, any group, any individual, who, taking advantage of the distress among the masses, the hunger of the masses, or, let us say, the poor wages among these unfortunate workers, goes to them and says: "Burn, resort to violence, do all sorts of things", what is to be done? That is the point that I would beg of my hon. friends to consider on a nationwide basis. My hon. friend on the other side said just now that "We have got a right to revolt against the Government." It was rather curious to hear. The people did have a right to revolt against the Government in the months of January and February, six months ago, when we had an election unprecedented in history. Compare this Parliament of ours elected on adult franchise with the South African Parliament. The people are resisting there—I do not want to say anything against foreign Governments now—and carrying on a struggle. My hon. friend said that the people will revolt. Who is suppressing them? They had a complete and unfettered right to express their opinion and declare their confidence or otherwise in this Government, which according to my hon. friends opposite has been misruling India by having resort to the Preventive Detention Acts, right from 1947 onwards. My hon. friend Mr. Gopalan said that up to 1947 conditions were quite all right, that it was a heavenly paradise to live in, because of course the Britishers were there and these people were co-operating with them. *(Interruptions)*. He said that after 1947 when India became independent, came these Acts, and these atrocities, thousands of people were detained—somebody showed his arm the other day—and kept in very distressing circumstances, all over the country in 1947, 1948, 1949 and in 1950. The opportunity came for the masses to revolt against the Government of the country which had carried on all these oppressive activities during the last year, and the result is now known. They did revolt, and I am not going into the figures now. My hon. friend Mr. Shiva Rao has given them already, and I am thankful to him for that. But what does it mean? To be very candid, I must tell you that I am not really influenced by all this talk about going and seeking election again, or that the masses are against the preventive detention measure and so on and so forth. What do the poor masses want? 99·99 per cent. of the poor people in the villages have not even heard of the preventive detention measure, and nobody is going to clap them into prison. Let me tell you quite frankly that the Act is intended against those persons who incite those masses to have recourse to violence, and so long as this Government or any Government is here, it has got to suppress those people, in order that it may not allow the tranquillity of the country to be disturbed by these masses taking to violence and creating chaotic conditions in the country. This is one thing which I want to make quite clear. I said that I was speaking this afternoon from the bottom of my heart, and that I felt it very much, that such an Act like this should be there. But let there be no mistake about it, because I may say that some of the speeches might be very good ground for taking action, because it is a question of belief in violence or non-violence. You may have any belief you like. I know the feelings of many Hindus in Calcutta—I am not speaking about them in any spirit of irreverence—who believe in 'Kali'. It is a matter of belief all right. But if there is a belief and it is carried out into practice—I am speaking here of these people who are provocating these masses, these middle classes, and these workers saying 'Oh, you have got these grievances, take to arms, take to violent courses'—then comes the crux of the matter. I know my hon. friend over there would like the Government to go into the root of the matter. He has said it so very often, and asked the Government to remove those economic troubles to provide more food to the people, and to provide work for everybody. But all this cannot be done in the twinkling of an eye, it will take some time, may be five years or six years. The Government is trying to do its best with your support. (*Interruptions*). Everybody says that it will take some five or six years. But in those five years, tranquillity has got to be maintained, and we will not tolerate anybody, any group or party or in fact any individual to disturb the peace during that period. I am not talking here as against any particular party, nor am I giving any denomination to them. But peace means economic peace, communal peace, and to use the term which the hon. the Prime Minister has used, jagirdari peace.

An Hon. Member: And Governmental peace.

Dr. Katju: Look at the foundness of my hon. friends on the other side, Sir. Then I come to this question of essential supplies. My hon. friend Mr. Gopalan was very eloquent about the conditions of Malabar with its poor and hungry people. It brought almost tears to my eyes when I listened to these things, about these hungry and starving people marching in order. Food is essential for them, and we have provided food for them by putting in jail the people who are responsible for refusing them the rice, because then we can get rice for these poor and hungry people. But my hon. friend would not have it in the Act. He himself actually proposed an amendment, I ask the House to remember, that in so far as the Preventive Detention Act is concerned, it should not apply to these people......

Shri A. K. Gopalan: I was saying that it should not apply against the workers. Do not misrepresent.

Dr. Katju: He was saying that it should not apply to cases relating to essential supplies and essential services.

Shri A. K. Gopalan: I explained that it may be used against the anti-social traders and black-marketeers but not against the workers. I explained this afterwards, Sir.........

Dr. Katju: I wish, Sir, that an Act were made to suppress Mr. Gopalan from standing up like this and interrupting............

Shri A. K. Gopalan: Yes, you can pass an Act like that also.

Dr. Katju: I do not want to do such a thing.........

Shri A. K. Gopalan: Let us look at the proceedings, Sir, and see what I have said.........

Dr. Katju: The Act was sought to be confined only to two cases, defence and the security of India. It was sought to cut out 'foreign powers' because some people have got some grievances against Pakistan, or Nepal or Tibet or China or Russia or the Anglo-American block. Then it was sought to cut out 'public order' because they hate public order. Then they said 'Cut out essential supplies and essential services also', because they were in favour of railway workers, postal workers, telegraph workers being an open field so that they could go and preach anything they like to them. As I said, Sir, the Act is to remain there only for this purpose. (*Interruptions*). I do not know, they might be getting money from these black-marketeers. I do not want to say anything against these black-marketeers of any sort or description, but I do say that they are susceptible to pressure. (*Interruptions*). I do not want to carry on in this way, Sir. You were not here. I think, when I had really asked for benediction, but here I am begetting only speeches of more or less a violent nature.

Now, somebody said, 'fundamental right of the people to resist'. That may be very good language when we were under alien rule. But with this Parliament and adult suffrage, I do not understand this language, fundamental right to resist. In what way? The Constitution provides that there should be a general election every five years. If you want to get public opinion formulated quicker, well have the Constitution amended and have a general election every two years or every three years. The public opinion may be expressed through the Members I do not understand this fundamental right to resist in free India by arms—rifles, sten guns and all that sort of thing. That is all I have to say, Sir,

[Dr. Katju]

I am sure every section of the House will pass the Bill with a very easy conscience. I am perfectly satisfied in my mind that it is one of the most convenient, adequate and just pieces of legislation that can be passed for the preservation of peace and tranquillity and promotion of security and prosperity of the country.

Mr. Speaker: The question is:

"That the Bill, as amended, be passed."

The House divided: *Ayes*, 296: *Noes*, 61.

Division No. 14] **AYES** **5-52 P.M.**

Abdus Sattar, Shri
Achal Singh, Seth
Achuthan, Shri
Agarwal, Prof.
Agarawal, Shri H. L.
Agrawal, Shri M. L.
Akarpuri, Sardar
Alagesan, Shri
Altekar, Shri
Alva, Shri Joachim
Amrit Kaur, Rajkumari
Ansari, Dr.
Asthana, Shri
Ayyangar, Shri M. A.
Azad, Maulana
Badan Singh, Ch.
Balasubramaniam, Shri
Balmiki, Shri
Bansal, Shri
Barman, Shri
Barupal, Shri
Basappa, Shri
Bhagat, Shri B. R.
Bhakta Darshan, Shri
Bhandari, Shri
Bharati, Shri G. S.
Bhargava, Pandit M. B.
Bhargava, Pandit Thakur Das
Bhatkar, Shri
Bhatt, Shri C. S.
Bheekha Bhai, Shri
Bhonsle, Major-General
Bidari, Shri
Birbal Singh, Shri
Bogawat, Shri
Borooah, Shri
Bose, Shri P. C.
Brajeshwar Prasad, Shri
Brohmo-Choudhury, Shri
Buragohain, Shri
Chacko, Shri P. T.
Chanda, Shri Anil K.
Chandak, Shri
Chandrasekhar, Shrimati
Charak, Shri
Chatterjee, Dr. Susilranjan
Chaturvedi, Shri
Chaudhary, Shri G. L.
Chaudhury, Shri R. K.
Chavda, Shri
Chettiar, Shri Nagappa
Chettiar, Shri T. S. A.
Chinaria, Shri
Chaudhri, Shri M. Shaffee
Dabhi, Shri
Das, Shri B.
Das, Shri B. K.
Das, Shri Beli Ram
Das, Shri Ram Dhani
Das, Shri Ramananda
Das, Shri S. N.
Das, Shri N. T.
Datar, Shri
Deb, Shri S. C.
Desai, Shri K. N.
Deshmukh, Shri K. G.
Deshmukh, Dr. P. S.
Deshpande, Shri G. H.
Dholakia, Shri
Dhulekar, Shri
Dhusiya, Shri
Digambar Singh, Shri
Dube, Shri Mulchand
Dube, Shri U. S.
Dubey, Shri R. G.
Dutt, Shri A. K.
Dutta, Shri S. K.
Dwivedi, Shri D. P.
Dwivedi, Shri M. L.
Ebenezer, Dr.
Elayaperumal, Shri
Fotedar, Pandit
Gadgil, Shri
Gandhi, Shri Feroze
Gandhi, Shri M. M.
Gandhi, Shri V. B.
Ganga Devi, Shrimati
Ganpati Ram, Shri
Garg, Shri R. P.
Ghose, Shri S. M.
Ghulam Qader, Shri
Gounder, Shri K. P.
Gounder, Shri K. S.
Guha, Shri A. C.
Gupta, Shri Badshah
Hari Mohan, Dr.
Hazarika, Shri J. N.
Heda, Shri
Hem Raj, Shri
Hembrom, Shri
Ibrahim, Shri
Islamuddin, Shri M.
Iyyani, Shri E.
Iyyunni, Shri C. R.
Jagjivan Ram, Shri
Jain, Shri A. P.
Jajware, Shri
Jangde, Shri
Jasani, Shri
Jayashri, Shrimati
Jena, Shri K. C.
Jena, Shri Niranjan
Jethan, Shri
Jha, Shri Bhagwat
Joshi, Shri Jethalal
Joshi, Shri Krishnacharya
Joshi, Shri Liladhar
Joshi, Shri M. D.
Joshi, Shri N. L.
Joshi, Shrimati Subhadra
Jwala Prashad, Shri
Kakkan, Shri
Kale, Shrimati A.
Karmarkar, Shri
Kasliwal, Shri
Katju, Dr.
Keshavaiengar, Shri
Keskar, Dr.
Khan, Shri S. A.
Khedkar, Shri G. B.
Khongmen, Shrimati
Khuda Baksh, Shri M.
Kirolikar, Shri
Kolay, Shri
Krishna Chandra, Shri
Krishnamachari, Shri T. T.
Krishnappa, Shri M. V.
Kureel, Shri B. N.
Kureel, Shri P. L.
Lallanji, Shri
Lakshmayya, Shri
Laskar, Prof.
Lingam, Shri N. M.
Lotan Ram, Shri
Madiah Gowda, Shri
Mahodaya, Shri
Mahtab, Shri
Maitra, Pandit L. K.
Majhi, Shri R. C.
Majithia, Sardar
Malaviya, Shri K. D.
Malliah, Shri.
Malviya, Pandit C. N.
Malviya, Shri Motilal
Mandal, Dr. P.
Masuodi, Maulana

Masuriya Din, Shri
Maydeo, Shrimati
Mehta, Shri Balwant Sinha
Mehta, Shri B. G.
Mishra, Shri Bibhuti
Mishra, Shri L. N.
Mishra, Shri Lokenath
Mishra, Shri M. P.
Mishra, Shri S. N.
Misra, Pandit Lingaraj
Misra, Shri B. N.
Misra, Shri R. D.
Mohd, Akbar, Sofi
Mohiuddin, Shri
Morarka, Shri
More, Shri K. L.
Muthukrishnan, Shri
Nair, Shri C. K.
Namdhari, Shri
Naskar, Shri P. S.
Natesan, Shri
Nathwani, Shri N. P.
Nehru, Shri Jawaharlal
Nehru, Shrimati Uma
Nevatia, Shri
Nijalingappa, Shri
Pannalal, Shri
Pant, Shri D. D.
Paragi Lal, Ch.
Parmar, Shri R. B.
Pataskar, Shri
Patel, Shri B. K.
Patel, Shri Rajeshwar
Patel, Shrimati Maniben
Pateria, Shri
Patil, Shri Shankargauda
Pawar, Shri V. P.
Pillai, Shri Thanu
Pocker Saheb, Shri
Prabhakar, Shri N.
Prasad, Shri H. S.
Rachiah, Shri N.
Radha Raman, Shri
Raghubir Sahai, Shri
Raghubir Singh, Ch.
Raghunath Singh, Shri
Rahman, Shri M. H.
Ram Das, Shri
Ram Saran, Prof.
Ram Subhag Singh, Dr.
Ramanand Shastri, Swami
Ramananda Tirtha, Swami
Ramaswamy, Shri P.
Ranbir Singh, Ch.
Rane, Shri
Rao, Diwan Raghavendra
Rao, Shri B. Shiva
Raut, Shri Bhola
Reddy, Shri L. S.
Reddy, Shri Janardhan
Roy, Shri B. N.
Rup Narain, Shri
Sahu, Shri Bhagabat
Sahu, Shri Rameshwar
Saigal, Sardar A. S.
Sakhare, Shri
Saksena, Shri Mohanlal
Samanta, Shri S. C.
Sanganna, Shri
Satish Chandra, Shri
Satyawadi, Dr.
Sen, Shri P. G.
Sen, Shrimati Sushama
Sewal, Shri A. R.
Shahnawaz Khan, Shri
Sharma, Pandit Balkrishna
Sharma, Pandit K. C.
Sharma, Prof. D. C.
Sharma, Shri K. R.
Sharma, Shri R. C.
Shastri, Pandit A. R.
Shastri, Shri H. N.
Shobha Ram, Shri
Siddananjappa, Shri
Singh, Shri D. N.
Singh, Shri Babunath
Singh, Shri H. P.
Singh, Shri M. N.
Singh, Shri T. N.
Singhal, Shri S. C.
Sinha, Dr. S. N.
Sinha, Shri Anirudha
Sinha, Shri B. P.
Sinha, Shri C. N. P.
Sinha, Shri G. P.
Sinha, Shri Jhulan
Sinha, Shri K. P.
Sinha, Shri N. P.
Sinha, Shri S.
Sihna, Shri Satya Narayan
Sinha, Shri Satyendra Narayan
Sinha, Shrimati Tarkeshwari
Sinhasan Singh, Shri
Siva, Dr. Gangadhara
Snatak, Shri
Sodhia, Shri K. C.
Somana, Shri N.
Subrahmanyam, Shri T.
Suresh Chandra, Dr.
Suriya Prashad, Shri
Swaminadhan, Shrimati Ammu
Syed Ahmed, Shri
Syed Mahmud, Dr.
Tandon, Shri
Tek Chand, Shri
Telkikar, Shri
Tewari Sardar R. B. S.
Thimmaiah, Shri
Thomas, Shri A. M.
Tivari, Shri V. N.
Tiwari, Shri R. S.
Tiwary, Pandit D. N.
Tripathi, Shri H. V.
Tripathi, Shri K. P.
Tudu, Shri B. L.
Tyagi, Shri
Uikay, 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.
Venkataraman, Shri
Vidyalankar, Shri
Vijaya Lakshmi, Shrimati
Vishwanath Prasad, Shri
Vyas, Shri Radhelal
Wodeyar, Shri

NOES

Achalu, Shri
Ajit Singh, Shri
Amjad Ali, Jonab
Bahadur Singh, Shri
Banerjee, Shri
Basu, Shri K. K.
Buchhikotaiah, Shri
Chatterjea, Shri Tushar
Chaudhuri, Shri T. K.
Chowdaury, Shri C. R.
Chowdhury, Shri N. B.
Das, Shri B. C.
Das, Shri Sarangadhar
Dasaratho, Deb Shri
Deogam, Shri
Deshpande, Shri. V. G.
Doraswamy, Shri
Gam Malludora, Shri
Gopalan, Shri A. K.
Hukam Singh, Shri
Khardekar, Shri
Krishna, Shri M. R.
Krishnaswami, Dr.
Lal Singh, Sardar
Mangalagiri, Shri
Mascarene, Kumari Annie
Menon, Shri Damodara
Mishra, Pandit S. C.
Misir, Shri V.
Mookerjee, Dr. S. P.
Mukerjee, Shri H. N.
More, Shri S. S.
Nambiar, Shri
Narasimham, Shri S. V. L.
Nathani, Shri H. R.
Nayar, Shri V. P.
Pandey, Dr. Natabar
Raghavaiah, Shri
Ramaseshaiah, Shri
Ramnarayan Singh, Babu

Randaman Singh, Shri	Reddi, Shri Ramachandra	Swamy, Shri N. R. M.
Rao, Dr. Rama	Reddy, Shri Eswara	Tiwari, Pandit B. L.
Rao, Shri Gopala	Saha, Shri Meghnad	Trivedi, Shri U.M .
Rao, Shri K. S.	Sharma, Shri Nand Lal	Veeraswami, Shri
Rao, Shri P. R.	Singh, Shri R. N.	Velayudhan, Shri
Rao, Shri Mohana	Soren, Shri	Verma, Shri Ramji
Rao, Shri Vittal	Sundaram, Dr. Lanka.	Waghmare, Shri

The motion was adopted.

6 P.M.

Mr. Speaker: Before we disperse, I have to announce timings for tomorrow. Tomorrow is Thursday, a day on which according to our earlier plan, we did not intend to sit morning and evening. But in view of the important discussion for tomorrow the House will sit both times, so that there may be a longer time allotted. But the change in the timings is just a little: Instead of 8-15 the House might begin from 9 A.M. (*Babu Ramnarayan Singh*: Why begin late, Sir?) The change is suggested because the sun also is changing every day and rises later nowadays than it used to a month and a half back. And the afternoon session will be from 3-30 to 6 for the same reason that the sun sets a little earlier.

The House then adjourned till Nine of the Clock on Thursday, the 7th August, 1952.