

Saturday,  
11th December, 1954

# LOK SABHA DEBATES

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**EIGHTH SESSION, 1954**

LOK SABHA SECRETARIAT  
NEW DELHI

2535

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LOK SABHA

Saturday, 11th December, 1954

The Lok Sabha met at Eleven of the Clock.

[Mr. Deputy-Speaker in the Chair]

QUESTIONS AND ANSWERS

(No Questions: Part I not published)

MOTION FOR ADJOURNMENT

RETRENCHMENT OF SEPOY CLERKS OF  
ARMY ORDNANCE CORPS

Mr. Deputy-Speaker: I have received notice of an adjournment motion from Shri K. A. Damodara Menon regarding—

"The situation arising out of the Government's serving discharge notice on 4,000 sepoy clerks of Army Ordnance Corps who have completed services ranging from six to seven years against the Government's guarantee of service for fifteen years."

When was this order issued? How long ago?

Shri Damodara Menon (Kozhikode): This order was served two days ago.

Mr. Deputy-Speaker: On how many of them?

Shri Damodara Menon: I understand about 4,000 are to be discharged.

Mr. Deputy-Speaker: Later on. But, so far what has been done?

560 LSD.

Shri Damodara Menon: So far notices have been issued and no ground is stated. I understand it is a general retrenchment. I got only a telegram. As a matter of fact, as I said in the adjournment motion, there has been a guarantee by the Government that these people will be entertained in service for 15 years. Now, as against that guarantee, these people are going to be retrenched.

Mr. Deputy-Speaker: Let us hear the hon. Minister.

The Deputy Minister of Defence (Sardar Majithia): Mr. Deputy-Speaker, regarding this discharge, the general position is that the sepoys are engaged for an initial period of nine years and then they are further liable to serve for another six years in the reserve, or, in certain cases, for eight years and seven years, thus making a total of fifteen years. It includes a reserve service. So far as these are concerned, I should like to collect some more information about it before I say anything further on it. But, I should like to say, that, as the House is aware, the post-war strength of the Indian Army is going to be something very much less than what it was during the war because of the emergency and, therefore, certain people will have to go.

Mr. Deputy-Speaker: Even before the period of fifteen years?

Sardar Majithia: As I said, it may be so; they were initially engaged for eight or nine years for the coloured service followed by a reserve.

Mr. Deputy-Speaker: The same people will be taken over for reserve, in all making 15 years?



**Sardar Majithia:** Yes, Sir.

**Mr. Deputy-Speaker:** Are these people discharged before the fifteenth year?

**Sardar Majithia:** As I said, they were initially engaged for eight or nine years.

**Mr. Deputy-Speaker:** I agree, but for the other part of the contract would they be taken to the reserve?

**Sardar Majithia:** They are liable for reserve service.

**Mr. Deputy-Speaker:** Are these people sent away even before the reserve period?

**Sardar Majithia:** In the reserve period they do not serve; they go back home and they are given a retaining allowance and they are called upon to have a refresher training for about a month or so in a year and so on. As I said, I would like to get some more details about it before I say anything on it.

**Shri Damodara Menon:** May I suggest that in view of what the hon. Minister has said viz., that he wants time to gather information, you may postpone the consideration of this adjournment motion.

**Shri Velayudhan (Quilon cum Mavelikkara—Reserved—Sch. Castes):** Will there be an assurance from the hon. Minister that this retrenchment will not take place? Now, the Minister said that he will have to collect more information about it. Will he give an assurance to the House that during this time the retrenchment will not take place?

**Mr. Deputy-Speaker:** He will collect the information before the session is over, I am sure, and will not put it off till the next session. It seems to be a part of the original contract that they will be on active service for eight or nine years and for the balance of the period of fifteen years they will be on the reserve getting some

retaining allowance and so on. Therefore, if it is so, in the usual course, I do not see how this adjournment motion arises. However, as the hon. Minister says that he will gather facts, I do not see any urgency and therefore, so far as the adjournment motion is concerned, I am not allowing it but I would request the hon. Minister, as early as possible, to give a statement to the House after collecting all the necessary data. If, arising out of that statement, any further discussion is necessary, hon. Members are aware that there is the half an hour, one hour or two hours discussion and they can invoke the aid of any one of these rules.

**Shri Damodara Menon:** May I suggest before you give a ruling that the adjournment motion is disallowed that we may await the information that the hon. Minister will give us?

**Mr. Deputy-Speaker:** Very well. When is it likely?

**Sardar Majithia:** I can do it on Monday; I can come out with the statement on Monday.

**Mr. Deputy-Speaker:** Very well; then, this will stand over till Monday. At present, I don't think there is any urgency about it. Anyhow, let it stand over. //

## BUSINESS OF THE HOUSE

### ALLOCATION OF TIME re: REPORT OF RAILWAY CONVENTION COMMITTEE

**Mr. Deputy-Speaker:** I have to inform the House that the Business Advisory Committee met on the 8th and 10th December, 1954 and agreed to allocate 6 hours for the disposal of the Resolution regarding the Report of the Railway Convention Committee.

I shall now ask the Minister of Parliamentary Affairs to move a formal motion for approval of this Report by the House.

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

"That this House agrees with the allocation of time proposed by the Business Advisory Committee for the disposal of the Resolution re: Report of the Railway Convention Committee as announced by the Deputy-Speaker today."

**Mr. Deputy-Speaker:** The question is:

"That this House agrees with the allocation of time proposed by the Business Advisory Committee for the disposal of the Resolution re: Report of the Railway Convention Committee as announced by the Deputy-Speaker today."

*The motion was adopted.*

**Mr. Deputy-Speaker:** So, this becomes the allocation of Time Order of the House.

#### PREVENTIVE DETENTION (AMENDMENT BILL)—Contd.

**Mr. Deputy-Speaker:** Now the House will resume further consideration of the following motion moved by Dr. Kailas Nath Katju on the 9th December, 1954, namely:—

"That the Bill further to amend the Preventive Detention Act, 1950, be taken into consideration."

I think Mr. N. M. Lingam was in possession of the House. He will continue his speech.

**Shri N. M. Lingam (Coimbatore):** Mr. Deputy-Speaker, yesterday I was explaining the circumstances in the country which necessitated a measure of this kind. Before I go in some detail to all aspects of the question, I shall attempt to deal with the more important criticisms levelled against the Bill.

The point has often been raised if the ordinary law of the land is not

enough to meet the conditions envisaged by the Government, and that are sought to be tackled in this Bill. I need only remind the House of the great debate that took place in 1952 when the entire field of the Bill—not only the amending Bill but the entire Bill—was gone into. So, I will be only traversing ground already covered, if I go into this question. Suffice it to say that the House found the ordinary law inadequate to meet situations that were arising in the country and that were likely to arise.

So, Sir, I do not propose to bore the House by going into that question once again. It is really for this House to consider how far the extension of this measure is justified and how the Act in the past has been administered. I think, Sir, as you were good enough to point out the other day, a discussion confined to these questions would be most useful.

The other criticism levelled against this Bill is that it is a measure to hide the want and poverty of the people in the land so that Government may remain entrenched in power indefinitely. The hon. the Leader of the Communist Party said, that, but for the agitation of the people the meagre relief that Government have been providing would not have been there. So, he urged that in order to give facilities for people to express their discontent, there should be no measure of this kind. But, our stand has been and is that it is precisely with a view to tackle the problems of poverty and squaller that we want a measure of this kind. We do not want to be diverted in our attention. We want the energy of the entire nation to be applied to the solving of the major problems of poverty and want. Members opposite, on the other hand, want that there should be no restriction on the people to agitate so that interested parties may exploit the situation for political purposes. This is the difference in approach between the two parties to this question. The spokesman for the Praja Socialist Party

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said that the Government, by this measure, had isolated all the political parties opposing it. He said that 14 parties were ranged against the Government and that the Home Minister stood in complete isolation. Sir, we plead guilty to the charge. We do not propose to become strange bed fellows in adversity. We bring forward this measure because we feel it is necessary in the larger interests of the country.

It is true that we have survived many a crisis after independence. Controls have become a thing of the past; subversive activities and dacoities are on the decrease and we are gaining more and more stability, but, still the country is in a state of ferment. The ocean of the great Indian humanity has been churned by the impact of world forces as well as by independence and we have on the surface both nectar and poison. It is the business of any government to see that people do not mistake the poison for nectar. The time is now for galvanising the people of the country by securing co-ordination of their wills for creative effort so that we may solve the many problems confronting the country today.

Well, the Members of the Opposition may disagree. But, any impartial observer will find that there are fissiparous tendencies, violent movements, trouble over the border, communal passions and other forces disturbing the constructive forces in the country today. I do not want to go into the details of these and take the time of the House, but I would give only a few instances.

**Dr. N. B. Khare** (Gwalior): Very wise of you.

**Shri N. M. Lingam**: Thank you.

In the far South, there is a movement in the name of atheism which seeks to sweep before it all that an Indian holds dear and sacred. The great epic of Ramayana is decried.

The hero of the epic, Shri Rama who gave sustenance to the "Father of the Nation" and inspired millions of people in the land, is described as a fraud. Sir, I do not want to refer to the description of Sita Devi by the sponsors of this movement. Even the most depraved of individuals would shudder to hear such a description of Sita Devi.

**Shri V. G. Deshpande** (Guna): Was anything done to stop it?

**Shri N. M. Lingam**: I was going to put that question to my hon. friend.

**Shri V. G. Deshpande**: We did it, but Government have lathi-charged those people and gave protection to those who were doing these things.

**Shri N. M. Lingam**: At the same time the hon. Member does not want Government to be armed with sufficient power to prevent such things.

Sir, linguistic passions have been roused in Parlakimedi and that has caused great disturbances. Kisans and industrial workers are incited to violence. So, it is not as if all is quiet on the Indian front, and perhaps at the bottom of all this, we have a political ideology which holds that our past has been a shame, our present is a disgrace and our future is dark unless hammer and sickle replace the Ashoka Chakra.

The whole point is: no Government which has the welfare of the people at heart can be procrastinating, in such circumstances, over constitutional niceties or democratic squeamishness. What of the working of the Act itself? The statistics furnished show that it has been used with the greatest moderation and circumspection. Only 5 were detained in connection with the defence of the realm; 12 in connection with essential supplies and 8 in connection with illegal strikes. The number of detenus during 1950-51 was 4,400. In February, 1952 the number

declined to 1,100 and in June, 1952 it came down still further—it was 989; and today it is less than 300. These figures themselves may be quoted against the continuance of this measure, but it is forgotten that the presence of the measure on the statute-book has been a deterrent to trouble-makers. It has exerted a most salutary influence and kept the peace of the land.

I do not for a moment gloat over this measure. There is no use either of comparing conditions in India with other countries like the United Kingdom. The latter has had a long unbroken period of democratic government, whereas we are just emerging out of a thousand years of slavery.

**Shri M. S. Gurupadaswamy** (Mysore): Thousand years?

**Shri N. M. Lingam**: But, there is one method by which we can hasten the termination...

**Mr. Deputy-Speaker**: Hon. Member must have an idea of time.

**Shri N. M. Lingam**: I shall conclude in two minutes.

**Shri N. C. Chatterjee** (Hooghly): Thousand years: is it A.D. or B.C.?

**Shri N. M. Lingam**: I did not hear the interruption of the hon. Member.

**Mr. Deputy-Speaker**: I referred to the idea of time and they referred to "thousand years".

**Shri N. M. Lingam**: There is only one method by which the life of an Act like this could be terminated and that will be when all the Members of the House, indeed the people of the land, act with one mind, act in unison with the inner law of the growth and evolution of this land.

The hon. Leader of the Communist Party yesterday said, the provocation for the Home Minister for bringing in this measure was the manifesto of Carl Marx. He said that the Home Minister was so frightened by the manifesto issued in the last century that he thinks of the Preventive Detention Act in the year of Grace,

1954. It is true that this is what Marx said.

**Mr. Deputy-Speaker**: Has Shri Gopalan said anything recently?

**Shri N. M. Lingam**: He said yesterday in his speech.

**Mr. Deputy-Speaker**: I am not going to allow the hon. Member to speak any further.

**Shri N. M. Lingam**: In two minutes, I shall finish.

**Mr. Deputy-Speaker**: I have allowed him enough time—thirty five minutes.

**Shri N. C. Chatterjee**: The hon. Home Minister and his colleagues in the Government are reducing parliamentary democracy to a mockery by this kind of annual introduction of amending Bills to extend the life of the Preventive Detention Act. It is an imputation on India's capacity for self-rule; it is a slander, I maintain, on India's capacity to run a democratic government. We have all along maintained that it is a Black Act, it is really a lawless law, and the hon. Home Minister reminds us that it is not a lawless law because of the wonderful provision in the Constitution. I do maintain that a law can be lawless even if it is passed by an authority which has legislative competence on the subject-matter; it can be lawless if it infringes the constitutional principles of jurisprudence and justice on which society is based. In a great American case, which laid down the fundamental principles of civilised jurisprudence, the greatest lawyer that America has produced, Mr. Webster, arguing the well-known Dartmouth College case, said—

"It is not every Act which is legislative in form that is law. Law is something more than a mere will exerted as an act of power. Law means that which hears before it condemns, which proceeds upon enquiry and renders judgment only after trial."

I maintain that this is not law because the Preventive Detention Act does not guarantee the fundamental concepts of any civilised trial or

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civilised form of judicial indictment. It does not hear before it condemns. It does not proceed upon a proper enquiry. It does not render judgment only after trial in an open court. Mr. Webster said—

"The meaning is that every citizen shall hold his life or liberty under the protection of the general rules which govern society."

I maintain that although we effected certain improvements two years back, really the so-called hearing before the Advisory Board is a mere farce. I say that with the fullest sense of responsibility; I do not say it because I had been myself a victim of the Preventive Detention Act and I was for some weeks in the Delhi District Jail when an order was served upon me under the Preventive Detention Act. I am eliminating all personal factors. I am not saying this because my friend and co-worker, Dr. Syama Prasad Mookerjee, the jewel of Bengal and an ornament of Bharat Mata, perished in detention in Sri-nagar under the Preventive Detention Act. I am saying this because I know how the so-called enquiries are conducted before the Advisory Board. I will deal with it a little later.

I am here today to make an objective approach to this Bill. Just look at it. Dr. Katju has given us some arguments. But the most shocking argument, which gave us the rudest shock, was the argument which he advanced when he sponsored it on the floor of the House. I was amazed that a lawyer of his standing could stand up in this House and say that this is an "essential" measure and that this is a "compulsory" measure. Where does he get this compulsion from? I am amazed at the statement made by Dr. Katju. In the Constitution of India we have got the legislative power to make laws for mad men, maybe for mad Ministers, but is that any reason why we must make

compulsory law for mad people and mad Ministers? It is merely a question of legislative competence but there is no compulsion in the Constitution. The first case that went up to the Supreme Court of India was Shri A. K. Gopalan's case. He was then standing before the bar of the Supreme Court and he had been rotting in jail, not for months, but for five years and part of that was in independent India, that is, after India had attained her Independence. Justice Mahajan said: "preventive detention laws are repugnant to democratic constitutions and cannot be found to exist in any of the democratic countries of the world". I have asked the Attorney-General of India who argued this case and the counsel on the other side: "Is there any precedent to this?". Justice Mahajan, who is today the Chief Justice, goes on to say:

"It was stated at the Bar that no such law was in force in the United States of America."

There was some kind of law like this, much better, much less vigorous, much fairer to the detenu, when the Defence of the Realm Regulation was passed in England during the horrible days of the war. It was there only in war time, but in times of peace, that is, when there is peace in the country, no foreign invasion, no bombing, no danger really, no peril to the security of the State, on the statute-book of no civilised country in the world is there any Act like the Preventive Detention Act. Solemnly the Home Minister stands up in this House and says "This is an essential measure; this is a compulsory measure". I submit that the Constitution does not compel him to do so. We are talking of the Constitution, but what does the Constitution say? Does not the Constitution guarantee the equality of laws, equal protection of laws? Have you not got preventive powers also in the preventive sections of the Criminal Procedure Code? Have you not made those sections the other day in

conformity with the needs of the time, in conformity with the wishes of the hon. Home Minister and the conjoint wisdom of this House? If you have done that, why are you having any kind of preventive detention law again this time? Are not the ordinary laws, which you have got on the permanent statute-book, quite enough? An argument was propounded before the Supreme Court of India and I had the privilege of arguing strenuously that you should not look to exceptions, you should not look to provisos, you should not look to those sub-clauses or those little things in the Constitution which provide for certain contingencies, or certain emergencies, when fundamental rights are taken away, when basic human liberty is infringed or encroached upon. One Judge of the Supreme Court said in the case of Anwar Ali Sarkar—there I was challenging the legality, the validity and the constitutionality of the Special Criminal Courts Act of the West Bengal Government, under which a number of persons were ordered to be hanged—

"The words of the Constitution are not just dull lifeless words, static and hide-bound as in some mummified manuscript, but living flames intended to give life to a great nation and order its being, tongues of dynamic fire potent to mould the future as well as guide the present."

The Constitution, therefore, should be read in that way. Remember that it is not a mummified manuscript. It is not a static thing. It is not dull lifeless words which you have inscribed in that Constitution—a book of paramount law which you must cherish. Now, what are the basic things which you have prescribed? The opening words of the Constitution, the essential words in the Constitution, printed as Preamble on the first page run thus:

"We, the People of India, having solemnly resolved to constitute India into a sovereign democratic

republic and to secure to all its citizens:

Justice, social, economic and political;

Liberty of thought, expression, belief, faith and worship;

"Equality of status and of opportunity;" etc.

Are you, by means of this periodic re-enactment of the Preventive Detention Act, which is a law really reminiscent of the worst days of Bourbon despotism or Tudor tyranny, going to place India on the map of the democratic republics? Are you going thereby to secure social justice or political justice? Are you going thereby to ensure to the people of this great republic, liberty of thought or freedom of speech and expression and belief or faith? Do you know you are opening a dangerous door and pairing a doubtful road? Are we not free independent people working straight in the democratic way of life to secure social justice and political justice? What does democracy demand? It demands legal protection for equal opportunities of development. What is liberty? It is not a mere negative concept, absence of restraint. Liberty means, according to all modern jurists, the eager maintenance of that atmosphere in which men have the opportunity to secure the fullest self-development. I remember the great speech which Deshabandu Chittaranjan Das made as President of the Bengal Congress. He had not then joined the non-co-operation movement. He was still C. R. Das—one of the greatest lawyers which my part of the country and India have ever produced. He said: "I am fighting, and I will fight the British for independence, for complete freedom; not merely for provincial autonomy but for something higher, something bigger, something larger, something dynamic". Why? Because, he said: "I want swaraj; I want swaraj for what? Not because I am inspired by narrow,

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racial antipathy, not because there is any hatred against the British as such, but because I want to secure the fullest opportunity for self-development, for self-realisation, for self-fulfilment". Is not this Preventive Detention Act a clog or a fetter on that aspiration for self-realisation, self-development and self-fulfilment? Is this the Swaraj which the greatest fighters for India's independence envisaged? Is this the Swaraj for which Deshabandu Chittaranjan Das fought, Pandit Motilal Nehru fought and for which the greatest men of India laid down their lives, for which Lala Lajpat Rai was killed, for which so many martyrs laid down their lives and ascended the gallows? This is not the freedom for which we fought, for which they fought, and so long as this Act is there, it will be a permanent blot on our democratic Constitution and a permanent blot on our capacity for ruling ourselves on real democratic lines. Justice Holmes said that you must remember that when you are dealing with the Constitution, you are dealing with something living and therefore, in that spirit, you should expound it. Justice Marshall in a great case said that when you are considering a question of Constitution, "you must never forget that it is the Constitution you are expounding". You are not expounding an immutable law like the law of Medes and Persians not the Holy book which had been revealed to one Holy Prophet. It is a growing thing. Therefore, you must look at it as a growing thing, growing with certain concepts, growing with certain ideals, growing for the purpose of enabling the nation to grow up and unite. I know fully well that there is a need to reconcile individual liberty with social control. I am fully alive to that doctrine, and I am perfectly alive to that necessity. But when Lala Rajpat Rai and Sardar Ajit Singh and Krishna Kumar Mitter and other people were deprived of their freedom by the British during the days of

boycott agitation, what did the President of the Congress at the session held at Madras say? He said: "This is nothing but a crude imitation of the French *lettres de cachet* and you are reviving that in India in the year 1908". When the Congress President, Subhash Chandra Bose was separated from our midst and was incarcerated under the Public Security Act, which is something like the Preventive Detention Act, did not the Congress leaders say that he was being condemned unheard, that he was being condemned under a lawless law? Did not the same thing happen when men after men were struggling for India's freedom or fighting for social justice in different spheres? They were detained under the Public Security Act or the Bengal Regulation III of 1818 or some similar statutes. Did not the greatest men of India—both in the Congress and outside—condemn them as arbitrary and an infringement of civil liberty? How do you justify it now? When you are in power, you are realligning bringing in the *lettres de cachet*; you are really imitating the British and doing the very thing which the greatest Congress leaders had condemned in the clearest terms. You are doing it not for the country; you are doing it for your own benefit. You are doing it not for the security of India but for the security of the Congress domination of India. That is what I charge. It is not proper; it is an abuse of power. You have got the power and you have the brute majority behind you. I know the hon. Ministers are stating often that they have decontrolled foodstuffs; they have decontrolled sugar. Then, why don't you decontrol liberty? Why don't you take off this control over liberty? You have got the power to enact an Ordinance if you like. You have got the power to summon Parliament and rush through any piece of legislation and you can re-enact this Preventive Detention Act within a few days. You have the power. Nobody will take away that sledge-hammer majority

behind you simply because this law lapses. Why don't you give India a chance, why don't you give the citizens of India a chance? Is there any country in the world today which is so peaceful and tranquil as ours? Is there any country in the world today which has got so much peace, which maintains so much order, which observes so much tranquillity as India does even on the frontiers of her State? There is no country in the world—I say this with confidence—which maintains a better order and better standards of peace and tranquillity than this country. Of course, the favourite argument is there: that the "Comrades" are there. I know the communists are here. There is no country in the world which is more opposed to communism than America. U.S.A. is fighting it tooth, nail and claws. They are fighting it. Pandit Nehru is not fighting it, Dr. Katju is not fighting it. They are pandering to Communism. They do it; they go and kiss Chang and Chau En-Lai, and then came back here and start slashing the Indian Communists. I do not understand this mentality.

**An Hon. Member:** Peaceful co-existence.

**Shri N. C. Chatterjee:** You cannot have peaceful co-existence between liberty and despotism. You cannot have peaceful co-existence between tyranny and human freedom. We cannot understand it. The Government of Eisenhower can crush Communism effectively and checkmate all anti-social and subversive activities in the United States of America without any Preventive Detention Act, without any Public Security Act. You know in England there is absolutely no fetter on legislative competence. You know that Justice Patanjali Shastri, in the *Organiser* case has said that the fundamental rights have got to be approached from a particular point of view: there is a conscious, definite, deliberate limitation on the powers of the Parliament and on the powers of all the State Legislatures in India. Therefore, Parliament cannot enact

any law contrary to that. Therefore, remember that this fundamental right is not really meant to be invoked as we like, and when we do anything to imperil these high ideals, these noble ideals, we are really setting a limitation upon ourselves. Tell me, if America can crush communism, can deal with communism, can effectively checkmate subversive activity without a Preventive Detention Act, why can you not do it? What is wrong, what is inherently defective in Indian character? The inherent defect is in the defective machinery which you are having. The defect is the incompetent, inefficient, corrupt Police. If the police had been efficient they could easily deal with all criminals, potential or otherwise. Solemnly we are told: there are dacoits and therefore the Preventive Detention Act should be there. Tell me, were there no dacoits during the British raj? Have you ever heard that any British Executive Councillor stood up here and said in this House, "I want a Preventive Detention Act or a Public Security Act or an extraordinary provision like that or I want to exercise and employ Regulation III of 1818 against dacoits"? This is an argument which is absolutely futile, and this argument ought not to be put forward.

When I criticised the introduction of the Amending Bill two years back I gave some instances. One of the cases I cited was the case of a Member of Parliament, Mr. Deshpande. Honestly, these grounds are trotted out and the hon. the Home Minister solemnly tells me, tells the country, tells every Member of Parliament that he has never exercised and his Government is not going to exercise it against political parties. That is not a fact. That is pure propaganda. It has been exercised against the President of the party to which I belong, against the General Secretary of the party to which I belong, against almost all the members of the Working Committee of the organisation to which I have the honour to belong. It has been used against the late



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Dr. Syama Prasad Mookerjee, President of the Jan Sangh, against the General Secretary and against a number of members of the Working Committee of the Jan Sangh. It has been used against the General Secretary of the Ram Rajya Parishad who is also a Member of Parliament, against a large number of members of that political party. It has been used against Communists, against other parties.

If you look at the list in the first sheet of the *Statistical Information regarding the working of the Preventive Detention Act during the period 30th September 1953 to 30th September 1954*, even in that year you will find in the first statement 154 persons were held in detention under this Act, and out of them the majority, you will find, are members of political parties.

**The Minister of Home Affairs and States (Dr. Katju):** The majority?

**Shri N. C. Chatterjee:** Kindly read that. Sir, I do not think the hon. the Home Minister had the time to read it or to scrutinise it. But if he has not forgotten his arithmetic and can add them up, the first are communists, then again communists, then Karnatak Unificationists (followers of the Akhand Karnatak Rajya Nirmana Parishad)—I think they are all members of political parties—then Hindu Mahasabha, then communists; and in the next page, again communists, again C.P.I., R.C.P.I., S.P.I., etc. They are all members of political parties. Excepting a few in Rajasthan for harbouring of dacoits and a few in Ajmer and Kutch for harbouring dacoits, most of them are members of political parties.

Therefore on his own statement, the majority of the detenus are members of political parties. I definitely make this charge that it is being used for political purposes and has been used for that purpose.

Look at Statement IV at page 5, the number of cases in which detention orders were made during the period 1st October 1953 to 30th September 1954 "with a view to preventing persons from acting in any manner prejudicial to the maintenance of supplies and services essential to the community" [i.e. Clause 3(1)(a)(iii)]. There the total number of persons is seventeen. Out of them eight are for launching illegal strike against the Patna Electric Supply Company, and only nine persons for maintenance of supplies. This Act is never used against black-marketeers, against those who indulge in such anti-social activities—very seldom. When I say 'never' I mean that it is predominantly used against political workers, against political leaders, against political agitators, and only in a few cases against other persons, but very seldom against black-marketeers or against persons who imperil the health of the country and the lives of the people.

You will find it is solemnly said "we take action only when there is grave danger to public order, grave danger to safety of the country" and so on—high sounding phrases. On the other hand you will find in one case eight M.L.A.'s. were detained. That is given on page 8, the number of Members of Legislatures detained. The total number is fourteen, and out of them eight were Members of the Legislative Assembly of West Bengal. What was their crime? They were supporting the All Parties Teachers Struggle Co-ordination Committee which was formed to launch a campaign in support of the Secondary School Teachers in West Bengal. You know Sir, as a result of that struggle or the activities of these people, the Government of West Bengal climbed down and actually accepted most of their demands. If the Government had not been cussed, if the Government had been more responsive to public opinion, if the Government did not think that it was entrenched in

## Bill

office and power, and if power did not corrupt, then these people would never have been arrested; Government would have done the right thing at the right moment, it would not have had the necessity to go against these people, and all this struggle and misery would have been wholly unnecessary.

You know that this Preventive Detention Act has been applied indiscriminately and I think in over 190 cases the Supreme Court has ordered the release of the persons because the orders were served illegally and the power was exercised improperly. What do you think of it? Dr. Katju says there was trouble in Delhi. He was referring to the movement which Dr. Mookerjee and I had sponsored. I ought to remind him that in that case at least about a hundred people were released by the Supreme Court because the Supreme Court held that the orders were not legally passed and legally promulgated against these people. It is an absolutely futile argument.

I can show you ground after ground which was demonstrably false. You know the great danger of the Act is that the word is "satisfaction of the Provincial Government". Satisfaction of the Provincial Government means subjective satisfaction of one executive officer. In Gopalan's case the Supreme Court said: We are very sorry, our hands are tied, we have no power even to go into the question of truthfulness; even if it is demonstrably false, we are powerless, we cannot even look into the correctness or veracity so far as the officer in question is concerned. We have got to accept it as gospel truth. Subjective satisfaction is the final verdict. Even the Supreme Court of India, the highest tribunal in the land, cannot judge whether it is properly exercised or not. That is the greatest difficulty. This theory of subjective satisfaction was criticised by Lord Atkin in the great *Liversidge* case. The language was the same: "if it appears to the satisfaction of the Home Minister".

There, it was not given to every District Magistrate or Sub-Divisional Magistrate or police officer. The power was there delegated to the Home Secretary alone. Naturally, if a man of his position looks into it, there may be some *prima facie* presumption that he has exercised the power properly. He was advised by very competent people round about him. That was during war time. In our case, it can be exercised by even subordinate officials. Subjective satisfaction is a very dangerous proposition. Who is satisfied that in all these cases of 400 and odd people detained in one particular year that they were actually committing crimes involving grave peril to public order or a menace to public security or the security of the State? Only the police officer, concerned, or only the particular Magistrate concerned. It is left to his subjective satisfaction. Lord Atkin said, "I hate this doctrine of subjective satisfaction". His language was this. "In the year 1942 in the British House of Lords I have listened to arguments from the Attorney-General of England. He reminded me of the worst days of Stuart despotism and Tudor tyranny: something like Star Chamber". He deprecated it. What is this doctrine? He said, "just think if I have a broken ankle, it is a subjective thing. If I am satisfied that I have a broken ankle, it is to my satisfaction and there is an end of it. No objective test can be applied; no evidence; nothing can be done".

I openly charged in this Parliament that when Shri V. G. Deshpande, a Member of this Parliament was arrested in connection with an incident under the Preventive Detention Act,—he was the first Member of Parliament to be honoured under this Act in Delhi, in connection with a mixed marriage which was to happen. Solemnly the Magistrate said—I have got a copy of the grounds here—"whereas with a view to promote prejudice, hatred and communal violence, you started representing to the general public that this intended

[Shri N. C. Chatterjee]

civil marriage...etc..anned the general public and started propaganda, secret and open to excite hatred and preached violence, and these activities were intentionally started after the expiry of the statutory period for filing objections to the proposed civil marriage". I made the charge in Parliament that it was a false charge; the Magistrate knows it to be false. A Committee of Privileges was appointed. This Member of Parliament was actually in Gwalior and Madhya Bharat, going from town to town, and village to village in connection with Dr. N. B. Khare's election; he was nowhere in the town of Delhi. He was hundreds of miles away. He came here one morning and presided over a particular meeting. He was arrested for presiding over that meeting and talking there. You may remember that the Committee of Privileges had to examine the Deputy Commissioner and it did not endorse the opinion of the Deputy Commissioner that there was justification for this charge. The Member of Parliament was not in Delhi. He had nothing to do with any campaign, secret or open, or propaganda or anything like that. These are the charges trotted out. When you go to the Supreme Court, the Judges say, Dr. Katju's Act says subjective satisfaction of the executive officer; therefore, they cannot be objectively analysed nor can the search-light of judicial enquiry be focussed on it. There is an end of it; that is the law.

It is this law which is solemnly sought to be re-enacted. Five persons were served with detention order. I may remind you that Dr. Syama Prasad Mookerjee, standing at this very place, said that their falsity can be demonstrated on the face of the documents. In every charge, the District Magistrate of Delhi said, you had presided over that meeting. Therefore, five persons presided over the same meeting at the same place, at the same hour. It was a tier of presidents, one after another, one

chairman after another. I can give more instances like that. I may point out that this is an emergency measure. The opening sentence of Sardar Patel's speech in this House is:

"I introduce this Bill to provide for preventive detention in certain cases. At the outset, I should like to apologise to the House for the short notice at which I have to approach it for this emergency legislation."

Emergency legislation can never be a normal one. It must be an abnormal legislation. An emergency legislation can never be compulsory legislation unless there is an emergency. Never has anybody said that this can be a normal piece of legislation. I am quoting the Chief Justice of one of the High Court who dealt with the different clauses:

"It will thus be seen that the legislature has passed the Preventive Detention Act as a temporary measure in a state of emergency for the purpose of enabling the authorities mentioned in it to direct preventive detention of persons who are likely to produce the results which the Act considers dangerous to the defence of India, to the relations of India with foreign powers and to the security of the State."

This must be so. It cannot be a normal measure. I am pointing out that even in 1954, Justice Mahajan, Justice Mukerjee and Justice Das delivered a concurring judgment: 1954 Supreme Court 276. They say, look at what they are doing even today; What is being done is this; A man was preventively detained because he wrote a libellous article or a pamphlet on a particular Judge of a High Court. The Chief Justice of the P.E.P.S.U. High Court had been defamed and he was criticised very strongly. Therefore, the Preventive Detention Act was utilised. The Supreme Court Judges said that this kind of abuse of power cannot be tolerated.

I know of cases where a man was arrested—a second time Shri V. G. Deshpande—for delivering a speech. He was arrested under section 188. He was put up for trial and he was kept in the Delhi jail. For days and days the Magistrate would not come and nothing would happen. The prosecution would not proceed with the case. The wonderful police of Dr. Katju was dilly-dallying and shilly-shallying and making a *tamasha* of it. He applied for bail. He said, try me and convict me and send me to jail or release me. He was not released. The Magistrate refused bail because the police opposed. The Magistrate must be independent; he independently ordered that a Member of Parliament must remain in jail. Then, he went up to the District and Sessions Judge. The Sessions Judge said, what nonsense is this, why is this Member of Parliament kept in jail for 1½ months, and he released him. As he walked out,—I was in jail myself—he came to me and said, good bye, I am going. I was happy that he was going. Immediately he got out of the jail, he got into a car. Another car followed him and before he reached the Reading Road, where he was residing, another order was served on him under the Preventive Detention Act solemnly saying, you have been doing something imperilling the security of India very recently. He was in jail. Court after Court has said that this is a gross abuse of power absolutely repugnant to the cardinal tenets of every civilised system. When you keep a man in jail for a crime you should not invoke the Preventive Detention Act for the same purpose, that is, for punitive detention. Prosecution under the normal law and the use of the Preventive Detention Act for the same crime is absolutely uncalled for. Dr. Katju's police does it; Dr. Katju's magistracy endorses it. But, the Sessions Judge, who is amenable to the jurisdiction of the High Court and not amenable to Dr. Katju and his wonderful executive and his wonderful police, has got the temerity to order the release

of the Member of Parliament. Immediately, the police pounces on him. Immediately, the Member of Parliament went to the Sessions Judge and applied for bail, they had been manufacturing a false charge-sheet and served him within five minutes with an order. The Supreme Court has pointed out, if a man is in jail and if he comes out, you must give him some chance of doing something. You must give him at least 24 hours, at least 48 hours, to make up his mind to imperil the security of the State, and then you can pounce upon him. This man had no chance of coming. . .

12 Noon

**Dr. Katju:** Where do I come into this picture?

**Shri N. C. Chatterjee:** He is the father of the Preventive Detention Act. Withdraw this Bill. We shall go back very happy.

**Dr. Katju:** Mr. Chatterjee is mine. Everybody is mine here.

**Shri N. C. Chatterjee:** Withdraw this Bill. Decontrol liberty. I am pleading against this hated and inequitable measure.

डा० एन० सी० हर्त : नौकरों का इनाम मालिकों को मिल रहा है ।

**Shri N. C. Chatterjee:** There is absolutely no emergency, no occasion for it. India can be safely ruled under the ordinary laws. You are appointing a Law Commission. Let the Law Commission report. If you want more power to deal with crimes, deal with them firmly. We shall be with you. But do not exercise it for the purpose of political reasons, for the purpose of political stability, for the purpose of winning general elections. It will make free and fair elections impossible in this country, if you keep this Preventive Detention Act and utilise it.

**Shri Ramachandra Reddi (Nellore):** Political promises are normally made in all solemnity, but usually broken with ingenuity. This Act exemplifies

[Shri Ramachandra Reddi]

the attitude of the Government. It has been from time to time giving promises to this House that it is going to be used for a limited period, and for a limited purpose. Every time they come before the House with the apology that they do not want to utilise it, and they will keep it in reserve for utilising it only in extreme cases.

It is clear from the statement that has been placed in our hands, about the "statistical information regarding the working of the Preventive Detention Act" that very few of the States that required the retention of the Act on the statute-book really want it. If they suspect any political party in any part of this country, they probably should suspect the Andhra, Travancore-Cochin and Madras or one or two other States as they feel that in those States the Communist Party has been gaining in influence. But the statistics clearly show that no occasion has been given for the use of this Act in those particular States, though it is quite clear also that Travancore-Cochin and Andhra have contributed, leadership of groups both in this House and the other House. It is therefore unnecessary that an Act of this kind should be sought to be extended.

If they really wanted it, let them extend it for all time to come, so that if and when other political parties whom they consider to be of a reactionary type come into office, they can use it with impunity. But, if they do not want it for all time to come, and if they feel there is a satisfactory situation prevailing in this country, let them withdraw it. Let them wait for a year or a year and a half and bring before this House, if they find there is any necessity for it, a Bill for enacting a legislation like this. Neither of these things is being done.

In 1950, Sardar Patel, with an apology, introduced this Bill in this House. In 1951, an equally great politician and leader of the Congress.

Shri Rajagopalachari, introduced a Bill to extend this Act and in 1952, for the third time, after breaking the promises for the third time, the present Home Minister, Dr. Katju has brought this Bill..

Shri B. S. Murthy (Eluru): Equally capable.

Shri Ramachandra Reddi:.. for the extension of the Act for some three years more. With these apologies and promise-breakings, we have seen the working of this Act for four full years. Even then, they are not satisfied that the Act has not been made use of in any of the States where their suspicions naturally prevail.

Yesterday was celebrated the anniversary of the Declaration of Human Rights, and it happens that this discussion synchronises with that celebration. It is very unhappy that this Government should have thought it wise to bring this amending Bill before this House in this atmosphere.

It is clear from the statistical statement that there was no need for keeping this law on the statute-book any longer. It is also clear from the statements of the several hon. Members of this House and also the hon. Home Minister himself that there are other laws which can keep the peace in this country. Those laws which have been used rightly and correctly in certain provinces have not made it necessary that this law should be kept in the statute-book any longer. In fact, the Congress Government has not forgotten that the other laws are still effective in this country, though they have not been able to find a method of avoiding the lathi. Congress from the very beginning has condemned an Act of this kind, but once it is in office, it finds the use for it.

If you take a practical view of the entire situation, this Act is likely to harm the influence and the reputation of the Congress itself in certain States. For instance, in Andhra which is facing elections today, this Act is

going to create a greater harm to the Congress Party than a gain to it.

**Dr. Lanka Sundaram** (Visakhapatnam): They do not know their self-interest.

**Shri Ramachandra Reddi:** I am sure the Government would realise this better and feel the necessity to withdraw this Bill and show that there is grace in the acts of the Government. Whether the Communists believe in democracy or not, they will certainly use this Act as a great weapon against the Congress in the coming elections.

If at all any State requires this Act, it must be the recently acceded State of Jammu and Kashmir, but unfortunately it has escaped the attention of the Government, and they have not included Jammu and Kashmir in this Bill.

You remember how in 1953 Dr. Syama Prasad Mookerjee was rused into Jammu and Kashmir and there he was detained. They could have easily utilised the provisions of this Act to detain him here, but they were not successful in doing so. With a vengeance, they allowed him to go there and allowed him to be detained there; and instead of repatriating him alive to India, his dead body was repatriated to India. It will be very necessary that such a State should be controlled more effectively by this Government; perhaps a State like that, which is more vulnerable to political influences from outside India, should be protected, if at all, by an Act like this. Acts of violence and strikes do take place with or without this Act and there are other Acts and other laws which can control them. Mob feelings do arise and they are promoted by certain people who pose themselves as leaders. But this Preventive Detention Act is not going to stop them. They can be stopped with the aid of the other laws prevailing in the country. Unfortunately, it has to be detected that this Act is going to reveal the hypocrisy behind the party that sponsors and supports this

legislation. As has already been repeated, this is an offence against the principles of democracy on which the Constitution is framed and on which the country's civilisation is maintained. I would, therefore, earnestly suggest—rather appeal—to the hon the Home Minister to withdraw this Bill at once. If he finds the need for it a year later, he can come before the House with statistical information as to how it has become necessary for him to bring this Bill before this House after a fixed period. It will be futile on the part of the Government to thrust this Bill on us. Of course, they have got the strength of the party behind them. But I am sure most of the members of the party themselves do not like this Bill and if they are not given a whip, they will certainly either walk out or openly vote against the Government themselves. Knowing the psychology of the entire House, it will be futile on the part of the Government to press this Bill and make their position odious.

**Shri Keshavalengar** (Bangalore North): After having heard at great length the speeches delivered in this House since yesterday on this Bill, I do not propose to dilate on many points that have already been touched upon by the Members. This Bill has had the approval of the Constitution. It is well known that the Constitution has accepted the powers of the legislatures—both Central and State—to introduce legislative measures of this kind. The framers of the Constitution have accorded a constitutional status for this peace-time legislation. In fact, for an emergency that may arise in our country, other special provisions also are there. What could be in the mind of the framers of the Constitution to provide for this kind of measure which has been so much questioned by our friends on the opposite side?

**Shri Bhagwat Jha Asad** (Purnea cum Santal Parganas): An emergency.

**Shri Keshavalengar:** It could only be that it should be used against the anti-social elements, the communal elements and against any danger that may imperil the infant democracy, the infant Republic of our country.

Shri Gopalan was pleased to refer yesterday to some statement made a long time ago by Marx and he was questioning us as to why that should not be brought to our notice now. We can easily see what is the object of the Communist Party if only we can go through the several subsequent statements made by them. Here is a publication of 1954 in which it has been clearly mentioned in most unequivocal terms what their objects are. It reads like this:

"The politbureau of the Communist Party of India issued a policy statement on 15th November 1950, in the following terms:

'Finally, it is necessary to clearly grasp the truth that the armed struggle has become the principal form of struggle in the present agrarian revolutionary stage that our national liberation movement has grown to.'

It was added that simultaneously they should 'adopt and co-ordinate all other conceivable forms of struggle such as economic and political strikes, demonstrations, agricultural labour struggles, signature collections...'

It is no wonder that Shri Gopalan was pleased to place on the Table of this House thousands of signatures against the Bill. (*Interruptions*). Shri N. C. Chatterjee was saying something about some of the agitators of Karnatak being put in prison under this Act. If only we know the view of the people behind the agitation, there is no wonder that the Act was justifiably exercised in that circumstance. So far as linguistic States are concerned:

"the communist theory is that each linguistic unit constitutes a

separate nationality and that India is in fact a multi-lingual and multi-national State. The communists therefore "demand not merely a readjustment of boundaries, but also that each State should be given the right of self-determination and even of succession, as they claim is the case in the U.S.S.R. ...

**Shrimati Renu Chakravartty** (Basirhat): May we know what is the book he is quoting from?

**Shri Keshavalengar:** "The Communist Party of India" he added "supported the Muslim League demand for a separate State, culminating in the vivisection of the country".

**Mr. Deputy-Speaker:** Where is the quotation from?

**Shri Keshavalengar:** It is from *Communist Party of India—A Short History* by M. R. Masani.

**Shrimati Renu Chakravartty:** I see. (*Interruptions*).

**Shri Keshavalengar:** Here is another quotation from the statutes of the Communist International...

**Mr. Deputy-Speaker:** The hon. Member is giving quotations.

**Shri Keshavalengar:** It is from the statutes of the Communist International.

"Communism repudiates parliamentarianism as the form of the future...it repudiates the possibility of winning over the parliaments, its aim is to destroy parliamentarianism."

It is with that idea that they come into this House.

"Therefore, it is only possible to speak of utilising the bourgeois State organisations with the object of destroying them."

Further, it says:

"Each communist must remember that he is not a 'legislator' who is bound to seek agreements

with the other legislators, but an agitator of the Party, detailed into the enemy camp in order to carry out the orders of the Party there. The communist member is answerable not to the wide masses of his constituents, but to his own Communist Party—legal or illegal."

One other point made was that some lawyers have also made a representation in opposition to this Act. Other sections of the intelligentsia were by no means neglected while the International Association of Democratic Lawyers—perhaps every one of the members that have signed that representation belong to that organisation—was at work. They have so far succeeded in forming a branch in Bombay. That letter has come from Bombay. The opening meeting was held in March, 1952. Preparation for a World Legal Congress originally scheduled to be held in Bombay provided an opportunity to legal men to meet together.

So much having been said about the general aspects put forward by my friends. I will refer to something from the judgment of Mr. Mahajan, the Chief Justice of India. I would like to suggest that that statement is certainly justified. Mr. Mahajan does not want the uncivilized citizens to resort to violence or any kind of agitation in this country and it is only against that category of citizens that this Act is sought to be used. It does not matter whether the person who resorts to violence belongs to the Hindu Mahasabha, as Mr. Chatterjee was claiming to belong to, or any other organisation, so long as they resort to violence, they are sure to come in the ambit of this regulation.

One other matter, I wish to refer to. My learned friend from Mysore happened to make very wild statements that democracy is murdered and things of that kind. It appears that he has not been pleased to scan the statement that has been placed in our hands by the Home Minister,

if he does he can easily see that in Mysore there has not been any single case of detention for the last one year and more. That evidently shows that my friend from Mysore has entirely lost touch with his constituency and the State. Mr. Gopalan was pleased to throw a challenge that this ought to be made an election issue. I do not think we have forgotten that this was an issue in the last elections. (Interruptions) When we fought the elections this Act was in force, and we know with what result the parties at the elections came out. Even now I think the Home Minister has deliberately chosen to ask for the extension of this Act for the period that he is asking for in order to help the opposition, because I feel that this Act will be in force even after the next election, so that our friends may have the least trouble to make this Act an issue in the coming elections. God willing, if we make room for them, they may have an easy access to this Act and put us all into prison, if they can.

Statements were made that such Acts do not exist in other civilised countries like England, the United States and other places. I would like to ask if communal organisations of the type of Jan Sangh, Muslim League, Hindu Mahasabha, etc. exist in those countries. Certainly not. Have all our citizens in our infant republic imbibed in their very nature the same abiding respect for law? Certainly not. We are not unaware of the attitude of most of the citizens in our country. They do not automatically take it for granted that every legislative measure that is passed by this House is meant for their welfare. In fact, whenever a legislative enactment is passed in this House, all efforts are being made by people—intellectually or otherwise—for finding out ways and means of circumventing that enactment. It is not a strange thing. Every one of us knows about it. When such is the state of affairs prevailing in our country, how is it possible to say anything against this Act?



[Shri Keshavaiengar]

Mr. Chatterjee was pleased to state that this was a lawless Act. On the other hand, I would like to suggest there is a little misuse of the words. It is a law for the lawless.

**Mr. Deputy-Speaker:** You mean, a law against the lawless?

**Shri Keshavaiengar:** Thank you for the correction. It is a law against the lawless.

One other question asked was, where is the necessity for this measure? Where is the compulsion? They said, Dr. Katju was pleased to say that it is a compulsory measure. The only compulsion lies in the existing conditions in our country. It is these conditions that compel the administration to bring forward this Bill for a further extension.

It is one thing to say that Dr. Katju's police has got to be reformed. Certainly. I entirely agree that our administrative set-up, not only the police but every other branch of our administrative set-up, has got to be reformed. We have got to begin from scratch in every direction. But that does not mean that people like Mr. Chatterjee have become absolutely constitutional in their nature and democratic in their behaviour. (An Hon. Member: Don't make it scratchy.) Unless that kind of attitude prevails in the mind of the people, an Act of this kind is certainly very necessary. In fact the only point for consideration now before this House is not the propriety or otherwise of passing an enactment of this kind, but whether it should be extended for a short-term only. We have got only to see if it has been misused at any time before. We can see on an analysis of the statement placed in our hands that out of 26 States only 12 States have made use of it. That shows how cautious and how careful they have been. So far as parties are concerned, it can be definitely stated that it is not against any party. It is only against individuals and it does not matter to which party that individual

belongs. In fact, from the very statement we can see that there are two people who belonged to the Congress camp.

**Dr. N. B. Khare:** That is an exception which proves the general rule.

**Shri Keshavaiengar:** Government do not make any distinction between their party-men and others. The citizen is called upon to sacrifice his life for the sake of the country. The interest of the country is more important. The traditional sense of liberty is no longer there. It has undergone a revolutionary change. People are involving themselves in violent activities. So there is no need for any argument at all. An Act of this kind is very necessary under the existing conditions of our country.

With these few words, I have no hesitation in saying that we should whole-heartedly support this Bill.

**Shrimati A. Kale (Nagpur):** Mr. Deputy-Speaker, many speeches have taken place and a lot of arguments have been advanced. I will only refer....

**Dr. N. B. Khare:** Can't hear anything.

**Shrimati A. Kale:** Please wait; you will eventually hear if you are very careful.

Lots of speeches have been made and a lot of arguments have been put forward by the Opposition. Before I meet the objections of the Opposition, I would like to congratulate the Home Minister for supplying us this very revealing statement of cases which came under the Preventive Detention Act. And, if you just go through it, you will find that the highest common factor in the statement is that everywhere there are the communists involved, either harbouring dacoits or for indulging in activities subversive to law and order or for preaching violence or things of this type. Having indulged in such subversive activities, the communist

leader had the audacity to condemn this Act vehemently and in the beginning he read out a statement by Chief Justice Mahajan. I would like to present him with a statement of a similar nature. Shri Patanjali Shastri says:

"The sinister looking feature so strangely out of place with the sacro sanct fundamental right and so incompatible with the promises of the Preamble is doubtless designed to prevent an abuse of freedom by anti-social elements and subversive elements which may imperil the national welfare of the infant Republic."

Now, this statement clearly supports the stand taken by our Government. (Interruptions).

Another gentleman has also given a statement; please listen carefully. Shri Basu says:

"*Prima facie* the provision of preventive detention is rather anomalous in a chapter of the Constitution which guarantees fundamental rights. Preventive detention is, by nature, repugnant to democratic ideas."

Shri V. G. Deshpande: Hear, hear.

Shrimati A. Kale: Please listen carefully. He continues:—

"Preventive detention is, by nature, repugnant to democratic ideas. No such laws are provided for in any Constitution in times of peace. Our Constitution, however, empowers the Legislature to make laws for preventive detention irrespective of war or emergency. Our Constitution has accepted preventive detention as a subject-matter of peace time legislation as distinguished from emergency legislation. The object of the framers of the Constitution in giving constitutional status to preventive detention is to prevent anti-social and subversive elements from imperilling the welfare of the infant Republic."

That is how preventive detention is being supported and substantiated by the people. Therefore, it is those people opposite who create trouble in society and then raise a hue and cry that it is a very bad Act and it violates the fundamental rights.

Mr. Deputy-Speaker: The hon. Member means their party members outside.

Shrimati A. Kale: I take it that all communists are the same and they have got different weapons of warfare. Some of them have escaped and come to this Parliament. But, they do not want to take the responsibility for the subversive acts that their brethren are doing in the country and it is these people who are mainly responsible for this Preventive Detention Act. Because, wherever there are strikes, whether it is in the Bank or in the labour area or in the mill area of anywhere, you be sure the communists must be at the bottom of it. Therefore, it is no use coming like gentlemen in Parliament and teach us morals while their own feet are soiled. I would, therefore, appeal to our communists legislators—they are very clever and know how to do things—to disown those people or to disown their own party and come and work hand in hand with other people who are trying to make democracy a permanent feature in this country. If they had helped in the reconstruction of India that is going off, they would have done something good. They parade as the leaders of the masses and yet it is those people who are responsible for disturbing the tranquillity of the masses.

Take for instance the case of my own State. Our State is proverbially known as a backward State, and particular the Hindi area is highly backward. There, what do you find. One Congress M.L.A. was caught hold of by the communists and he joined in the students' agitation and, poor fellow, he had to go to jail. Their activities are always concentrated in areas where people have no consciousness, people do not know what the

[Shrimati A. Kale]

condition of the country is and it is half-truths that they are spreading amongst the people in order to gain their suspicious ends.

Therefore, my request to our communist friends is not to fritter away their energies and intelligence in such a wasteful manner, because, after all nothing is going to come out of this agitation of theirs and in spite of their agitation, with the help of the Preventive Detention Act, this country is going to come forward and achieve its goal of economic welfare and economic stability.

**Shrimati Renu Chakravartty:**  
Mr. Deputy-Speaker, we have heard our friend the Home Minister quite often in this House and we are by now used to his sabre rattling. But, I think, even we have been amazed by his speech this time. He has taken an attitude—I call it a brazen attitude—of not even offering some explanation for the extreme measures which he now proposes, not for one year but for three years.

I think you, Sir, very rightly pointed out that in bringing forward this measure he has to argue why this House is asked to support a measure of this extraordinary type for the next three years. I went through the debates and the only point which he, and after him his very badly briefed supporters, have made is that it is there in the Constitution. Dr. Katju said: "It is in Part III of the Constitution and it is considered by the constitution makers as an ordinary piece of legislation". Sir, this is a new tone in his speech. In the earlier speeches in 1952 and last year, he raked up a lurid picture of the whole country being on fire, going to rack and ruin and everything. This year, he says it is an ordinary piece of legislation; this was the amazing part of it. Even the Iron Man of the Congress Sardar Patel did not have the courage to do it. He said, "Having regard to the conditions prevailing today, there is great peril to the security of the

State". Now, here Dr. Katju is even braver than Sardar Patel, even stronger! Therefore, he does not go into that. I will show by charge-sheets what are the charges being brought forward today to prove that this infant State is in peril and that the security of the State is in peril. I will show that later on.

Then, Rajaji spoke about the "abnormalcy" of the situation. He said very clearly.... "It is certainly an infringement of what might be called the normal criminal procedure". This is Rajaji and not Dr. Katju.

Rajaji said "I begin with a plain admission of regret". No such regret from Dr. Katju! There is no such contention of abnormalcy. So, that is what has really amazed us. He says now that he has brought forward a very simple measure only for three years. He says, why do you create all this furore. In the Business Advisory Committee he says it is only a small measure and only one hour's discussion will do. In the smallness of from he hides the hugeness of attack on civil liberty in a measure which is really aimed at political opponents and I will prove it. He has said and his supporters have said, the Five Year Plan is successful; production is going up, the food problem is solved, the Communist Party is defeated and dwindling. If so, why do we want a measure of this kind? He says it is against some "criminals". We are. I suppose the criminals who, have unfortunately, in spite of the fact of our alleged "criminality", been elected by overwhelming votes to the legislatures?

Sir I am now going to show how the real intention of this Bill is to crush political opponents. Many of my opponents on the other side have been putting forward the argument that prevention is better than cure. Now, I will give you one example. They say: "well, if you are going to burn trams and buses and everything, then you must be put into jail." But, you have the ordinary law of the land for that I will give you one case. the case of Jyoti Basu where after

the entire teacher's strike is over, after everything is over and normal situation returns, he is arrested. And, this is the answer which the Chief Minister gives:

"The detention of Shri Jyoti Basu is not due to any question of the dispute with the teachers. It was because he was found to be associated in a manner which was prejudicial to the maintenance of public order."

This was on the 27th of February when already the entire situation was completely in hand. If you really did think as the Chief Minister says that "He was a malevolent influence in some quarters", why could he not have been arrested under the ordinary law of the land? Everything was peaceful at that time. You could have convicted him in a Court of law. There was no outstanding event happening at that moment. This is one example of how vindictiveness and vengeance have been used against political opponents. Other cases also have been cited. I have very little time; otherwise I could have gone into certain other cases.

**Dr. Katju:** In which year was this Basu's case 1951 or 1952?

**Shrimati Renu Chakravartty:** During the period about which you are talking—September, 1953 and September 1954. (interruption).

**Dr. Katju:** Ochterloney monument.

**Shrimati Renu Chakravartty:** In 1848 Marx said: "A spectre is haunting Europe"; but I find "Dr. Katju is now haunted only by the Ochterloney monument."

Sir, I will give you certain other cases. Last year I brought forward certain charge-sheets saying how actually this Government was supporting and giving protection to British interests. He in answer told me: "you foment gheraos. You go and surround people." Formerly he spoke of tram cars being burnt, about bombs and acids being used of loot and arson. No longer is that an argument. There is no violence; no bombs and no acid bulbs. It is a perfectly peaceful situa-

tion. If I were to quote the great Motilal Nehru, when the question came about subverting Government—I would like to quote that portion—this is what Motilal Nehru said:

"It was that the creed of the Congress is to subvert this Government, I mean the present system of Government. And as the President of the Congress, with all the responsibility attaching to that position, I now in this House openly and publicly declare that that is the creed of the Congress....The Congress is for civil disobedience. And what is that civil disobedience for if it is not for subverting the present system of Government, because we do not like it because it is not just, because it is oppressive. That is the creed of the Congress, and the Congress is working for it."

Sir, if civil disobedience is non-violence gheraos are completely non-violent. (Interruption)

I do not know if hon. Member knows what a gherao is. It is perfectly non-violent. I would like my friends to understand before interrupting me.

I would also like to bring forward certain charge-sheets. Here is the case one Nandikuru Krishna Upadhyaya who was detained. He was associated with the Akanda Karnatak Rajya Nirman Parishad. Here it says that in its resolution the Parishad had asked for peaceful satyagraha. Now, under Dr. Katju "peacefull satyagraha" also comes under the purview of this Act; "gheraos" come under the purview of this Act and strikes, of course, come under the purview of this Act. Every strike is not an illegal strike. If it is an illegal strike you have enough weapons in your armoury to use. Why do you not see them? What has happened that you are not using them? Formerly you talked about arson, loot and murder. Now, you bring this question. Those that are perfectly peaceful and legitimate movements—even those come within the

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purview of threatening the "security of the State."

Nqw, Sir, I will bring forward certain other cases here. I would like to mention the question of illegitimate means. Again and again we are told "We do not mind our adversaries using legitimate means." Sir, this Government today uses every illegitimate means to make legitimate means illegitimate. I will substantiate my point. Take the Bank Award for instance. The bank award was given by a perfectly legitimate authority constituted by this Government. We have always been told: "Do not go in for illegal strikes. We stand for adjudication and conciliation. We stand by tribunals." When the tribunal comes up with an award, then the Government by its majority says: "No, we are not going to stand by that award." If that was done by other parties or by the workers, it would have been declared illegal. I can give you again and again cases of various disputes of labour and among the kisans, where really they have been fighting for the implementation of awards and certain decisions and agreements which have been arrived at the non-implementation of which has provoked the strikes. Have you ever used the Preventive Detention Act to put under detention those who have not given the awards or those who have not actually cared to abide by their own agreements? For instance I will give you one of the latest instances that we have got. This was day before yesterday. I am giving you the case of Sita Ram of the dock workers. On the 8th of December Sita Ram, one of the dock workers' leaders was taken into custody at Calcutta. Why? What was the dispute about? Because the workers had refused to carry more than 2 maunds of weight on their heads and they had asked for trollies. That was in pursuance of an agreement which had taken place so many years ago. Also, the workers had refused to be forced to work more than a hours. It is a perfectly legitimate trade union demand. It was a per-

fectly peaceful movement and the fact that it was perfectly legitimate is proved today because yesterday the Chairman of the Port Trust has called the workers and there is possibility of some sort of settlement. This is what I say. You talk about illegitimacy I say that the people who are carrying out illegitimate actions are not being punished, but those who go in for legitimate trade union activities are being crushed. That is the main reason why you have brought forward this Bill to crush all genuine workers' and peasants' movements.

I will give you another case. I do not know whether it is going to make any sence to my friend Dr. Katju. But, I would like to give concrete cases instead of going into a lot of what he has been pleased to call "copy book examples". Here is another recent case of the arrest of 8 leaders of the Maharashtra Kisan Sabha and of the Scheduled Castes Federation in Srirampur in Maharashtra. What was done there? One of the demands of the workers was for implementation of the bonus declared by the factory due to the workers and which has not been paid for the last two years. This was also a perfectly legitimate form of trade union activity. They had a huge mass meeting and the workers and peasants were called upon to strike. Has this weapon of strike been declared completely illegitimate? I would like to know.

Strike is a weapon which has been utilised and won after centuries of struggle by workers and they will stand by it, so that none can deprive them of it.

Sir, I would like to go into certain other charge-sheets which I have got here. There is a case of Shri Prahlad Krishna Kurane of the Reshim Mazdoor Union in Bombay. There also the charge established has been that he instigated workers to adopt 'go-slow' strikes. While Bombay Government knew that that Union, although it had been wanting a change in the Industrial Tribunal Award, was the Union which did not ask for a 'go-slow' strike

and had been agitating that 'go-slow' strike was not a weapon of getting the award changed, and enough strikes have been given to it by the Advisory Board itself. Questions have been put by Mr. Vsavada, who was Chairman of the Advisory Board. Firstly he asks: "Was there such a heavy wage cut?" Then he says: "If there was, there was no need for instigating the mill workers. The workers themselves would get provoked". Secondly, there is the charge of the workers using violence. There the police were asked to produce proofs of acts of violence. Up to date they have not been able to produce proofs to show where that violence came from. They have not been able to bring forward proofs for one single charge.

These are some of the instances which I put before you and I would like an answer from the hon. Minister to show wheather these are Acts which really disturb the security of the State.

Sir, I have been reading the speeches of Pandit Motilal Nehru and I find that the same type of arguments were put forward by people like Sir Victor Sasoon and people like the then Home Minister Mr. Crerar under the British Govt. What is it that he said? He drew as lurid a picture as Dr. Katju about weaving masters being killed and industrial disputes coming to such a height that the whole structure of society and the State on which it stood was about to collapse. I shall read to you what Motilal Nehru said in answer to that. He was answering to the specific charge of murder of spinning masters. He said.

"The very fact that these people were chosen as victims shows that there was nothing in the nature of upsetting society and all the rest of it. On the very face of it, it appears that the motive was personal."

In a generalised form, what is it that he says? "Supposing we grant that there have been acts of violence, then it is for the Government to stand up and suppress such acts by all the legal measures at their disposal." You

have already done everything to have wide powers in your ordinary law. Everything is there in your Criminal Procedure (Amendment) Act and you have enough weapons in your armoury. Why is it that you want to have this weapon of Preventive Detention also? You want it because you wish to crush your political opponents and that is the only reason why you have done this.

I would just like to say something about the many bogies that have been raised. My friend, Shri Keshavaiaengar has been badly briefed. I could have done it for him better.

**Mr. Deputy-Speaker:** The hon. Member is welcome on this side.

**Shrimati Renu Chakravarty:** I could have been on that side long ago, but I have chosen not to be there. The communist bogey has been brought up again and again. I would invite my friends on the other side to read the speeches of their own leaders in 1928-29. I think we from the Communist Party could do well to print some of them Motilal Nehru asked: "Why is it that the M. N. Roy letter was brought forward at that time by the then British Government? It was a psychological moment, because the constitution was in the melting pot". I say today it is a psychological moment now to bring forward the forged slanders concerning the Communist Party because of the elections in Andhra. We have seen some of the quotations that have been given from Mr. Masani. Couldn't Mr. Keshavaiaengar get hold of any better exponent of communist ideology than Mr. Masani? Several portions were read out from Marx, I am glad the Congress benches are studying Marx with such diligence and I hope they will imbibe some sense by doing so.

I am not going to answer what Shri Deshpande and the "Freedom for Asia Group" have been bringing forward—the forgeries have been there throughout history. There is the Zenovieff Petter, the M. N. Roy letter is there. Dr. Katju vehemently spoke of the "spy" in the C.P.I. Headquarters but he could not actually give any

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thing concrete when we challenged him even up to this time. So, these forgeries need not be answered.

What is the reason for Dr. Katju bringing this Bill? He said that we need some power for protecting the people from criminals and we must stand by the people. We also know the way how this power is being used. Those who fight for the right of the people are branded as criminals. In my own constituency of 24 Parganas, again and again we have seen how if you fight for implementing the anti-eviction laws of the Government, itself, it is the peasants who are evicted and they are taken away to jail. There are 4,000 cases pending in 24 Parganas and they are being called "criminals."

I would like a very interesting point to be made here. Facts and figures have been quoted to show that they are not putting political opponents in jail. They say "We are just putting in jail criminals and other anti-social people". In the West Bengal Assembly, the Chief Minister's answer to one question is interesting. The question was: How many people during the last five years have been put in jail under the Preventive Detention Act, under the West Bengal Security Act and under the Arms Act? The answer was: 1949 under the West Bengal Security Act and 937 under the Preventive Detention Act. The second question was: How many have been detained for political reasons? The answer was: "Not one"! So, does it not prove their point that this is not being used against political parties? I say with all the emphasis at my command—it is being used to crush political opponents. As Shri Asoka Mehta said—he has no love for the Communist Party—it is because of such repressive measures that the entire people are going to stand together and fight against the Congress.

I would end up by saying this, Dr. Katju and those on the other side have been very loud in their challenge to us and Calcutta has been made a thing of derision by saying

that this is the field in which the people go to loot, commit murder and arson. Let Dr. Katju stand on the question of Preventive Detention Act from the city of Calcutta. The people of Calcutta have watched everything that has gone on during the last five years and I challenge that any one of us will stand there against him and Dr. Katju will fail to get the verdict of the people.

Shri Kasliwal (Kota-Jhalawar):  
I am afraid.....

Shri V. G. Deshpande: Of whom?

Shri Kasliwal: I am afraid I am unable to master the eloquence which Shri Chatterjee had brought to bear on this question today. As a man of learning and as a man of erudition, Shri Chatterjee trotted out many arguments, but when it came to a question of hard facts, I am afraid he did not say much. Take the case of dacoits. He said that Dr. Katju talks of dacoits, but were there no dacoits during the British regime? Yes, there were dacoits during the British regime, but what did the British do? They did nothing. Today, for the first time after so many years, we are dealing with the great manace of dacoits in the States of Rajasthan, Madhya Bharat, PEPSU and the Punjab. In the State of Rajasthan, for the last so many years, the manace of dacoits has been very great. Today for the first time we can say that after the efforts of the Home Minister and the efforts of the Rajasthan Government, this manace is gradually decreasing.

Shri V. G. Deshpande: Where is it decreasing?

An Hon. Member: They have been preventively detained.

Mr. Deputy-Speaker: The hon members is giving arguments.

Shri V. G. Deshpande: He is giving facts.

Mr. Deputy-Speaker: Let there be no interruption. I find that whenever an Hon. Member from here speaks, there is not much of interest on that side, but whenever an hon. Member

on the other side speaks, there is a lot of interest. I want to keep peace in the House and allow every member to have his say, but I do not want to invoke the aid of any preventive detention method to maintain order.

**Shri Kasliwal:** Five years back, the State of Rajasthan was being cut to pieces by dacoits, especially in the West. There were literally hundreds of them who were taking away people and who were looting property and the villagers were living in great terror, but today it is not so. Not only that. They have been reduced greatly in number and now they themselves are coming forward and surrendering. I would remind the House of that great institution which has recently been opened in Jodhpur for the redemption of the dacoits. My friend here is asking about the number of dacoits. There were a large number of dacoits, and especially many who were harbouring dacoits, and today these figures say that there are only nine people harbouring dacoits who are under detention from 1st October 1953 to 30th September, 1954 in Rajasthan.

**Shri Velayudhan** (Quilon cum Mavelikkara—Reserved—Sch. Castes): What about Man Singh?

**Shri Kasliwal:** He does not belong to Rajasthan. I will come to him later. Now I come to Madhya Bharat. In Madhya Bharat this great menace of dacoits continued. I have seen the hon. Home Minister himself chasing the trail of dacoits in Madhya Bharat and I was very happy when I came to know that the Home Minister was going on from place to place to find out the abodes of these harbourers of dacoits. One of my friends referred to Man Singh and asked: How is it that even today in spite of the fact that four States police along with the Central police are trying to find out the whereabouts of Man Singh, that he is still at large? Because Man Singh is behaving just like Robin Hood. He has been robbing so many people. He has been giving looting to many people, and at the same time it is those villagers who are giving

him shelter. That is the reason why Man Singh even today has not been captured.

1 P.M.

I shall give you some figures. In PEPSU there were 22 harbourers. In Madhya Bharat, in 1953-54, there were 33 harbourers of dacoits. In PEPSU again, in 1953-54, and up to September 30, 1953, there were 22, but in this year, 1954, there is not a single case in which a harbourer of dacoits has been put under detention. That shows that there is a great improvement. Last time also I spoke on this particular question.

**Shri Velayudhan:** What about Delhi?

**Shri Kasliwal:** The same is the case with regard to Punjab. There also there were certain harbourers of dacoits who were kept in detention last year, but this year, there is only one single case. In Ajmer, last year, there was one case and this year also there is only one single case. I may remind the House that when Shri Asoka Mehta spoke yesterday on this question he virtually conceded that so far as the question of harbourers of dacoits was concerned he did not have much objection to the use of this particular measure.

There is another matter to which I would like to refer and that is with regard to the use which is being made of this Act—as has been said by certain members—for the suppression of political parties. Shri N. C. Chatterjee gave certain figures and he said that many in Karnataka were under detention including communists. If he had referred to another column in the list he would have known the position. Brief grounds for detention in the case of the detenus are given. The grounds were specific and they were not grounds of a political nature; the persons were in detention not because they belong to any political party.

**Shri M. S. Gurupadaswamy:** As these grounds are cooked up.

**Shri Kasliwal:** They are not cooked up. Then you should challenge the



grounds. They are very clear. Take for instance the case of Bombay. The detenus were under detention for violent activities. In Uttar Pradesh, the grounds were: inciting violence, for preaching violence to kisans, for delivering speeches and indulging in activities which were subversive to law and order and for terrorist activities, and also for goondalism. Take the case of West Bengal. There were 26 persons detained for indulging in activities which were subversive, for preaching violence; four for goondalism, three for smuggling and profiteering in essential commodities and they belong to these parties: 13 C.P.I., 1 R.C.P.I., 1 S.P.I., 1 R.S.P., 1 S.S.P. and 1 B.P.I. I also submit that there are Congressmen also who had been arrested and detained under this head for activities which were violent. All these people were put under detention not for the simple reason that they belonged to any particular party. They have been arrested for their activities which have been subversive and against the interests of the State. They have been arrested for activities which have been of the nature of black-marketing and other activities which come under the category of sabotage of essential supplies.

Other things also have been mentioned about this Bill but I am not going to enter into those questions, because I wanted to confine myself primarily to the question of dacoities in the State of Rajasthan, Madhya Bharat and PEPSU. I am very glad that so far as this aspect of the legislation is concerned, this measure is working very successfully against those harbourers of dacoits.

**श्री भागवत झा आजाद :** माननीय उपाध्यक्ष महोदय । मैं यह मानता हूँ कि मंत्री महोदय ने इस कानून के अन्तर्गत हम लोगों के पास जो सूचना भेजी है वह सूचना इस बात की दांतक है कि पिछले कुछ वर्षों से जब से यह कानून चला आ रहा है तब से इस के अन्तर्गत बहुत कम लोग नजरबंद रखे गये हैं । मैं इसके लिए मंत्री जी को धन्यवाद देता हूँ । मगर मैं जानना चाहता हूँ कि क्या देश में स्थिति में सुधार होने

पर भी इस कानून को अब रखने की जरूरत है । मैं यह मानता हूँ कि संविधान में सरकार को यह अधिकार दिया गया है कि जब जब इस देश में आपत्ति काल हो, जब जब इस देश में कोई भारी संकट आये तो वह ऐसे कानून बनाये जिन कानूनों के अनुसार उन लोगों को जो विधान के खिलाफ, या राज्य के खिलाफ काम करते हैं उन को बिना ट्रायल के नजरबंद कर दिया जाये । मैं इस अधिकार को मानता हूँ । लेकिन मैं यह जर्ज करना चाहता हूँ कि जहाँ संविधान ने हमें यह अधिकार दिया है कि हम ऐसा कानून बना सकते हैं जिस के जरिये हम ऐसे व्यक्तियों को जो देश के खिलाफ या राज्य के खिलाफ काम करते हैं बिना मुकदमा चलाये जेल में बन्द कर सकते हैं हमें इस का दुरुपयोग नहीं करना चाहिये । जिस समय सरदार पटेल ने इस सदन में इस बिल को रखा था हमारा मित्र जो उस समय वहाँ थे जानते हैं कि उनकी पत्नियों में आसू थे और उनको कई रात नींद नहीं आई थी । उस वक्त उन्होंने यह भी कहा था कि वह इसे सिर्फ एक साल के लिये लाना चाहते हैं । उस वक्त इस देश की आर्थिक, राजनीतिक और सामाजिक स्थिति बहुत गम्भीर थी । यह बात सच है कि उस समय लोग अपने हाथों में बम, पिस्तौल, एसिड इत्यादि ले कर चलते थे । उस समय सरकार के सामने बड़ी कठिनाइयाँ थीं । ला एंड आर्बर की पोजीशन बड़ी खराब थी । देश में स्वायत्त समस्या थी, कपड़ों की कमी थी और इन सब समस्याओं को हल करने के लिये सरकार के हाथ मजबूत करना बहुत जरूरी था और ऐसे कानून की आवश्यकता भी थी । लेकिन आज मैं समझता हूँ कि इस जनतन्त्र को बने हुए सात आठ साल हो गये हैं और देश की स्थिति भी सुधर गई है । आज हमने स्वायत्त समस्या का समाधान कर लिया है । आज देश में कपड़ों की समस्या नहीं है और मुझे खुशी होती है मंत्री महोदय से यह सुन कर कि अब हम इतने हजार गज कपड़ा विदेशों को भेजने के काबिल हो गये हैं । पहली पंचवर्षीय योजना के अधीन हम ने काफी प्रगति की है । आज देश में शान्ति है । लोग कलकत्ता

जैसे शहरों में जहाँ वे पहले बम, पिस्तौल इत्यादि हाथ में ले कर चला करते थे अब नहीं चलते हैं। हमारी आर्थिक स्थिति भी सुदृढ़ बन चुकी है। इन सब कामयाबियों के लिये मैं सरकार को धन्यवाद देता हूँ। गृह मंत्री यह कहते हुए सुने जाते हैं कि उन्होंने एन्टी-सांशल एस्पीमेंट्स पर काबू पा लिया है। यह बहुत अच्छी चीज़ है। तो मैं पूछना चाहता हूँ कि क्या आज इस बात की आवश्यकता है कि हम इस कानून को और एक साल के लिये नहीं बल्कि तीन साल के लिये जारी रखें? मैं समझता हूँ कि यह देखते हुए कि देश ने कितनी प्रगति की है, कितनी उन्नति की है और कितना आगे बढ़ा है इसकी कोई आवश्यकता नहीं है। हमारे मित्र श्री कासलीवाल ने बताया कि राजस्थान और मध्य प्रदेश में डाकूओं की भरमार है। मैं भी राजस्थान अपने बन्धुओं के साथ गया था और मुझे मालूम है कि वहाँ दिन दहाड़ें डाके पड़ते हैं और वहाँ के आदिमियों का जीवन खतरों में है। मैं पूछना चाहता हूँ क्या सरकार के पास साधारण कानून नहीं है जिस को कि वह इन डाकूओं के खिलाफ इस्तेमाल कर सके। हमारे पास क्रिमिनल प्रोसीजर कोड है और मैं समझता हूँ कि यह काफी है लेकिन अगर सरकार समझती है कि यह काफी नहीं है तो उसको उसमें सुधार करने चाहिये। गुंडा एक्ट बनाना चाहिये जिस के जरिये उन लोगों को जो हमारे देश में शान्ति और सुरक्षा को खतरा पैदा करते हैं, इस कानून के अन्दर लाया जा सके। जो स्टेटमेंट हमें दिया गया है अगर आप उसकी फिगरज को देखें तो पता लगेगा कि अधिकतर इस कानून का प्रयोग ऐसे आदिमियों के खिलाफ किया गया है जो किसी राजनीतिक पार्टी से ताल्लुक नहीं रखते हैं और डाक्टर काटजू ने भी यही कहा है कि हम इसको किसी पोलिटिकल पार्टी के खिलाफ इस्तेमाल करना नहीं चाहते हैं। आपने अपने स्टेटमेंट में यह पढ़ कर बताया है कि आपने १०४ व्यक्तियों को वायलेंट एक्टिविटीज में गिरफ्तार किया। आपने यह नहीं बतलाया कि यह वायलेंट एक्टिविटीज करने वाले किस पार्टी के थे।

अगर यह वायलेंट करने वाली पोलिटिकल पार्टियाँ हैं तो मैं समझता हूँ कि जो हमारे देश का साधारण कानून है उसके अन्दर आप उनको बन्द कर सकते हैं। गुंडों को आप साधारण कानून में नजरबन्द करें। आपने कहा कि इस कानून का उपयोग उन लोगों के खिलाफ किया गया जो कि डकैतों को दबाने करते हैं जो आपने २६९ की संख्या बतलाई है उनमें से सब को आप साधारण कानून के अन्दर सजा दे सकते हैं। अगर देश का साधारण कानून इतना मजबूत नहीं है, अगर देश का कानून इस लायक नहीं है कि हम ऐसे गुंडों को, बदमाशों को, शान्ति और सुरक्षा को भंग करने वालों को सजा दे सकें तो आवश्यकता इस बात की है कि आपने जो कानून पास किया है उसमें सुधार करें। अगर आपका साधारण कानून गुंडों को दबाने के लिये काफी नहीं है तो आप पार्लियामेंट के सामने आइये और कहिये कि हमको गुंडों को दबाने के लिए ताकत चाहिये; तो हम बिना किसी चूँ चपड़ के आपको वह अधिकार देंगे। लेकिन हम यह नहीं चाहते कि इस प्रिवींटेड डिटेन्शन एक्ट को गुंडों के नाम पर कायम रखा जाय। मेरे पास इसके लिये एक और दलील है। आपने जो संख्या दी है अगर उस पर विश्वास किया जाय, और हम उस पर विश्वास करते हैं, तो हमें मालूम होता है कि सरकार ने इस कानून का बहुत ही कम उपयोग किया है, राज्य सरकारों ने इसका बहुत कम उपयोग किया है, और अगर इसका प्रयोग हुआ भी है तो ऐसे आदिमियों के लिये जो गुंडे हैं, बदमाश हैं, या जो डकैत हैं। यह आपके फिगर बतलाते हैं। अगर ऐसी ही बात है तो फिर ऐसे कानून को जिसको हमारे मित्र कहते हैं कि एक गणतंत्र के लिये शोभनीय नहीं है, उचित नहीं है, क्यों बढ़ाया जाय और क्यों न हम एक विशेष क्रिमिनल एक्ट बनायें जिसके अनुसार हम इन मनुष्यों को सजा दे सकें? इसलिए जो संख्या आपने हमारे सामने पेश की है उसका देखते हुए मैं समझता हूँ कि यह आवश्यक नहीं है कि हम इस कानून को तीन साल के लिए बढ़ायें

[श्री भागवत भा आजाद]

जिस समय यह कानून बनाया गया था उस समय हमारी इच्छा क्या थी ? हमारी इच्छा यह थी गणतंत्र में विश्वास करने वाली जितनी पार्टियाँ हैं चाहे वह कांग्रेस पार्टी हो, या प्रजा सोशलिस्ट पार्टी हो या कोई भी पार्टी हो जो गणतंत्र में विश्वास करती हैं, उन सब का एक मोर्चा बनावें और उसके द्वारा उन दलों से लड़ें, इस दृश की शान्ति और सुरक्षा कायम रखने के लिये, जो कि गणतंत्र में विश्वास नहीं रखते हैं। इसीलिये हमने यह कानून बनाया था। इस कानून के बनने के बाद हमने दृष्टा कि एक मोर्चा बना और कांग्रेस पार्टी ने उन पार्टियों का जो वायलेंस में विश्वास करती हैं उतना ही विरोध किया जितना कि प्रजा सोशलिस्ट पार्टी ने और दूसरी पार्टियों ने। उस मोर्चे के बनने के बाद आज दृश में शान्ति है न केवल राजनीतिक मोर्चे पर, बल्कि आर्थिक और सामाजिक मोर्चे पर भी। ऐसी अवस्था में मैं जानना चाहता हूँ कि क्या यह आवश्यक है कि हम इस कानून को अपनी स्टैट्यूट बुक पर तीन साल के लिये और रखें। हमारा प्रजा सोशलिस्ट पार्टी के नेता कृपालानी जी ने कहा है और और लोगो ने भी इस बात को कहा है कि हमारी वैदेशिक नीति ने संसार में एक स्थान प्राप्त कर लिया है। हम आपकी हर बात को मानते हैं। हम इस बात को मानते हैं कि आपकी वैदेशिक नीति ने संसार में दृश के लिये एक स्थान प्राप्त कर लिया है, हम मानते हैं कि हमारी स्वाय समस्या बहुत हद तक हल हो गयी है हम मानते हैं कि सामाजिक स्तर पर भी आपने कार्य किया है और आपने स्पेशल मीरज एक्ट पास किया है और हिन्दू मीरज एंड हाइवोर्स बिल पास करने वाले हैं। हम इस बात को मानते हैं कि कांग्रेस गवर्नमेंट ने हर स्तर पर कार्य किया है, उसने राजनीतिक स्तर पर, सामाजिक स्तर पर और आर्थिक स्तर पर स्थिरता कायम की है, और इस प्रकार जनता की अपने प्राति आस्था पैदा की है। ऐसी परिस्थिति में जब कि दृश में कोई इमरजेंसी नहीं है तो फिर ऐसा कानून बनाने की क्या आवश्यकता है ?

इस कानून का सबसे अधिक विरोध कम्युनिस्ट पार्टी का हवाला देकर किया गया है और हमारा जो भी मित्र उनके खिलाफ बोलें हैं उन्होंने कहा है कि कम्युनिस्ट पार्टी हिंसा में विश्वास करती है और गणतंत्र में विश्वास नहीं करती है। और इसलिये यह कहा जाता है कि इस कानून को रखा जाना चाहिये। मैं जानता हूँ कि सन् ५० में जब यह कानून बनाया गया था तो उस समय एक हाईकोर्ट कलम की एक नोक से बहुत से कम्युनिस्टों को छोड़ने वाली थी। उस समय एिसड की बातें और बम फेंके जाते थे उस समय कम्युनिस्ट एक जंग में किर्च और दूसरी में रिवाल्वर लिये घूमते थे। उस समय हमको इस तरह के कानून की आवश्यकता थी। लेकिन आज हम दृष्टते हैं कि हमारा दृश यह समझता है कि हम उन दृशों को भी जो गणतंत्र में विश्वास नहीं करते हैं साथ ले कर चलें, तो ऐसी अवस्था में मैं पूछता हूँ कि यह कहां तक ठीक होगा कि एक ओर तो हम को-एंग्रजस्टेंस का समर्थन करें और दूसरी ओर इस प्रकार का कानून बनावें। इन दोनों चीजों में समता नहीं दिखायी देती है। मुझे विश्वास है कि कम्युनिस्टों ने अपने हिंसा के तरीकों में विश्वास को छोड़ा नहीं है। मैं जानता हूँ कि वे अभी नहीं कहते कि हम अहिंसक हैं। लेकिन वह कहते हैं कि हम विधान के अनुसार पार्लियामेंट में आये हैं और विधान के अनुसार ही अपना ध्येय प्राप्त करना चाहते हैं। मैं जानता हूँ कि उन्होंने अपनी पद्धति नहीं बदली है और वे अहिंसा में विश्वास नहीं करते हैं, और कहते हैं कि यह पूंजीपतियों की सरकार है और इसको हम उलटना चाहते हैं। लेकिन अगर वे इस सरकार को उलटने के लिये वायलेंट मीन्स अख्तियार करें तो आप तीन दिन के अन्दर इमरजेंट पार्लियामेंट बुला सकते हैं और यह अधिकार ले सकते हैं। लेकिन जब तक इस प्रकार की कोई इमरजेंसी न हो तब तक इसकी क्या आवश्यकता है। आज तो वे लोग यह करते हैं कि विद्यार्थियों में जाते हैं, फैक्टोरियों में जाते हैं और वहां अपना प्रचार

करते हैं। तो आप अगर उनका मुकाबला करना चाहते हैं तो आपको भी बैसा ही मोर्चा बनाना होगा, आपको भी फँकटिरियों में और विद्यार्थियों में जाना होगा और जो टैकटिक्स वह काम में ला रहे हैं उन्हीं से उनका मुकाबला करना होगा। लेकिन अगर आपने केवल उनकी पुरानी टैकटिक्स को याद रखा और इस तरह के कानून बनाये तो विश्वास रखिये कि उससे कोई असर होने वाला नहीं है। इसीलिये मैं गृहमंत्री जी से पूछना चाहता हूँ क्या आज दश में शान्ति है? क्या आज दश में सारा समस्या का प्रश्न हल नहीं हो गया है? क्या आज दश की सामाजिक स्थिति भी अच्छी नहीं है? क्या आर्थिक स्थिति सुदृढ़ नहीं हो गयी है? अगर इन प्रश्नों का उत्तर हाँ है तो इस कानून की क्या आवश्यकता है? अगर उत्तर नहीं है तो यह कानून सद्गुल नहीं हुआ है आज किसी प्रकार भी मेरी दृष्टि में इस कानून की आवश्यकता नहीं मालूम पड़ती है।

**डा० एन० बी खर्** : उपसभापति जी, मैं कानूनदा नहीं हूँ। मैं एक लेमैन हूँ और लेमैन की हँसियत में ही मैं बात करूँगा। हाँ, वह जरूर है कि अगर लेमैन के रस में थोड़ा नमक मिर्च डाल दिया जाय तो जरा लजीज हो जाता है।

यह जो प्रिवीटिव डिटेन्शन बिल है मैं इसको प्रिवीटिव डिटेन्शन बिल नहीं मानता बल्कि मैं इसको कांग्रेस प्रोटेक्शन बिल मानता हूँ, क्योंकि इस कानून की अवधि बढ़ाने की इच्छा हमारे माननीय मंत्री लॉर्डो साहब कर रहे हैं। और केवल उनकी ही इच्छा अवधि बढ़ाने की नहीं है। यह कानून कांग्रेस प्रोटेक्शन कानून होने से वह चाहते हैं कि यह हमेशा कायम रहे। वह चाहते हैं कि इस काले कानून को हमारी कानून की किताब में कायम मुकाम कर दिया जाय। यह उनका पुस्ता इरादा है। यह बात उनकी परसों की स्पीच से भी साफ जाहिर है। इसीलिए मैं कहता हूँ कि वे अवधि बढ़ाने का इकोसला क्यों करते हैं? यह पुरफरब तख्खुल है। उनका इरादा इस कानून को पक्का बनाने का है और मैं समझता हूँ कि उनको ऐसा नहीं करना चाहिए। अगर वह दावा करते हैं कि

हम जनता के संवक और रक्षक हैं तो उनको जनता का भद्रक और तद्रक होने की कोशिश नहीं करनी चाहिए। ऐसी मेरी उनके प्रति नम्र विनती है।

अगर मेरा सरीखा गृहमंत्री होता तो वह कभी भी ऐसा कानून न लाता। अगर हम बागवां होते तो गुलशन को लुटा दते। हम जनता की सिविल लिबर्टी का गला कभी न घाटते। लेकिन क्या किया जाय, सब लांग जिन्दा दिल नहीं होते, कुछ मुर्दा दिल भी होते हैं। अगर कोई मुर्दा दिल है तो उसका कोई इलाज नहीं है। शंकर, शम्भा कलशनाथ, मैं जानता हूँ कि तुम श्मशान में रहते हो, इसीलिए तुमको मैं ने मुर्दा दिल कहा है।

[SHRIMATI KHONGMEN in the Chair]

तुम श्मशान में रहते हो और तुम को चित्ता भस्म का बड़ा शौक है। तुमको अपने शरीर में चित्ता की भस्म लगाने को चाहिए। अस्तु तुम नागरिक स्वतंत्रता का गला घाटते, उसकी चित्ता जलाओ और उसकी भस्म से अपना अंग विलिप्त कर दो। तुम्हें ऐसा करने का अखिल्यार है। लेकिन याद रखो कि जब उस भस्म से भस्मासुर पैदा हो जायगा तो फिर तुमको नारायण की शरण लेनी पड़ेगी और तुमको नारायण ही बचायेगा। अब शंकर अगर न मानें तो क्या किया जाय। कोई इलाज नहीं है। इसकी वजह क्या है? बहुत सी दलीलें हाउस की मुस्तलिफ पार्टीज की तरफ से पेश की गयी हैं। कई कांग्रेस वाले भी तो इसके खिलाफ बोलें हैं और कई पक्ष में बोलें हैं। अभी एक हमारे मित्र पक्ष में बोलें और इधर की तरफ से दो तीन हमारे मित्र लांग इस के खिलाफ बोलें। बोलने वालों में से एक हमारे मित्र श्री लिंगम थे। शायद उन्होंने यह महसूस कर लिया कि इस विधेयक के जारी रखने की उनकी दलील कमजोर है और नाकाबिल है इसीलिये उन्होंने अपनी ताकत बढ़ाने के लिये, जोर लाने के लिये 'ब्लिट्ज' में से कुछ पुष्टिमादक तत्व उधार लिया और उसका उपयोग करके अपने में ताकत बढ़ा ली ऐसा आदमी किसी काम का नहीं है। एक दूसरे कांग्रेसी सज्जन बोलें "I loath

[डा० एन० बी० खर]

this Bill.” ख० A Deniel come to judgment, ऐसा मैं समझा, और खुश हुआ। लेकिन तुरन्त ही उन्होंने कह, दिया कि But I support the Bill कौसी भयंकर नीति है। उस नीति को देख कर मेरे सरीखे ईमानदार आदमी के दिल में आश्चर्य, क्रोध, दुःख, क्लेश, करुणा और दया यह सब भाव पैदा होते हैं। क्या नीति है आपकी, आपकी नीति तो ऐसी ही है कि जैसे कि सुहाग का टीका तो भालप्रदश में लगाये रामप्रसाद के नाम से, मगर घर में रहेंगे हमंशा यूसुफ शरीफ के। मैं उनसे विनती करूंगा कि आपको ऐसी नीति छोड़ देनी चाहिये। हमारे मित्र जो इस विधेयक के पक्ष में बोलें उन्होंने हमारे सरीखे लोगों को जो इस बिल का विरोध करते हैं कीड़े-मकौड़े कहा, चूहे बगैरह बनाया, वाह, वाह क्या भाषा है उनकी। लेकिन मैं कहूंगा कि अगर वह हम लोगों को चूहा कहते हैं तो हमें भी उनको टरमाइट कहने का अस्वित्पार है। धीरे धीरे करके वह डंमोक्रेंसी को निर्बल करने वाले लोग हैं और उनके नेता लोग व्हाइट स्लीफ़्ट हैं डंमोक्रेंसी को कुचलें डालते हैं। यह व्हाइट आंट्स हमारी डंमोक्रेंसी को घुन लगा रहे हैं, धीरे धीरे निगल निगल कर खाये चल जा रहे हैं जैसे कपड़ों को या कागज को दीमक लग जाय तो सब चाट जाता है। इसीलिये मैं कहता हूँ कि वे लोग दीमक राशि हैं।

A huge heap of white ants eating up our democracy.

Pandit Thakur Das Bhargava (Gurgaon): It is a very parliamentary expression.

डा० एन० बी० खर : I think it is quite parliamentary, in reply to Rats and Vermin, अलंकार है, सत्य नहीं है।

श्री बी० जी० वंशपांडे :

अरिसकंधु कीबत्व निर्वदनं  
शिरसि मालिख मालिख मालिख।

श्री एन० बी० खर : एक शरस्स ने यह भी कहा और हमारे लिंगम जी ने भी हमें यह चुनौती दी

हैं कि इस बिल की बिना पर हम उनसे चुनाव लड़ें। उनका चुनाव का चैलेंज हमें स्वीकार्य है और हम उसको लड़ेंगे लेकिन चुनाव कौसा होता है यह देख कर मुझे एक कविता याद आ गयी जो मैं आपको सुनाये देता हूँ।

“बिछी है इश्क की चोंसर, लगी हैं नाम की बाजी :  
पड़ हैं जस्म के पांसे, सनम जाने कि ह्म जानें ॥”  
इश्क और चुनाव दोनों थकसां हैं। इश्क की जगह चुनाव तबदील कर दें तो यह कविता बही मजदार और फिट बैठती है। नाम की बाजी है और जस्म के पांसे हैं और वह पांसे वही हैं जिनका महाभारत में शकुनि मामा ने पांडवों को हराने के लिये इस्तेमाल किया था आज के पांसे भी वैसे ही कपटी हैं जैसे शकुनि मामा के थे और इस लोड्डे डाइस (Loaded dice) का सबूत अभी परसां मिला जब सुप्रीम कोर्ट में श्री कामथ की चुनाव याचिका पर न्यायालय ने कांग्रेसी उम्मीदवार का चुनाव अवध ठहरा दिया और यह फैसला दिया कि यह लोड्डे डाइस थी। मैं कहता हूँ कि ऐसे फरबी चैलेंज देने से क्या फायदा लेकिन तो भी घबड़ाओ मत, हम तुम्हारे साथ यह चोंसर इलक्शन की खेलेंगे और खूब खेलेंगे। यह जो प्रिवीन्टिव डिटेंशन एक्ट बनाया गया है, मेरी समझ में नहीं आता कि यह क्यों बनाया गया है और मजा यह कि इसको अभी और आगे जारी रक्खा जा रहा है। इनके पास तो आगे से ही कानूनों का एक जंगल सा पड़ा है और कोई भी कानून का इस्तेमाल करके वे वह सब बातें जो वह बंद करना चाहते हैं, करा सकते हैं, इस कानून की क्या जरूरत है और आगे के लिये इसको क्यों कायम रक्खा जाय, लेकिन हम देखते हैं कि हमेशा जब इसकी मियाद खत्म होने को होती है तो इसकी अवधि बढ़ाने की चेष्टा होती है और मालूम होता है कि इसकी अवधि कभी खत्म न होगी। यह अवधि बढ़ाने की चेष्टा ऐसे ही बढ़ती जायगी जैसे कि पुराणों में हनुमान की दुम का वर्णन आया है। मैं पूछना चाहता हूँ कि तुम्हारा यह प्रिवीन्टिव डिटेंशन एक्ट कलकत्ते में जहां पर एक पैसा दाम का किराया बढ़ाने के फलस्वरूप

हड़ताल हुई थी वहां पर कामयाब हुआ, मैं कहूंगा कि नहीं कामयाब हुआ। इन्हीं में जहां हाईकोर्ट जलाया गया वहां पर तुम्हारा यह कानून कामयाब हुआ, नहीं हुआ। ऐसे मैं सैकड़ों उदाहरण दे सकता हूं जिनसे सिद्ध हो जायगा कि तुम्हारा यह एक्ट कामयाब नहीं हुआ और जब ऐसी हालत है तब काहे को तुम इसको जारी रखना चाहते हो इसको छोड़ दो, इसको मत लावो।

आचार्य कृपालानी (भागलपुर व पूर्निया) : स्पीच खत्म कर दी ?

डा० एन० बी० खर्र : बस थोड़ा सा और कहना बाकी है। इस कानून को जारी रखने से उनका उद्देश्य है कि विरोधी दल को कुचलना, हालांकि वे यह कहते हैं कि हमारा ऐसा विचार नहीं है, लेकिन मतलब उसका हां ही होता है। काली करतूत वाला कभी हां नहीं कहेगा, नहीं, नहीं ही कहता जायगा। लेकिन उसकी नहीं को हां मानना चाहिये और इस के पक्ष में श्री चटर्जी ने कई एक उदाहरण दिये हैं। मैं इस के डिबेट में नहीं जाना चाहता। खाली एक ही बात कहना चाहता हूं। सन् १९५२ में मंदसौर में एक चुनाव में मध्यभारत में एक कांग्रेसी से हमारे उम्मीदवार की टक्कर थी और उस चुनाव में हमारा कैंडिडेट जीत गया और कांग्रेसी उम्मीदवार को पछाड़ दिया। फिर उसका इलेक्शन सेंटेंस आइड हो गया। दूसरा उपचुनाव उसी इलाके में कराया गया। उस मौके पर हमारे मध्यभारत के हिन्दू सभा के कार्यकर्ता श्री बृजेश वहां गये और उनके व्याख्यान हुए और दुबारा फिर कांग्रेस हार गयी और इस हार से ऐसी मिर्च नाक में लगी कि बृजेश जी को उन भाषणों के वास्ते कारावास में प्रिवेंटिव डिटेशन एक्ट में पकड़ कर डाल दिया गया और क्या सबूत चाहिये कि इस कानून का इस्तेमाल अपने राजनीतिक विरोधियों को दबाने के लिये होता है। जब बृजेश जी के बारे में कोर्ट में एप्लीकेशन देने की चर्चा चली तो चुपचाप मध्यभारत गवर्नमेंट ने उनको छोड़ दिया, ऐसे तो ये फरबी हैं। मध्यभारत में कहा गया कि वहां पर डकैतों ने बहुत आतंक मचा

रखा है, पेंपर में आया है कि एक डकैत पकड़ा भी गया है, डाकुओं की वजह से जनता बड़ी परेशान है। उसने बयान दिया है कि हम डकैतों के हामी और शंल्टर देने वाले कांग्रेस वाले हैं।

श्री राधेलाल व्यास (उज्जैन) : यह गलत है कि कांग्रेस वाले डाकुओं को पनाह देते हैं।

डा० एन० बी० खर्र : पेंपर में ऐसा आया है, इससे तो आप इन्कार नहीं कर सकते।

श्री राधेलाल व्यास : कंट्राडिक्शन आ गया है।

डा० एन० बी० खर्र : अगर ऐसे डकैतों का कांग्रेस वालों से लगाव हो गया तो फिर कहना ही क्या, अल्ला, अल्ला, खैर सल्ला। इस वास्ते यह नहीं करना चाहिये। मैं यह दावे के साथ कह सकता हूं कि किसी भी देश में जो अपने को लोकतन्त्रवादी कहता है ऐसा कानून नहीं है। रूस में भी नहीं है। काटज साहब जवाब दें कि यहां क्या होना चाहिये।

यह कानून किस वास्ते लगाया जाता है ? अपने विरोधी दलों को कुचलने के वास्ते। जो अपनी आइडिऑलॉजी है उस के खिलाफ जिन की आइडिऑलॉजी है उन को कुचलने के वास्ते, चाहे कोई भी हो। मैं इस का उदाहरण देता हूं। हम लोग चाहते हैं कि कश्मीर पूरी तौर से भारत में विलीन होना चाहिये। कांग्रेस सरकार यह नहीं चाहती। जब हम लोगों ने एजिटेशन किया तो हम लोगों को दबाने के वास्ते इस कानून का प्रयोग किया गया। हम लोग जो देश को युनाइट करना चाहते हैं उन को दबाया जाता है और जो लोग चाहते हैं कि देश डिवाइड रहे उन की तरक्की होती है, वह लोग चैन करते हैं। मैं बतलाना चाहता हूं कि यह सब की मांग है कि कश्मीर हिन्दुस्तान का अभिन्न अंग है। बहुत से कांग्रेस वालों की भी यह मांग है, लेकिन कांग्रेस सरकार की नहीं है। देश को अखंड करने की मांग सब की है। मैं याद दिलाना चाहता हूं कि १४ या १७ जुलाई, १९४७ के दिन ए० आर्च० सी० बी० की मीटिंग में कांग्रेस ने जब 'डिवीजन आफ

[डा० एन० बी० खर]

इंडिया इन हिन्दुस्तान एंड पाकिस्तान' का प्रस्ताव पास किया तो उस प्रस्ताव में दुःख और खेद प्रकट किया गया था कि हिन्दुस्तान की तकसीम मंजूर करनी पड़ रही है। साथ ही यह भी कहा गया था कि यह दर्श एक है और कभी न कभी एक हो कर रहेगा। यह कांग्रेस का प्रस्ताव था। मैं चैलेंज करता हूँ कि कोई यहाँ पर कहे कि यह बात झूठ है। हम लोग जो इस प्रस्ताव की बात को पूरा करना चाहते हैं उन को इस कानून के अन्दर दबाया जाता है और कांग्रेसी जिन्होंने इस प्रस्ताव को पास किया था और अब उस की बात को नहीं उठाना चाहते हैं वह मजे करते हैं। आज कल हालत ऐसी है, लेकिन यह बहुत दिन चलेगी नहीं, इस को याद रखना जाय। आखिर कभी तो जनता की आंख खुलेगी ही। जो लोग गांधिया का विरोध करते हैं जैसे करपात्री जी और प्रभुदत्त ब्रह्मचारी, वह पकड़े जाते हैं। गांधिया बन्द करने की मांग आज सार्व दर्श की है, लेकिन किसी भय से या किसी भी वजह से सरकार इस को नहीं करना चाहती है। इन सब बातों से साबित होता है कांग्रेस विरोधियों के लिये ही यह कानून है। लेकिन इस तरह बहुत दिन नहीं चलेगा। आखिर रावण राज्य बहुत दिन तो चल नहीं सकता। किसी एक शरूख ने मद्रास में राम की मिसाल दी, राम जी की खिल्ली उड़ाने के वास्ते नाटक रचा जाता है। तारीफ की बात है कि जो लोग राम का उपहास करने के लिये नाटक रचते हैं वह मजे उड़ाते हैं और जो हमारा हिन्दू सभाई इस का विरोध करते हैं उन को गिरफ्तार किया जाता है। उन पर लाठी चार्ज किया जाता है। वाह वा, माशा अल्लाह। कहा जाता है कि सिवा इस के कोई और इलाज नहीं है। यह शब्द सुन कर मुझे एक मराठी नाटक के गाने की याद आती है। वह ऐसे है :

“राजा लुटी जरी प्रजा जनाला।

माता मारी जरी निज बालाला।

बन्धु बिकी जरी निज भगिनीला।

शरण कुणा जावै ? ”

इस का मतलब यह है कि अगर राजा अपनी

प्रजा को लूटता है, रुपया पैसा पैसा लूटता है यह नहीं, लिबर्टी लूटता है, माता अपने बालक को मारती है और बन्धु अपनी भगिनी को बँचता है तो किस की शरण जाऊँ ? एक ही की शरण जा सकता हूँ। या तो ईश्वर की शरण में या फिर परमात्मा स्वरूप जनता जानाईन। जनता भी तो परमात्मा का ही रूप है, उस की शरण में जायेंगे। एक न एक दिन ऐसा जरूर आयेगा जब यह कानून हट कर रहेगा और इस को बनाने वाले नजरबन्द दिखाई पड़ेंगे।

हम भी देखेंगे तड़पने का तमाशा तेरा।

**The Deputy Minister of Home Affairs (Shri Datar):** In the course of the discussion that has been going on, three points arise for consideration. I am not replying to the violent declamations raised by certain Members of the Opposition, but I am going to confine myself only to a well-reasoned assessment of the present situation, and for that purpose, I would like to place before this House three questions and I shall try to answer them as carefully as possible.

The first question is as to whether we have made out the need for an extension of this Act for a further period of three years. The second question is whether this Act during the last four or five years has been used properly or has been abused or has been excessively used. The third question is whether there is any guarantee that the Act will be used properly or whether it will be used for the purpose of curtailing the legitimate liberties of the people. These are the three questions which have to be considered as dispassionately and as realistically as possible.

**Shrimati Renu Chakravarty:** Will he also answer as to what is the emergency—the imminent emergency?

**Shri Datar:** I would answer this question only in an indirect way because the word “emergency” has been understood in different senses, and I shall point out how under the present set-up of things it is necessary that this act should be on the statute-book for a further period of three years

I would take the question of the need first. In a few minutes time I shall be placing certain figures before you. They have been made clear in the pamphlet that has been supplied to all the Members of this hon. House, but we have to understand certain circumstances, and against the background of these circumstances, we have to appreciate or assess the Government's desire for an extension by three years of the provisions of this Act.

In the first place, all the States in India, who are ultimately to administer the provisions of this Act, are all in favour, unanimously, mind you, that this Act ought to continue in force for a further period of three years, though it is perfectly open to find out that the Act has been used in an extremely modest or a moderate way.

Now, what are the reasons why this Act should be on the statute-book at all? In this connection, we often talk of the various freedoms, the fundamental freedoms that have given to us by the Constitution, but we have to understand that on the Indian soil an infant democracy has to be reared up, an in rearing up such a democracy you have to take all the care that that tender plant requires. It is for this reason, and not for any other considerations more or less theoretical, that the Constitution itself provided that if the Parliament were so pleased, it would be open to the Parliament to enact a Preventive Detention Act.

Now, you will find that just within one or two months after the Constitution came into force, the then Government, the then Home Minister, spent sleepless nights as he himself stated before this hon. House, and came to the highly reluctant conclusion that such an Act was necessary for preventing the abuse of the various rights that were granted to the people under the Constitution. It is quite all right to speak of individual freedom, but

times under all climates and conditions, one has to take into account two important circumstances, viz., that the liberty has to be preserved and the security of the country has to be kept intact. And it is for these reasons that this Act was first introduced and passed in this House in 1950. I shall now consider what was the particular position then, and whether that position exists at least to a certain extent now.

So far as the question raised by the hon. lady Member just now is concerned, the word "emergency" has been used in the Constitution against a different context. When, for example, there is a general disorder or there is a danger of foreign aggression, then the provisions relating to emergency conditions have to be invoked. But apart from or irrespective of such considerations, it is quite possible to believe that there might be conditions or there might be certain factors in the Indian situation that require a reasoned curtailment of liberties for the time being, and Government are anxious that democracy has to be protected, but there ought to be no undue curtailment of liberties. That is exactly.....

**Acharya Kripalani:** Autocracy.

**Shri Datar:**.....the reason why in 1950, 1951, 1952 or 1954 Government have always desired that this Act should be on the Statute-book for a limited period, either for one year or two years.....

**Shrimati Renu Chakravarty:** Now three years.

**Shri Datar:**.....or in the present case, three years.

Whether Government or Government's can dispense with the provisions of this Act is a question which we have to consider, very calmly and dispassionately, because ultimately the whole structure of the success of democracy can depend upon peaceful and lawful conditions.

**Acharya Kripalani:** Upon this Act.



**Shri Datar:** If however—as unfortunately it is—there are certain groups of people who do not accept the principle of non-violence, who do not also accept the principle of parliamentary democracy without any reservations, then what have the Government to do? So long as there are such parties which are pledged—which are indirectly at least pledged, to violence—openly they will not say so; they would treat parliamentary democracy only as an experiment for the time being—then under these circumstances, it is absolutely necessary for us to be armed with powers to check these activities. Now, what are the activities? Government have certain powers, when an offence has been committed, under penal laws; Government have also certain preventive powers under the preventive sections of the Criminal Procedure Code. But there are certain persons and associations who naturally delight in carrying on their activities in as secret and surreptitious a manner as possible. Now, unless you lay hands upon these brains behind these movements, it is not possible to effectively check the situation and to maintain law and order.

**Shrimati Renu Chakravartty:** Why don't you outlaw such parties if you dare?

**Shri Datar:** It is only for such persons and such associations, that Government have to take care. And we are aware that there are resolutions passed at secret meetings by such associations. They are anxious to exploit the Indian situation; they would move in different planes so far as actions are concerned, and it is necessary that Government lay their hands upon such people who are the real inciters of violence or who are the brains behind these movements.

Now, the law, as it is—the normal law, as it is—cannot help Government to maintain law and order by proceeding against these persons in a normal way. It is only for such people that Government require certain powers

which Government have used as sparingly as possible.

**Shri Chattopadhyaya (Vijayavada):** May I just say one word .....

**Shri Datar:** Kindly sit down. If I may be allowed—the poet is before me—to put it in a poetical way I would say India was in darkness for a number of years; it might be political darkness, it might be other darkness also. We have been emerging out of the darkness, but at present we are in the twilight and we have to go to the light of normalcy under which conditions would be absolutely safe and law and order would be maintained. And unless law and order is maintained, no other progress is possible at all. Therefore, so long as we have not reached sunrise, so long as we have reached the full light and blaze of normal freedom, of normalcy, Government have to be armed with such powers.

Now, I would point out that though the very bad conditions to control which this was meant have gone, the seeds of bad conditions, the potentialities of bad conditions have still remained, and that is the reason why Government desire that the Act should be on the Statute-book Government further desire—as State Governments have shown by their conduct—that they would, to the highest extent possible, keep uncurtailed the freedom of the people. It is only when the social freedom is threatened that the individual freedom has to be curtailed. In the light of this, I would place certain figures before you as to how the present of this Act, namely, the Preventive Detention Act—a needlessly maligned Act—on the Statute-book has allowed us to pass through the major portion of the storm or abnormal times, and unless we reach normal times, it will not be possible for Government to work without the provisions of such an Act. As the Home Minister pointed out, the value of the Act or the benefit of the Act lies more in the restraining influence that it produces in the country against anti-social elements

than even in the actual exercise of it. That is the reason why the number is gradually coming down, and when the number almost dwindles to nothing, then Government would consider the question that this Act may not be further necessary.

**Acharya Kripalani:** If you hang a few persons, the psychological effect will be greater.

**Shri Datar:** We are not going to hang persons as in other countries without the due process of law. You understand it quite correctly that this is a civilised Government, this is a democratic Government, and democracy lies not only in the ideal but also in the legitimate democratic means.

**Shrimati Renu Chakravarty:** Where is your law?

**Dr. N. B. Khare:** On a point of information. Which is dearer—life or liberty?

**Shri Datar:** Sometimes an argument is advanced that inasmuch as there has been such a little use of the provisions of this Act, therefore the Act is not necessary at all, and normal conditions prevail. That is not correct. As I stated, the seed is there. I would, very briefly, point out how this Act saved the country from extremely bad conditions that had been threatened and how even now there are forces that are working, and it is only against these forces that Government are taking action. I would point out to you how when the first Act was passed in 1950 it was used. I have got certain figures. In 1950, during about 8 or 9 months, 10,962 persons had to be detained under the provisions of the Preventive Detention Act. Out of these, you will find nearly 6,000 persons were from Telangana—you know the history of Telangana; I won't go into it, it is not necessary at all. If the situation in Telangana has been saved by anything, it is only by the Preventive Detention Act, and that is why my friends

opposite are anxious that this provision should not be in the armoury of the Government.

**Shri Chattoopadhyaya:** Does he know that Ravi Narayana Reddy got the maximum number of votes in the last elections?

**Shri Bogawat (Ahmednagar South):** Doesn't matter.

**Shri V. P. Nayar (Chirayinkil):** That does not matter for him.

**Shri Datar:** From the figure of 10,962 in 1950, the figure of detention during 1951 came to 2316, that means, nearly one-fourth. That would show the civilised nature of the Government and the moderate use of this Act. Even out of these 2316, 727 were, again, from Hyderabad. Then in the year 1952, the figure further came down; it fell by half to 1116. Then from 30th September 1952 to 30th September 1953, there were only 931 detention orders passed. So far as last year is concerned, from 1st October, 1953 to 30th September, 1954, we have had only 440 detentions during the year. So you will find how from the figure 10,000 we have come down to 400 and odd.

But for the Preventive Detention Act, the Telangana situation would not have been saved. The situation would have spread into other places, and I shudder to think what the condition of India would have been—whether there would have been a proper administration or the whole situation would have scrambled down on account of the disturbances on a large scale. It is against this background that we have to see the present Bill.

We have no desire and the State Governments also have no desire to use it against political parties or members of political parties as such. In other words, it has been pointed out on numerous occasions that no man is held up or detained for holding any particular opinion. Different considerations arise where, in addition to holding such opinion, certain

[Shri Datar.]

acts are contemplated which take the matter into the realm of violence and crime. So, it is only when there are specific activities that Government have to take action.

Now, the Home Minister was taken to task by some Hon. Members opposite for his having not established the need. The need is extremely eloquent in the printed pamphlet which has been published and it is for us as Members of Parliament to find out what the condition is and to see whether the picture that has been given in the pamphlet is correct.

I would point out that on 30th September 1954 we had only 154 persons remaining under detention. In 1953 there were 554 persons actually in detention.

**Shrimati Renu Chakravartty:** You are giving wrong figures.

**Shri Datar:** Last year on 30th September, 1953,—I speak subject to correction—there were as many as 584 persons.....

**Shrimati Renu Chakravartty:** Wrong, wrong.

**Shri Datar:** It is immaterial for my purpose. I would point out that so far as the present Bill is concerned, on 30th September, 1954, only 154 persons were in custody. This is a sufficient argument.

**Shrimati Renu Chakravartty:** The figures are 131 this year and 154 last year.

**Shri Datar:** On 30th September, 1954, from statement 13 I find that there were 131 persons only.

**Shri V. P. Nayar:** That is different from five hundred and odd!

**Shri Datar:** So you find that these figures are extremely small. That would show that we resorted to the provisions of this Act only in a very few number of cases. In the majority of cases the detentions were upheld by the Advisory Board. So far as the Advisory Board is concerned, you have to take it that it is a judicial tribunal.

**Several Hon. Members:** No, no.

**Shri Datar:** It is a quasi-judicial tribunal. If that will satisfy you, I have no objection. If in a majority of cases they have the orders of the Government, then you cannot raise any question about the propriety of the action of the Government (*Interruptions*).

Then you will find that the number of cases referred to the High Court is not very large. It is contended that in so many cases the High Courts very strongly stated that the Preventive Detention Act itself should not be on the statute-book at all. So far as the administration of this Act is concerned we have taken into account all sorts of considerations bearing on law and order. So far as the Judges are concerned, their opinion is entitled to high weight; but, actually when the law and order situation is threatened, Government have to take certain circumstances into account.

I find that there are at least two countries in the world in addition to India where you have similar Acts.

**Dr. Krishnaswami (Kancheepuram):** Pakistan?

**Acharya Kripalani:** Timbuctoo?

**Shri Datar:** I would point out to this House that in 1935 in Ireland—now called Eire a law was passed for preventive detention when there was neither any uproar nor any internal political rebellion. Disorders were on the same scale. Yes the Irish Parliament passed a measure which is similar to the one we have on our statute-book. My information is that even in the U.S.A. you have a similar law. U. S. A. has a measure intended to be used in peace time which resembles the Preventive Detention Act. Although the American constitution is 150 years old and conditions are considerably stabilised, a legislation of the kind has been enacted. Taking into account all these circumstances and also the fact that India has just attained freedom, and there are elements which incite the people to violence and lawlessness, is it or is it not neces-

sary that Government should enact such a law? That is a very simple question. Other questions are more or less of a theoretical nature and as they are theoretical, therefore they are unreal. It is not merely sufficient to speak very loudly and vehemently about the freedom granted by the Constitution. It is for the protection of this freedom that we require the Preventive Detention Act.

**Hon. Members:** Hear, hear.

**Shri Datar:** It should be understood that so long as we have such elements, it would be necessary to have this Act.

**Pandit Thakur Das Bhargava:** Therefore this is a fundamental Act. Is that so?

**Shri Datar:** So far as we are concerned, under the Constitution it is open to Parliament to place such a law permanently on the statute-book but we have no desire at present to place it on a permanent footing.

We have used the Act sparingly.

2 P.M.

It is said that the Government desires that at the general elections the Congress party should have its own sway and therefore this Act is likely to be abused for the purpose of maintaining the hold of the Congress over most of the voters. I would point out that it is an entirely wrong and inaccurate statement. I would point out to the hon. Members that during the last two years we had two General Elections. We had one General Election when the President's administration was on in PEPSU. We had another General Election when the Congress was in power as a Caretaker Government in Travancore-Cochin. You will understand that in both these cases, the General Elections were held in an entirely free atmosphere and I am very happy to point out that this Act was never resorted to either by the President's Adviser in PEPSU or by the Caretaker Government, which was a Congress Government, in Travancore-Cochin. In PEPSU there were

only four persons in detention from before the date of the General Elections. The General Elections were held in PEPSU from 18th February, 1954 to 20th February, 1954. From before January, 1954, there were only four persons in detention there. Now, they have continued and no other addition was made at all. You will please understand it correctly. It was the President's Government and the President's Government was extremely impartial and you are also aware of the abnormal conditions through which PEPSU passed. I would point out, therefore, that in this particular case, Government have been extremely careful. In fact, as somebody stated, you would be amazed at the moderation with which the powers under Act have been used.

Take the case of Travancore-Cochin. There was a temptation. The Caretaker Government was the former Congress Government which had been defeated. If at all they desired to have power by means other than legitimate, it would have been perfectly open to the the Travancore-Cochin Government to have detained persons who are the leaders of the other parties. That the Government did not do at all.

**Shri M. S. Gurupadaswamy:** They would have lost.

**Shri Datar:** There were no *detenus* at all from January to March, during which time the elections were held. So, that would show that the Act has never been abused at all.

As the three questions that I have posed for your consideration, firstly, as to whether there is any need, the need has been established. If you take a realistic view, that need has been established fairly well the need would continue so long as our friends opposite—some of the friends opposite—take the line that they are following. The moment they eschew violence without any reservation and take completely to parliamentary life, the situation would be extremely clear and the Government would have no desire to have this Act extended.

[Shri. Datar.]

I would again appeal to the Members of the Opposition—other than those who belong to a particular party—and so long as that particular party is concerned, it is difficult to convince them because they desire to exploit every conceivable circumstance, good, bad or indifferent. If the figures had been very high they would have stated that the Act, has been abused and if the figures are low still they would try to make a point out of it (*Interruption*). I would, therefore, try to appeal to other Members not to condemn this Bill which has been placed before the House in order to criticise Government because they also form part of the Opposition. I am quite confident that our friends are as good and responsible citizens as we are. We have to look at it from the interests of the citizenship rights so far as India is concerned.

Lastly, I would appeal to this House to take a realistic view, to consider dispassionately whether we are out of the den, whether we have completely come out of the den and are in normal circumstances. If we are not, then the only answer that is possible is that the provisions of the Act should be continued. I would assure the House that all along the provisions have been used very well. The very small number of cases that have come to the High Courts need not be taken as the normal practice so far as the use or recourse to this Act is concerned. In a number of other cases, which are tens or hundreds the power has been used properly.

Therefore, I would assure the House that all the three questions I have posed are answered, namely, that there is a need, that the Act has been used very properly, if not absolutely moderately, and lastly that even though the Act would be on the statute-book for the next three years it would be used with great caution, with a considerable amount of restraint and recourse would be had to it only when it be-

comes absolutely necessary to prevent the situation from further worsening.

**Dr. Krishnaswami:** Madam, I find it difficult to restrain my feelings on this occasion, especially after having heard my hon. friend the Deputy Minister for Home Affairs elaborate in painful manner certain axioms which are not so axiomatic and which cannot commend themselves to any section of this House. I shall deal with the three issues which he raised this afternoon.

Let me answer straightaway the first question which he has posed. Has a case been made out for the extension of the Preventive Detention Act?

**An Hon. Member:** Yes;

**Dr. Krishnaswami:** No case has been made out for the continuation of the Preventive Detention Act.

The question which I would like to pose to my hon. friend the Home Minister, and on which I should like to have enlightenment from him when he replies—is this: Even assuming that there is need for this Act being on the statute-book, has any case been made out for Parliament being prevented from having the provisions of the principal Act reviewed, from suggesting modifications which should have been made, from proposing amendments, and which it has been prevented from doing, as a result of his bringing forward a mere continuance measure.

The Home Minister advanced two arguments. His Deputy played the role of "Faithful Friday," and advanced the same arguments in a more flimsy fashion. The Home Minister pointed out in his opening speech that he was not really inclined to think that this Act would ever be used and that it would be on the statute-book to create what he felicitously chose to term a new psychological atmosphere in the country.

I want to ask this question. Has Parliament so much time on hand that

it has to concern itself with passing of Acts which would remain a dead letter? Have not got other important business? When my hon. friend the Home Minister, propounded this argument he gave up the case for a re-enactment of this Act; and the statistics such as he has put in our possession clearly prove that there is no need for this Act in the majority of the States of our Union. Even in the other States where the Act has been applied, I feel that the ordinary law of the land would have been more than sufficient, more than ample for curbing such lawlessness as there is in our country.

Great play was made of the fact, both by my hon. friend the Home Minister and the Deputy Minister that they had been extremely moderate in the application of the Act, that they had not been vindictive as they were painted, that they were so reasonable and so fair-minded that nobody could charge them with being immoderate. I am not convinced with this argument at all.

**Pandit K. C. Sharma** (Meerut Distt.—South): Do not the figures convince you?

**Dr. Krishnaswami:** Would the hon. Member allow me to complete my argument?

If the situation had been grave, if there had been persons who had committed prejudicial acts, if large bodies of persons had gone against the interests of the country, you would not and could not have been moderate. You would not have fulfilled your duties if you had attempted to wink at those who acted prejudicially. The point is that there was no need for this Act being on the statute-book; this is precisely the reason why there are so few people detained in prison under this Act.

**Pandit Thakur Das Bhargava:** Quite right.

**Dr. Krishnaswami:** If this be so, I should like the House to consider this question of detention from a historical

angle. I believe that we are victims of a disease. We started having this disease some time in 1940 when the War came and was in its full fury. There might have been reasons, for having preventive detention in a period of emergency. Then in 1950, when Sardar Vallabhbhai Patel introduced this measure, he did so in a speech of great moderation, great reasonableness, and also with an elucidation of the principle. There was some justification for Parliament approving preventive detention.

In 1951, Mr. Rajagopalachari extended it for another year. Towards the end of the same year, just before the end of the first Parliament, my hon. friend, then fresh to his job and possibly more democratic than what he is today, said that he was not going to extend it beyond an year until October, 1952, so that the new Parliament might have an opportunity of reviewing the entire scheme and sequence of the Preventive Detention Act. Then came the legislation in 1952. We all are aware of the stormy debates that took place, but I would like to place before this House a fact which it should not leave out of account, and which the Home Minister has slurred over conveniently,—it is a great pity that he should have done so especially in a matter which affects intimately civil liberties of millions of our countrymen—substantial changes in the provisions of the parent Act were effected, and these were considered to be necessary, in spite of Parliament having sanctioned the extension of the Act only for two years. Now my friend comes to this House and tells us without any compunction whatsoever, that he has made up his mind to have an extension of this Act from 1954 to 1957 and that Parliament has nothing more to do except to say either 'aye' or 'no' and march with him preferably into the 'ayes' lobby without touching a single comma, a single semi-collon, a single full stop or a single syllable of this Act. Is this the manner in which you are taking Parliament into confidence?

**Dr. Katju:** I would ask my friend to tell me how I should have framed the

Act if I only wanted its extension. He is criticising me quite alright, but do please tell me how I should have framed the Act.

**Dr. Krishnaswami:** I shall deal with my hon. friend's argument. But, I would like to point out to him that we have been accustomed to his playing the role of a choleric old gentleman so often that it does not surprise us. What I would like to point out to him is that when we are thinking of the Preventive Detention Act being extended and there has been an improvement in the situation, we would have expected the Home Minister to have brought the whole Preventive Detention Act for a general review, for close scrutiny and a close examination of every one of the clauses.

**Dr. Katju:** It is not a joke.

**Shri Tek Chand** (Ambala—Simla): Why don't you answer the question?

**Dr. Krishnaswami:** The question has been answered. If the hon. Member has not understood my answer it is not my fault. I told this House only a minute ago that if there has been an improvement in the situation we cannot just continue the old Act. It would be—to use the Prime Minister's expression—fantastic nonsense to suggest that there has been an improvement in the situation and at the same time suggest "Let us extend an expiring Act." This Act would have been dead as Dodo on the 31st December, 1954, if the Home Minister had not come before this House to extend it. We are glad to know that there has been an improvement in the situation. We give him credit. But, possibly we have to give greater credit to the country also for there having been an improvement in the situation. Yet, he comes and tells us without even turning an eye-lid: "I think, I shall have the Act extended as it is." I do not understand this attitude. In his introductory speech, well-worded and subtly phrased—there are some hon. friends of mine, who think that he is a simple simon; I do not think so,—he reminds me rather of the Greek wrestler who was anointed with oil and therefore most elusive

and difficult, to grapple with. He is very very clever, very subtle and very difficult to grasp. I understand the implications of this argument. He came to this House and said: "There has been an improvement in the situation, but I feel that the Parliament of 1952 made such an exhaustive enquiry and has gone into it so thoroughly that there is no room for improvement." Am I to take it that the Home Minister is a better judge on the advisability of modification than Parliament? Since when have we come to this pass that in a democracy we should consider that only the Home Minister's opinion is final on this issue? I do not think that the Home Minister is really a proper judge of what should be the modifications.

May I place before this House certain positive amendments which would improve this measure. I do not know whether I will be given an opportunity of moving those amendments on Monday—that itself is in doubt—but I feel that I should take the House into my confidence and inform it as to what type of amendments are envisaged by me.

The Home Minister knows that there were, as I have already pointed out, stormy debates. You remember, Sir, that on a critical occasion, when we were fighting hard, and when we pleaded for concessions from the Government, the Prime Minister intervened with effect and gave us an assurance that every year the Government would give a review of the situation as it was. I agree, that was a very significant promise, but we all know that this promise, was observed in letter but not in spirit. Let me illustrate this point a bit further. The Home Minister has supplied us during the past two years with statistics. But I ask the House to examine the limitations of the data supplied to us. These statistics give a rough view of the situation. There have been many people detained, without trial, but Parliament does not know whether they have been detained rightfully or wrongfully. To this argument my hon. friend has another

answer which is subtle. He exclaims: "There is the advisory Board." He also points out that it is a judicial body. This view of the Advisory Board shocks me. The Home Minister knows better than any other Member in this House that an Advisory Board does not become a judicial body or a quasi-judicial body because of the presence of lawyers on it. If that were so, then we need not trouble about the functions and duties of these Boards. An Advisory Board cannot enter into the sufficiency of grounds, for the simple reason.....

**Shri Raghavachari** (Penukonda): And also the truth of the statement.

**Dr. Krishnaswami:** I am much obliged to my hon. friend. It cannot go into the sufficiency or the truth of the statement because the satisfaction of the executive is subjective. Cannot abuses occur? Those things are not mentioned here and those things cannot be mentioned here. Therefore, from the point of view of Parliament which has taken a tremendous responsibility on itself in sanctioning detention without trial even for a few months, I ventured to send an amendment only yesterday to the effect that the report of these things should be placed on the Table of the House, so that whenever an opportunity occurs, this Parliament as the High Court, as the arbiter of the destinies of our people may be definitely interested in their welfare, can raise these issues. This is one such amendment which can effect an improvement. There is no machinery today to test whether these detentions have been properly done. What shall I say about the grounds on which men are detained? Today the detaining authorities have, as a result of sufficient practice, acquired a degree of mechanical efficiency which makes it impossible for us even to question their adequacy even in Courts of law. Therefore, if there is to be any check on the executive, Parliament should be provided with an opportunity of review.

May I make another point? This emerges from the statistics that my hon. friend has supplied. This book

is a mine of information, even though it is crude information. I find from the statistics that there are many States which have not utilised the Preventive Detention Act. What follows from that? Why should the Preventive Detention Act be extended to the whole of India? Why should it not be extended, if at all, only to a few areas? Why should the whole of India be brought within the bracket of the Preventive Detention Act? Surely my hon. friend knows that before 1939, when serious disturbances occurred, when tumuli, confusion and riots occurred, there were special Acts extended to disturbed areas for the purpose of controlling disturbances and this was done by an autocratic government. But, why under a popular government should this sort of Preventive Detention Act be passed? I believe that this is an instance of our having been accustomed during the past fifteen years to preventive detentions and finding it difficult to get out of even ways and old methods of approach.

Let me proceed to consider another question raised by the hon. Minister. The most significant feature of the Home Minister's speech was his invocation of the Constitution of India. On this point I should like to speak with a certain amount of frankness. The Constitution demands our respect, but on that very account we should not say that every one of its provisions is above reproach. We do want to bring about an amendment of those provisions which we believe are not suited to our times or our social interest, and, hence, there is bound to be criticism of certain provisions. For instance, the Supreme Court has pointed out that article 22 is a strange provision, which finds a place in the chapter on Fundamental Rights. It is a point of view. But there is another aspect, an aspect which has been ignored by the Home Minister, my learned friend **Shri Chatterjee** and other lawyers who have participated in this debate. I want to point out to this House that Article 22, by specifying



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ing the procedure itself, delimits the liberty or the autonomy of Parliament to legislate on anything like the subject of preventive detention. Suppose, for instance, there had been no article 22 and article 21 had stood by itself, Parliament or my hon. friend, the Home Minister, would have been under no obligation to have Advisory Boards at all, because what is said in article 21 is that there can be any limitation of life or liberty provided it is by a procedure established by law. I want to point out that in the chapter which is concerned with emergency provisions, Article 358 significantly excepts articles 21 and 22 from being abrogated. What follows from this? I want my hon. friend's attention because it is an important argument which I hope he will attempt to correct if he can. Even in the greatest of emergencies, even when we are facing a life and death struggle, even when India is in the midst of turmoil, carnage and confusion, nobody, not even the President, can afford to dispense with that specified procedure for detaining people under Article 22. When the Constitution has given so much importance to the idea of minimum safeguards being assured and particularly when they cannot be dispensed with in an emergency, it is but appropriate that when a Preventive Detention Bill is introduced in normal times, there ought to be a close and minute scrutiny of the clauses by Parliament, which is ultimately responsible for limiting the rights of our citizens. The very fact that these provisions have been specified casts on Parliament a mandatory duty to take an active interest, to make a severe scrutiny of every one of the provisions of the Preventive Detention Bill. Each time the Preventive Detention amending Bill comes before Parliament, it has an inherent right to scrutinise and examine every one of the clauses of the parent Act to find out how the mode, the manner, the terms and the conditions of that Act have altered since it was last discussed and then to make modifications. That is our responsibility. It was this

consideration which influenced me so much that on the very day when the consideration stage of the Preventive Detention amending Bill came up, I perhaps hastily attempted to raise a point of order and suggested that amendments could be moved to the clauses of the parent Act. In all humility I affirm that when it is a case of a responsibility being cast on us, a responsibility which is dictated both by constitutional propriety and constitutional convention, our Rules of Procedure should be modified so that we might have a stricter scrutiny of these provisions. The usual rule that approval of the extension of a measure carries with it approval of the provisions of the Act does not hold good so far as this particular type of legislation is concerned. This is no ordinary law. That was why I tried, perhaps mistakenly, to raise this issue on a point of order and I was ruled rightly by the Deputy-Speaker as raising a hypothetical matter on which the Chair could not possibly give a ruling. However, I give this warning to my friends that on Monday, when the clause by clause stage comes up for consideration, I shall carry the battle against this Act step by step. We on this side expect them to be armed with sufficient authority to meet us on this point. I have already given notice of amendments and there will be opportunities for us to discuss their relevancy. Parliament cannot abdicate its responsibilities. The last charge that is levelled against us by the other side is not that the arguments that we are advancing are illogical but that we are in bad company. I ask this question of my friend, the Home Minister: Can a good cause be rendered bad by the fact of bad men sponsoring or advocating it? Conversely, can a bad cause be rendered good by good and saintly men advocating it? If that had been the teaching of history, and ethical philosophy, then Karna and Bhishma should have triumphed over Arjuna because in prowess, skill, wisdom and intelligence they were far superior to the latter. Therefore, that is not an argument

which we should take into account seriously.

I appeal to the conscience of Parliament. Parliament, after all, has a conscience and I ask them to rise above considerations of Party and exert with us in the 'Noes' lobby if that is possible. If, however, that is not possible, I would like my friends opposite to induce those in charge of this measure to review the position and to prevent the liberties of our people being needlessly sacrificed to oblige a few pinchbeck Napoleons now enthroned on seats of power.

**Shri Chattopadhyaya:** Much has been said against the extension of the life of the Preventive Detention Act by another three years; less has been said in favour of it. But it is very significant that even amongst the Members on the otherside of the House that there is divided opinion.

**An Hon. Member:** No, no.

**Shri Chattopadhyaya:** Some voice just now said 'No, no'. Perhaps they have got used to saying things in such a parrot-like manner they deny the truth that glares them in the face. George Bernard Shaw, of whom I am sure our hon. Home Minister has heard...

**Acharya Kripalani:** No, no.

**Shri Chattopadhyaya:** Bernard Shaw once said that every man over 40 is a scoundrel.

**An Hon. Member:** What about you?

**Shri Chattopadhyaya:** Of course. It is a very sweeping statement, I admit, if taken literally; but what Bernard Shaw actually meant, I suppose, was that after 40, in most cases, the cerebral tissues get a little weakened.....

**Shri Tek Chand:** Is it a confession?

**Shri Chattopadhyaya:** and they lose their agility and resilience, and the power which existed before forty years of age. If I come under that category, I am sure, many of you do, too, and the weakening of these tissues leads to rather dangerous issues, such as, for instance, in this case, the Preventive Detention Act. This Act seems

to have become a permanent fixture on Dr. Katju's brain and the statute-book. But all the sincere and convincing arguments advanced from this side of the House—the human minority—are returned by Dr. Katju on the other side, conscious of the support he gets from the brute majority, with a kind of callous lightheartedness which seems to me to cover up only his sense of a very unfounded fear. I, for one always have had very deep admiration for Dr. Katju. We think of the days when he was a brilliant lawyer and in my younger days we used to think a great deal of him.

**Dr Krishnaswami:** He is still a brilliant lawyer.

**Shri Chattopadhyaya:** I wonder, actually, whether the Home Minister in his heart of hearts—if he has a heart left—truly believes that this measure is essential in a time of peace, whether it is essential to extend the life of the Preventive Detention Act. The Preventive Detention Act seems to have become Dr. Katju's chewing-gum. He draws it out of his mouth and puts it back into his mouth; draws it out for a year and puts it back and then for two years and then for three years before he draws it out again. I call this Act of tyranny, and therefore, an Act of cowardice, for tyranny is the highest form of cowardice. Is it really his intention and is it on his own initiative or is it that he has been influenced by some irresistible friends who seem to be rather dangerous advisers? Does this abiding by what he is advised lead to a war in his own mind? Does he conjure up, by the war in his own mind, an imaginary state of war in the country which makes the Preventive detention Act so important, so necessary? Only the other day, the new Chief Justice of the Supreme Court said that no other country in the world had a law of this nature. The Preventive Detention Act keeps the people confined without trial in a time of peace. In fact he said—if I make no error that the Government which needs to promulgate such a lawless law in times of peace is hardly

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civilised. Is war in existence today? I put that question to the Home Minister. Is there a war now—hot, cold or lukewarm? As I have already said, the war exists only in his mind, I did not say "heart," deliberately.

Only yesterday the Prime Minister, in Orissa, talked about the people growing to power in silence and peace. In season and out of season, we hear that our people are very peaceful; that they are getting on marvellously well. How are we to believe that they are getting on marvellously well with such a law in existence and which is sought to be continued? How are we to believe that they actually believe that the people of our country are getting on well when they promulgate such laws? How are we to believe that this Government actually has any faith in the people, and how are we to believe, if they have no faith in the people, that the people can have faith in them? Suspicion breeds suspicion. Don't you think it would be much better, at this juncture, to give this country a chance by withholding this awful, heinous Act and give the country a chance of testing its own truth, its own sense of responsibility, its own sense of service to the people, its own sense of the capacity to co-operate with you all in your great plans. No, Sir, the country has not any particular aim that is dangerous to you. What is really dangerous is the starvation in the country. What is really dangerous today is the hunger of the country. Actually the danger comes out of the stomachs of the people and not of the intrigues of a handful of men. If you want to fight communism, which seems to be a bogey frightening you all the time, you cannot fight it out with the Preventive Detention Act. You can only fight it by trying to look after the country and give the people more food. I do not say that communism should be fought; You cannot in any case fight it, since communism is spreading all over the world. It is inevitable. You cannot stop it. If you want to stop it, you

are like King Canute trying to stop the ocean. But if in India, you want to stop any kind of forces of insurrection or revolt, give the people more food; look after their conditions. Have you not seen how the people are starving? How can all be well in this country, I ask. You say they are peaceful, but alas, it is the peace of the graveyard. I wish they were vitally peaceful, dynamically peaceful so that we could build together. And so I appeal to the Home Minister to reconsider the extension of this Act and see that country gets a chance of being able to test its own truthfulness, its own national integrity. The Preventive Detention Act, to my mind and to the mind of millions, is really a mischievous Act. It mocks at civil liberty and spits on the face of human rights. It renders the common law sterile, so sterile that it has no power left to bear any meaning. It makes a travesty of the legitimate freedom of the people. In fact, I venture to submit that the framers of such a mischievous Act which encroaches on the rights and freedom of the nation should first offer themselves to be arrested under this very Act and put behind the bars without trial. Let us be told quite honestly that you mean to have this Act as a permanent fixture on your statute-book. Why do you play with us? Why don't you tell us it is a permanent fixture and be done with it.

An hon. Member: It is.

Shri Chattopadhyaya: I am glad you are honest. But how can we trust you? Have you been able to keep your word? From our experience in the past, I say that your promises are written on water. We are told that this is a true democracy, that India is a true democracy.

Some hon. Members: Yes, yes.

Shri Chattopadhyaya: We constantly hear this. I am afraid it is only the printed page of the Constitution. We have seen how this Act becomes an instrument of executive tyranny, even of executive terror. We know of several cases where this Act, in the hands of the executive, is an extraor-

dinarily potent weapon for free invasion of individual civil liberty. It is no use having high-couuding phrases on the printed pages of the Constitution, scented and emblamed. We want to make it a fact, a living fact for the people. It is no use evading the question. It is no use evading your own fears, and I fear that the people may rise tomorrow because of hunger and not because of communism. Why don't you actually set your own house in order and not blame this one or that one? It was quite amusing when the Deputy Minister of Home Affairs just now said: "Well, we have this law because there is a group of people who are out to do this and that." Again, at the same time, and in the same breath, how coolly they say, it is not levelled against any political party. It is a very strange contradiction. Your government seems to be full of contradictions at every turn. I would like to quote the *Hindustan Standard*:

"Nowhere else in the world, detention without trial is retained as a peace-time measure. That which is considered to be a blot against the democratic Constitution of this country is considered to have served the most beneficial purposes. It is not creditable for a democratic government to plead inability to govern by the ordinary law. If the condition in this country is not normal after seven years—and you are always talking of this 'infant democracy'; when will this infant democracy grow up? (An Hon. Member: After two hundred years).—"It shows an admission of the Government's failure to solve the people's problems satisfactorily. It is deplorable the Government should fail to understand that laws like preventive detention are a gross negation of individual liberty and freedom of expression. It is no argument to plead that democracy is still in the making."

Has Dr. Katju forgotten those days of the Rowlatt Act? Do the

people not remember still there tremendous times when triumphantly they rose against the Rowlatt Act and there was a huge ocean of agitation spreading from end to end of the country Dr. Katju himself was one of the main fighters in that cause, one of the antagonists against those awful laws and against British imperialism. And today this very Dr. Katju is a protagonist of this Act. I want him to reconsider this Act.

I am reminded of one story which I shall relate before the House and then I will sit down. I am reminded of the story of the king who had relegated to a monkey certain services to be fulfilled. He told the monkey, "If a fly sits on my head, please see to it that the fly does not irritate me, you must see it is knocked over." The monkey said, "All right, I will do it". Well, the king was sitting and a fly came and sat on his head. The monkey said, "Well, here you are, I have got to serve my king". (An Hon. Member: Could the monkey talk?) The monkey took a stone and smashed the fly on his head. The head was amashed too.

I thank you, Madam.

Shri C. R. Narasimhan (Krishnagiri): We have listened to very eloquent speeches and have gone through quite a lot of arguments for and against the Preventive Detention (Amendment) Bill that is before us. The legislative and parliamentary history of India contains quite a number of chapters and verses and even stories on the subject. This Preventive Detention Act has been the subject-matter of discussion in previous Legislatures and even in this very Parliament. Therefore at this stage to go into the fundamentals of the question and to go on arguing for and against it, is in my humble opinion and with due respect to one and all, a through waste of time.

We have actually before us an extending measure as Dr. Katju and the Deputy Home Minister have

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proved before us with facts, circumstances justified the introduction of the measure and the measure has justified itself. It has been properly used, and all that Doctor Katju wants is that the country having needed the remedy, and the remedy having proved successful, continuation for some time, just a maintenance dose of that remedy. As physician of the body politic of this country he prescribes a little more dose. At this stage, quacks should not try to take the patient out of the present physician's and treat the patient themselves. And I do not think a change of physician would be allowed. Also it is against professional etiquette for one doctor to take a case from another doctor's hands without consulting the patient concerned.

**Shri B. S. Murthy:** But our difficulty is that it is a veterinary dose.

**Shri C. R. Narasimhan:** We have succeeded. The facts have proved it. There is peace and tranquillity in the country unlike the troubles we had. As a person coming from Salem, I know that some years back a regular attempt was made in my constituency to remove the Railway sleepers—in fact the sleepers were actually removed from the railway line between two stations, and at about that time three fast expresses had to run on that line one after another. If only an accident had taken place at that time we do not know how many lives would have been lost. But luckily a line-man noticed it, ran for miles and reported the matter to the concerned authorities, and a serious accident was averted.

Parliament after going through the pros and cons and all the arguments in respect of a measure like this, accepted the measure. It has been applied and it has produced good results. Any objection to the maintenance dose will not convince people either here or outside.

As a matter of fact what I am a little worried about is that in this measure the hon. the Home Minister is restricting the scope in a way and does not include its operation in the State of Jammu and Kashmir. He probably has weighty reasons for doing so. But I am rather worried about it as I think that the Preventive Detention act, for the sake of the security of the country and for our policy in respect of foreign affairs and defence, should continue throughout the country and there should not be an exception in the case of Kashmir. Instead of the scope of the measure being restricted, I actually want it to be enlarged. Probably the Presidential Order on the integration of Jammu and Kashmir with India removes to a certain extent our jurisdiction to deal with this matter. But I am really anxious that that Order should not be construed as permitting the use of units of India, in whatever form integrated with the country, to be used as a jumping-off ground for acts against the security of the country or actions to subvert the Constitution or to complicate our foreign relations. Therefore it is my humble request that in some form or another it should be secured that no such thing should take place, and it should not be thought that the Integration Order deprives either the government of this country or the Parliament of this country of their obligations and duties by the nation at large to make proper arrangements for the defence and security of the country.

I have nothing more to add. I am sure the measure will be accepted and approved by the country. We have a chance in Andhra immediately to show whether we have done what the people want or not. That is all that I wish to say.

**Shri Mulchand Dube** (Farrukhabad Distt. North): I have listened with some attention and considerable interest to the eloquent and passionate speeches that have been delivered on the floor of this House in regard to this Bill. I have been wondering why

the provisions of the Act, the life of which is sought to be extended have not been referred to by any section of the House. The reason appears to me to be that there is no objection to them and there can be no objection to the Act which is sought to be extended.

Section 3 of the Acts reads as follows:

"The Central Government or the State Government may

(a) if satisfied with respect to any person that, with a view to preventing him from acting in any manner prejudicial to

(i) the defence of India, the relations of India with foreign powers or the security of India, or

(ii) the security of the State or the maintenance of public order, or

(iii) the maintenance of supplies and services essential to the community,....."

There is also a fourth clause which seems to be immaterial in the present circumstances.

The first thing that it seeks is to prevent a person from doing any act prejudicial to the defence of India or the relations of India with foreign powers or the security of India. I do not think that there is anyone in the House who would say that a person or persons should be permitted to tamper with the defence of India or the security of India or its relations with foreign powers. The question is whether or not there is a necessity for such an Act to continue. Every one in this House would admit and probably every one in this House knows that there is a class of people who do not believe in democracy, there is a class of people who do not believe in the ballot box; there is a class of people who believe only in the bullet. There is a class of people who believe in benevolent despotism. There is a class of people who believe in dictatorship. Not one of them is committed to the principle of non-violence. So long as that is not there, and if they are not committed to the

principle of non-violence, if they are not rededded to the principles of democracy, I submit that it is absolutely necessary that such an Act should be there not only for three years, but for such a time till all the people in this country become wedded to or begin to believe in democracy.

The question is whether such persons who do not believe in democracy, who are out to destroy democracy should or should not be prevented from doing so. A great deal has been said that the ordinary law of the land should be applied, and there should be a trial of the people. I do not know much about other laws. But, I do believe that they are referring to the Criminal Procedure Code sections 107, 108, and 109.

Pandit K. C. Sharma: Section 110 also.

Shri Mulchand Dube: If these are the sections that are sought to be applied, my submission is that they are utterly inadequate. The first reason is that when you take proceedings under these sections, the Court calls upon that person to give security. If a person or a party, who is interested in doing this act is able to furnish security, nothing further will be done. If he has furnished the security he will be entitled to proceed with his nefarious activities. Therefore, sections 107 to 109 or any other section will not help. For special occasions, we need special laws. The only remedy for such a situation is to detain the person. While detaining him, we should also see that no harm or injury is done to him. For that reason, an Advisory Board is appointed consisting of high judicial officers who may be able to bring an unbiased and impartial judgment to bear on that matter. The whole case will be placed before them. They will be able to get any information they may like from the Government and even from the accused person. When this is done, they are able to examine the case carefully. There does not seem to be any reason why a regular trial should be demanded. My submission is that in a regular trial, the

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whole thing would be published and the whole world and the whole of India will come to know what was being done: defence of the country is being tampered with or injured by any person, or about to be injured. It would be undesirable for the entire world to know how it has been done. So far as the first clause of the provision is concerned, this Act is absolutely necessary, and a further extension of the Act should be made.

The second clause relates to the security of the State or maintenance of public order. In the case of the security of the State being endangered or public order being endangered the State is entitled to act and any of its officers, District Magistrates or any other officers may take action. In every Government, the first essential is that public order should be maintained and the security of the State should be maintained. If the Government is to take action for the maintenance of public order, I submit there could be no complaint on the part of any party in this House.

Similarly, in the case of cutting off of supplies, this provision is necessary. There may be cases in which the entire water supply or supply of electricity or such other supplies may be entirely cut off. Or an attempt may be made to cut them off. There should be a provision of this kind for such cases also. It has been said times without number that in peace time or normal conditions, such a legislation is unnecessary. As I have stated before, there are people who do not believe in democracy or in the ballot box.

A great deal has been made of the speeches that were delivered by the leaders of the Congress during the British days. My simple reply to this is that that was a time when the Government was irremovable by the people. It could not be removed by the ballot box. The people had only two alternatives: to overthrow the Government by force, by revolution.

That revolution may be of a peaceful or no-violent character or it may be of a violent character. We in this country chose the method of non-violence. Some other countries chose the method of violence. It is not necessary for me to name those countries. It must be admitted that they brought about a revolution in the former Government and they behaved in that fashion and uprooted the Government. As I said before, there is a class of people who do not believe in democracy, and who do not believe in the ballot box. There are people who have not eschewed violence up to now and who have not clearly stated up to now that violence is no part of their creed. On the contrary, we find that the very same methods that were used in other countries are being used even now by organising the peasants, by organising the workers and by organising the other classes of people. If the end of these organisations is to overthrow the democratic form of Government by force, it has to be maintained by any means that lies in our power. We have a right to protect our democracy and while protecting our democracy, we have to see that we do not unduly harass or injure any person. If we find that there is any doubt whether he tried to overthrow the Government or not, we should give him the benefit of the doubt. It is for that reason that Advisory Boards have been set up who may go into the matter and decide whether the man is really guilty and can be brought within the four corners of the Act or not. I submit that this Act is very necessary and its life should be extended for the present at least.

With these words, I support the Bill.

**Pandit K. C. Sharma:** I was rather surprised to listen to the objections; against the Bill.

3 P.M.

There are two sorts of objections. One is on principle. This very House passed this Bill into law as far back

as 1950 and it has been on the statute-book for full four years. Again and again the law came in for discussion and it was voted for. So, there is not much force in questioning its desirability on the issue of principles involved.

**Shri B. S. Murthy:** There is no quorum, please.

**Mr. Chairman:** Yes, the hon. Member can continue.

**Pandit K. C. Sharma:** I was discussing the principle behind this law.

Now, in the Criminal Procedure Code as the hon. Home Minister pointed out at the beginning, there is Chapter VIII which deals with security for keeping the peace on conviction—section 106. Then, section 107—Security for keeping the peace in other cases. Then, section 108—Security for good behaviour from persons disseminating seditious matter. And then I emphasize section 110—Security for good behaviour from habitual offenders. Sub-section (e) of this section relates to a person who “habitually commits, or attempts to commit, or abets the commission of offences involving a breach of the peace or, (f) is so desperate and dangerous as to render his being at large without security hazardous to the community.” Now my respectful submission is that in practice the persons challaned under these sections are seldom acquitted. So, against this already accepted law of the land, under the Preventive Detention Act it is a very cheap way of doing things. I say offenders are getting a better deal under this Act than they would have got under the Criminal Procedure Code, and my lawyer friends would bear me out that hardly any man is acquitted if challaned under Section 110 and certainly any number of the Communist Party believing in Communist doctrines does come under section 110 (f) because he habitually believes and works for breaking up of the present structure of society as it stands. And how does he try to break it? Does he break by reciting the Ramayana, Vedas and the Gita? He breaks it with the hard

stone of breaking the law. Breaking the law means demoralising the society, destroying the institutions.

From 57 B.C. to 1954 A.D., the great role rather the constant course of what is called the futurist section of the people has been demolition of the landmarks or forcible dissolution of the social institutions. It is not a new phenomenon. In the long range of historical development, some section or other has been playing the role that our Communist friends are playing today. Therefore, I do submit that it is a necessary law so long as the pattern of our society is not accepted by all classes of people.

I do not say everybody should not have individuality. He should. A man ceases to be a man unless he possess the right to thought, the right to have individuality, the right to have loneliness the dignity of the man. But to have a dignity of his own is one thing, to break the social structure is another thing; to change the law is one thing, to break the law is another thing. Therefore, I respectfully submit that this law is a necessity for the peace and progress and stability of the country. And in any country where we have got democratic pattern, this law or something of the kind exists. For instance, in the U.S.A., Australia and Ireland, they have got some sort of law like this. It all depends on what sections are opposing and what activities are going on.

So, I say this law in principle is already on the statute-book in the Criminal Procedure Code. Nothing new has been enacted. And then, it is within the ambit of the Constitution—article 22.

I do not say that this law is compulsory under the Constitution. No law is compulsory. Suppose a theft is committed. It is not necessary to pass a law that the thief must be sent to jail. The State may evolve a scheme to give some gainful employment to the thief and reimburse the man wronged. Crimes are committed in certain circumstances. What view the State or



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society takes depends upon the structure of that society. No law as such is necessary to be passed. There is no compulsion that a certain law must be passed in certain way. The only point is it is permissible that such a law may be enacted. So, there is nothing illegal about it. There is nothing tyrannical about it. A law is not tyrannical if the Constitution permits it. A law is not unlawful or illegal if it is within the scope of the Constitution. So, to call it tyrannical or to call it illegal is to use words without understanding the meaning and the significance of the words used, and in a way talking in a loose way without much sense of responsibility.

My second point is whether it is in accord with the general principles of modern jurisprudence. I submit and I hold that it is, and my reason is this. Looking into the figures supplied, the punishment is detention from one day to one year—for what sort of offences? what sort of fear? attacking the security of the State, creating trouble with regard to the relations with foreign powers and other similar offences. Now, what would be the punishment if a man is prosecuted under the sections I mentioned? Not less than three years. I have fought cases in which young Congressmen were detained for three years for this very thing. Is it not cheaper, is it not fairer to remain in detention from one day to thirty days or at most one year for offences, for thing done, for which the ordinary law will send the accused for three years in jail?

And if the man is tried and convicted under the Indian Penal Code, then he shall have to rot there for five years. Then take the social aspect of the question. After remaining behind bars as a criminal, as a convict, when he goes back to society and associates with people, they turn him out as a confirmed criminal. What is the difference between a confirmed criminal, a convict, and a man ordinarily detained under this Act? The difference is this, that in the first place, the latter has to suffer

less. In the second place, after having undergone conviction, the confirmed criminal, is never absolved by the community. Society has always a stigma against him; he has nothing to go on in life after coming from jail. That is not the case under this law. Therefore, I say that from the social viewpoint, society is the gainer. In any law passed by modern States, particularly by a welfare State, the social viewpoint is much more important and much more significant than the case of an individual criminal or individual negligent citizen. As I said, I fought, and fought bitterly, for the right of cross-examination in the case of an accused when the Criminal Procedure Code was being discussed, and still I stand for this reason. This seems paradoxical. But it is very reasonable and is based on logic and commonsense, because by passing this law, the society ultimately gains. Society gains in two ways. It is a speedy remedy for avoiding an uncontrollable situation. This is borne out by the facts. Which are the States which have used it? Bombay, West Bengal, Madhya Bharat, Rajasthan and other big States which have stable Governments have not much use for this law. Now, the figures themselves support the statement that wherever the situation was likely to go beyond control, this law has served a useful purpose. Take our friends who do not believe in a stable, steady progress. They are entitled to their own way of life; I am not fighting them. But they do not believe in stable peaceful and steady progress. What will they do? They would not allow things to go on. They will try to create a situation in which the peaceful and stable carrying on of Government would be made impossible. Suppose I believed in such a thing, what will I do? I will create a condition in which stable, peaceful progress would be impossible. They say "you cannot build a new house, a beautiful house of your dream, unless you bring down the structure already in existence." Now, this House, as it is erected under this Constitution, wants that this beautiful structure should remain not only intact at pre-

sent, out should pass on from generation to generation. What will a man who wants to break it down do? So before he takes the axe, before he gathers the mass round him, it is necessary to nip the evil in the bud. That is the significance of this Act. No one having an iota of commonsense in his brain would say, 'No, you should not take speedy action to avoid an uncontrollable situation'. Either you accept that the whole of our people have taken to the particular pattern envisaged in this Constitution or you do not. If there is any section of the people who deny the advisability, the utility and the sanctity of this Constitution and want to bring down the whole structure and build anew a 'beautiful castle of their dream', then this law is a necessity.

**Mr. Chairman:** The hon. Member has exceeded his time-limit.

**Pandit K. C. Sharma:** I will finish in one minute.

I come to another point, whether this is likely to serve any useful purpose. I would simply finish by quoting a very great author. This is from *A Study of History* by Arnold Toynbee. He says:

"If we may liken the catastrophe of archaism to the crash of a motor-car which skids right round on its tracks and then rushes to destruction in the opposite direction the happier experience of futurism (i.e. communism) may be likened to that of a passenger on board a motor-driven vehicle who believes himself to be travelling in a terrestrial omnibus and observes, with deepening dismay the even increasing roughness of the terrain over which he is being carried forward, until suddenly when an accident seems immediately inevitable—the vehicle rises from the ground and soars over crags and chasms in its own element".

So I would respectfully submit that till the whole people accept the pattern of society envisaged in the Constitution, and till there are diametrically

opposite forces working against this accepted pattern of society, this law is necessary to avoid a situation which may defy any control and may break the law and the social structure built thereon.

**Shri Baghavachari:** Along with other friends who expressed their surprise at the way in which this subject is being handled in this House, I would say it has become an annual feature and it has also become a wearisome feature, to listen to the same arguments for and against. I for one feel that it is not necessary to either urge or answer those arguments for and against based on general principles, because this has gone on so many times and without purpose. For we only see at the end—whatever the arguments, whatever the pleas advanced,—sometimes convinced, sometimes unconvinced, they simply vote in the way in which they are asked to. Therefore, it is really a very melancholy picture to see in the House people arguing sometimes against it and often times arguing in favour of it without any conviction in their minds. As I said, I do not want to go into this general discussion, unless we are interested in a fanfare of arguments, oratory and vehemence. All that is very good for the first time.

The real thing now is that an Act of this kind has existed for so many years. At the beginning, when it was started, those who initiated it, came with an apology, came with a heavy heart, with a guilty mind, that under a Constitution which gave so many rights as fundamental rights, a legislation of this kind which is a denial of all those rights should be placed on the statute-book. They were really ashamed; they were people with a larger heart, they were people with a sense of responsibility and duty. They themselves felt that there was no real justification for it except under an emergency, in a dangerous situation, as they honestly believed as existing in those days. It is not such a situation that is claimed now to exist. Even this time when the Home Minister started it, he said, that the result of this enactment is that a

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peaceful atmosphere has been established in the country, and from peace we have gone to permanent peace, and it is all peaceful. I want it not because there is any need justified by existence of a dangerous situation in the country; I want it because it acts as a psychological check against recurrence of disturbances'. I feel that he has attached great weight to this so called beneficial aspect of this legislation. "Here I have a sword; nobody need come near; your heads will be off. Holding the sword in my hand is the thing that makes many people not come near me." That is the psychological aspect that he refers to. To my mind this argument can hardly be advanced in favour of a piece of legislation which is a denial of all the rights, fundamental ones, guaranteed under the Constitution. This argument about the psychological aspect is not at all justifiable.

I must appreciate the very relevant question put by the Deputy-Speaker when he was sitting in the Chair, "What is the use of all these arguments? Is there any justification or need for its continuance now?" I too have some experience of what really is a justification for an enactment of this kind. To my mind it appears that the figures supplied absolutely make out no case in its favour.

In the Statement of Objects and Reasons, the Home Minister has said, it has been an effective instrument in the maintenance of law and order. I think every Government worth the name has the duty and responsibility of maintaining law and order. Laws in all countries are meant to preserve law and order. This country has existed for hundreds of years. There are other laws which help the Government to maintain law and order. If the object for the continuance of this enactment is that this is an effective instrument to maintain law and order, it looks as if all the other Acts that we have are put in cold storage; and only this Act is going to be used for all purposes.

Another point I would urge is this. At the present day it is sought to be used and sought to be justified also because there are a series of agitations against which they want to use it—the students' agitation the peasants' agitation, the labour agitation and so on. In these cases the Act has been misused, there is no justification for it. People are dissatisfied with the existing state of affairs, and therefore they gather together and agitate. Other friends have pointed out in detail in how many of those agitations where the Government thought they were justified in using this enactment, invariably the Government had to yield. The Government has accepted the justness of the claims for which they agitated and the Government itself had to grant reliefs. Therefore, it should be clear that the enactment was used against persons who agitated for a legitimate purpose, because, as I have said, the Government itself had conceded their demands. Therefore, to contend that it is necessary to have these powers to use against such agitations, is not proper.

There is another thing. The Home Minister has always been saying that there is an Advisory Board before which a man can represent his case. They examine the case. They call for additional information and then give a decision. Therefore everything that is available in a Court is available here and so on. I fail to see the reason for the vehemence of the previous speaker who said, "I fought for the right of cross-examination in the Criminal Procedure Code." Now in the case of this legislation, I am prepared to say "there is no need for it." The fundamental fact that should have made him fight for the right of cross-examination in that Act is that the police material is not to be relied upon and therefore the right of cross-examination was essential to test the truth or otherwise of that material. In this case also is it any other man or any other agency that prepares the report for the detention orders? It is the same police or

it is an executive officer. The detention order is based upon his report. These papers are placed before the Advisory Board. It may be the highest of the judicial officers—the Supreme Court Chief Judge himself. But what else can he do? Here are the reports. He reads it and says, certainly this man must be detained.

Have we all forgotten our own experience? I was a detainee for 28 months in jail. Many times the detention order had to be extended; but all the reasons that they had given were false. We knew we could make a representation, but we never made a representation. We never approached them because we knew that they had deliberately cooked up the material against every individual. I believe that the present reports too are in the hands of those very police people who have been known to have exercised their powers irresponsibly. Such material from the very basis for these detention orders now passed.

What was most astonishing to me was this argument of the previous speaker. He said, "There is another Act under which you can be sent to jail for three years under section 109 or 110 of the Criminal Procedure Code. But here you are kept for only one year and you are treated much better. This is a merciful Act." It is strange to me that this piece of legislation must be looked upon as a merciful Act. These are arguments for the sake of arguments and will not convince anybody. To my mind, the only consideration should be, is the present situation so dangerous as to need the extension of this kind of extraordinary power in the hands of the executive? As I have already said, I feel perfectly satisfied that there is absolutely no reason for extending such a measure.

One other argument advanced is the existence of the Communist party in India and they go on saying that this enactment is necessary because these people exist. Whenever we say, "you have enacted this to put down the political opponents," they say "no, no; it is for individuals". But when they want to argue, they say, "an organisation

of this kind exists in India and therefore we want this Act." If you honestly tell us that you want to punish these people only, we can understand your argument. But do not say, "this is meant for use against every man who resorts to violence or does any violent act" and also argue "so long as such an organisation or party exists, this is essential." You take the existence of dacoits and other dangerous people and say you want this enactment. You had better confess your inability to govern or to maintain law and order with the ordinary laws of the country as every civilised and democratic country is found doing. Therefore, I, for one, would seriously urge that the material placed before us is found thoroughly insufficient.

I would like to ask: Where is it that the Communist Party has been returned in the elections? In Andhra, in Hyderabad, in Travancore-Cochin and in other parts. Have those Governments ever found the need to use any section of this Act? There is not one instance. So, your argument that the existence of this party is the justification for this enactment is blown to the winds. Because in the very States where they are very powerful where they must have their cells and organisations, State Governments have not found any need for its use.

**Pandit Thakur Das Bhargava:** In Hyderabad, from this paper, it appears there are 12 persons.

**Shri B. S. Murthy:** He spoke only of Andhra.

**Shri Raghavachari:** I spoke about Hyderabad also.

The Home Minister said in the course of his speech that he is surprised to find that the States have used this power so moderately and with such restraint. So, to my mind, it looks as if the Home Minister would have liked a free use of his weapon. They should have sent in hundreds and thousands of persons. He is surprised that these States have been so moderate. In other words, it should have been misused.

[Shri Raghavachari.]

Then we quote the number of 200 and odd as the justification for the continuance of this Bill. Do numbers justify? Are we sure that all the 250 and odd cases were real cases where there was genuine and justifiable true reason to bind them over or detain them? In many of these cases, there might have been an abuse of the powers. Therefore, taking the numbers—which might be the result of a misuse of the powers—and say that we want the continuance of this Act is the most absurd argument. Commonsense must dictate to us all whether such a thing is now necessary. I am only sorry that this Government is not feeling their own responsibility and the shame that is involved in seeking the continuance of this kind of legislation for a number of years. Somebody said that for eighteen years this infant democracy must go on with it. As this infant is under the guardianship of the present Ministry, the minority must be for 21 years and not 18 years. It is a pity that this kind of argument can be advanced on the floor of this Parliament. We must be satisfied that there is reason, that there is a necessity and there is a justification for its continuance.

The other argument is that it would be a waste of the time of the House to have to come every year and so they would have it for three years. I am reminded of a teacher, who when one or two boys were making noise in the class, caned almost every boy in the class and when the innocent boys said, 'We did not make the noise' he said, 'I have no time to come again; you are sure to make noise tomorrow or some other time and so I will punish you'. I do not want to waste the time of the House and so I want to have it for three years; that is the argument.

Shri D. C. Sharma (Hoshiarpur): Did it happen in Andhra?

Shri Raghavachari: It happened in Andhra and it will happen in your schools also.

What I want to say is this; this is a useless kind of argument in favour of a thing which requires the complete and reasonable satisfaction of all the Members of this House, who have been elected as representatives of the people. We are here listening to your arguments and seeing, whether we should help you. If we should help you, just as Shri Ramachandra Reddi said, let us not have it for a period of say, six months or one year and see whether the country is in danger. Then come before us and we will certainly be justified in saying that you should have these powers.

You have got two sets of teeth, one to show to the outside world and the other countries, that you are progressing peacefully as a democracy and everything is going on peaceful here. But, inside, you want to have dictatorial kind of legislation. You have two sets of teeth, one set of teeth to show your beauty to the outside world and the other set to bite and chew people inside the country. To my mind it looks that there is a kind of melodrama going on here by people who really and honestly do not feel that there is need for such legislation. I feel thoroughly satisfied that there is absolutely no justification for the continuance of this piece of legislation.

Kumari Annie Mascarene (Trivandrum): Madam Chairman, for a third time in the life of this Legislature, we are face to face with a legislation which points out clearly the inability of the Government to administer this country without resorting to a special law to arm themselves against the complaints of the people and another law namely, the recent defamation law to protect their persons when they mal-administrate. It is a great pity that the custodians of law and order should be the first people to throw away the common law of the land and to resort to a special law.

Yesterday, when this was being discussed the Deputy Speaker said, the point to be discussed now is to look

into the working of the law that is before us. Looking at the law, I find that the working of the law, as revealed in many of the speeches, does not justify the continuance of it. The law does not function in the following States; Madhya Bharat, Mysore, Travancore-Cochin, Ajmer, Bilaspur, Coorg, Delhi, Manipur, Himachal Pradesh and Madhya Pradesh. That was in 1952. In 1953, in the following States it did not function: Orissa, Mysore, Travancore-Cochin, Bilaspur, Coorg, Manipur, Tripura, Himachal Pradesh and Vindhya Pradesh. In 1954, there are only one or two exceptions and the same States continue to administer without resorting to this law.

Taking the number of people detained, in a country having 36 crores of people, in 1952 the number of detained persons as given in the statement is 584 and in 1953 it is 391 and this year, as the book gives, it is 410. That means that resort to this law is not necessitated in the years 1953 and 1954. Under these circumstances, we have to understand that there is no necessity for this law to be continued.

Again, when you look into the cases of people punished, you will find that the number is decreasing because the Board and the Court release them. With these facts in view, I am asking the hon. Home Minister whether it is justifiable to continue the law.

I have heard reflections on democracy. The less said about it the better. "When power concentrates", I am quoting from Edmund Burke—he says:

"When light passes through a dense medium it refracts from the straight line."

Similarly when power concentrates, the administration refracts from the straight path. That is what is happening here. I have heard hon. Members opposite quoting democracy in other countries as a justification. I would ask them most humbly whether they can mention any State in the whole world where detention law functions as it functions in India today and that

especially in peace time? In the evolution of law in England we have noticed that the common law of the land had been often substituted or overridden by the administrative law. And, what is the result of that? From *Magna Carta* onwards you will find attempts made by the people in the Parliament to obstruct the autocracy of the Cabinet. Hence the latest development is the *habeas corpus* which prevented the Cabinet from resorting to administrative law and against the common law. They had laid it down very clearly that no man can be punished without a proper trial and no man can be imprisoned without trial. This is very clear in English law and if Members opposite want me to point out the connected link of democracy that developed from *Magna Carta* onwards I shall tell them that a stage had come in the evolution of common law in England when Rym, Hampton, and Elliot like the revolutionaries on this side protested against such administrative law overriding the common law and established the common law on a firm foundation.

**Shri Dhulekar** (Jhansi Distt.—South): After how many years?

**Kumari Annie Mascarene**: Well, they took a long time. If you want to follow the corruption in other countries, do it. We have learnt from experience. Experience and wisdom are the path to be followed and we have heard it more than once said on this subject that we follow the "Westminster model" and we have to learn from experience and wisdom. If they have taken a thousand years to develop themselves, does the hon. Member mean that we too must follow all the corrupt methods of the rest of the world and not follow the right path?

**Shri Dhulekar**: We do not follow them.

**Kumari Annie Mascarene**: We do follow them and we have heard it from a better authority than the hon. Member that we follow the "Westminster model".

**Shri Dhulekar**: They went away, but we do not follow them.

**Kumari Annie Mascarene:** We do follow them.

Then it is also laid down clearly in the Bill of Rights that detention acts shall not be resorted to by false imprisonment. This is history in England. Then, what about history in France? When Hobbes, Locke and Rousseau first appeared, they were the Communists and the revolutionaries of France. Today they have become the custodians of democracy to the rest of the world. Looking back to America you will find that from the start of revolution they were looked upon as revolutionaries. Then followed the American War of Independence and from Jefferson, Lincoln and Washington onwards they have developed law of the land. Today we have heard of strikes in Washington. Did they resort to this law of detention? Then, there was the coal-miners or the dock-yard labourers' strike in England. Did they resort to this Detention Act? No. In India, the hon. Minister says, it is for the security of law and order. Yesterday one of the papers reported that in Calcutta the police-men are on strike. More than 400 policemen had conducted a meeting under the leadership of the Deputy Commissioner of Police calling "Inquilab Zindabad". Where was your Detention Act, I should like to ask the hon. Minister?

Then, who are the people who are punished and who are taken under this Act? Black-marketeers and bad characters. In the statement it is given 'bad character'. I should like to have an explanation or a definition of 'bad character'. I should like to have a definition of 'black-marketeer'. Who is a 'bad character'? I think, I would rather prefer to call anyone who brings Detention Act, Press (Objectionable) Act and the Defamation Law for Ministers, to be very bad. Here, no one gives the explanation of a 'bad character'. If I am to understand profligacy as 'bad character', they have got only one man in detention. Is that the definition? How many more should be caught? The category to which these people belong is not clear.

In my State there is a black-marketeer who is taken to task by the Government. One T. T. Krishnamachari and Co., had been charged for importing British chocolates and labelling them as Indian chocolates.

**Shri Gidwani (Thana):** T. T. Krishnamachari, our Minister?

**Kumari Annie Mascarene:** It is one T. T. Krishnamachari and Co., importing chocolates. A case is registered against them for importing British chocolates, and labelling them as Indian chocolates. Where is your Detention Act for black-marketing, I ask the hon. Minister.

**Shri B. S. Murthy:** They are very sweet chocolates.

**Kumari Annie Mascarene:** In Travancore-Cochin State a case is registered and is going on.

**Shri Dhulekar:** How do you know?

**Kumari Annie Mascarene:** I come from Travancore-Cochin State and if the hon. Member wants to know, let him come along with me and I shall show him.

**Shri D. C. Sharma:** I shall go with you.

**Kumari Annie Mascarene:** But, remember with whom you are going. (Interruption).

So, I am asking the hon. Minister why the Detention Act is not applied uniformly to all the people and whether the members of the Cabinet are an exception to this Detention Act, as there is exception to the defamation rule?

What is the reason for the discontent in the country? They say: "It is against the Communist Party". They were referring to the U.S.S.R. revolutions, Carl Marx etc. Well, I have a little experience—not much—with the Russians and what I have heard is that Acts like the Detention Act, tyranny, corruption, riding rough-shod over the rights of the common people, made

them resort to revolution and they have established themselves today. That is what they have told me. What truth there is in it, we have to take it for what it is worth. But the condition that we have seen today justify what they have already done.

[SHRIMATI RENU CHAKRAVARTY in the Chair].

Then, whether this Act is appropriate for a democratic government—they claim to be a democratic government—is the question. Here is an Opposition. It is proper to override the opinion of the Opposition Members. Hon. Members on the other side are taught to shake their heads and say 'yes' or 'no' without any meaning and I am not paying any attention to what they say. The great man Dicey speaking about democracy says:

"The rule of a party cannot be permanently identified with the authority of the nation or with the dictates of patriotism. Liberal Governments had held power for eight years when these words were penned."

Then again he says:

"The essential condition of parliamentary government is that the Government should govern by agreement with the Opposition; but it is equally vital that the Opposition should be at liberty to criticise the Government. Wherever differences are possible, they should be settled by agreement proceeded by reasoned argument, for one side of which the Opposition is mainly responsible. If a Government successfully identifies its policy as being synonymous with the honour and safety of the nation, the task of the Opposition becomes invidious and correspondingly the partisan authority of the party in power increases in extent."

It is therefore that a ruling few take power into their own hands and the result is that legislation has become almost exclusively a matter of Government business. Therefore, there is no

justification either in modern history or in ancient history with regard to the existence of this law.

With regard to the application of this law and its feasibility, emergent situations require such laws—that is their argument. Why is section 144 not utilised for such purposes? When there is an emergent situation, they can easily resort to section 144. The Travancore-Cochin State, which is at liberty to use this law, has not resorted to it for the last three or four years, and emergent situations did arise there and the worst was the insurrection in South Travancore when the volunteers of the Tamil Nad Congress and some others fought against the Government. Even then they did not resort to the law of detention; on the other hand, they declared section 144 and handled the situation as democratic governments have handled before; they brought it down and they succeeded. Here is an example of a P.S.P. Government running the administration without the help of the Preventive Detention Act. I do not know when they grow older, whether they will copy the Congress, but there is every probability. When power-consciousness is there, no one would like to give it up. They would like to retain the power in their hands by all sorts of methods.

**Shri T. B. Vittal Rao** (Khammam): But you gave up power.

**Kumari Annie Mascarene:** I have not ever given up power, nor have I enjoyed it in the way you think that people will enjoy power. This Act is a clear example of cowardice. Are the Government strong enough, brave enough to make this a permanent statutory condition and then call themselves democratic governors of this country? If they can do that, I will bow before them and say.... (Interruption). What I say is that here is an advantage taken by a party in power who is unwilling to give power to anybody else and who is unwilling to allow any other party from developing into a strong organisation. It is nothing but self-seeking and selfish liking for power



[Kumari Annie Mascarene]

that has made them bring this law during peace-time.

श्री आर० सी० शर्मा (मुरैना भिंड) : सभाध्यक्षा महोदया, इस सदन में इस विचारक निरोध अधिनियम के ऊपर चर्चा होतें हुए आज यह तीसरा दिन है। मैंने आपकी दाईं ओर बैठे हुए कुछ प्रवक्ताओं के भाषणों को सुना। मैंने उनके भाषणों से यह अनुमान किया है कि वे वास्तविकता से बहुत ही दूर हैं।

श्री धुलेंकर : बाईं ओर या दाईं ओर ?

श्री आर० सी० शर्मा : बाईं ओर, मैं संशोधन स्वीकार करता हूं। मैं यह निवेदन कर रहा हूं कि जहां तक इस अधिनियम की आवश्यकता का विवरण देना है उसके बारे में यह विचार करना होगा कि क्या देश में इस प्रकार की स्थिति है कि जिसमें इस प्रकार के अधिनियम को हटाया जा सके या इसका रखना आवश्यक न रहा हो। यह कहा गया है कि दूसरे देशों में इस प्रकार का कोई विधान नहीं है। मैं यह जानना चाहता हूं कि क्या दुनिया में ऐसा भी कोई देश है कि जो हमारे देश के समान सम्भा चौड़ा और इतनी जनसंख्या वाला हो, जिसमें इतनी जल्दी आजादी प्राप्त हुई हो, और इस देश ने जिन परिस्थितियों में आजादी प्राप्त की क्या कोई और देश है जिसने इस प्रकार आजादी प्राप्त की हो। जब इस प्रकार की और कहीं स्थिति नहीं है तो फिर इस देश की दूसरे देशों से तुलना करना, इस विधान पर चर्चा करते समय, असंगत है। माननीय सभामंत्री महोदया, आज इस सदन में श्री चटर्जी साहब और उनके साथी सर साहब ने इस विधान के आगे बढ़ाने के सम्बन्ध में आलोचना करते हुए यह कहा कि वह डिमांडेसी की एक मौकरी है। मैं तो यह समझता हूं कि यदि इस प्रकार का अधिनियम न रखा जाय तो यह प्रजातंत्र यानी डिमांडेसी एक मौकरी होगी।

Shri Dasaratha Deb (Tripura East):  
There is no quorum in the House.

Mr. Chairman: I would request the Government to see that at least

a decent number of people are present in the House. Now that this has been pointed out to me, I see there are hardly 25 people here.

An Hon. Member: Even the Minister of Parliamentary Affairs is not present.

Mr. Chairman: It is a very shameful state of affairs.....It is the duty of the Government to see that there are sufficient people present.

Shri B. N. Mishra: It is only the duty of Government to make the quorum?

Mr. Chairman: Yes, because the Bill is sponsored by Government.

Shri Raghavachari: It is a regular feature every afternoon that the quorum bell is to be rung three or four times. God knows where the Ministers are: as also the whips.

Shri B. S. Murthy: Perhaps the Congress people are unwilling to support this measure!

Shri K. L. More (Kolhapur cum Satara—Reserved—Soh. Castes):  
Today is Saturday.

Mr. Chairman: The hon. Member may now continue his speech.

श्री आर० सी० शर्मा : मैं कह रहा था कि जिस प्रकार के नागरिक अधिकारों का ख्याल श्री चटर्जी साहब के मस्तिष्क में है वह दूसरे प्रकार के हैं। उन्होंने और उनके साथी सर साहब ने यहां पर यह कहा कि मध्यभारत में मन्दसौर में कांग्रेस ने क्या किया, और उन्होंने यह कहने का साहस किया कि वहां पर कदाचित् इस विधान के अधीन किन्हीं नागरिक अधिकारों पर कठोरतायात किया गया। उनका यह कहना आपने स्थान पर सही नहीं है। जिस प्रकार की उनकी पार्टी है और जिस प्रकार से वे जनतंत्र में आगे बढ़ना चाहते हैं वह सुप्रीम कोर्ट के एक निर्णय से विदित हो जायगा। इससे प्रकट हो जायगा कि उनके विचार क्या हैं और जिस जनतंत्र में वे रहना चाहते हैं उनकी कल्पना क्या है। उनका

4 P.M.

दृष्टिकोण ही विपरीत हैं और वैसे दृष्टिकोण होते हुए यह स्वाभाविक है कि वे इस प्रकार के अधिनियम का विरोध करें। और वे इसलिए विरोध करते हैं कि उनको अनर्गल आलोचनाएँ करने की खुली छूट मिल जाय। और वे चुनाव के समय अनुचित प्रचार कर सकें। जो निर्णय ज्वालयर के एक ट्रिब्यूनल ने दिया था उसको मान्यता देते हुए सुप्रीम कोर्ट के निर्णय में कहा गया है कि इस पार्टी के जो उम्मीदवार थे उन्होंने किस तरह से झूठा प्रचार किया, किस तरह से प्रकाशन कराया और किस तरह से प्रेस का उपयोग किया था और उसी के आधार पर उनका निर्वाचन निरस्त हुआ। यह एक मान्यता प्राप्त निर्णय इस सदन के सामने है। हिन्दू सभा के एक उम्मीदवार के बारे में कहा गया है :

A.I.R. 1954 Supreme Court 686

"The Tribunal finds, among other things, that appellant No. 1, the first respondent, published certain pamphlets which contains statements listed as A, B, C, E, F and G by the Tribunal. The Tribunal holds that these statements are false and that the first appellant did not believe them to be true. It also holds that these statements reflect on the personal character and conduct of the sixth respondent and are reasonably calculated to prejudice his prospects in the elections".

दूसरे कौन्सिलर जो हिन्दू सभा के हैं उनके बारे में भी यह कहा गया है :

The next finding concerns the second respondent.

**Appellant No. 2:** The Tribunal finds that he made a systematic appeal to *chamar* voters to vote for him on the basis of his caste. There is evidence to support this finding. The leaflets marked N and X place that beyond doubt. This constitutes a major corrupt practice under section 124 (5) of the Act.

इसी प्रकार और भी अनेकों बातों के बारे में ट्रिब्यूनल ने होल्ड किया और जितनी हिन्दू सभा की ओर से गलत कार्यवाहियाँ हुईं उनको सुप्रीम कोर्ट ने होल्ड किया और उन दोनों उम्मीदवारों का जो इलेक्शन हुआ था और जिसको कि ट्रिब्यूनल ने गलत करार दे दिया था, उसको सुप्रीम कोर्ट ने भी अवैध ठहराया और ऐसी स्थिति में उनका इस प्रकार से अधिनियम का विरोध करना स्वाभाविक ही था।

इसके साथ ही साथ यह कहा जाता है कि जिन प्रान्तों में प्रीवेंटिव डिटेन्शन एक्ट के अधीन किसी को निरोध में नहीं लिया गया, उन प्रान्तों में इसकी क्या आवश्यकता है। मैं कहना चाहता हूँ कि क्या यह सही होगा कि यदि किसी प्रान्त में कोई हत्या का अपराध नहीं हुआ तो वहाँ पर धारा 202 ताजीरात हिन्दू I.P.C.) की निरस्त कर दी जाय या उसको उपयोग के लिये वहाँ न रक्खा जाय। यह नहीं हो सकता है कि किसी एक प्रान्त या स्थान के लिये एक कानून बनाया जाय और दूसरे स्थान या प्रान्त के लिये कोई दूसरा कानून बनाया जाय।

दूसरी बात जो इस विधेयक के सम्बन्ध में कही गयी है कि ऐसी कोई मिसाल नहीं दी गयी है जिससे कि इसको आगे बढ़ाना उचित समझा जाय। मैं इसके उत्तर में जानना चाहता हूँ कि क्या इस सदन के समक्ष ऐसी भी कोई मिसाल दी गयी है कि गत वर्ष जब इस विधेयक की वहाँ चर्चा हुई और वह पास हुआ उससे पश्चात् ऐसी भी कोई मिसाल किसी माननीय सदस्य के पास है कि जिसमें इस विधान का दुरुपयोग हुआ हो। जहाँ तक परिस्थितियों का सवाल है, वह तो प्रत्येक प्रान्त की भिन्न भिन्न हैं। मध्यभारत के सम्बन्ध में मैं वह कह सकता हूँ कि वहाँ पर मेरे ही निर्वाचन क्षेत्र के भीतर अभी चार पाँच महीने में करीब पचास के लगभग हत्याएँ हुई हैं और वे डाकुओं के द्वारा हुई हैं। ऐसे स्थान पर यदि कुछ अवांछनीय व्यक्ति जो उन डाकुओं

[श्री आर० सी० शर्मा]

का सहयोग दत्त हैं, उनके विरुद्ध यदि इस विधान का उपयोग होता है तो क्या वह अनुचित हैं, मैं तो कहूंगा कि ऐसा करना नितान्त ठीक और आवश्यक हैं। उसमें किसी के नागरिक अधिकारों पर कोई आघात नहीं हो सकता है। दूसरी बात जो यह कही गयी कि इस विधान का उपयोग होने पर भी कोई ऐसा रास्ता नहीं है कि जिसमें यदि उसका दुरुपयोग हुआ हो उसकी जांच की जा सके, मैं इसको नहीं मानता। मैं कहना चाहता हूँ कि इस सम्बन्ध में मध्य भारत की ही मिसाल को ले लीजिये। वहां पर तीस व्यक्तियों ने एंडवाइजरी बोर्ड के सामने उपस्थित होकर अपनी सुनवाई कराई और उन तीस व्यक्तियों में से दस व्यक्तियों को एंडवाइजरी बोर्ड ने छोड़ दिया। इसी प्रकार और प्रान्तों के फिगर्स (आंकड़ों) को देखते हुए भी यह विदित होता है कि लगभग तैंतीस प्रतिशत व्यक्ति एंडवाइजरी बोर्ड के द्वारा छोड़े गये हैं।

इसलिये यह नहीं कहा जा सकता है कि एक बार जिस को डिटेंशन में ले लिया गया उसके बारे में आगे कुछ नहीं हो सकता है और उसको अपने बारे में कुछ कहने का उसे कहीं हक नहीं रहता है। मैं इस सदन के सामने यह कहना चाहता हूँ कि इस प्रकार के अवांछनीय तत्व और व्यक्ति हमारे समाज में अभी विद्यमान हैं जो सामने तो आते नहीं हैं और परदे में से जो दूसरी जमातों को कहीं पर विद्यार्थियों को, कहीं पर मजदूरों को और कहीं पर छोट छोट कर्मचारियों को बहकाते हैं और ऐसे कार्य करने को विवश करते हैं जिनसे शान्ति और सुरक्षा में बाधा पड़े। माननीय गृहमंत्री महोदय ने अपने भाषण में यह कहा था कि इन्दौर में एक बड़ी घटना हुई है। मैं यह कहना चाहता हूँ कि यदि इस विधान का उपयोग किया गया होता तो वहां पर वह घटना न घटी होती जिसमें कि सरकार को या पुलिस को कार्यरंग करना पड़ी। यह एक बड़ा उपयोगी विधान है, इससे हम बहुतों के प्राणों को बचा सकते हैं यदि समय पर उसका ठीक उपयोग किया जाय।

श्री गिडबानी (धाना) : इसका मतलब है कि ठीक उपयोग नहीं होता।

श्री आर० सी० शर्मा : जहां पर समय पर इसका उपयोग नहीं होगा वहां पर अवश्य ही यह शिकायतें रहने का स्थान है। मैं चाहता हूँ कि किसी भी कानून का उपयोग करने के पूर्व यह देख लेना आवश्यक होगा कि शासन के पास जो भी अधिकार हैं उनका विधान के नियमों के अनुसार पूरा पूरा पालन किया जाय। इस सदन का इस प्रकार का विधान बनाने का यही मन्तव्य है जिससे अधिक से अधिक सुरक्षा रहे और जब कभी परिस्थिति के सराब होने का समय आयें उसका उपयोग किया जाय। मैं निवेदन कर रहा था कि जहां पर साधारण कानून के बारे में यह कहा जाता है कि उसके ही अधीन लोगों के विरुद्ध न्यायलय में मुकदमें चलाना चाहिये। मैं यह अच्छी तरह से समझता हूँ। मैंने स्वयं देखा भी है कि जो चतुर चालाक और अभ्यस्त व्यक्ति होते हैं वे कभी भी न्यायलय से दीर्घित नहीं हो सकते हैं, ऐसे व्यक्तियों के लिये यह बहुत ही उपयोगी और उपयुक्त विधान है।

श्री गिडबानी : जितने चतुर आदमी हैं उन सब को इस प्रीवीन्टिव डिटेंशन एक्ट में पकड़ कर डाल दीजिये।

श्री आर० सी० शर्मा : जब कि हमारे देश में बहुत से ऐसे निर्माण के कार्य हो रहे हैं, जिस समय शासनाधिकारियों का, कर्मचारियों का अधिक ध्यान निर्माण की ओर लगा हुआ है, ऐसे समय में यदि अवांछनीय तत्व दूसरी ओर से कुछ इस प्रकार की हरकतें करने लगें जिन से निर्माण के कार्यों में बाधा पड़े तो उस वक्त बचाव के लिये और निर्माण कार्यों को प्रगति की ओर ले जाने के लिये यह आवश्यक हो जाता है कि हम इस प्रकार का विधान रखें।

मैं तो यह भी कहना चाहता हूँ कि हर साल इस की अवधि बढ़ाने के लिये इस सदन में आने के बजाय इस को स्थायित्व दे दिया जाय तो कोई दुर्गति नहीं होगी क्योंकि जब कि हम यह देखते हैं कि इस प्रकार की घटनाएँ देश

में हो जाती हैं तो हमें संकोच नहीं करना चाहिये कि अगर इस प्रकार का विधान रहेगा तो हमारे लिये कोई लज्जा की बात होगी। जब आवश्यकता है तो उस आवश्यकता को पूरा करने के लिये इस प्रकार के नियम की बहुत आवश्यकता है। हम को जो इतने अच्छे नागरिक अधिकार संविधान द्वारा प्राप्त हुए हैं वह बहुत प्यारे हैं। अगर हम चाहते हैं कि वे हमारे अधिकार बने रहें, अद्वुण रहें तो यह आवश्यक हो जाता है कि उन की रक्षा के लिये यदि दो, चार या दस व्यक्तियों को नजरबन्द करना पड़े तो हम अवश्य करें। ऐसा करना पड़े तो कोई बुराई नहीं होगी। जहां पर बहुतों की रक्षा के लिये, समाज की सुरक्षा के लिये आवश्यक हो वहां पर एक या दो व्यक्तियों के इस प्रकार के नागरिक अधिकारों की चिन्ता नहीं करनी चाहिये। वास्तव में इस से केवल उन्हीं व्यक्तियों के अधिकारों पर कठाराघात होता है जो व्यक्ति दूसरों के अधिकारों को छीनना चाहते हैं, जो दूसरों को आगे नहीं बढ़ने देना चाहते हैं। जो दूसरों के विधान के अनुसार नियमों के अनुसार जीवन व्यतीत करने में बाधक होते हैं उन्हीं व्यक्तियों के लिये यह विधेयक है। इस लिये मैं तो यह समझता हूँ कि किसी भी नागरिक को जो कि अपनी आजादी का प्रेमी है, जो कि दूसरों के नागरिक अधिकारों की रक्षा की बात करता है, इस विधेयक के विरुद्ध नहीं होना चाहिये। इस विधेयक की किसी धारा के विषय में यह सोचना कि यह ऐसा विधान है जो कि दूसरे देशों में नहीं है, जिस का विरोध स्वतंत्रता प्राप्ति के पहले हम लोग किया करते थे, यह बहुत पुरानी बात है। आज परिस्थिति क्या है? उस परिस्थिति के अनुसार हमें कार्य करना है। उस समय हमारे विरुद्ध जो कानून थे वह हमारे एक अपने राजनीतिक उद्देश्य की प्राप्ति में बाधक थे। आज हमारे अपने राजनीतिक उद्देश्यों की प्राप्ति में कोई भी विधान बाधक नहीं है। आज तो जो बाधा पैदा करने वाली बातें हैं वे हैं केवल हमारी प्रगति में, हमारे आगे बढ़ने में बाधा डालने वाली। प्रगति में

बाधा डालने वाले व्यक्ति, तत्व, समाज और संस्थाओं के विरुद्ध अगर इस विधेयक का उपयोग होता है तो मैं तो इस कारण इस विधेयक का विरोध नहीं कर सकता।

मैं इस का पूर्ण दिल से समर्थन करता हूँ और मैं चाहता हूँ कि इस का स्थायित्व दे दिया जाय। बार बार हर साल इस की अवधि बढ़ाने के लिये आने की अपेक्षा कुछ स्थायित्व मिलना इस के लिये अत्यन्त आवश्यक है।

**Shri Sarangadhar Das (Dhenkanal—West Cuttack):** After so many speakers have spoken, particularly from the opposition side, there is not much left for me. Therefore, analysing those speeches as also the speeches on the other side, I come to certain conclusions which I wish to state here. I am now convinced about the Home Ministry, that the predecessor of the present Home Ministry, the Home Department of the British Government of India was a reactionary body. Even during the Swadeshi Movement in the first decade of the Twentieth Century, under Regulation III of 1818 three or four or half a dozen highly placed leaders of the country were spirited away from the country and detained in Burma. Then came the Rowlatt Act. Rowlatt was an Englishman imported from England to make that enactment. And that gave birth to the Independence of India Movement. Gandhiji started his Movement then. I have read this in the history of Gandhiji and I have heard from people, because I was at that time abroad, that eminent law of those days like Motilal Nehru and Chittaranjan Das refuse to co-operate with Gandhiji because Gandhiji was out for Civil Disobedience. He said the crawling on stomach in Amritsar could not be tolerated, and then came the Rowlatt Act and that had to be opposed. So, Gandhiji was a lone man who started the Movement resisting an evil, and in a few days his stand was found so much justified that even Motilal Nehru and Chittaranjan Das came and co-operated in it

[Shri Sarangadhar Das]

Since then we have had the Defence of India Act and the Defence of the Realm Act and all kinds of laws in order to muzzle the Freedom Movement of India. But none of those Acts could muzzle it. And it seems to me, as I see it in every department of our Government, that although we have framed a Constitution and call it a democratic Constitution, we call ourselves a Democratic Republic—the present Government still carries on everything in the way that the Britishers had shown and at the present time the Home Ministry has become more reactionary than it was in the period of the Rowlatt Act.

**Shri Radhelal Vyas:** Question.

**Shri Sarangadhar Das:** I accuse the whole Congress Party on the other side that the matter now is not Communist or Praja Socialist or any other party. The crux of the matter is this that the present Government stands for the status quo. You protect the 'haves'.

**Shri B. S. Murthy:** And the oppressor as well.

**Shri Sarangadhar Das:** I have seen this list given by the Home Minister. He has been talking, others have been talking about black-marketeers. How many black-marketeers have been put in jail under detention? Not even half a dozen all over the country. And we know there were thousands of black-marketeers, thousands of people who broke the Essential Commodities Rules and Regulations, hundreds of people who have evaded Income-tax.

**Shri Keshavalingar:** Point them out.

**Shri Sarangadhar Das:** They are the 'haves', and the present Government is the stooge of those people.

**Shri M. D. Joshi (Ratnagiri South):** Have you reported their names?

**Shri Sarangadhar Das:** My next point is, when I say that they are protecting the "haves", there are some opposition parties, the workers of which stand for the "have-nots". It is

very unfortunate that because of our backward economy during the British regime of a couple of hundred years or 150 years.....

**Shri B. S. Murthy:** 300 years.

**Shri Sarangadhar Das:**...our wages, our salaries were the lowest. Teachers in my part of the country, 10 or 15 years ago, were getting Rs. 10 a month. Here in the Punjab, a little while ago, we read that there was a movement. They were getting Rs. 30 or Rs. 35 a month. The teachers in Bengal were getting something that was not sufficient to maintain their families. The workers all over, in factories, in the agricultural fields, got only a pittance. In order to bring the standard of living of these people on a par with that in other democracies, we stand as the vanguards of the workers and the peasants. That is where the rub comes in. The protectors of the "haves" get rattled. Then, they arrest and put into prison the P.S.P., R.S.P., etc.: there are about a dozen parties. It is not a political party, it is not a man of the P.S.P. that you arrest. You arrest the vanguard of those armies that are fighting for a living in this world. These vanguards happen to be not Congress men because they are now satisfied with things as they are. For them, "all is well with the world and God's in his heaven." It is not so with the opposition, who lead all the affected people, all the people who are without clothes, without food, who are in famine stricken conditions. That is where processions are led, deputations are taken to the Ministers or to the Magistrates or to the Commissioners. Then it is said, law and order is broken. This is most unjustified.

Some of the Members have said that there are other countries in the world where they have Preventive Detention Acts. Let me tell you about the U.S.A., where I have lived and where I have followed what they are doing. There are no people in this

world who hate the communists more than the Americans do. Have they got a Preventive Detention Act? No. They have not. They have their Intelligence Bureau: I forget the name.

**Some Hon. Members:** F.B.I.

**Shri Sarangadhar Das:** That Investigation Bureau is in touch with all activities everywhere, whether it is overground or underground. They have in their dockets the histories and records of all people who might make trouble. Any time there is trouble, they get them under the existing law and have them punished in the courts. In that country, even when that country was an infant, there has not been any Preventive Detention Act. There has never been, there can never be, because of their Bill of rights. Here, in India, we have got certain things from the British and certain things from the Americans and brought out a Constitution. Every time, whenever it became necessary to protect the "haves", we have put in something that vitiates the Constitution. But, when it comes to punishing the anti-social people nothing happens. I want to know what the Minister means by anti-social people.

**Shri Dhulekar:** Black-marketers.

**Shri Sarangadhar Das:** Are the Communists, are the P.S.P., are these political parties anti-social people? What about the millionaires and multi-millionaires who avoid Income-tax and deprive the exchequer of lakhs and crores of rupees. They are the anti-social people. That is the point of view that you have not come to realise yet; but you will one day.

Now, I come to the Home Ministry again.

**Shri B. S. Murthy:** All along you have been dealing with that.

**Shri Sarangadhar Das:** Whenever the Home Minister comes to this House with any Bill, he comes and says, this is a simple Bill.

**Dr. Katju:** If it is a simple Bill, what am I to say?

**Shri Sarangadhar Das:** I am explaining it.

**Dr. Katju:** You make it complex. I do not.

**Shri Sarangadhar Das:** I take it...

**Dr. Katju:** If my describing it as a complex thing will please you, I shall do so.

**Shri Sarangadhar Das:** I take it that the gentlemen who are ruling the country belong to the mid-Victorian age.

**Dr. Katju:** I am mid-Victorian?

**Shri Sarangadhar Das:** They do not belong to these present times. They do not realise that the times have changed. The Home Minister does not realise that in this age, he cannot stand up and say:

सर्वधर्मान् परित्यज्य मामेकं शरणं ब्रू

There are hundreds and hundreds of Members here who have some intelligence and who can argue the point. They are not going to bow down to these sadhus and pandits of the 19th and 18th century. That is where the trouble comes. It does not become a simple Bill. The reply to that sloka that comes from the Home Minister, by implication is this. The people of India, after having been granted adult franchise, are not ignoramus any more. They may be absolutely illiterate. They may not be versed in the niceties of the various laws. But, they have understood this. Very soon, Gandhiji will be re-born: not necessarily physically, but Gandhiji's spirit will dominate the vanguard that fights for the masses now. That Gandhiji will say:

धर्मसंस्थापनार्थं संभवामि युगे युगे ।

**Shri Dhulekar:** विनाशाय च दुष्कृताम् ।

**Shri Sarangadhar Das:** Yes.

विनाशाय च दुष्कृताम्, धर्मसंस्थापनार्थं ।

**Shri Datar:** परित्यज्या साधूनां ।

**Dr. Katju:** On a point of order, may I suggest that wherever the Gita is quoted, its relevancy to the present discussion should also be explained for the benefit of hon. Members?

**Shri Sarangadhar Das:** I am pretty sure that the Home Minister coming from a Kashmiri pandit family, the elite of Hindu society, knows enough of Sanskrit.....

**Shri Bhagwat Jha Azad:** There are other Members also.

**Shri Sarangadhar Das:**...and he has been carrying on propaganda all over India to have Sanskrit as a compulsory language. So, I do not have to explain to him.

As many speakers from this side have said, by this Preventive Detention Act, we are depriving the individual of his liberty, and in reply to that the Home Minister says there is the Advisory Board, there is the High Court or some Court. I notice that during this period of 12 months, there was a total of 260 persons who were detained, and out of them in 15 cases the detenus were released by the Advisory Board on the ground that the statements of the grounds of detention were not sufficient. Then, there were another 65 cases in which the Courts said that the executive authority had illegally detained them and the statement of their grounds was not sufficient. So, 31 per cent. of the detenus were detained for five days or fifteen days or a month when only it became known to the Advisory Board that the statement of the grounds was not correct. I can assure the House that this Act is being used, being utilised by officers, people higher up in Government, even by Ministers, to shut up some persons who are inconvenient to the carrying on their activities, whether good or bad, and those are the people in respect of whom it is found by the Advisory Board or the Courts that the grounds given were not sufficient, were not clear and unambiguous. When we were detained by the British, the same thing was the case. The grounds were later on declared to be insufficient. I remem-

ber the case of N. D. Mazumdar in the Calcutta High Court, since when they had to give us every six months a form to sign up. This is why I oppose this Bill.

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

There is another thing I want to say. There is a good deal said about the communists. I was surprised that some of the Members opposite presented their argument entirely on the communists from which I got the impression that this Act was meant for the communists alone. I want to ask the Home Minister and the Government, if that is the case why not shut up all the communists and be done with it?

**Kumari Annie Mascarene:** They dare not.

**Shri Sarangadhar Das:** But they dare not, as the lady Member says.

**Shri Dhulekar:** We will not.

**Shri Tek Chand:** We need not.

**Shri Sarangadhar Das:** In 1950-51 hundreds of communists all over the country were detained. Then came a time in 1951, one or two months before the elections you released them. What happened then? Many of them went to the electorate and said: "Look here, I was detained for three years, and if you do not give me your vote, I will be again detained".

If you had sufficient grounds to detain them, why did you let them come out at that particular time, and then after that they have come here in a large number and into certain other Assemblies in large numbers. Why do you kick about it then? Everything is happy. In this matter, the Home Minister is also shielding the incompetence and the inefficiency of the police and the executive officers.

During the last few years we have seen the police guarding Laik Ali in Hyderabad. The bird flew out of the cage and the police did not know anything. We have heard of dacoits operating in Madhya Bharat and in

Rajasthan. Years have gone by, that is not settled. Man Singh has not been captured yet. That proves the inefficiency of the police, and one of the purposes of this Act is to shield the police inefficiency and the inefficiency of the executive. And when the Special Police Establishment do bring in some *prima facie* case, that is also suppressed in the files. Everything is hanky panky. This is the principal reason, I have no doubt, why it has gone on from one year to two years, and from two years to three years. The next time whether the present Home Minister is presiding over the Home Ministry or some other, it will be put perpetually on the statute-book of this country. But I can give this warning again, that such things cannot go on forever. There will be somebody who will say:

धर्मसंस्थापनाथाय संभवामि युगं युगं ।

श्रीधर ठाकुर वासु भागवत : जनाब डिप्टी स्पीकर साहब, मैं ने इस पर दो अमेन्डमेंट भेजे हैं जिनमें से एक का जिक्र तो श्री दातार साहब ने अपनी तकरीर में किया जिसमें मैं ने चाहा है कि इस बिल को एक दो साल के बाद हाउस में न लाये बल्कि मेरा असली मंशा यह है कि अगर कोई जरूरी बिल है जो कि देश के डिफेंस के वास्ते लाजिमी है तो उसको परमानेंट मेजर बना दिया जाय । मैं मौजूदा एक्ट को परमानेंट के वास्ते मुनासिब नहीं समझता । हमने अपने कांस्टीट्यूशन में इस तरह का प्रावीजन रखा है जो कि पीस टाइम का प्रावीजन है, जो कि मैं मैनटेन करता हूँ कि एक फंडामेंटल राइट है, उसको परमानेंट ला बनाया जाय । मैं यह नहीं चाहता कि आप इस एक्ट को परमानेंट ला बना दें ।

मेरा जो दूसरा अमेन्डमेंट है वह यह है कि इस एक्ट को खत्म कर दिया जाय, इसको तीन साल के वास्ते जिन्दा न रखा जाय । उसका जिक्र मेरे दोस्त श्री दातार ने नहीं किया, और 560 LSD.

मैं मैनटेन करता हूँ कि जो शहादत हमारे सामने इस पैम्फलेट में है उसको पढ़कर मैं निहायत खुश हुआ हूँ । मैं आनरीबल होम मिनिस्टर साहब को मुबारकबाद देना चाहता हूँ कि उनका एडमिनिस्ट्रेशन सारे हिन्दुस्तान में इतना कामयाब रहा है कि इस वेपन के रहते हुए इतने थोड़े कंसेज हैं कि जो नैंगलीजीबिल हैं । मैं यह अर्ज करना चाहता हूँ कि होम मिनिस्टर साहब अगर अकेली यही चीज पेश कर दें तो सारा हाउस उनके वास्ते हिलीला जा गाने लग जाता । देखिये कैसे अच्छा किया है, इतने थोड़े आदमी अन्दर गये हैं । इसके वास्ते मैं देश को मुबारकबाद देता हूँ कि वह देश जिसके अन्दर छत्तीस करोड़ लोग बसते हैं वहां की हालत इतनी ठीक है और इसके मातहत ज्यादा एक्शन का न लिया जाना यह साबित करता है कि देश के अन्दर कोई ख़ास खराबी नहीं है वरना अगर खराबी होती तो कोई न कोई स्टेट तो किसी न किसी को पकड़ती और कार्यवाही करती । मैं जब फीगर देखता हूँ तो मेरा दिल खुशी से भर जाता है । उसको देखने से मालूम पड़ता है कि बीस स्टेट्स में से सोलह स्टेट्स में एक भी आदमी के बरिखलाफ एक्शन नहीं लिया गया और ४ स्टेट्स में सिर्फ ५ आदमी गिरफ्तार हैं यानी डिफेंस आफ इंडिया, फारन रिलेशंस, और सीक्योरिटी आफ इंडिया यह जो मेन चीजें हैं उनके मुतालिक एक भी शरूस के खिलाफ १६ स्टेटों की गवर्नमेंट ने एक्शन नहीं लिया । सिर्फ चार स्टेटों में आठ आदमी पकड़े गये । अगर हमारे देश में यह सिचुएशन है और यह सिचुएशन बिल्कुल सही है क्योंकि गवर्नमेंट का पैम्पलेट सामने है, इस के वास्ते मैं अपने होम मिनिस्टर साहब को और कंट्री को मुबारकबाद पेश करना चाहता हूँ और मुझे बहुत खुशी है कि हमारे सामने यह शानदार रिकार्ड है लेकिन जहां मैं यह कहता हूँ वहां इन्डाइरैक्टली यह भी कहता हूँ कि उन फीगर्स को देखते हुए जो गवर्नमेंट ने दी हैं, मुझे कोई जरूरत इस प्रीवीन्टिव डिटेनशन एक्ट के जारी रहने की जरूरत नहीं आती । यह एक्ट दरअसल तीन हिस्सों में तकसीमशुदा है और जो इस के



[पीडित ठाकुर दास भार्गव]

स्वास अंग हैं। पहली यह है जो दफा ६ लिस्ट नम्बर ७ (२) में दी हुई है:—

The Central Government or the State Government may—

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to—

(i) the defence of India, the relations of India with foreign powers or the security of India, or

(ii) the security of the State or the maintenance of public order, or

(iii) the maintenance of supplies and services essential to the community.

मेरा दावा यह है कि हमें हमेशा ही एक ऐसा कानून रखना होगा जिसके अन्दर डिफेंस आफ इंडिया, दी रिलेशंस आफ इंडिया विद फॉरन पावर्स, सिक्योरिटी आफ इंडिया और सिक्योरिटी आफ स्टेट, इन चार चीजों के वास्ते जैसे हमारा हिन्दुस्तान है और जैसे हम जानते हैं, मुझे कोई वक्त ऐसा नजर नहीं आता जब आपको इन चीजों के वास्ते प्राविजन न करना पड़े। आज हमारा देश के चारों तरफ फॉरन स्टेट्स मौजूद हैं और स्वास तौर से वह स्टेट्स जो हमारे फ्रीटयर्स पर हैं और दूसरे देशों से मिली हुई हैं उनके बारे में हमें हमेशा सावधान और बा एहीतयात रहना पड़ता है कि वहां क्या हालत है। पाकिस्तानी पंजाब से हमारा पंजाब का सूबा बिल्कुल मिला हुआ है, लाहौर से सीधा रास्ता रेल का अब हो गया है और लोग रोज पाकिस्तान से आते हैं। कितने ही लोग ऐसे हैं जो वहां से हिन्दुस्तान में आये और जिन को जासूस की तौर पर काम करते हुए पकड़ा गया। इसी तरह हमारे ब्रासाम प्रान्त की सीमा तिम्लत में मिली हुई है। यह और ऐसी दूसरी स्ट्रैटीजिक पोजीशंस हैं जहां कि दूसरे देश के लोग एंज स्पाई आ सकते हैं और उनकी हरकतों के फलस्वरूप इस देश को नुकसान पहुंच सकता है। क्या हम नहीं जानते कि जिस दिन पन्द्रह अगस्त सन् ४७ को हम कांस्टीट्यूट असेम्बली

हाल में आजादी का जश्न मना रहे थे, उस मौके पर तीन सौ आदमी मशालें लिये हुए स्वायज्य के खिलाफ नारें लगाते हुए दिल्ली शहर के अन्दर फिर रहे थे। छत्तीस करोड़ की आबादी वाले देश में ऐसे लोग हो सकते हैं जो डिफेंस आफ इंडिया के लिहाज से या सिक्योरिटी आफ इंडिया के लिहाज से ऐसी हरकत करें जो सीक्रेट फ़ैल हों या किसी बाहर की पावर से मिल कर कोई ऐसी कार्यवाही करें जो हमारा देश के खातिर नुकसानदेह साबित हो, तो ऐसे लोगों को रोकने के लिये और देश में शान्ति और सुरक्षा बनाये रखने की खातिर गवर्नमेंट को स्टैप लेना पड़ता है और एक्शन लेना पड़ता है और इस वास्ते यह पावर जरूरी है। क्या हम नहीं जानते कि लार्ड किचनर को खुद एक अंग्रेज ने मुखबरी करके ढुबका दिया था और क्या हम नहीं जानते कि जब पन्द्रह अगस्त सन् ४७ को अंग्रेजों ने भारत को स्वाधीनता दी थी तो कुछ देशी रजवाड़ों ने अपना सिर उठाना चाहा था और वह सम्भवतः थे कि यह नुकली टोपी पहनने वाले हमारा क्या कर लेंगे, हम जो चाहें मनमानी कर सकते हैं। ऐसे हालात में और ऐसे लोगों के खिलाफ डिफेंस आफ इंडिया की खातिर उनसे डील करने के लिये कानून बन तो मैं उसका मुतालिक नहीं हूँ। देश के मफाद को महफूज रखने के खातिर इस तरह का कानून जरूरी है। मैं रूस नहीं जाना चाहता कि वहां पर कैसा कानून चल रहा है या अमरीका के अन्दर ऐसा कानून नहीं है या वहां पर कोई नया कानून बनाया गया है या नहीं बनाया गया है। मैं तो अपने कंट्री की मजबूती और अपने इंटरस्ट्स को देखना चाहता हूँ कि मेरे देश में मौजूदा हालात में ऐसे कानून की जरूरत है या नहीं। मैं महसूस करता हूँ कि देश के डिफेंस और सिक्योरिटी के वास्ते ऐसा कानून रहना जरूरी है जिसके जरिये गवर्नमेंट आफ इंडिया ऐसे आदीमियों के खिलाफ एक्शन ले सके जो सीक्रेट एक्टिविटी में लगे हों और जो हमारे मुल्क के लिये नुकसानदेह हों। ऐसे खतरनाक लोगों के लिये गवर्नमेंट के पास यह पावर जरूर रहनी चाहिये कि वह

उनको विद्वाउट ट्रायल जेल में रख सकें। एक वर्ष से ज्यादा आप उनको डिटेंशन में रख नहीं सकते और पांच दिन से ज्यादा आपका कोई मजिस्ट्रेट जब तक उसको गारुन्ड्स आफ डिटेंशन न मिलें, नहीं रख सकता। इसके अलावा तीन महीने के अन्दर बोर्ड मुकर्रर करना होगा। यह सेफगार्ड्स उसमें दिये हुए हैं। तीन महीने से ज्यादा गवर्नमेंट किसी शख्स को बिना एंडवाइजरी बोर्ड की मंजूरी के जेल में नहीं रख सकती। यह इस सम्बन्ध में फंडामेंटल राइट है। कांस्टीट्यूशन की दफा २१ और २२ की रू से आपने गवर्नमेंट के हाथ बांध दिये हैं कि एक शख्स जो गिरफ्तार होता है उसको चौबीस घंटे के अन्दर एक मजिस्ट्रेट के सामने पेश करना होगा। मैं अपने पिछले पन्द्रह बीस वर्षों के तजुबों से जानता हूँ कि पहले यहाँ पर डिफेंस आफ इंडिया एक्ट था, पब्लिक सेफ्टी एक्ट बनाये गये। मैं जानता हूँ कि इस देश के अन्दर क्या हालात थे जब यह कानून बनाये गये थे। मुझे याद है कि जब यह कांस्टीट्यूशन बनाया गया उस वक्त हमने ऐसे कानून की जरूरत महसूस की और उस वक्त दो ख्यालों के लोगों में राइट ट्रायल बीटल हुई। वहाँ पर दो प्रोसेस आफ लॉ थे। ड्यू प्रोसेस आफ ला, (Due process of Law) क्लार्ज में और लीजसलेचर के पूरे अखतियारात के बीच में यह क्या मीडिया बँदा गया। एक मत (Due Process of Law) वाले यह कहते थे कि कोई कानून बनाइये, अदालतें उसे देखेंगी कि वह दुरुस्त है या नहीं। दूसरे मत वाले कहते थे अगर इस तरह का ला बना तो बिलकुल अनसरटेटी हो जायेगी। दफा १६ के अन्दर लफ्ज रीजेनेबुल रिस्ट्रिक्शंस रखने के वास्ते जो उस वक्त हाउस में झगड़ा हुआ, मैं वह सारी कहानी हाउस को इस वक्त सुनाना नहीं चाहता। कांस्टीट्यूशन के अन्दर यह चीज मान ली गयी है कि हम ऐसा कानून बना सकते हैं अगर जरूरत हो और जरूरत पड़ने पर उसमें तबदीली भी कर सकते हैं। कांस्टीट्यूशन हमें इस बात की इजाजत देता है और इसीलिये यह कहना कि हम ऐसा कानून नहीं बना सकते, दुरुस्त नहीं है।

कांस्टीट्यूशन की दफा २५८ और २५९ के अन्दर प्रेसीडेंट को इमरजेंसी के वक्त यह अखतियार हासिल है कि ऐसे मौकों पर वह दफा २२ के अन्दर जो गारन्टी फंडामेंटल राइट्स की दी गयी हैं उसको थोड़े असें के वास्ते स्थागित कर दे। यह कहना कि यह पीस टाइम का ला नहीं है या यह लालस ला है, यह बिलकुल गलत है। आप भले ही इसको सफेद कानून कहिये या काला कानून कहिये, लेकिन यह लालस कानून नहीं है। हमारे आईन में हमको प्रीवीन्टिव डिटेंशन एक्ट बनाने की इजाजत दी है लेकिन ताहम हम ऐसा कानून बनाने के वास्ते मजबूर नहीं हैं। मैं इस प्रीवीन्टिव डिटेंशन एक्ट के एक ही मायने समझता हूँ कि किसी आदमी को ज़ुर्म करने से रोका जाय। जैसे दफा १०७, १०८, १०९ और ११० की मंशा है, इसी तरह का यह कानून है। इस कानून का इस्तेमाल किन्हीं ऐसे लोगों के ऊपर करना, जिन्होंने कोई ज़ुर्म करा हो, जायज नहीं है, उसको डील करने के लिये तो हमारे पास आर्डिनेरी ला मौजूद है जिसके जरिये हम एफेक्टिवली डील कर सकते हैं और सजा कर सकते हैं। अभी थोड़े दिन ही हुए सुप्रीम कोर्ट ने फैसला दिया है जिसमें उन्होंने इनवीस्टिगेशन कमिशन ला को अवैध करार दिया है और सुप्रीम कोर्ट ने कहा कि एक शख्स पर दो किस्म के कानून लगाना जायज नहीं है और यह कांस्टीट्यूशन की दफा १४ के बरीखलाफ है जिसमें इक्वीलटी बिफोर दी ला का सिद्धान्त माना गया है। जब २१६ दफा हमारे पेंनेल कोड में मौजूद है जिसमें हारबेरिंग आफ रॉबर्स एटसेटरा का चिक्र आया है, जब बगैरों के वास्ते कानून मौजूद है तब हम फिर किसी शख्स को हारबेरिंग आफ रॉबर्स के अपराध में प्रीवीन्टिव डिटेंशन एक्ट में नहीं ले सकते हैं। जहाँ तक ला का सवाल है मैं यह कहने को तैयार हूँ कि इसको इस कानून के अन्दर नहीं लिया जा सकता। इसी तरह हम देखते हैं कि हमारे आर्डिनेरी कानून में बीच आफ दी पीस के वास्ते दफा १०७ मौजूद है जो इस प्रोसीज्योर से कहीं अच्छी है क्योंकि उसमें कोई एंडवाइजरी बोर्ड के सामने जाने का सवाल नहीं है, उसमें तो कोर्ट जाने का सवाल है। इसी

[पीडित ठाकुर दास भार्गव]

तरह दफा ११० सिर्फ बंदमाशों से डील करने के लिये हैं। मैं इनके बारे में और ज्यादा चिन्ना करके हाउस का वक्त बर्बाद नहीं करना चाहता। दफा ११० में चार, पांच मुद्दे हैं जिनमें हारबिरिंग, हैबीकुअल थ्रेफ्ट और ऐसे आदमी जो डिस्पेंडेंट्स होते हैं वह भी शामिल हैं। गुंडा एक्ट बन्वाई और दूसरी जगहों पर बने हुए हैं। इन कानूनों के होते हुए हम प्रीवीन्टिव डिटेन्शन एक्ट को इजाजत नहीं दे सकते कि इनका इस्तेमाल किया जाय। हमने इस प्रीवीन्टिव डिटेन्शन एक्ट को उन खास हालात में एक्शन लेने के लिये पास किया है जो मैंने आपसे पहले अर्ज किये। इसको पास कराने के लिये सरदार पटेल ने अपील की और उस वक्त सिक्योरेशन एंसी खराब और नाजुक थी कि ऐसा कानून होना बहुत जरूरी था और इस बात को मद्देनजर रखते हुए हमने उस कानून को एक दिन में पास कर दिया। सन् ४६ में मुल्क की हालत इतनी नाजुक थी कि हमने गवर्नमेंट को यह अख्तियार दिया कि गवर्नमेंट अगर जरूरत समझे तो किसी अनरूली और वायलेंट मौब पर ऊपर से बिला वारनिंग बम बरसा दे तो भी उसका यह एक्शन जस्टिफाइड होगा। हमारे होम मिनिस्टर साहब एक बिल लाये कि किसी नाजायज मजमे को हटाने के वास्ते वह फॉज का, लैंड आर्मी का भी इस्तेमाल कर सकते हैं, नेवी और एयर फोर्स का भी जरूरत पड़ने पर इस्तेमाल कर सकते हैं लेकिन मिनिस्टर साहब ने कहा कि हमें लैंड आर्मी के इस्तेमाल करने की पावर हो। हम हर एक बिल जो गवर्नमेंट लायेंगी उसको सपोर्ट करेंगे जो देश की खास हालत को देखते हुए जरूरी होंगे लेकिन मैं यह नहीं चाहता कि इस किस्म का एक्ट हमारे देश के परमानेंट स्टैच्यूट पर रहे। मैंने अपने दोस्त श्री राघवचारी की स्पीच सुनी और मैं बिलकुल उनकी इस बारे में लाईव करता हूँ कि आज जो यह १२१ और ४१० आदमी जो किसी जमाने में कैद में थे, मज्ज को नहीं मालूम कि इसके अन्दर कितने बिलकुल बंगूनाह आदमी हैं जो कि महज पुलिस रिपोर्ट पर जेलखानों में सड़ रहे हैं, उन्हीं पुलिस

रिपोर्ट्स पर जिनके लिखे हुए पर कोई एतबार नहीं करता उन्हीं पुलिस रिपोर्ट्स की बिना पर चाहे वह बंदमाश हो, गुंडा हो, उन पर इस तरह का कानून आयद करना यह मेरे नजदीक वाजिब नहीं है। और फिर इस हिन्दुस्तान में जिस के अन्दर पीडित जवाहरलाल नेहरू और हमारे होम मिनिस्टर श्री कैलाश नाथ काटजू गवर्नमेंट के मिनिस्टर हैं उस के अन्दर कांशसनेस के वास्ते किसी विजज के रखने के वास्ते किसी आदमी को पकड़ना नाजायज है और वह खुद जानते हैं कि यह नाजायज है। उन्होंने कल भी फरमाया था कि हम किसी भी पार्टी के खिलाफ इस का इस्तेमाल नहीं करेंगे। आज श्री दातार ने कहा कि कोई भी शख्स कोई विजज रख सकता है, हम उस के खिलाफ कुछ नहीं करेंगे, लेकिन अगर आप की एक्टिविटीज खराब हैं, एन्टी स्टेट हैं, तो हम उस के खिलाफ एक्शन लेंगे। अगर यह सही है, अगर मुल्क में यह हालत है तो मुझे बतलाया जाय कि क्यों इस एक्ट को तीन साल के लिये बढ़ाया जाता है। लेकिन जिस चीज को हम हमेशा से बुरा समझते रहे हैं, मैं उस को इस कानून के अन्दर रखना नहीं चाहते। मैं कांग्रेस की सारी हिस्ट्री की याद दिलाने की जरूरत नहीं समझता। हम ने रॉलट एक्ट के खिलाफ एजिटेशन किया, लाखों आदमी कैद के अन्दर चले गये, हम नहीं चाहते कि हम देश के अन्दर इस तरह के कानून लायें जब तक कि उस की जरूरत न हो। हाँ, अगर जरूरत हो तो आप इस से भी सख्त कानून लाइये, जो कुछ हम से हो सकेगा हम उस के लिये करेंगे। लेकिन आज हकीकत यह है कि हमारे देश के अन्दर बड़ी पीस है। हमारे देश के लोग बड़े पीस लीवंग हैं, सारी दुनिया के अन्दर आज हम चिल्ला चिल्ला कर कह रहे हैं कि हम लोग पीस लीवंग हैं, और ठीक ही कह रहे हैं। आप भी कहते हैं कि हम ने इस कानून का बड़ी एहतिवात से इस्तेमाल किया है। अगर कोई पार्टी खराब काम नहीं करती, अगर वह कोई जुर्म नहीं करती है, तब तो उन के खिलाफ इस का इस्तेमाल होगा ही नहीं, लेकिन अगर करती है तो आप के पास और कानून से

जरायें मौजूद हैं जिन की रू से आप उन्हें पकड़ सकते हैं ? मैं कहना चाहता हूँ कि मुल्क का क्रेडिट इसी बात से जांचा जाता है कि वहां के रिप्रीसेन्ट लाज किस किस्म के हैं । आज हम डॉल पीट पीट कर दुनिया के अन्दर कह रहे हैं कि हम पीस लीविंग हैं और इसी वजह से हम दँस रहे हैं कि हम तरक्की की जागिर रोज बरोज कदम बढ़ा रहे हैं । आज श्री हीरेंद्र नाथ मुकजी ने कहा कि स्टारवेशन और हंगर को लेकिये । हम दँसते हैं कि हिन्दुस्तान के अन्दर आज स्टारवेशन और हंगर नहीं हैं । अगर हम तरक्की न करते होते तो हमें इस तरह के लाज की जरूरत पड़ती । आज फूड की प्रॉब्लम तय हो गयी, और आप की दूसरी प्रॉब्लम भी तय हो रही है, जिन के तय न होने से लोग ज़ुर्मी किया करते हैं वह प्रॉब्लम आज मौजूद नहीं है । आज हम उस तरफ जा रहे हैं जिस में कम से कम जरायम होंगे । मुझे उम्मीद थी कि हमारा होम मिनिस्टर साहब जो एक्ट पेश करेंगे वह सिर्फ ऊपर की बताई चार मदों के मुताबिक होगा और वह पहले से अच्छा होगा क्योंकि हम जो लिस्ट दँसते हैं इंटर्न्यूस की, और जैसा दातार साहब ने बताया, १०,६६२ से ले कर होते होते वह अब इतने कम हो गये हैं । ऐसे ही आप किसी चीज को दँस लें । यह सच है कि इस एक्ट को आगे बढ़ाने के वास्ते गाउन्ड्स दिन बादिन कमजोर होती जाती हैं । मुझे तो बड़ी खुशी होती अगर सब लोग आप को मुबारकबाद दें कि आप ने देश का इन्तजाम इतना ठीक कर दिया ।

श्री गिडबानी : आज भी हम मुबारकबाद देने को तैयार हैं अगर वह इस को विधवा कर लें ।

पंडित ठाकुर दास भार्गव : मैं इस हद तक जानें को तैयार नहीं हूँ जिस हद तक कि दूसरे दोस्त गये हैं । जैसा कि मैं ने अर्ज किया इन वजहों से मैं यकीन रखता हूँ, जैसा कि श्री दातार साहब ने फरमाया, जो रिस्ट्रिक्ट और ट्रीडिंसज आज दूसरे दर्शों में मौजूद हैं अगर वह इस दर्श में भी आ जायें तो पब्लिक ही ऐसे आदिमियों को ज़ुर्मी नहीं करने देंगी । अगर वह कुछ करना भी चाहेंगे तो पब्लिक उन की सुनेगी ही नहीं । अभी वह हालत नहीं पहुँची है,

इस वास्ते मैं महसूस करता हूँ कि जब तक वह हालत न आ जाय उस वक्त तक हमें एक हथियार चाहिये जिस से कि हम अपना बचाव कर सकें । डिफेन्स आफ इंडिया और सिक्वॉरिटी स्टेट के वास्ते जो हथियार हमारे लिये जरूरी हैं वह तो हम को अपने हाथ में जरूर रखना चाहिये । लेकिन आप इस को तीन साल के लिये क्यों लेंते हैं ? अगर आप कॉन्स्टिट्यूशन की पुरानी हिस्ट्री को देखेंगे तो आप को मालूम होगा कि यह कॉन्स्टिट्यूशन आरटिकल २२ हमारा एक कम्प्रामाइज था । अभी श्री राघवाचारी ने श्री कृष्ण चन्द्र शर्मा को चैलेंज करते हुए कहा कि हमारे पास इस से अच्छा कानून मौजूद है । गरीब नवाज, इस में शक नहीं है कि आज ११० जाब्ता फौजदारी में तीन साल की सजा दी जाती है अगर ज़ुर्मी साबित हो जाय, कोर्ट में । लेकिन इस एक्ट के अन्दर एक साल के लिये ही रक्सा जाता है । मैं जेल कमेटी का चैरमैन था । मैं ने देखा कि इंटर्न्यूस को मामूली कौदियों के मुकाबले में पैसा भी दिया जाता है । कइयों को आप तन्खाह भी देते हैं । मेरा यह एतराज नहीं है । मैं तो कहता हूँ कि जब तक साबित न हो जाय तब तक इन्फोर्सेन्ट आदिमियों को इंटर्न्यू बनाना ही नहीं चाहिये । कोई भी इस चीज को नहीं कह सकता कि बगैर साबित हुए किसी को सजा दी जाय । कहा जाता है कि इंटर्न्यू के लिये बहुत कम रीस्ट्रिक्शन्स हैं, जेल के अन्दर । लेकिन उस के ऊपर सब से ज्यादा रीस्ट्रिक्शन हैं । दूसरे आदिमी जो हैं वह कोर्ट में खड़े हो कर कह तो सकते हैं, साबित करने की कोशिश तो कर सकते हैं कि हम इन्फोर्सेन्ट हैं । आज इंटर्न्यू के मामलों पर एडवाइजरी बोर्ड विचार करता है । लेकिन अगर एडवाइजरी बोर्ड के मेम्बर देवता भी हो जायें तब भी इंटर्न्यू को वह कॉन्फिडन्स नहीं मिल सकता जो कि उन को कोर्ट में जानें और अपने मामलों को अदालत में पेश करके हो सकता है । हम देखते हैं कि एडवाइजरी बोर्ड ने ६५ आदिमियों को छोड़ दिया । ६५ आदिमियों को छोड़ दिया गया लेकिन ताहम ऐसे एक्क्यूज्ड मौजूद हैं जो शायद अदालत में छूट जायें, यहां छूट नहीं सके भले

[पंडित ठाकुर दास भार्गव]

ही उन की तादाद बहुत कम हो। हम सब लोग जानते हैं और चाहते हैं कि लोगों को आजादी हो। यहां पर कुमारी एनी मैस्कीन ने बिल आफ राइट्स, मैग्ना कार्टा और डाइसी की बातें सुनाईं। लेकिन उसी तरह से आजादी की बातें श्री काटजू के दिमाग में रंजे रंजे में भी मौजूद हैं। हम में से कोई नहीं चाहता कि इस तरह से लोगों को डिटेन किया जाय, लेकिन अगर मजबूरी हो तो चाहे यह इन्डेरन्टली बँध चीज हो तो भी हिन्दुस्तान की सेफ्टी के लिये इस चीज को रखना ही पड़ेगा। लेकिन मैं अर्ज करना चाहता हूँ कि सुरत हालात को देखते हुए, सब चीजों का जायजा लेते हुए कि देश की क्या हालत है इस एक्ट को जितना हो सके महदूद कर दिया जाय। आप डिफेन्स आफ इंडिया, फार्म रिलेशन्स, सिक्वियरिटी आफ स्टेट, सिक्वियरिटी आफ इंडिया, के लिये ठीक व कड़ा कानून बनावें और परमनेन्ट ला बना लें। ला और आर्डर और पीस के लिये हमारे पास बहुत कानून व अख्तियार मौजूद हैं। आप का कंट्रोल जाता रहा, इसीलिये एसोशियल सप्लाइज की चीज खत्म हो गई। कितने आदमी थे जो इन चीजों के अन्दर बँदे होते थे, जो इस तरह के इंटर्न्यूज होते थे अगर आप को उन की कहानियाँ सुनाऊँ कि वह किस तरह जेल में पहुँचे और उन लोगों को पुलिस वालों ने किस कदर तकलीफ दी है तो आप उस को सुन कर हैरान हो जायेंगे। जो काम सीक्रेट होता है अगर उस का अख्तियार आप पुलिस को दें तो नामुमकिन है कि उस के अन्दर बेइन्साफी न हो। इस वास्ते हालात की शक्त को देखते हुए, देश की स्थिति को देखते हुए यह तो जायज नहीं होगा कि हम यह कहें कि इन चारों उपरोक्त चीजों के लिये हम किसी किस्म का कानून नहीं चाहते, और इस की बड़ी वजह यह है कि इतने बड़े देश में चाहे कम्युनिस्ट पार्टी हो या न हो, लेकिन ऐसे आदमी आप को जरूर मिलेंगे जो हमारी सिक्वियरिटी आफ स्टेट, हमारे डिफेन्स आफ इंडिया को नुकसान पहुँचाने के वास्ते तैयार होंगे। जिस मुल्क का इतना बड़ा, कई हजार

मील का फीटियर हो, उस की गवर्नमेंट को अपने हाथ में कोई न कोई हथियार रखना ही चाहिये, चाहे कांग्रेस की गवर्नमेंट हो या और कोई गवर्नमेंट ही क्यों न हो, हम चाहते हैं कि ऐसा हथियार हाथ में जरूर रहे। और मैं कभी यह महसूस नहीं करना चाहता कि हमारे पास नाजुक वक्त के लिये यह हथियार नहीं है।

मैं पूछना चाहता हूँ उन लोगों से जिन्होंने बड़े जोरों से क्रिटिसिज्म किया है इस बिल को कि अगर सारी स्टेटों में से, २० स्टेटों में से, ज्यादातर में इस का इस्तेमाल नहीं हुआ तो गरीब नवाज, इस कानून को रखने में नुकसान ही क्या है? मैं बहुत अदब से पूछना चाहता हूँ कि किस को इस कानून से नुकसान पहुँचा है? सिवा साइकालॉजिकल नुकसान के आप का क्या नुकसान हुआ अगर कोई कैद ही नहीं हुआ? अगर आप चाहते हैं तो जहाँ पर हम ने इस बात को रक्खा कि इंटर्न्यूज के मामलों पर विचार करने के लिये एडवाइजरी बोर्ड बैठें, वहाँ पर एक और सेफगार्ड रख दिया जाय। पार्लियामेंट की एक कमेटी बैठाई जाय जो कि इन चीजों को देखती रहे। लेकिन आप को शिकायत कैसे हो सकती है कि यह कानून खराब है अलावा इस के कि आप साइकालॉजिकली इस के खिलाफ हों। और इस के बीखलाफ होने में हम सभी शामिल हैं, कोई नहीं चाहता था कि इस तरह से कोई कंट्रोल लोगों की आजादी पर रक्खा जाय। चाहे हम और आप गवर्नमेंट को कितना ही कोसें, लेकिन सच्चाई यही है कि हम में से कोई नहीं चाहता था कि इस तरह का कानून हमारे यहाँ रहे। लेकिन अगर मजबूरी हो तो क्या किया जाय। जैसा हमारे होम मिनिस्टर साहब ने बताया कि सारी स्टेट्स ने लिख दिया कि वह बिना इस कानून के काम नहीं कर सकतीं तो वह क्या करें। वह स्टेट भी इसे लिखने में शामिल हैं जिन्होंने बिल्कुल इस कानून को काम में लाने में हिस्सा नहीं लिया। आखिर उन को क्या जरूरत महसूस हुई? इस वास्ते मैं बहुत अदब के साथ अर्ज करना चाहता हूँ कि हम को इस चीज को बहुत डिस्पेंशनली देखना

चाहिये। जब आप न इस कानून को दो साल के लिये रक्खा था तो मैं उम्मीद करता था कि दो साल बाद आप कहेंगे कि अब हम इस एक्ट को ज्यादा रायज नहीं रखना चाहते हैं, लेकिन अगर आप इस को आगे साइकालोजिकली रखना चाहते हैं तो आप को क्रिटीसिज्म से डरना नहीं चाहिये। हम परवाह नहीं करते कि लोग भुग कहते हैं या भला, देश के डिफेंस के वास्ते जाँ मशीनरी जरूरी होती है उसे रखना ही चाहिये और मैं इस के हक में हूँ कि अगर आप चाहें तो इस को एमेंड कर के इस के कुछ हिस्सों को परमनैन्ट मेजर बना दें। इस के जाँ हिस्से १ (ए) और पार्ट १ (बी), यानी जहाँ तक सिक्वियोरिटी आफ स्टेट का ताल्लुक है, उस को आप कायम रखें और उस को और सख्त कर दें। उसे अनजस्ट न करें लेकिन उस को सख्त बना दें। जहाँ तक बाकी हिस्सों का ताल्लुक है, मैं अर्ज करना चाहता हूँ, जिन की वजह से यह कानून नाकाबिल-एबरदाश्त है उन को इस में से निकाल दीजिये। उस के लिये जाँ आप के दूसरे ला हैं उन को इस्तेमाल कर सकते हैं जिस में यह मालूम हो कि बिना जरूरत आप इस को नहीं रखना चाहते हैं। आज हालत यह है कि बहुत सी मर्दों की कोई जरूरत ही नहीं है। आज कंट्रोल नहीं है, इसीलिये ब्लैक मार्केटिंग का क्या सवाल है? प्राफिटियरिंग का कोई सवाल नहीं है। इसीलिये इस की जरूरत नहीं है। जहाँ तक ला एंड आर्डर का सवाल है उस के लिये आप के जराये इतने सख्त हों और इतने मजबूत हों कि इस कानून की जरूरत ही न रह जाय। अगर किसी जगह कुछ जरूरत पड़े तो आप आर्डिनरी कानून से काम लें। इस से लोगों पर ज्यादा असर पड़ेगा और उन को ज्यादा सजायें मिलेंगी।

आखिर में, मैं एक सवाल करना चाहता हूँ अगर आप इजाजत दें कि अगर किसी आदमी को डैक्वायटस (dacoits) को हारबर करने के लिये आर्डिनरी ला में सात साल की सजा मिल सकती है और आप के पास सबूत काफी हो तो इस कानून के अन्दर उस को छः महीने

या एक साल के लिये डिटन करने से क्या फायदा? आप के इस पॉफ्लेट से जाहिर है कि तीन तीन दिन के वास्ते आदमी पकड़े हुए हैं, दस दस दिन के वास्ते आदमी पकड़े हैं। आप ने ज्यूडिशसली इसका इस्तेमाल किया है।

5 P.M.

श्री गिडबानी : निर्दोष थे ?

पंडित ठाकुर दास भार्गव : यह मैं नहीं कहता। मुझे पता है कि कितना लम्बा प्रोसीजर है। पुलिस से रिपोर्ट आती है, डिस्ट्रिक्ट मैजिस्ट्रेट के पास जाती है। स्टेट गवर्नमेंट के पास आती है, सेंटर के पास आती है। असलियत का पता लगाना बड़ा मुश्किल होता है।

मैं महसूस करता हूँ कि जो आप इसे २ साल के लिए बढ़ा रहे हैं यह जायज नहीं है। जब तक आप इस रस्ते पर इसका जरूर इस्तेमाल होता रहेगा। स्टेट गवर्नमेंट्स हमेशा कहेंगी कि इसकी जरूरत है। अगर आप रखना चाहते हैं तो इसका उतना हिस्सा ही रखें जाँ डिफेंस और सिक्वियोरिटी आफ स्टेट से ताल्लुक रखता है और फारन रिलेशंस का।

श्री भागवत भा आजाद : आप की क्या राय है ? यह जरूरी है या नहीं ?

पंडित ठाकुर दास भार्गव : मैं तो कहता हूँ कि २१ (ए) जो स्टेट की डिफेंस और सिक्वियोरिटी से ताल्लुक रखता है वह बना रहना चाहिए और बाकी के हिस्से को रखने की कोई जरूरत नहीं है और अगर हम रस्ते में तो इंसफ नहीं करेंगे और यह कांस्टीट्यूशन के उस्ताओं के साथ भी इंसफ नहीं होगा। मुझे डर है कि कहीं ऐसा करने से देश में अशान्ति भी पैदा न हो जाए।

Shri H. N. Mukerjee (Calcutta North-East): Sir, I rise at the fag end of the day to oppose the motion which is placed before the House by my hon friend the hon. Home Minister.

Mr. Deputy-Speaker: The House will now stand adjourned to 11 a.m. on Monday.

The Lok Sabha then adjourned till Eleven of the Clock on Monday, the 13th December, 1954.