

**Shri R. K. Chaudhury (Gaurati):** Sir, may I know something about the position.....

**Mr. Speaker:** Order, order. The hon. Member (I am afraid I should be very strict over this matter) cannot be permitted to put a question from a different seat.

I have requested hon. Members that, so far as possible, they should stick to the same seat or sit near about. Otherwise, it creates difficulty for the Chair to spot out a Member. I will again refer to that difficulty after a minute.

Whatever suggestions they may have, hon. Members may make them to the Home Minister and I shall permit him to make a further statement on the subject.

#### PREVENTIVE DETENTION (SECOND AMENDMENT) BILL

##### PETITIONS RECEIVED

**Shri Vartak (Thana):** I beg to present the report of the Committee on Petitions on the Bill further to amend the Preventive Detention Act, 1950.

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

**Mr. Speaker:** The House will now proceed with the further consideration of the following motion moved by Dr. Kailas Nath Katju on the 17th July, 1952, namely:

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

Along with that there are three amendments. I need not recapitulate them.

In this connection, I should like to invite the earnest attention of hon. Members who wish to speak that this debate has been carried on for a pretty long time; and, so far as I can see, all the main points giving the constitutional aspects, the legal aspects and the factual aspects and all that have been considered. Hon. Members will therefore kindly shorten their speeches now, referring only to such further factual things or other arguments which have not been covered till now. Because, my impression on going through the debate is that it is practically repetition of the same argument—though of course I may say that it is not repetition of the exact words, but it is more or less a

paraphrase of what has been said before. That is one point to which I would invite the attention of all Members.

I should now call upon Shrimati Subhadra Joshi to continue her speech. In this case too, the hon. the lady Member has changed her seat in such a manner that I could not find out whether she was in the House at all. That is the difficulty. It is not merely a technical point which I am making. When a name is there, I naturally look to the place where the hon. Member has been usually sitting, and I cannot be expected to enquire first through my Private Secretary or the official here to find out whether the hon. Member is present in the House or not. I was just going to pass on, saying that she is not here and I was going to call upon somebody else. But on enquiry I found that she was here. Now she will kindly stick to the place which she is occupying.

**श्रीमती सुभद्रा जोशी (करनाल) :**

अध्यक्ष महोदय, मैं कल इस बात का जिक्र कर रही थी कि देश में हालात ऐसे हैं कि जब तक इस क्रिस्म का कोई कानून हमारी हुकूमत के पास नहीं होता है तब तक उन हालात पर क़ाबू पाना मुश्किल है। इस सिलसिले में मैं कल औरतों का जिक्र कर रही थी और अर्ज कर रही थी कि जब से यह जमातें आर्गनाइज (organise) हुई हैं, या थोड़ा ज़्यादा जनता के सामने आई हैं, खास कर सन् १९४७ के दंगों के बाद, हुई लोग यह देख रहे हैं कि किसी न किसी बहाने से कभी पाकिस्तान में जो हमारी बहनें हैं उन का नाम ले कर, कभी यहां धर्म के नाम से, कभी किसी बदला लेने के बहाने से औरतों की इज्जत को खतरे में डाल दिया जाता है और जैसा मैं ने पहले कहा कि उन्होंने ऐसे ऐसे तरीक़े निकाले हैं जिन पर पेश पाना बहुत मुश्किल है। और जो उन के लीड (lead) करने वाले होते हैं वह कभी सामने नहीं आते हैं। इसी सिलसिले में मैं आप से कह रही थी, अध्यक्ष महोदय, कि यह तकरीबन रोजमर्रा की बातें

[ श्रीमती सुभद्रा जोशी ]

हो गई हैं। देश के कोने कोने से ऐसी बातों के जिक्र रोज आते रहते हैं। मैं एक स्पेसिफिक (specific) बात का जिक्र करना चाहती हूँ। दो साल हुए जब कि इसी तरह का क्रिस्ता हिंसा के इलाके में हुआ। वहाँ के शरणार्थियों और वहाँ के रहने वालों में आपस में झगड़ा हुआ और एक बहिन का बहुत अपमान किया गया। मुझे खुद वहाँ जाकर तहकीक़ात करने का मौका मिला और मुझे इस बात का बहुत अफ़सोस हुआ कि वहाँ एक ग्रुप (group) को हिन्दु महासभा के नेता लीड कर रहे थे और दूसरे ग्रुप को संघ के लोग लीड कर रहे थे। यहाँ इसी क्रिस्म की बातें रोज रोज़ होती हैं। मेरी तो समझ में नहीं आता कि इन लोगों के लिये क्या किया जाय। मुक़दमे चलते हैं उन लोगों पर जिन को यह भड़काते हैं या जिन से काम करवाते हैं और यह लोग आराम से बैठे रहते हैं।

मैं और बातों का जिक्र न कर के केवल एक और बात का जिक्र करना चाहती हूँ। एक अख़बार जो दिल्ली का है उस में एक ख़बर आई जिस की हेडिंग है "मुसलमान नौजवान झंडेवालान से हिन्दू लड़की को अगवा कर के ले गया।" मैं इस बारे में ज्यादा नहीं कहना चाहती लेकिन मैं अपने आनरेबल होम मिनिस्टर की तबज़ह इस तरफ़ दिलाना चाहती हूँ और उम्मीद करती हूँ कि वह इस बात की अच्छी तरह से तहकीक़ात करेंगे। आनरेबल मेम्बर्स की इत्ला के लिये इतना ही कह देना काफ़ी होगा कि जिस नौजवान का यहाँ जिक्र है वह उस लड़की का अपना सगा भाई है और वह लड़की घर से लड़ कर या पिट कर अपने भाई के पास गई थी और उस अख़बार में यह लिखा है :

"दिल्ली, १८ जुलाई, दिल्ली प्रान्तीय हिन्दू महासभा के प्रधान प्रो० राम सिंह को मुहल्ला सुधार कमेटी के जनरल सेक्रेटरी ने लिखा है : एक शरत बाबूलाल चमार, झंडेवालान रोड दिल्ली, के लड़के सोहन लाल की बीवी शान्ति की एक मुसलमान नौजवान अनवर जो सराय खलील, सदर का रहने वाला है, अगवा कर के ले गया है।"

इस तरह की बात चीत होती हैं। इस का नतीजा यह होता है कि लोगों पर ख़राब असर पड़ता है। इन जमातों के काम करने के तरीके ऐसे होते हैं कि मुझे अफ़सोस के साथ कहना पड़ता है कि सन् १९४७ के बाद से कम से कम मैं दिल्ली में यह देखती आ रही हूँ कि हर १५, २० दिन पर या महीने के बाद एक न एक मुसलमान मुहल्ले को किसी बहाने से घेर लिया जाता है और वहाँ औरतों का, वहाँ के रहनेवाली बहनों का अपमान किया जाता है। इसी तरह से इस क्रिस्से में भी सराय खलील पर १००-२०० आदमी जमा हो गये और औरतों का अपमान करने की कोशिश की गई और तलाशी लेने की कोशिश की गई उस मुसलमान मुहल्ले की। तो जब से इन जमातों ने ऐसे मामलों में औरतों पर हाथ उठाना शुरू कर दिया तो उन्होंने हमारे देश में देहातों और शहरों की फ़िज़ा को ख़राब कर दिया और जैसा मैं ने अभी आप से कहा कि अगर कोई किसी पर उंगली उठाये तो लोग यह नहीं देखते हैं कि किसी का अपमान हो रहा है, वह समझते हैं कि इस से हमारा क्या ताल्लूक़ है। आप उस का मज़हब पूछते हैं, उस का धर्म पूछते हैं, आप पूछते हैं कि औरत अच्छी है या बुरी। इन जमातों ने वैल्यूज (values) को चेन्ज (change) कर दिया है और चेन्ज करने

की कोशिश करते हैं। मुझे तो इन जमातों के रवैये को देख कर ताज्जुब होता है। उस से एक कन्फ्यूजन (confusion) पैदा होता है। मुझे ताज्जुब होता है उन जमातों पर जो उन से हाथ मिलाने को तैयार होती हैं। मैं इस बारे में कहना चाहती हूँ कि अगर हमारी जमातों के लोग या किसी भी सयासी जमात के लोग इन जमातों के साथ हाथ मिलाने हैं तो मुझे उन की औरतों की तरफ से कहना पड़ेगा कि वह लोग निहायत निकम्मे पति हैं और निकम्मे भाई हैं, निकम्मे और अनग्रेटफुल सन्स (ungrateful sons) हैं अपने माता और पिता के।

जिस तरह की हवा यह जमातें बनाती हैं उस तरह की हवा में हमारे बच्चों की ट्रेनिंग अच्छी नहीं हो सकती न उन्हें अच्छी तालीम मिल सकती है। मैं तो चाहती हूँ कि कोई इस क्रिस्म का कानून हमारी हुकूमत के पास हो जिस से वह इन लोगों के साथ सख्ती के साथ पेश आ सके।

जो दूसरी बात मैं आप से अर्ज करना चाहती हूँ वह थोड़ा सा माइनारिटीज (minorities) के बारे में है।

ऐसे क्रिस्से चलते हैं हमारी इन जमातों के नेता कि मैं यह महसूस करती हूँ कि मामूली कानून से, और मामूली कोर्ट्स (courts) में और मामूली मुकदमों से इन लोगों का कोई इन्तिजाम नहीं हो सकता। मैं इस तरफ आप की तबज्जह दिलाना चाहती हूँ। हमारे अखबारों और हमारे इन जमातों के नेताओं की स्पीचेज से मालूम होता है कि यह देश के कोने कोने में बलबे कराना चाहते हैं। और अध्यक्ष महोदय इस सिलसिले में मैं यह अर्ज करना चाहती हूँ कि यह सिर्फ मुसलमानों के ही लिये नहीं किया जाता है, बल्कि इस क्रिस्म की

स्पीचेज दे कर यह लोग सिख और हिन्दुओं में भी लड़ाई करवाना चाहते हैं। मैं ने सुना है कि कोई ऐसा कानून है कि अगर कोई हिन्दुस्तान के रहने वालों में नफरत पैदा करता है तो वह कानून उस के खिलाफ इस्तेमाल किया जाता है। लेकिन मैं ने उस को इस्तेमाल होते नहीं देखा। वह कानून मुझे इतना कमजोर मालूम होता है कि जब तक हमारी हुकूमत के हाथ में ऐसी ऐग्जीक्यूटिव पावर्स (executive powers) नहीं होंगी तब तक ऐसे लोगों का इलाज नहीं हो सकता।

आखिर में मैं आप से यह कहना चाहती हूँ, अध्यक्ष महोदय, कि यह जो ग्रुप्स बने हैं और जो सब क्रिस्म की पार्टीज मिल कर के कांग्रेस गवर्नमेंट का विरोध कर रही हैं वह सिर्फ इसलिये यह विरोध कर रही हैं कि यह कांग्रेस गवर्नमेंट है, इस से देश में एनार्की (anarchy) पैदा हो गई है। आप अन्दाज़ा लगायें। एक तरफ कम्युनिस्ट पार्टी है, एक तरफ हिन्दू महासभा और जन संघ है। तो यह क्रिस्म क्रिस्म की पार्टियां ह। उन की आइडियालाजी (ideology) नहीं मिलती है, न उनके रास्ते मिलते हैं। एक तरफ हमारे कम्युनिस्ट भाई हैं जो कि एक ऐसी हुकूमत बनाना चाहते हैं कि जिस में सब बराबर के लोग हों। वह एक खास रास्ते पर चलते हैं। हथियार जमा करते हैं, मारते हैं, मरवाते हैं और जब मरवाने लगते हैं तो लोग ज्यादा भी मारे जाते हैं। तो यह लोग आखिर एक इकानामिक थ्योरी (economic theory) रखते हैं, और उनकी आइडियालाजी किसी पोलिटिकल थ्योरी (political theory) पर बेस्ड (based) है। पर जो दूसरी जमातें हैं उन से उन का कोई मिलान नहीं है। तो,

[श्रीमती सुभद्रा जोशी]

अध्यक्ष महोदय, मैं यह कहना चाहती हूँ कि यह जो पार्टियाँ मिल कर आपस में गुट बनाती हैं तो जनता कनफ्यूज हो जाती है। इस तरह से यह जनता में एनार्की की भावना पैदा करते हैं। तो मैं आप से यह अर्बं करना चाहती हूँ कि इन के आपस में मिल जाने से ऐसी हवा पैदा हो गई है कि मैं इस बात को अच्छी तरह से महसूस करती हूँ कि मामूली कानून से, मामूली अदालतों से, कुछ होने वाला नहीं है। और मैं चाहती हूँ कि हुकमत इस बिल को जल्दी पास करके फौरन यह ताकत अपने हाथ में ले। मैं इस बात का अनुमोदन करती हूँ कि यह बिल सिलेक्ट कमेटी में जाना चाहिये। पर मैं इस बात के खिलाफ हूँ कि इस को सरकुलेट (circulate) किया जाय पबलिक ओपिनियन (Public opinion) के लिये क्योंकि हम यहां पबलिक के नुमायन्दे हैं। अगर इसको पबलिक ओपिनियन के लिये सरकुलेट किया जायगा तो इन लोगों को एक बहाना मिल जायगा और जिस तरह यह और चीजों को ले कर समाज में ऊषम मचाते हैं इसी तरह इस बहाने को ले कर मचायेंगे। मैं चाहती हूँ कि उन को फिर से ऐसा करने का बहाना न दिया जाय।

**Dr. N. B. Khare (Gwalior):** The other day when we opposed the very introduction of this Bill, our friends expressed great surprise. I may tell them that in this matter they have also in former times indulged in similar games along with me when they were on this side of the House. I wish to tell them that they need not be surprised. It appears to me that they have forgotten this and they are suffering from amnesia on loss of memory. I do not know what will happen to them if they continue to suffer from this. But there is no danger of this happening, because on the day when a Bill dealing with allowances of princes was sought to be introduced, the memory of my friends opposite suddenly revived and they tried to indulge in the same practice. Of course,

we check-mated them, but that is a different matter. They must therefore remember that what is sauce for the goose is sauce for the gander, and if we pay them in the same coin, I think, they should not be surprised. This reminds me of a Hindi proverb:

मियाँ का जूता मियाँ का सर

Sir, the other day the hon. Mover of this Bill twitted us roundly by saying that we are opposing this Bill even during the introduction stage merely on party considerations. May I also tell him through you that he is also moving this Bill entirely on party considerations and nothing else? One of his followers who just now spoke, Shrimati Subhadra Joshi has openly said in her speech as follows:

यह कांग्रेस के विरोधी गुट हैं। यह सब गड़बड़ पैदा करते हैं। कांग्रेस का काम चलने नहीं देते। इन्हें इस ऐक्ट के मृताबिक बन्द कर दिया जाय।

She has openly made that statement and that substantiates the point.

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

**Mr. Speaker:** Order, order.

**Dr. N. B. Khare:** I should not be disturbed in my speech. We are not at all surprised that this black Bill has been brought before us again for the period to be extended. When the Bill to enable the use of Air and Naval Forces was being discussed some of my friends expressed openly in this House a desire and the right of the Congress Government to bomb from the air the unprotected and unarmed masses of people and thus to commit mass murder. This Bill is nothing when compared to that and when they have got this mentality, I can certainly say that they are Gandhian Godses. We call this a black Bill. The Bill that is before us is not a matter for surprise, because everything at present is 'black' in this country. There are black Bills, black administrators and black markets. It is only contrasted by the white cap. That is all. That cap also unfortunately is sometimes nowadays being burnt on the streets of Delhi or somewhere else.

When I was a student of medicine I had to read a text book on Zoology and in that text book a very striking description is given of a reptile called the 'snake'. It includes many species, a black cobra, a viper and a boa-cons-

trictor. I remember even to this day the description in the book because it was very striking. It says that this reptile or serpent out-wrestles the athlete, out-leaps the zebra, crushes the tiger, strangles the elephant and bites the heel of civilized man. This black Bill can be compared to that kind of reptile called the serpent. As disclosed by Shrimati Subhadra Joshi it is specifically intended to be used against the Communists, against the Socialists, against the Hindu Sabhites, the Janasanghwalas etc. and I am pretty sure it will be done.

Reference was made on the floor of this House just now about Hindu-Muslim relations, and marriages also. I am afraid, this Bill is always being used with a communal bias. I make this statement with all the responsibility which I can command.

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

**Mr. Speaker:** Order, order; let him go on.

**Dr. N. B. Khare:** Don't say 'No, no'. I shall give examples.

In the State of Hyderabad, in the district of Adilabad, a few months ago, certain spies of Pakistan went there under fancy names Swad and Jwad—they did not give their real names—started a branch of the Hindustan Hamara party of Pakistan, collected subscriptions and they vanished. When these things got afloat, the Collector of that district and the Superintendent of police, who is a Muslim, ordered a CID Sub-Inspector to enquire into the matter. He enquired and the result was that these Muslims, who were Members of the Hindustan Hamara party, were detained under the Preventive Detention Act. Subsequently what happened I do not know. Pressure was put upon the Government by the Jamiat-ul-ulema, which is the conscience keeper of this Government, and these people were released. The Collector was ordered to release these people even against the law. They were not satisfied with that. They put further pressure. The Sub-Inspector was suspended; his conduct was enquired into and he was dismissed. Is this not communal bias? It is practised even in such cases where the security of the State is involved, about which they talk so much. There is always communal bias in favour of the Muslims.

Reference has been made by the same person here who was concerned in the protracted marriage in Delhi, and I am also bound to make a reference. They charged the Hindu Maha-

sabha roundly that they were fomenting trouble. I deny that charge with all the emphasis at my command. We do not care for these marriages. But, surely, if the Government is desirous of maintaining peace, they also should see to it that nothing is done in this country which is likely to disturb the peace: I say this even about such a marriage, which is bound to disturb the peace of the society. Government should also take steps against that. But, they have not. On the contrary, those who were wrongly suspected of disturbing the peace were detained under the Preventive Detention Act. There is also another case like this. I have got it here in the paper called *Jana Shakti* of Ajmer. With your permission, Sir, I will just read one or two sentences from it. A man there called Kaka Trilok Chand, the editor of a paper, was recently detained by the Government of Ajmer, which is under Central administration for a similar thing. There, a Hindu girl by name Bhagavanti Devi was in the custody of certain Muslims. That created a great sensation in Ajmer. Thereupon, Kaka Trilok Chand, the editor of a paper was detained. The grounds of detention given are:

“कि तुम अपने लेखों व जवान से मुसलमानों व स्थानीय लोगों के खिलाफ घृणा व द्वेष फैलाते रहे हो। तुम्हें अनेक बार दन् १९४८ से ५२ तक चेतावनी भी दी गई। बावजूद इसके मई १९५२ में तुमने शहर में कुमारी भगवन्ती देवी वृद्ध मुसलमानों के कर्जे में हैं इस नारे को उठा कर हिन्दुओं को मुसलमानों के विरुद्ध हिंसात्मक रूप से उभाड़ने की चेता की।”

This is also a case of a similar marriage. Government every time interferes. In Delhi, I was told that in the Constitution Club, on the marriage day, 300 police men of the Government were there. It seems to me that in order to pursue their misconceived or perverted secularism, Government has opened a sort of a marriage bureau to bring about the marriages of Hindu girls with Muslims. I strongly protest against this secularism, if it is secularism.

**Shri Velayudhan** (Quilon cum Mavelikkara—Reserved—Sch. Castes): Inter-caste marriages?

**Mr. Speaker:** Order, order; let him go on.

**Dr. N. B. Khare:** Then I may tell the Government that I alone am not saying all this. I have no animus against the Muslims, although I am the President of the Hindu Mahasabha. So long as they are loyal to this country, they are my brothers. Let me tell you what this paper, the official organ of the All India Congress Committee, called *Congress Sandesh* says, on date 23rd June, 1952. It says: I am reading from this paper:

“फिर भी इंडियन यूनियन में रहने वाले मुस्लिम लोग आज भी इसी तरह “अथवा लक्ष्य—पाकिस्तान” और “पाकिस्तान—जिन्दाबाद” पुकारें तो किसी न किसी तरह उसे रोकना चाहिए। आज पाकिस्तान से इसी तरह एक हिन्दू “भारत सरकार—जिन्दाबाद” कहे तो उसको उसी क्षण में इस दुनिया को छोड़ कर चले जाना पड़ेगा। पिछले हफ्ते में एक अखबार में पढ़ा है कि मुस्लिम लोगों को रमजान के वक्त स्पेशल राशन दिया जायगा। मेरी राय यह है—  
It is a Congress paper I am reading—मेरी राय यह है कि आजकल उनको स्पेशल राशन देने की जरूरत नहीं। उनके बीच में अस्सी प्रतिशत भारत सरकार से प्रेम नहीं करते। यह तो ठीक है कि वे मौक़ा पायें तो भारत सरकार के खिलाफ़ झंडा फहरायेंगे”।

This is what the Congress official organ says. Therefore, I must say Government should be fair to all communities and unless they give up this communal bias, I think there cannot be any peace in this country. That is definite.

This reminds me of a Hindi saying of a saint: I will say only one line:

“हमें तो काम ईश्वर से,  
जगत हूँ तो रुठन दे”।

and Government policy is:

“हमें तो प्रेम मुस्लिम से,  
जगत रुठ ती रुठन दे”।

Then, there is another thing. In the matter of Kashmir, the same bias is exhibited. I am a Hindu Mahasabhaite. I say, I am an Indian first, a Hindu second, and a Maharashtrian third. Sheikh Abdulla, the great lion of Kashmir, Shere-e-Kashmir,—I do not know how many bakris he has eaten and he is called a lion—before coming to Delhi on his present visit he made a speech in Srinagar and it is reported in the *Hindustan Times*, a Congress paper. He says: I am a Muslim first.....

**Shri Ghulam Qader** (Jammu and Kashmir): On a point of order, Sir. The hon. Member is quoting the person who is not present in this House.

**Mr. Speaker:** Order, order. He is not yielding. He can raise that point afterwards.

**Dr. N. B. Khare:** .....I am a Muslim first, Kashmiri second and Indian third. He is regarded as the great paragon of nationalism and I am regarded as the great accused communist, who should be cursed, defeated and punished. It has openly been said by the Member who spoke now that Hindu Mahasabhaitees and Janasangwalas should be dealt with under this law. I am afraid it may happen one day. I am not sorry; I am not worried about that. In the first week of April, 1950 when Mr. Liaquat Ali Khan, the late Prime Minister of Pakistan came here, 700 miles away in Bombay, Mr. Savarkar was detained under the Preventive Detention Act. Is not that a Muslim bias? Other Hindu Mahasabhaitees were also detained several hundred miles away. I was here that day. I was not going to kill Mr. Liaquat Ali Khan; I am not such a fool as that. I was hounded out of Delhi at midnight, and I was taken away with a police escort. There was an armed sub-inspector, two armed head-constables and five constables. Look at my frail body. This is the way how this Act is being worked.

The Prime Minister, the other day made a speech and said, if you want that Kashmir should fully accede to us, you should exhibit to them love, goodwill and consideration. May I also request him, through you, that a little feeling should be extended to us also. We also deserve it. But, for us, preventive detention; perhaps, air bombing in time to come—God forbid. So I will ask my friend Dr. Mookerjee to prepare along with me for being preventively detained.

It may be urged on the opposite side that this Act is necessary to fight

Communism which is rearing its head in this country. Communism cannot be fostered or engineered by propaganda alone. It only arises when there is poverty and misery in the country. That is the root cause of Communism, and to avoid or checkmate it, we must combat these evils which the Government has so far failed to do. These evils cannot be combated by repressive laws which are opposed to the very canons of democracy. I believe there is absolutely no danger at present of any foreign invasion. There is also no possibility of any internal insurrection. Why should, therefore, Government be panicky and press for the passing of this Act? There is no doubt that great discontent is prevalent in this country due to the failure of Government even to meet the primary needs of the people and solve the refugee problem. And also there is great dissatisfaction prevalent in the country on account of the partition which was accepted without a plebiscite which was suggested by Pandit Mountbatten. King Congress inspired himself and conspired and collaborated with decadent British imperialism and accepted this partition without consulting anybody in the country and foisted it upon us, and this has led to slaughter of the innocents, the unfortunate murder of the tribune of the people, and also to a continuous process of exodus to this country which occurs in spurts. Is it not enough cause for dissatisfaction, Sir? And this partition was subsequently placed before the All-India Congress Committee for being rubber-stamped and the A.I.C.C. did it.

\* \* \* \*

Only one man had the courage to oppose it, and he had to meet with punishment subsequently. And after doing all this, what is the achievement? The achievement is that we have got freedom as epitomised in a Commonwealthly sovereign Republic. This is the freedom we have got. When we say all these things, our friends opposite get angry at us. Let me tell them that an angry man is not a wise man. And a lot of emotion and irritability is displayed in the House. Emotions exhibited like a debutant and irritability exhibited like a woman in her climacteric are not going to solve the problem. Neither myriads of words and millions of photographs can solve the problem, nor these obnoxious and lawless laws in spite of the Constitutional provision, I still am bound to say this is a lawless law—can

solve the problem] The irony of fate is that those responsible for these evils, the vivisection and its sequelae and who should have been behind the prison bars in a really democratic country, have today got the power to put their opponents, persons like us behind prison bars.

10 A.M.

And they have got it how? By establishing a dictatorship with their party machine. The Prime Minister was angry with Dr. Saha the other day for calling it Fascism. I say with emphasis and with mathematical precision that this is what is called, what is understood to be Fascism. And my statement will be illustrated by seeing what took place in the House the other day at the time of introducing the Bill for the curtailment of the Privy purses of the Princes. The whole House, my friends on the other side, they were roaring, jesticulating, they were talking, they wanted to oppose the very introduction of the Bill. They were prepared for it. We expressed the view we would oppose them. The result was there was some confusion, and some disturbance, and, Sir, you had to call for order because there was virtual pandemonium, if I may remind you, Sir, with a very severe and loud "Order, order". Up sprang the Prime Minister and expressed that they were not going to oppose, and the whole House, the whole Congress opposition collapsed like anything. Sir, is it not dictatorship I ask you? What else is it?

Our country is really unique in this world because while it professes democracy, it has got provision to curtail human liberty without trial in peace time. This uniqueness must go. We are suffering from this uniqueness for the last twelve years, and such a measure is not at all present on the Statute Books of either America, U.K. or France, the models which we generally follow. Therefore, I request the House that this measure should not be passed at all. But, unfortunately, the thirst and appetite for power grows with every feed and therefore, my friend the Home Minister is pressing to extend this measure for 27 months. This conferment of extraordinary power on the Executive is like a habit forming drug. When one takes to opium, he wants more opium. When one takes to alcohol, he wants more alcohol. They are passing Bills for prohibition against the alcohol habit. Can they not pass a Bill against this also, the habit of encroaching on liberty? There is no need for Government to be panicky, and I think this

\*Expunged as ordered by the Speaker.

[Dr. N. B. Khare]

Government should pay as much respect to the personal liberty of individuals in peace time as the British Government paid even in war time. I am certain that neither the practice of democracy nor the situation which obtains in this country can condone this draconian measure.

It may be urged that there may be disturbances in the country. I know there are many people in the country who have got unlicensed arms, and there are many people who thwart the maintenance of law and order. These are commonplace occurrences in every country, and do not demand any such special measures. The ordinary law can deal with them. Similarly, sometimes social unrest takes place, as is exhibited by strikes or by agrarian agitation. This also can be dealt with by the ordinary law. There is absolutely no need for such a measure.

[MR. DEPUTY-SPEAKER in the Chair]

Therefore, I again say Communism also cannot be conquered by violence or repression. It can be conquered only by beneficent and merciful action on the part of Government, realising the distress of the people. Such measures as this will not lead to the triumph of democracy in this country. I am sure of it. They will destroy democracy. Democracy can subsist in this country only if the culture, heritage and traditions of the people who are mostly Hindus are respected and encouraged. I oppose this measure with all the emphasis at my command.

**Shri Joachim Alva (Kanara):** May I ask your ruling, Sir, on a point of order? Is it open to the hon. Member who has just concluded his speech to make a very slanderous reference to the All India Congress Committee?

We on this side of the House have not used any slanderous term regarding the Hindu Mahasabha

**Dr. N. B. Khare:** What about Shrimati Subhadra Joshi who blackmailed us like anything?

**Shri Joachim Alva:** Most of the Members have come to this House as a result of the directives of All India Congress Committee. I ask your ruling on this point, Sir. (*Interruptions*).

**Mr. Deputy-Speaker:** There will be no further rulings in this matter. I

\*Expunged as ordered by the Deputy Speaker.

have not followed what the hon. Member has said completely. When the hon. Member was speaking, the hon. the Speaker was in the Chair and therefore he was in a position to hear what was said by the hon. Member. I do not know exactly what has been said, I shall have to look into the whole thing. If there is anything very obnoxious, the Chair has always got the power to expunge that portion from the proceedings. However, I shall consider that matter later. I am not in a position to say anything on that now. I do not want that such a statement should be repeated here any more. Points of order like this should be raised as and when such references are made by any hon. Member.

So, let us proceed with the further discussion of the Bill before us.

**Dr. N. B. Khare:** We have also been accused by Congress Members, by the mention of names like reactionaries etc. (*Interruptions*).

**Shri Joachim Alva:** I have obeyed your own directive in this matter, Sir, that we should not raise such points of order in the course of a speech, but should refer to them only at the end of a speech.

**Mr. Deputy-Speaker:** I am afraid my directive has been misunderstood. I did not want any interruptions to be made by way of asking for information, while an hon. Member is on his legs, and I wished that an hon. Member should be allowed to speak without any interruptions. But when there is something very relevant as in this case, when the hon. Member makes any aspersions which are not considered proper, then immediately hon. Members should rise to point it out to the Chair.

डा० ऐन० बी० खरे : "चिड़िया चुग गई  
लेत"

**Shri G. H. Deshpande (Nasik—Central):** Sir...

**Shri V. G. Deshpande (Guna):** On a point of order, Sir. The hon. the Home Minister has made it very clear that this Bill is meant against a certain political party and he has taken also the names of the members of that party...

**Mr. Deputy-Speaker:** The hon. member is trying to make a speech, by

way of a point of order. It is open to the hon. Member, if he gets an opportunity to speak to refer to these things. These things have already been raised and answered.

Mr. G. H. Deshpande can proceed with his speech.

**Shri G. H. Deshpande:** I rise to support the amending Bill which is being discussed in this House for the last few days. The hon. Member who has preceded me was speaking very bitterly, but he exhibited his bitterness against the Government that has come into power with the consent of the people, and not with any bitterness against the provisions of the Bill. There is a saying in Marathi which says that a convert is always more bitter than the genuine, and it was but natural that when the hon. Member who preceded me was on his legs, he tried to attack us as bitterly as he can. But this in itself is a proof of how we treat our opponents, because they can abuse us to their heart's content, so long as they are non-violent. He said that this Government was responsible for the partition of the country. I would ask through you, Sir, to the hon. Member, where was his bravery then, why did he not prevent then the country from being partitioned into two parts? Who came in his way? Where was his skill? Where was his political acumen and bravery then? What is the point in his coming before this House and trying to blame a party particularly which has achieved freedom, for the partition of the country, after it has become an accomplished fact? My hon. friend has some bitterness against the present Bill. But I was surprised to listen to the words that fell from his lips, for he was actually co-operating with a Government here in this very House which detained not only thousands, but tens of thousands of patriots in this country without trial. Where was my hon. friend Mr. Khare then? Where was his love for civil liberties then? Where was his love for democracy then? And where was his patriotism then? Had he forgotten it then? My hon. friend wanted us to believe that we are suffering from forgetfulness, but I would like to say that he himself is suffering from it. He has forgotten where he was in 1942 and 1943 when hundreds of patriots were detained in this country by a foreign Government; and a gentleman who was co-operating with the foreign Government, then has the courage to come here and say 'Why do you want this Bill now?' The fact is that the hon. Member will not be forgotten in this country for generations

to come for the way he acted in '42 and '43. Let the hon. Member remember that.

I had in the beginning when the Bill was introduced certain reservations in my mind as to whether there was any genuine necessity for its prolongation any more. But on Friday last in the afternoon when I listened to the long sermon on democracy and civil liberty from Shri Hiren Mukerjee I was convinced that this Bill was absolutely necessary, and that I must support the Bill without any mental reservations. My hon. friend tried to make out some case of their peaceful behaviour in Calcutta. But what is going on in Bengal after all? It is said that it is a spontaneous demonstration. When people are hungry they get angry too. But I cannot understand how a hungry man can come all of a sudden to join this demonstration with acid bombs. Does my hon. friend Mr. Mukerjee want us to believe that these things can be done without any previous preparation? Why is it that tramcars were burnt? Do you want civil liberties to do this?

I listened to a long speech yesterday by my hon. friend Mr. Chatterjee. He said this is a lawless law? There is nothing like this in England. But is not England different from India? Do you remember what happened in the Hyderabad State? During a very short period, 250 honest Congressmen were removed from this world and in such a way that the guilt cannot be proved in a court of law. They established terrorism first and under the threat of terrorism no evidence was allowed to remain. Was there any sympathy for these 250 honest Congressmen who were working according to their convictions, and who were murdered in a cold blooded manner in the heart of the learned advocate? Do you want civil liberties for this? Has such a thing happened in England or America during the last two centuries? I would like to ask this question to the learned advocate. Are the conditions in England and America the same as here? Is there anybody in England to hatch out a conspiracy like this in secret for the destruction of property and for the destruction of life?

If hunger is there, that hunger has to be removed. If you want to do that, you must see that the masses concentrate their efforts to implement the Grow More Food Campaign. It cannot be done without a co-ordinated programme. It cannot be done like a miracle. It is bound to take some time, and so it requires the prevalence of

[Shri G. H. Deshpande]

peace. But there are people who are not democrats, who have no love for democracy; there are hot-headed fire-eating agitators in this country who at the instigation of some others from outside India want to create trouble in this country, is a fact that does not require any evidence or proof whatsoever. (*Interruptions*)

**Mr. Deputy-Speaker:** Hon. Members on this side of the House ought not to take that every reference to people outside India, applies to them.

**Shri G. H. Deshpande:** There are people who have no love for democracy at all, and who have no love for civil liberties, who want to attack democracy in the name of democracy. Democracy that they speak about is not real democracy. We must not be simple, we must not be gullible, we must be aware of the situation as it prevails in the country. We were told that it is quiet and calm now. If we are not cautious enough, the present calm that we come across is likely to prove a calm before the storm. There are some people who are waiting for the opportunity, and if we give them that opportunity all the work done during the last five years will be undone within half a month no doubt. Just as they say that prevention is better than cure, it is true of the political diseases also. You must try to prevent lawlessness from spreading throughout the country. There are people who want an opportunity. If there is comparative calm in the country and peace in the country, it is due to the power that the Government have. It is quite all right that we have peace today, but what guarantee is there that if the Act is removed that peace will prevail for any long time. We have still in our midst people who want to take an opportunity. In India, Sir, many times I am tempted to say: "Opportunism, thy name is Communism in India". Every opportunity is exploited. Any trouble is exploited. If hunger is there, they are with the hungry, if communal disturbances are there they are with the communalists, if Muslims are there they are with the Muslims and if the Hindu Mahasabha is there they are with them. They are out to create disturbances; they are out to create chaos; they are out to undermine constitutional authority and they want to see when they will be able to spoil the democracy which we have built up with such great efforts. So we have to be very cautious. We are just in our infancy and if we have all these noble notions, democracy will be destroyed in this country and it will be a disaster not only to this country and its

future generations, but it will be a disaster for the whole humanity. The eyes of the entire world are on us today. They do not want the progress of democracy to go on and if we want to see democracy successful and well-established in this country, then however we may love these noble ideas, however we may have our love for civil liberties, they have their limitations. People must have civil liberties, but they cannot expect licence. They do not want liberty; but they want licence. Can civil liberty be given to those people who want to burn tram-cars, who want to derail trains, who want to set fire to huge stocks of fodder and establish terror in the villages? For all these misdeeds, no civil liberty will be given. Civil liberty can be expected by those people who can act with some sense of responsibility (*Interruption*) and I am glad to say that that sense of responsibility is increasing among the masses. And when we find that a particular standard is established—it is likely to be established within a few years—there will be no need for such extraordinary Acts, but so long as that situation does not prevail and the present extraordinary circumstances are there, one is bound to support such Bills in the interest of democracy and in the interest of civil liberties. The civil liberty of a few individuals may be suppressed, but what about the civil liberty of the millions and millions? What about the civil liberty of innocent people? Do you want that a few handful of people should be allowed to establish a Government of their choice against the wish of millions and millions by force, by threats, by violence? That will never be done. Do not try to attack democracy in the name of democracy. People know you very well. The whole world knows you very well and India knows you very well. My friend, Shri Hirendra Nath Mukerjee said we must be ashamed to support the Bill...

**Mr. Deputy-Speaker:** Order, order. People do not know me well.

**Shri G. H. Deshpande:** ...but where was his party in 1942 and '43? My hon. friend, Dr. Khare, referred to aerial bombing. But he co-operated with the Government in actually bombing people in Bihar. He was a part and parcel of a Government that actually bombed innocent people from the skies. Where was the Communist Party then? Where was their patriotism then? Where was their love of civil liberties then? Now when we are establishing democracy, when we are establishing civil liberties they want to attack us,

not because there is oppressive legislation but because we want democracy and civil liberty. With a clean conscience I support this Bill.

**Dr. Jaisoorya (Medak):** To the Home Minister I want to tell a few home truths. I have heard him for the umpteenth time say that he has spent 40 years of his life in law courts. I concede that point. As a lawyer—40 years. Had he spent 40 years as a Judge, he might have presented his case to us more impartially. Unfortunately, he has been presenting his case like a public prosecutor in a Sub-Magistrate's court. That is why it irritates. The second thing I have heard him say for the umpteenth time was that he was born in a State—probably that was in a bad state—that he married some lady from a State, that he spent his days in some other State, that he was the Governor of some other State. But that does not make him a statesman. Because it requires a very big mind, a very big heart, a very comprehensive and humanistic view of man in order to be a statesman. You may make a first-class administrator or a third grade clerk, but you cannot make a first-class statesman. Even that I do not mind. But my hon. friend's attitude towards what he calls the Opposition makes me grey and reminds me very much of that cantankerous old Irish lady who was stone-deaf and who told another woman: "I can't hear a word of what you are saying, but I know you are telling lies".

Sir, I do not know whether you know anything of the laws of palmistry, but expert palmists have told me that if you find a circle on the headline under the mouth of Saturn it signifies physical deafness. But an intelligent palmist when he finds that the man is not physically deaf, must come to the conclusion that he is mentally deaf. It takes a very loud voice to make the deaf hear: it takes a still louder voice to make those hear that do not wish to hear. Very often the voice of the people is scattered to the four winds because people do not wish to hear and that results very often in what my hon. friend calls 'disturbance of peace and tranquillity' which sometimes ends in revolution, and no amount of laws and sub-sections and Constitutions and interpretations of Constitutions is going to stop revolutions when the time is ripe. They come in spite of your law. The French Revolution came in spite of the laws. The revolution of slaves in Rome came in spite of the laws. Revolutions will come if you do not remove the cause of revolu-

tions. This is the legalistic way of looking at it like King Canute saying: "Thus far and no further". The legalistic mind in India, unfortunately is an unholy cross between British Constitutional law and Hindu casuistry...

**The Minister of State for Finance (Shri Tyagi):** I agree.

**Dr. Jaisoorya:** Having finished that Sir, I—as I want to be impartial—want to tell you the whole story. I have spent precious money and precious time to go through all the former debates and it is very interesting because I wanted to study like a student all that happened as I was not there and many others were not there.

The Preventive Detention Bill was introduced by the late Sardar Patel whom I knew for 30 years, for whom I have the highest reverence, and who had always received me even if my sister Maniben cast a glare at me and tried to prevent me from seeing him. He said:

"At the outset I should like to apologise to the House for the extremely short notice at which I have to approach it for this emergency legislation."

"I shall not weary the House by telling it how exactly the Communists in India, who have been by far the largest number of detenus, constitute a danger to the existence and security of the State".

So there is no doubt about it as to whom it applies though my hon. friend says it applies to anybody to whom the cap will fit. And the reason for moving the Bill, he said, was:

"It would be a poor return for those sacrifices and sufferings if we fail to preserve the liberties which we have won after so much struggle and surrender them to the merciless and ruthless tactics of a comparatively small number of persons whose inspiration, methods and culture are all of a foreign stamp and who are as the history of so many countries shows linked financially, strategically, structurally and tactically with foreign organisations."

So, it is claimed that we won our present freedom by the terrific sacrifices that my voluble friend who preceded me spoke about just now. On this I have been informed and newspapermen are very well informed. Mr. Srinivasan who was the President of the All-India Newspaper Editors' Con-

[Dr. Jaisoorya]

ference said, "Freedom was thrust upon us when we were least prepared for it." You do not get freedom by an Act of Parliament in Westminster. It was a transfer, a book transfer, as far as I am concerned. Now my ancient friend, Panjabrao Deshmukh—thirty-two years of inveterate and implacable friendship binds us together—said:

"There is in human nature a tendency to utilise short-cuts wherever they are available, and the reason why the words 'preventive detention' are hated by the people of India at the present moment is that the powers of detention which have been given to the various Governments have not always been used discreetly."

Hearing his last apologia and defence, I only have to say, "Alas! Poor York, how thou hath changed!"

**Dr. P. S. Deshmukh (Amravati East):** There is no change, Sir.

**Dr. Jaisoorya:** Then this cynicism with which the first Bill was passed: It took exactly four hours if I am not mistaken! The second time when it came up to be renewed here is a statement by an amphibious thing with the boundless human warmth of a rattlesnake:

"I was coming here in a hurry for I heard that Dr. Ambedkar was able to get through two solid Bills in this House as I had not at all anticipated last evening. It seems to me that people treat me much worse than they treat Dr. Ambedkar."

In other words, he wanted to get through one Bill in half the time. It surprises me that a Bill which is—take it whichever way you like—a serious problem, a problem that concerns fundamental aspects of human freedom is rushed through, but a measure meant for the progress of the women of India—I mean the Hindu Code—on which the Government said, "We shall stand or fall by the Hindu Code" fell a casualty by the wayside, murdered and betrayed by those very people who are the backbone of the Congress. And like the historic Ram-pur telegram, the Government is still standing! I want to ask you: What faith can I have in a Government that says that it will stand or fall by a certain measure and then survives when the Bill has fallen?

Again—

"We have taken over from the British Government. It was an efficient Government."

And surprisingly enough a few days later he says:

"Let it be clearly understood that I make no commitment on behalf of the Government because I do not see so much efficiency in our own Government and so much intelligence among our people from which we can hope that we will overcome this difficulty within a short time."

Then they began to complain, "We have been discussing this Bill for seven hours, we want to get it pushed through as quickly as possible." And then finally came a solemn assurance:

"And then I can give another, more important, assurance, and I must give it at once. That is this. If the officers who are entrusted with the task—district magistrates and commissioners of police and the other high officers who are entrusted with the authority sometimes to issue orders under this Act—if any of them is found to have temporarily taken advantage of the measure for abuse of power and misuse of position, you may rest assured that Government will take the most serious view of such conduct and will treat every such abuse of power as disloyalty to the State, nothing less."

Sir, I want to show you that it is not all as simple as all this. I do believe—I am prepared to concede, because I have known the hon. friend for dozens of years—the *bona fides* of my hon. friend. But what about the machinery under his control? That same machinery which with equal impartiality put the Congressmen into oblivion and unconsciousness, that same corrupt machinery is being turned against us today. Shrimati Subhadra Joshi said, "Oh, no. Those mistakes on those grounds were due to ignorance. We have no experience." (*Interruption*). No, Sir, they are not so ignorant. I know Sardar Patel said, "We are an amateur Government; we are still learning." I admit it. But then, unfortunately, in our country especially with this class who have suddenly come to power, we have the arrogance of ignorance clothed in authority assuming to itself the arrogant, insolent attribute of infallibility. This is what hurts me. You think, "Whatever we do is right. Whatever others do is wrong." Sir, I was surprised at the ignorant statements made by responsible Ministers. You will remember that in the last Parliament, during the debate on

the States Ministry, one lady Member, Padmaja Naidu, accused the Ministry of having sent inefficient and undesirable men to Hyderabad. At that time, the Minister was Shri Gopalaswami Ayyangar. Poor man, he had just taken charge. He did not know anything. And yet he had to get up and say, "I am sure Sardar Patel had chosen the very best men available in India." He did not know what Sardar Patel had told me. How could he know? If he had asked me, I would have told him. I told Sardar Patel, "Hyderabad is a first-class issue. Unfortunately, you have sent third-class men there." And. Sir, he said, "What am I to do? I have not got first-class men." How could Shri Gopalaswami Ayyangar know that? How could he know what the Chief Civil Administrator told me? He said, "What is to be done? The man who was in charge had done nothing and only fourteen days were left and we had to do it in great secrecy. We had to select helter-skelter whomsoever we could get and these were the persons available." The provinces of Madras and C.P. had sent \* \* \* \* undesirable men to Hyderabad. And Shri Gopalaswami Ayyangar said, "I am sure we have sent our best men." \* \* \*

**The Minister of Home Affairs and States (Dr. Katju):** My hon. friend is perfectly at liberty to say what he likes as regards me. I have no objection to that, because I am here to answer. But so far as people who are not here are concerned, it is not proper that anything should be said against them.

**Shri Raghavalah (Ongole):** On a point of information, I would like to know whether the liberty, if not licence, is given to any hon. Member on the Treasury Benches to go into the *bona fides* of the election of another hon. Member in this House, as the hon. Minister has done?

**Mr. Deputy-Speaker:** There is no point of order in this. I do not know if it was said. Even if it was said, the hon. Member should have taken exception then and there. Yesterday, Shri Gopalan referred to a number of cases where orders had been passed against him. They were all very relevant. Likewise, if a reference had been made to an hon. Member's election. I cannot say anything now, out of the context, to the effect that it was relevant or irrelevant. I do not see anything wrong if a general reference is made. Anyhow, the hon. Member who raised this point is a little too

late in doing so. Hereafter, he will be a little more alert.

Let Dr. Jaisoorya continue.

**Dr. Jaisoorya:** I want to draw your attention pointedly, because these laws which we are going to pass now are going to be used by the States. What happened in Hyderabad? I was an eye-witness to it. I know what happened. (*An Hon. Member:* Yes, you must be knowing.) I know what terrible mistakes were committed. Hyderabad, which could have been India's greatest asset, is going to be its greatest liability. Mistakes can happen, but not systematic mistakes. I will give you one example. In Khammam, just before Sardar Patel was to arrive 2,000 people were arrested and put into two cages which were just like the Belson camp or the Pyongyong camp. There were eight tents and each could hold only thirty people. Khammam is separated from hell only by a thin sheet of paper. It was the height of all mistakes. Thirteen people died of sunstroke and meningitis. Then I asked our † General, "Look here, you have put 2,000 people under the Preventive Detention Act in these two cages. How many of them were Communists?" He said, "Well, 1500 had nothing to do with it actually." I again asked, "How many were Communists?" He said, "400 were sympathisers." I told him, "I am also a sympathiser. Every decent man is a sympathiser. But how many were Communists?" He said, "100". So, for the sake of half per cent. they had brutally detained 99½ per cent. of the innocent persons. One police officer told me, "We have established Communism for the next hundred years through our methods. We have burnt it into their flesh. How can we stop it? What am I to do?" You send the wrong men and adopt black and tan methods. Take the Nanjappa records from the Bombay Government. What has been the result? Forty crores gone; the people against you; Telengana definitely against you. What were the results of the election in Andhra? They did the same thing. Andhra has thrown everybody,—even stalwarts like your Rangas and Durgabais,—into the dustbin of history. Mr Jain's Rehabilitation Department may be working well or not. I do not know. But I certainly must confess that the Prime Minister's Rehabilitation Department is working excellently, rehabilitating the very persons whom the people refused to accept.

The problem is much bigger. The problem is very big, because throughout history there has been a struggle

\* Expunged as ordered by the Deputy-Speaker.

† Expunged as ordered by the Speaker.

[Dr. Jaisoorya]

for freedom, struggle for tolerance. Are we going to allow Warren Hastings' shadow to say: "I know the constitution of Asia only from its practice, that is unlimited arbitrary power." The fact remains, however altruistic your motives may be, however genuine your ideas may be—which I am prepared to concede hypothetically—the machinery that you have got today is not reliable. I know of flagrant cases. In the case of every Government the more it begins to fall, the more barren its achievements become, the more gruesome and brutal becomes its instruments of oppression. My hon. friend has got all the powers—military power, police power, special armed police power, naval power, air force power. The only power he has not got is soul force.

**Dr. N. B. Khare:** 'Sole' or 'Soul'?

**Dr. Jaisoorya:** The "soul" force that Mahatma Gandhi taught us and which has gone.

Now, I ask you a simple question. Nobody becomes a scoundrel just for the sake of it. People do not sacrifice their lives just for the sake of nothing. You may as well have said: the French people had no right to cry for bread and create a revolution. Why didn't they eat cakes? Hungry people there have been for a long time. They become politically conscious when cataclysms come.

I got one day a letter in Telugu. I cannot read Telugu: so I got it translated. The envelope containing the letter was very flimsy. Then it turned out that it was sent to me by some small Communist leader, written in very bad handwriting. This is the translation of it:

"We call God and men to witness that it is not against the country that we have taken up arms; not against the safety of our fellow-citizens. We are paupers who through the vicissitudes of usurers are without a home and are condemned to indigence. We are actuated by only one wish: to guarantee our personal security against wrong. We demand neither power, nor wealth, those great and external causes of strife among mankind. We only ask for freedom, a treasure that no man will surrender except without life itself."

I said this sounds somewhat familiar to me, but I did not know where to find it. The translation was also a little funny. Then it turned out that it was a Telugu translation of the Cataline speech made two thousand three

hundred years ago in Rome. Now, do you mean to say that when these young leaders harbour such ideas they are criminals, that they are looting only for the sake of looting? It is a wrong way of approach.

**Pandit A. R. Shastri** (Azamgarh Dist.—East cum Ballia Dist.—West): Are they looting?

**Dr. Jaisoorya:** They are certainly expropriating Deshmukhs.

Now I come to another point. There has been terrible claims made—I do not know from where my hon. friends got the figures from. He said: Look at the murders they have committed. My hon. friend last time brought out a pamphlet. Unfortunately I knew the origin of that pamphlet better than him—what all things came into it. I have also to give you a bill for payment. In Telengana—I am giving conservative figures, because as a responsible Member I have to be careful. If I make a mistake I have the courage to admit it. Not less than 50 died in jails and concentration camps. 50,000 were arrested and subjected to all kinds of tortures and troubles. Ten lakhs of people were beaten and subjected to indignities. One thousand houses were destroyed and burnt mostly in aboriginal areas. Property worth lakhs was destroyed by the police. There were ten thousand raids altogether on villages. The number of women raped, I am not able to give exactly, because it is very difficult to get it, because right or wrong women will not admit; they only cry.

**Mr. Deputy-Speaker:** Order, order. Hon. Members should be careful when they make such charges. A few minutes back the hon. Member said that he was an eye-witness to certain happenings when Sardar Patel visited Hyderabad. By all means he can refer to that, even though it may be embarrassing. Here the hon. Member is making a number of allegations that lakhs of people were beaten, that rape was committed by police officers, etc. It ought to be observed as a rule in this House that facts given are authentic, because everything that is said on the floor of the House gets so much of publicity. If the hon. Member takes entire responsibility for making that statement. . . .

**Dr. Jaisoorya:** I take full responsibility for them.

**Mr. Deputy-Speaker:** He cannot make a general statement. . . .

**Dr. Jaisoorya:** That is why I said I cannot give figures about cases. . . .

**Mr. Deputy-Speaker:** Was the hon. Member a witness to a single one committed?

**Shri Mohana Rao (Rajahmundry—Reserved—Sch. Castes):** My own sister was raped.

**Shri Raghavaiah:** You have allowed the Government side to give figures; you extend the same opportunity to us too.

**Mr. Deputy-Speaker:** It is very easy to make accusations and I find very serious accusations being made. If an hon. Member says that he has personal knowledge of them, or that they can be verified from a reliable source, I have no objection to it. Or, even if a non-official body were to enquire into a matter, its findings may be quoted in support of a statement.

**Shri H. N. Mukerjee (Calcutta North-East):** Thrice at least, if not more than that, a proposition has been made with the greatest seriousness on this side of the House that on the issue of Hyderabad, we are prepared to go before an impartial tribunal to be appointed. Government has not responded so far. Not once has Government responded to the challenge we have thrown out. Only last Friday I repeated that challenge when the Prime Minister was here. Today, one Member on that side mentioned figures of congressmen who were molested or destroyed, or Heaven knows what. If figures are permitted to be quoted on that side, surely they should be allowed to be quoted by us. If Government is prepared to take up the challenge, let them appoint an impartial tribunal straightway.

**Shri Raghavaiah:** We demand it.

**Mr. Deputy-Speaker:** It has been demanded several times. The Chair is not concerned with the appointment of a tribunal. All that I wish to say is that hon. Members should not quote facts or figures unless they could be verified or established. But so far as this matter is concerned, unless the complaints have been brought before an official body and they have been recorded, or a non-official agency has gone through them, we cannot go by them. That is the difficulty. For instance when an hon. Member on the Government side makes a statement that such and such things have occurred they will be able to prove that they are on the official record. I only want that when hon. Members on this side make statements they must be sure of the authority. Some book was read yesterday. I asked what the authority was as soon as Mr. Gopalan made certain statements and he stated

that the Civil Liberties Union had gathered so much material and it was contained there. I had no objection and immediately I allowed it. Therefore we must set some limits for any statement. And I am sure that hon. Members will agree with me that without any limit such allegations ought not to be made. Hon. Members should kindly bear that in mind.

**Shri Raghavaiah:** Sir, on a point of information. . .

**Mr. Deputy-Speaker:** Again and again the hon. Member wants information from me! I am not in a position to give any information. He can ask for information in the course of a speech. There are several ways of asking for information. What is the use of asking me again and again to give information?

**Shri Raghavaiah rose—**

**Mr. Deputy-Speaker:** No information. Let the proceedings not be interrupted by these questions.

**Shri Raghavaiah:** Sir, it is important. . .

**Mr. Deputy-Speaker:** It may be very important.

**Shri Raghavaiah rose—**

**Mr. Deputy-Speaker:** Order, order. I would make one other request. Excepting a few Independents who stand by themselves, so far as hon. Members who belong to any particular party are concerned, I would leave it to the leaders of those parties to see that such interruptions are not made. We want the proceedings of this House to proceed in an orderly manner, except for some interjections here and there—we ought not to be too serious also. I am always willing to see, while ensuring that the proceedings of the House are conducted in a very orderly manner, that at the same time, it does not assume an unnecessarily serious atmosphere. But such kinds of continuous interruptions mar the proceedings of the House and the dignity of the House as a whole. I would only make this appeal. Hereafter if any Member does such a thing and I call him to order and he persists in his attempt to interrupt I would naturally look to the leader of the party concerned to bring him to order.

11 A.M.

**Dr. Jaisoorya:** Sir, I make specific charges and I demand an enquiry if they have got the courage to do it. In regard to Hyderabad I know what I am talking about and I am prepared to stand by it. When I make a mistake, at least I have the courage to apologize (*Interruption*).

**Mr. Deputy-Speaker:** The hon. Member need not be led away by every interruption.

**Dr. Jaisoorya:** At least I have more courage. . .

**Shri Feroze Gandhi** (Pratapgarh Distt.—West cum Rae Bareli Distt.—East): Does he deny that he has apologized for what he has once said?

**Mr. Deputy-Speaker:** Order, order. The hon. Member may go on.

**Dr. Jaisoorya:** I have come here with specific knowledge which I place at the disposal of the House. If it is no use, I have at least done my duty.

I have another point to raise. What are the *bona fides* of the Government whom we should trust? On the one side you say: we are here to destroy all anti-social activity. But all that has been directed against the Communists. The big Razakars have run away. The glorious ability of the police that our hon. friend's Department has sent us was so wonderful that they did not know till after three days that Mir Laik Ali had run away. They were asleep, and after the event Mr. Jetley and others walked about here and there in a busy manner. And the mighty Sardar for the first time found himself standing on the wrong leg. He had to say that it was an affair of the Hyderabad Government but that it was not an affair of his Department, of which my hon. friend is the head today \* \* \* \*

I submit, Sir, that the Preventive Detention Act is for any form of anti-social activity which will.....

**Mr. Deputy-Speaker:** So this is issued under the Preventive Detention Act?

**Dr. Jaisoorya:** I wish it were.

**Mr. Deputy-Speaker:** The hon. Member says that he wishes it were. He wants the Preventive Detention to be applied against another hon. Member. If an occasion arises that will be done. If a case arises and the Preventive Detention Act is to be applied, it will be certainly applied. But we cannot go on multiplying instances where preventive detention must be applied in each case. The hon. Member is only supporting the argument for the continuance of the Preventive Detention Act.

**Dr. N. B. Khare:** On a point of information, did not Shrimati Subhadra Joshi say that the Act

should be applied against the Janasanghwalas?

**Mr. Deputy-Speaker:** That is wrong.

**An Hon. Member:** If that is right, this is right.

**Mr. Deputy-Speaker:** Let us not unnecessarily take away the time of any hon. Member who is speaking. When an hon. Member says that subversive activities are being carried on and therefore preventive detention is necessary, that is relevant. Another hon. Member wants to oppose preventive detention. He says it is useless and improper and therefore why introduce the measure. This does not help him in his argument. Does the hon. Member say that preventive detention is necessary?

\* \* \* \*

**Dr. Jaisoorya.** My point is that you have to convince me about your *bona fides*. I want to be convinced. If I remember the figure correctly, the hon. Minister gave us the information that there are 93 black-marketeers. What a colossal figure! I will show you 93 black-marketeers in one village and I have not yet seen any of those big sharks, those big financiers who pay such heavy subsidies to political funds and who are the real main springs of anti-social activities, as black-marketeers. They are never caught. Only the small persons, their agents are caught. Is it not a fact that recently a case was to be launched against two people in Bombay and withdrawn for some unexplicable reason? There are always reasons where clever lawyers are involved. The case was found to be weak and withdrawn. The case against the Ministers in Hyderabad suddenly became weak and was withdrawn. We are beginning to feel that it is not the law itself that is bad, but we have no faith in this Government, that it can control its men and really make them incorruptible and just. This is the trouble that we are facing. It is a crisis in the confidence of the people in the *bona fides* of the Government. It is not our fault. We are genuinely trying to believe that the Government has changed, that the whole Congress is now no longer the Congress which it was six and a half months ago. To my consternation I happen to know that there were 30,000 applicants for the various elections and each one of them gave an exhibition of the facts, which a policeman could not do, and that could fill the whole encyclopædia of crimes and sexual pathology and out of the 30,000 came the 500. So

\* Expunged as ordered by the Deputy-Speaker.

nothing has changed. I know that things change slowly but it happens that we know history. I have seen more Governments than many people here and when there is a danger to the Government, which is not necessarily equivalent to a State, they begin to use all the weapons in a panicky manner and that is where the danger lies. Your best protection is the confidence of the people. If you want the confidence of the people, then you do not want office. Your own leader says that the Congress has lost mass contacts.

\* \* \* \*

What are the guarantees. Either I as an opponent must have faith in you, or you have got to win that faith. You need not convince me, but convince the people. The people do not know the Constitution. It is too complicated a Constitution and more than a crossword puzzle to most people. Your safety lies in the people and not in these laws. I have seen acts that you have not passed. The Weimar Constitution was torn inside of five minutes. It is only the people that can protect the Constitution and not the laws. It is only the people that can protect the Government. General Schleicher, the most capable military politician we had, said: How long can a Government base its moral weight on bayonets? Some time or other we have got to go to the people. Please go to the people and tell them that we are the representatives of the people. Rousseau has pointed out long ago that the difficulty is the weakness wherein this democracy is not of the constituents but of the constituted and therein lies the danger. We are very far from a democracy; we are very far from the real power of the people, and it is because we have been given the power at a time when this Parliament was not a fully representative Parliament, as Babu Rajendra Prasad himself said in Madras. We have created a representative Parliament and we have every right to alter the laws made therein. After all this is an arbitrary power. Long ago Burke said:

"My Lords, the East India Company has no arbitrary powers to give; the King has no arbitrary powers to give; nor the Commons—nor the whole Legislature. We have no arbitrary powers to give, because arbitrary power is a thing which neither any man can hold nor any man can give. No man can lawfully govern himself according to his own will, much

less can a person be governed by the will of another.

We are all born in subjection, all born equally, high and low, governors and governed, in subjection to one great, immutable, pre-existent law; prior to all our devices, and prior to all our contrivances, paramount to all our ideas and all our sensations, antecedent to our very existence by which we are knit and connected in the eternal framework of the universe out of which we cannot stir.

No, my lords, this arbitrary power cannot be had by conquests; nor can any sovereign have it by succession, for no man can succeed to fraud, rapine and violence, neither by compact, covenant nor succession. For men cannot covenant themselves out of their rights and their duties, nor can by any other means arbitrary power be conveyed to man. Those who give and those who receive are alike criminal, and there is no man but is bound to resist it to the best of his power wherever it shall show its face to the world. It is a crime to bear it when it can be rationally shaken off....."

**Mr. Deputy-Speaker:** Such long extracts should be shortened.

**Dr. Jaisoorya:**

"Nothing but absolute impotence can justify men in not resisting it to the utmost of their ability. It is wickedness in politics to say that any man can have arbitrary power."

You are giving arbitrary power, however clothed it may be in wise words. As Burke again said:

"It would be better, a thousand times better, and a thousand times more manly, than an hypocritical process, which under a pretended reverence to punctilious ceremonies and observances of law abandons mankind without help and resource, to all the desolating consequences of arbitrary power."

You ask for power to keep a man in jail for twelve months. It can demoralise anybody to put him in jail for one day without justice.

\* **Shri S. V. Ramaswamy** (Salem): Detention without trial, as my hon. friend Dr. S. P. Mookerjee said, is opposed to all canons of democracy: stated thus, broadly, it is acceptable. There is no doubt that the history of political institutions and their growth, the growth of law and law courts, has been nothing but the struggle for the freedom of man from the tyranny of

\*Expunged as ordered by the Deputy-Speaker.

[Shri S. V. Ramaswamy]

despots, from authority, from autocracy, and for the establishment of individual right and personal liberty, of freedom of speech and movement, of freedom of association and all those rights which are essential attributes of civilised life. To one who pins his faith in democracy as the highest form of political organisation, where anybody can reach up to his fullest development of personality, this Preventive Detention Bill presents a conflict of fundamentals, which is apparently irreconcilable. I said apparently; and particularly so to a lawyer, who day in and day out spends his time in courts of law defending people, to see that they are not unnecessarily detained in prison, anxious to keep the accused even out of police lock up if possible, this measure seems, on the face of it, regressive. But, then, we are not here considering this measure on purely theoretical grounds or on grounds based on political philosophy, but by the application of the cold logic of reason, in the particular context of the present set up in this country. I respectfully beg to submit that this measure deserves the support of the House.

It is conceded that in a state of emergency, the Government has got the right to assume enormous powers in order to maintain the safety and security of the State. That position is conceded and it is covered by some judicial decisions as well. Dr. S. P. Mookerjee also said, 'I can see the position that in a state of emergency, the State can assume extraordinary powers to suppress even individual liberty'. But, then he asked, 'Have you made out a case; have you shown the urgency; have you shown that it is necessary'. Therefore, today, it is a question of fact: not an application of the broad principles.

Some suggestions have been made by the other side and I shall deal with them one by one. The hon. Mr. N. C. Chatterjee said that this Bill could be kept suspended for a period of six months to see what the reaction of the country is. My humble submission is that this is an impracticable suggestion for this reason. The Government feels that there is danger. My hon. friend is suggesting, there is smouldering fire; let us see whether it blazes forth and catches fire; let us wait and see. That sort of attitude, in my opinion, is not practicable.

Then, I come to my friend Mr. A. K. Gopalan. My friend trotted out the theory and read out a number of charges that were laid against him and also a number of charges laid against other detenus. On a perusal

of the records, it is apparent that it looks absurd. Now, you will be pleased to see, it is not in the case of the detenus alone that some of these oddities have occurred. You will find similar things when cases under the security sections come up. I can quote a number of such cases. I shall confine myself to one or two cases where similar oddities and absurdities have been noticed even in ordinary cases in the Courts under the Criminal Procedure Code. In one case, I remember, among a number of charges detailed before the Sub-divisional Magistrate, one was that the accused used to throw stones at the hen of the informant, and later on it stated that on a particular day in question, he threw a stone and the hen laid an egg. Absurd on the face of it. I asked what is the connection between the two, and the Magistrate asked the police for an explanation. The police said, Sir, the charge is that he hit the hen with such great force that the hen laid an egg. These are oddities. We may laugh them out. In another case, there was a respondent...

**Mr. Deputy-Speaker:** Is it necessary? Will one mistake justify another?

**Shri S. V. Ramaswamy:** I am not trying to justify. What I submit is this. My friend was quoting 30 or 40 cases and my friend was able to show a few oddities in four or five thousand cases. As you know well, Sir, in the general practice of criminal courts, we have come across such oddities even in normal life. In the present instance, charges are laid against the detenus, not in respect of acts done, but in respect of acts which it is intended to prevent them from doing. In all such cases, as you know, the Police laid charge-sheet—not that they have not the information, but they have got the information which they cannot very well prove and they want to bully the person in such a manner that he may not become a confirmed criminal. That is the way in which I have understood the Police acting. That is why they are making defective charge-sheets in order that persons who are criminally inclined may be brought before a Court, bullied hither and thither, and then put on the right track. That we have seen even in normal life before ordinary Courts. Well, I see nothing surprising in such charges being made. My own feeling is the Police must be in a position of much more facts than they are actually able to put in black and white. But if my friend suggests that these are the only things against him, I submit it is a thing to be regretted.

My friend, the hon. Member from West Bengal, the Deputy Leader of the Communist Party, said that it is not merely opposed to all canons of democracy, but opposed to civilised life as well. My humble submission to you is this, that with regard to this Bill, an objective view has not been taken. In the course of my speech, I shall analyse the present Bill and also its implications with reference to the main Act. But, before I do so,—my friend Mr. Hiren Mookerjee who was talking so violently on this Bill, and in the course of his speech, he even said, referring to our independence, "this so-called independence"—I would like to take you to what is the condition obtaining in normal life in Russia.

So much has been said against Russia that out of curiosity and with a sense of fairness I really wanted to understand Russia. It is with that object in view that I got hold of this book. "Towards an Understanding of the U.S.S.R." by Florensky which was published in 1951. At Page 74, this is what I find about certain measures that are found in Russia:

"The Soviet Government does not rely entirely on indoctrination and the Communist Party to keep everyone in line. The security police—known successively as CHEKA (1918-22), OGUP (1922-34), NKVD (1934-43), NKVD or NKGB (1943-46), and MVD or MGB (since 1946)—is one of the main pillars of the regime. It comprises both a uniformed force and a body of under-cover....."

**Shri K. K. Basu** (Diamond Harbour): Since when have you become the votaries of Russia?

**Mr. Deputy-Speaker:** He is entitled to quote. Let there be no interjection.

**Shri S. V. Ramaswamy:**

"It comprises both a uniformed force and a body of undercover agents and, unlike the intelligence and security service of the Western countries, combines the police and the judicial functions. Its ubiquitous agents, free from the restraint of the law, are vested with extra-judicial powers which allow them not only to deport citizens suspected of disloyalty to the regime to the penal labour camps that dot the bleak wilderness of Russia's northern and eastern regions, but also to impose death sentences after a trial in camera or without the formality of a trial."

**Shri V. P. Nayar** (Chirayinkil): May I know when this book was published?

**Shri S. V. Ramaswamy:** In 1951.

**Shri V. P. Nayar:** In which country was it published?

**Shri S. V. Ramaswamy:** By McMillan & Co., New York.

**Shri V. P. Nayar:** Let that also be said!

**Mr. Deputy-Speaker:** Wheresoever it might have proceeded from, if the facts are relevant, they must be accepted. Hon. Members will...

**Shri V. P. Nayar:** I only wanted to get an idea of the source of the book.

**Mr. Deputy-Speaker:** I am not allowing this kind of interruption. What I would say is this. The hon. Member reads some extracts from a book. If he is wrong, let there be other documents from the Russian side or from the other side to show that these facts are wrong, and say "this is the kind of administration that is going on". If the facts are wrong or are incorrectly stated on the one side, they can be refuted by facts from similar books from the other. The whole library is there.

**Shri V. P. Nayar:** I only wanted the information to be complete.

**Mr. Deputy-Speaker:** The information need not be complete in that manner. The facts may be given wheresoever they may come from.

**Shri S. V. Ramaswamy:**

"No official information on these sinister activities is available, but the number of their victims is said to be very large."

Again:

"The extra-judicial powers of the security police are supplemented by a formidable array of legal provisions dealing with counter-revolutionary and anti-State activities."

I am reading article 58 of the Criminal Code of the U.S.S.R.

"A counter-revolutionary activity is defined as any action directed to the overthrow, undermining or weakening of the U.S.S.R. and its constituent parts, or of its basic economic, political or national institutions."

"In addition to treason, armed uprising, and other criminal activities punishable under the law of any country, the Code considers as counter-revolutionary the 'undermining of State industry, transportation, commerce, monetary circulation and credit, as well as co-operative societies'. The

[Shri S. V. Ramaswamy]

intentional non-fulfilment by a person of his 'definite duties' or negligence in fulfilling them, with the intent of weakening the Soviet power or disorganizing the State machinery, belongs to the same class of criminal offences. The penalty varies from imprisonment to execution by a firing squad and confiscation of all property."

Then, I take you, Sir, to article 59.

"The Code also recognizes a special class of crimes against the 'administrative order'. These are defined as 'any action which, while not aimed at the overthrow of the Soviet Government...leads nevertheless to the disorganization of the regular functioning of the organs of the Government and interference with their work, violation of the law, or other activities which weaken the power and authority of the State.'"

This is article 59, Sir. I have read this to you in order that we may understand the objections to the Bill before us, and see how compared with the draconic code that obtains in civilised Russia the proposed measure before the House is such a mild one. The Bill has been attacked on several grounds, firstly on the question of principle. Is this detention without trial such a new thing, that we should object to the present enactment in such a vehement manner? Let me dissect some of the sections of the Criminal procedure Code 1898, Chapter 5, sections 54 and 55. Section 54 enumerates 9 categories of offences where a police officer can arrest without warrant; four of these categories relate not to the actual commission of an offence, but the suspicion that a person might have committed an offence.

Sub-clause (i) says: "If he is suspected of having committed a cognizable offence."

Sub-clause (ii) says: "...where he is suspected of having in possession a stolen property."

Sub-clause (iii) says: "...where he is suspected of having deserted the army or the navy..."

Sub-clause (iv) says: "...where he is suspected of having committed some offence in some other State."

So, it is said that if there is a suspicion, the officer in charge of a police station can arrest a person without any warrant.

Then Section 55 gives power to a police officer to arrest a person with-

out warrant if he finds that a person cannot give a satisfactory account of himself.

These are all extraordinary powers which are conferred by these sections.

Now I shall take you to section 151 of the Criminal Procedure Code. The Chapter itself is titled as 'Preventive Action by the police'. Under Section 151 a sub-inspector can straightaway arrest a person without any warrant, in order to prevent the commission of a crime, if he has got notice of a design to commit an offence by any person, or if he has any knowledge in that behalf, even though there is nothing overt and nothing plain, and not even the preparation to commit an offence, a person can be detained without a warrant.

Then section 61 defines what the sub-inspector has to do. He is given powers under this section to detain the person for 24 hours, and after that if he cannot complete the investigation by that time, he has to produce the arrested person before a magistrate under section 167 (ii). Technically therefore for the 24 hours that the sub-inspector arrests a person and detains him in his custody, there is a case of a detention without trial. The magistrate has got the authority to allow the sub-inspector to detain the person in his custody for a maximum period of 15 days. So, we see that on the mere suspicion of a person having any designs to commit any offence, power is given to the police officer to arrest any person.

**Shri Sarangadhar Das (Dhenkanal—West Cuttack):** What is the necessity of preventive detention then, if these provisions are already there in the Criminal Procedure Code?

**Shri S. V. Ramaswamy:** Kindly allow me to go on. Let me develop the full legal theory and then the hon. Member will be satisfied. So, under section 167 (ii) power is given to detain a person without trial for a period of 15 days. Supposing the information in the possession of the police officer does not lead to a charge-sheet, then the person is let off after the expiry of that period. I respectfully submit that even in the Criminal Procedure Code which has been in the Statute book from 1898 onwards, there has been preventive detention, to some extent at least. If we accept that principle, this measure only seeks to extend the period of detention, while the quality of detention is the same.

Then, as the Hon. the Minister of Home Affairs said the other day, this is not punitive, authoritarian, or arbitrary, but is only preventive. The preparation to commit an offence is not punishable under the Indian Penal Code except under two sections, namely, Section 122 and Section 399 of the Code, where preparation for an offence itself is an offence and is punishable. The Penal Code has been on the Statute book ever since 1860 onwards, at least in respect of two sections, the preparation for the commission of an offence has been considered to be punishable. Viewed from that angle also, this Bill only seeks to see that the preparation for the commission of an offence is averted in the name and interests of the security of the State. That is the legal principle involved.

You know, Sir, that there are four stages in the Commission of an offence, the intention, the preparation, the attempt and finally the act. The law does not take notice of the intention, unless it materialises in the commission of some offence, because it is said even a devil does not know the mind of man. Further, even preparation is not taken cognizance of, by our law. It is only when the third stage of an attempt to commit an offence is reached, does it attract the attention of Section 511 of the Indian Penal Code. If that is the position in the Statute at present, if under the Criminal Procedure Code, a person can be detained without trial for 15 days and under the Indian Penal Code for the preparation to commit an offence a person can be detained, what is the extraordinary principle involved in this new Bill which seeks to incorporate both these principles in one enactment? My hon. friends on the opposite side will say that there has been an extraordinary abuse of this power and that it is likely to happen in the future also.

I wish to analyse and see whether the provisions that are before this House conform to the four principles of judicial trial—notice, opportunity to be heard, an impartial tribunal and a regular and orderly procedure. I humbly submit that even though there is not trial as such the provisions of the original Act as well as those of the amending Bill do satisfy in some measure, though not to the full extent, these four requirements of a judicial trial. What is a trial, strictly speaking? Under the Criminal Procedure Code, a trial in a summons case commences the moment the man appears before the court, but in a warrant case it is not a trial unless a charge

is framed, and in a sessions case not until the charge is read before the sessions court after committal. In one sense I might even stretch that point that I have been urging so much that until the Sessions Judge pronounces a judgement of 'not guilty', in one sense it is possible to argue that there is detention without trial. It is possible to argue, because the preliminary enquiry stage is only an enquiry and according to the Code it is not a trial because no judgement is given. My friends on the opposite side will say: What is this extraordinary proposition? But here is a man who is hustled away and then detained by the police with no trial; at least in the other case the man is immediately brought before a court, there is a semblance of trial, though it is not a trial in the preliminary stage. Therefore, the comparison does not hold good. True, Sir, I admit. But then this is an extraordinary measure in order to meet an extraordinary situation for the security and stability of the State. The hon. Mr. C. Rajagopalachari said in February 1951 that it was a "distasteful expediency". Now, you will find, Sir, that this Bill has been brought before this House not with a view to come up to the standards of a judicial trial. It was never meant to be and it is not meant to be, because the case is that there are still in this country forces of disorder, forces which tend towards the disruption of this country, there are still in this country people who work, to quote the inimitable language of the hon. C. Rajagopalachari, "in secrecy, trickery and violence". There are organisations working under those principles. It is in order to prevent people reaching even to the third stage of an attempt to commit something which will endanger the security of the State that this measure has been brought forward. So that, Sir, the standards that are required in the matter of a judicial trial are not to be applied in the present case, because when things are done in secret by means of trickery you cannot always get that concreteness of evidence which you get in the case of trial before courts. Things are done in the darkness of the night, in secrecy, police get some information and before the thing can be completed the State must have powers to see that the completion of the offence is prevented and the thing is nipped in the bud. It is for that purpose that the Government now ask for powers and not for unnecessarily putting persons in jail.

Much has been said and I think we have strayed away from the field. The hon. Minister for Home Affairs

[Shri S. V. Ramaswamy]

has said that this Bill has been brought forward in pursuance of item 9 of List 1 of Schedule VII and also item 3 of List 3 of the same Schedule. It is good now to remind the House of what those provisions contain, because as I see, the debate has in one sense come to one level, namely, to discuss whether this main Bill has been aimed at one particular party or not. That is not the purpose of the Bill. As the hon. Minister himself has said in referring to it, it is for preventive detention for reasons connected with Defence, Foreign Affairs and the security of India—I am reading from item 9—and also for preventive detention for reasons connected with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community—(item 3). That is the scope of the Bill—not that it is directed against any particular party. Unfortunately, this has been reduced to this level, as I shall presently point out, by the speech of the Deputy Leader of the Communist Party. It is necessary for me to quote the exact words of the hon. Member because when I listened to his speech with rapt attention, I was wondering whether I was making a mistake with regard to the statement of policy on the part of his party. That was why on the very next day I read the reports, but I found that there was no mistake about his statement of policy on behalf of his party. I have got the uncorrected reports and with your leave I shall read a few sentences so that there may not be any mistake, because I found from reading this uncorrected report and the press cutting which I have got, the press cutting seemed to be apparently wrong in one vital particular which I shall presently point out. Sir, the hon. Minister put a straight question. To that one should have expected a straight answer; it was not difficult of an answer. The hon. Minister said: "Are you or are you not abjuring violence?" He said: "This is not directed against the Communist Party. It is not meant for the suppression of any public opinion....." When such a noble, sincere and high-minded assurance was given on behalf of the Government by the hon. Minister in charge, I expected—and expected reasonably—of the hon. Deputy Leader of the Communist Party to extend his hand of friendship and accept that assurance as a solemn assurance on behalf of the Government so that he might cooperate to work shoulder to shoulder in building up the glory and greatness of this ancient land. I find, on the other hand, the hon. Member has gone into a field where, I respect-

fully submit to you, Sir, he has justified the need for such a measure, which I shall presently point out:

"The abstract question of violence has been raised in this House this morning"—Sir, I am reading the rhetorical and repetitive portion of it, but I will give a condensed view of what he has stated—"I have been asked as a Communist to abjure violence. I would say, Sir, this is a most negative, an abstract and unrealistic way of posing a question. Nobody, Communist or other, wants violence for violence's sake, but the Communists have a political philosophy, they have an ideology which affects the understanding of the development of social processes. They know it as a fact of history that when changes happen, vested interests always try to prevent that change and fight up till the last ditch to prevent the change materialising. When common people who are suppressed for generations.....try to rise in revolution in order to build a new society close to their hearts' desire, what happens? Those who want to exploit them.....they fight till the last ditch in order to perpetuate their authority. When they do so, do you expect the common people to take it lying down. Do you expect us to practise Ahimsa....." meaning thereby the ordinary, commonsense, reasonable construction—this seems to be a statement on behalf of his party—that he and his party should not be expected to practise Ahimsa. Continuing he said:

"When people rise in their anger, in their righteous anger against society of a particular order, and when those people who are benefiting because of the existence and continuation of that society, when they try to prevent, to drown in blood the upsurge of the common people, will they say, we do not practise violence; we will turn the other cheek. We do not say so."

I take it, Sir, that "we" there refers to the Communist Party. Proceeding further he said:

"The greatest philosophers of communism, the leaders of the communist movement have been the most humane of men judged by all reasonable and decent standards. That is because they have made a study of the social pro-

cesses. They have found out the laws of social dynamics and they have called upon the people to organise in order that only a kind of society which is in conformity with all civilised standards may be established in this world."

On a reading of this statement of policy on behalf of the Communist Party do you find anywhere any expression that they will not resort to violence even in the pursuit of their objectives? It is true the ultimate sanction for the State is force. The State has got a right to use force in order to maintain law and order, stability and security. As against that foundation on which all States are based no individual, no organisation, no party can ever claim a right to use force. That is axiomatic. Otherwise no State can survive. And yet we find in this statement that the Communist Party reserves a right to itself to resort to violence as and when necessary. Can this position be accepted? The Members belonging to the Communist Party here have taken an oath of allegiance to the Constitution and the Constitution is based not upon methods of violence but upon methods of conciliation, co-operation and compromise. If any party reserves to itself the right to resort to violence has that not been a betrayal of the oath of allegiance to the Constitution?

I shall not argue that point further but I will place before the House the consequences of this philosophy and what the philosophers of communism have said, to which the learned Deputy Leader of the Communist Party has referred. As early as 1906 Lenin said that "the great things in the life of a nation are settled only by force." Later in 1917 his views crystallised and as they crystallised they took the shape of that remarkable pamphlet *The State and the Revolution*. There in you find him stating in a few lines the very core, the pith and marrow of communist philosophy and strategy. The theory of the communist State is stated thus—I am reading from *A History of political Theory* by Sabine.

"The fundamental fact is that any form of State merely represents the class struggle and the class struggle is inevitable and irreconcilable, short of the classless society. The capitalist State is inherently and essentially an instrument of exploitation used by the dominant class to enforce its interests at the expense of the exploited classes. Consequently it is impossible that it should be overthrown except by force and

any theory of peaceful social evolution or any policy of conciliating the class struggle is an illusion."

12 NOON

Therefore, my friend, in speaking of communist philosophers and communist philosophy must by implication subscribe to a doctrine of use of force against the State established by law. In pursuance of this philosophy they have got a strategy of their own which has been clearly explained by the very philosophers whom my esteemed friend referred to. I refer to a passage of four lines from the resolution that was passed at the Communist Internationale in 1935 advocating the united front:

"As long as we cannot replace bourgeois democracy by dictatorship of the proletariat the proletariat is interested in retaining every scrap of bourgeois democracy in order to use it to prepare the masses for the overthrow of the power of capitalism and to achieve proletarian democracy."

According to Lenin the most powerful and advanced type of bourgeois State is that of the parliamentary democratic Republic which ours is, and in pursuit of their objective a strategy has been laid down here too. My friend, the Deputy Leader of the Communist Party spoke of social dynamics. Let me talk of the Communist revolutionary mechanics. The mechanics is in two parts one of which is the U.G. to which the hon. Minister has referred and to which I shall not refer again. I am more concerned about O.G.—their overground activities which have been detailed in all the literature. Lest I should be held guilty of diplomatic impropriety in referring to the living head of a State, I take shelter under this book and quote a passage therefrom. Stalin said of the use of legal methods by communist parties:

"Parliamentary struggle is only a school, a fulcrum for the organisation of the extra parliamentary struggle of the proletariat."

This is the O.G. part of it. The O.G. part of communist mechanics is to see that a Bill like this is not passed so that the O.G. and the U.G. may combine. And according to Stalin the parliamentary forum is the O.G. This is the O.G. And if a Bill like this is not passed the O.G. and the U.G. will combine to overthrow the very foundations of the State as has been clearly pointed out is the objective of the communist party. It has been clearly stated more than once and it is also

[Shri S. V. Ramaswamy]

evident from the speeches made here that they are not going to lie idle, that they will not preach *ahimsa* nor will they practise *ahimsa* but they will resort to violence. Is this not more than ample justification for the passage of this Bill as it is? My humble submission is that it is. I am only amazed at the way in which this measure has been diluted. In 1950 when the late Sardar Patel brought forward this Bill for the first time it was accepted that there was an emergency and the House consented to the Bill being passed in a few hours. Later on in 1951 when the measure was brought up again the situation had slightly improved. Therefore, it is that I submit that the hon. Shri Rajagopalachari accepted certain amendments and got enacted a Bill which was more diluted than the original Act of 1950. The situation has now slightly improved and hence it is that this Bill is further diluted, but it is so diluted that I am beginning to wonder whether it is milk or water.

Under section 3(3), as soon as the detention order has been issued, the State Government has to be informed. This amendment goes still further. It liberalises the provision by saying that unless the State Government approves of that order, it will be vacated. This is a very salutary provision. None of my hon. friends have talked about it.

Then, section 4(4) says that not merely should the State Government be informed, but in turn the State Government has to inform the Central Government.

These are two further checks which are sought to be incorporated in this Bill. Does this not go in favour of the liberty of the individual? Does it not prevent the miscarriage of justice in cases where detention orders are passed?

Then there is a provision with regard to the procedure before the Advisory Board. It is a very valuable one. I read out to you the way in which trials were being conducted in Russia. This Bill concedes the right to the person concerned to be heard in person before the Advisory Board. The Advisory Board is not a judicial body. No judgment can be passed by it. But the detenu is allowed to argue his case before the Board and on a perusal of the material before it and after hearing the detenu, the Board may report on vacating the original order of detention, and this is binding on the State Government. Thus, the Board is a quasi-judicial body. The men

who constitute the Board are eminent judges, either retired or awaiting promotion to High Court judgeship. Is this not an extraordinary provision in favour of the individual to safeguard against any travesty of justice?

Therefore, I do not see any reason why my hon. friends should oppose this Bill. They talk of high principles. My humble submission is that they have not realised the practical difficulties of administration. It will not be always possible to get concrete evidence. The trouble must be nipped in the bud in the preparatory stage. This principle has been conceded in the two decisions of English law that I cite.

My hon. friends opposite may say that these decisions were given during a war period when there was admittedly an emergency and therefore you cannot apply the same principle now. But my humble submission is that that principle still stands *Mutatis mutandis*. I shall quote a short passage from Rex V. Halliday. Lord Atkinson said:

"However precious the personal liberty of the subject may be, there is something for which it may well be, to some extent, sacrificed by legal enactment, namely, national success in the war, or escape from national plunder or enslavement."

In the course of the same judgment, he said:

"And as preventive justice proceeds upon the principle that a person should be restrained from doing something which, if free and unfettered, it is reasonably probable he would do, it must necessarily proceed in all cases, to some extent, on suspicion or anticipation as distinct from proof."

My humble submission is that the same principle has to be applied in this case also. I shall not weary the House with further quotations, but since my hon. friend Mr. Mukerjee quoted Lord Atkinson and said that amidst a clash of arms laws are not silent, I shall with your permission quote from the judgment of Lord McMillan, who said in *Linesside V. Anderson*:

"The liberty which we so justly extol is itself the gift of the law and as Magna Carta recognises may by the law be forfeited or abridged. At a time when it is the undoubted law of the land that a citizen may by conscription or requisition be compelled to give up his life and all that he possesses

for his country's cause it may well be no matter for surprise that there should be confided to the Secretary of State a discretionary power of enforcing the relatively mild precaution of detention."

I beg to emphasise the last four words—"relatively mild precaution of detention".

I shall not enter the field of specific acts. My hon. friends Mr. Nathwani and others have given an array of them. I shall confine myself to facts which obtain in my district. In one case known as the Salem Railway Sabotage case, there were about 78 accused. I am unable to remember the exact number and the judgment also is not with me: I have sent for it. The case was this. Some people with Communist persuasion broke open a tool box in the gang somewhere near a station about thirty or forty miles away from Salem Junction and with the aid of the tools they removed the bolts, nuts and fishplates. There were on this line three mails up and down from Madras to Mangalore and back, each following the other in quick succession. This removal was done just before the arrival of the first mail, the Blue Mountain Express.

**Shri Velayudhan:** When was it?

**Shri S. V. Ramaswamy:** In 1950. The judgment was given only a few months ago.

**Shri A. K. Gopalan (Cannanore):** Can he refer to this case? It is before the High Court.

**Mr. Deputy-Speaker:** Is the case *sub judice*?

**Shri S. V. Ramaswamy:** I am referring to the sessions judgment. I have no knowledge whether the case is *sub judice*. If so, I stand corrected.

**Shri A. K. Gopalan:** It has gone to the High Court on appeal.

**Mr. Deputy-Speaker:** He may only state what the case is broadly.

**Shri S. V. Ramaswamy:** I was giving the details of the case only to show that in that particular case the disaster was averted by a farmer coming to know of the removal of the fishplates, but there may be other cases in which during the darkness of the night similar things may be done which may not be known to anybody. Therefore, my humble submission is that if this power is there such disasters can be averted by detaining the trouble-makers.

The situation has not very much improved. It is no doubt much better than

what it was in 1950 and still better than what it was in 1951. But we are not out of the woods yet. There are still ill-conditioned elements who want to overthrow by means of violence the very foundations of the State. They want to resort to violence to subvert the Constitution itself. Until and unless those ill-conditioned elements are brought under control and peace and order are maintained, it would not be possible to carry on the administration or ensure the safety and security of the citizens. It is in that sense I submit that this House do accept the amendment and pass it into law.

**Shri R. N. S. Deo (Kalahandi-Bolangir):** The hon. the Home Minister expressed surprise at the opposition to this measure from all sections of the opposition party. But the lack of understanding on the part of the Minister, especially of the attitude of the class, whom he was pleased to call ex-rulers is mutual. For it is equally understandable on the part of many of our countrymen how the same Government is utilising this class for the purpose of enforcing civil liberties of their conception.

Just look at the Parliament or at any Legislative Assembly in India today and you will see all sorts of groups, all sorts of people beginning from prince to peasant, starting from Maharajas, Rajas, Nawabs, Rajmats, Ranis, Begums, Yuvarajas and what not not only adorning the Congress benches, but also acting as Ministers and Deputy Ministers and Sub-Deputy Ministers. I have no doubt, Sir, beginning from the Rajpramukhs, downwards to all these categories that I have mentioned, the hon. Minister must have made very good use of their love for civil liberties in enforcing the civil liberties of the present variety.

The hon. the Home Minister while moving the consideration of this Bill on the 17th last made an oblique reference to the ex-rulers' love for civil liberties. I wondered how he could have forgotten that ordinary caution of people living in glass houses not throwing stones at others. That set me thinking that perhaps some of us sitting on this side might have done something to annoy him or upset him so much that he forgot that ordinary caution. I suddenly came to the conclusion that perhaps the cut motion on civil liberties which I had the honour of moving on the 25th of June on Demands for Grants for the Home Ministry and pressed to a division, might perhaps have upset him so much. Perhaps such a censure coming from

[Shri R. N. S. Deo]

any other quarter would have been more palatable to him, but coming as it did from a class whom our friends had been condemning, and vilifying all these years, it irritated him. My doubt was not unfounded for on the next day, the 18th July, the cat was out of the bag and the hon. Minister actually mentioned that incident and referred to me personally Sir. lest I do any injustice to him, I would like to quote the exact words he used. He said:

"But I do not understand another class—the ex-rulers. On the debate on the 25th June on the Home Ministry's Grants there was one cut motion put to the vote by you, Sir. That cut motion was for a reduction of hundred rupees to discuss the question of civil liberties tabled by my hon. friend from somewhere in the Eastern India. Now, fortunately or unfortunately, I myself was born in and bred in an Indian State. I rubbed my eyes, because I thought of what existed there in 1948. In that State no meeting could be held; no newspaper could be published; nothing could be done. Really we are living in an age of miracles and an age of revolution. The revolution which has come over the mind of the ex-rulers is one of the most agreeable and remarkable transformations. The rulers of yesterday who would not allow anything to be done in their State, now stand up in Parliament and say that civil liberties are being destroyed. I do not plead in the name of consistency, because consistency is not a very desirable virtue."

Well, Sir, I quite agree that the hon. Minister could not have pleaded in the name of consistency. The history of the last four years of Congress rule has shown that it is a story of inconsistency from beginning to end. A great leader had said that consistency is a virtue of an ass. If that is so, it can be said that inconsistency is the privilege of a harlot. So, while I do not plead that there should be complete consistency on the part of our Government, at least I do hope that they will not go to the other extreme.

Now to borrow a phrase of our Prime Minister.—I would take the liberty of changing it a little.—I wonder where Dr. Katju gets his facts from. He referred to me and went on to say that in that State no meeting could be held, no newspaper could be published and that nothing could be done before 1948. I really rubbed my eyes. For it is real-

ly surprising that the hon. the Home Minister, who was Governor of Orissa at the time that these States were merged with Orissa on the 1st January 1948, should say this. He ought to have known that the people of the Orissa States had complete civil liberty and enjoyed greater freedom before 1948, and it was the Orissa Government that ruthlessly suppressed those civil liberties and performed cold-blooded murders in Kharswan, Bamra and subsequently in Mayurbhanj. This repression was let loose. All sorts of restrictive orders were passed under the ordinary law as well as the extraordinary law, the predecessor to this Preventive Detention Act, namely, the Public Safety Act which was invoked. And people were externed, interned and detained without trial. For what crime? Because they expressed their dissatisfaction with the merger and objected that the States people were not consulted and were completely ignored, and because they asserted their right of self-determination.

We hear our Ministers repeating again and again that so far as the policy of the Government of India towards the Indian States was concerned it was always the wishes of the people that counted. Only the other day, on the 26th of June, when there was a debate on the demands for grants for the States Ministry and the question of Kashmir came up the Prime Minister said, not once, he repeated it two or three times—I would just quote those few lines from his speech. He was referring to Kashmir, and he said:

"Do not hurry. It is a difficult problem. Do it soundly and well, and we shall abide by the decision of the people of Kashmir.' That is the policy that Sardar and our Government laid down in regard to every State in India. Naturally the question did not arise in regard to most States. But this was the policy in regard to every State—that the people of the State should decide."

It is quite clear. Not only had Sardar Patel said it but even now our Prime Minister reiterates it. Later on, again, the Prime Minister said:

"A declaration was made by Sardar Patel and us that every State where there was a difference of opinion will be allowed to decide by popular verdict if necessary."

Now how has this policy been really put into practice in the case of the Orissa States? Because the people

objected, because they expressed their dissatisfaction in a constitutional manner, in a legitimate manner, by holding meetings and by sending representations, by circulating leaflets and pamphlets, those were banned and the Government went so far as to issue a search warrant in respect of an office, and under the plea of seizing pistols, arms and ammunition they seized all these booklets and pamphlets—which were perhaps more explosive than real arms and ammunition—and the people of the States were thus harassed in the name of democracy. For the last four and half years or more the States people have been defrauded. They have been given nominated representation in the different Assemblies in the name of democracy and, on top of it, they have been repressed, suppressed and subjected to all sorts of atrocities. If any one goes into the cold-blooded murders that took place in Kharswan and Bamra, if any one has got any human feelings he cannot but feel ashamed of those incidents. Demands were made for an enquiry into those incidents, and what did the Government do? It did not have the courage to institute an enquiry. Now, for the same Government to accuse the rulers of this sort of thing, for which they themselves are responsible in a worse form, is indeed something which is beyond understanding.

Even supposing that there were badly administered States and there were oppressive rulers, I would not go back to the incidents of history where revolutions have taken place in the hearts of rulers, for those are well known. You are no doubt aware of Chandashok becoming Piyadarshi or Dhammashok and Dashyu Ratnakar becoming Valmiki. When such a revolution takes place, it is something to be welcomed. But when unfortunately a revolution takes place in the other direction, when those who have sacrificed and fought for civil liberties give up those liberties and suppress and repress the people, then it is a tragedy too deep for tears.

When, the hon. the Home Minister referred to those happenings in some of the Indian States where there were no civil liberties, where there was repression or suppression, I could not really understand the meaning of it. Was he trying to compare and compete with the autocracy of those days? Some references were made to what is obtaining in Russia. I wonder, is that an argument, is there going to be a competition of our Government with the autocracies or the dictatorships elsewhere, and are they trying to justify measures of this kind by such arguments?

Then it has been very forcefully urged by the hon. the Home Minister that if a law is passed it is the duty of every citizen to obey it, whether it is passed by a majority of five or by a majority of three hundred. He has talked again and again of this law-abidingness. I also fully agree with him that this quality of law-abidingness is one of the fundamental bases of democracy. But it is not simply by enforcing and by enacting these repressive laws that you can expect law-abidingness in this country. In no State in the world has repression ever led to anything but the opposite results, namely violence. But when we talk of law-abidingness and when the hon. the Home Minister objects to the use of the words 'lawless law' and suggests that whatever is permissible under the Constitution and whatever law is passed by this sovereign Parliament must be accepted as a good law, I humbly beg to say that I am unable to agree with him. It is not that any law can be accepted as good law. A law to be good must also satisfy other conditions. It is said by Professor Laski in his book *The State in Theory and Practice* "Law to be law, it is widely felt, must correspond with something more valid than the will of an authority which grounds its claim to respect upon nothing more than the coercive power at its disposal". In a parliamentary democracy it is the coercive factor behind the Government which is always in the background and where there is respect and tolerance for the Opposition, and where the views of the Opposition are taken into due account, there that Government is by consent. There any law that is passed will receive the willing support of all the citizens, but where as in our case in the present circumstances, the Opposition is not in a position to replace the Government, where there is the sledge hammer majority behind the Government and Government takes this intolerant attitude and tries to pass any measure by its majority, there we cannot say that the law is passed by consent and when the backing of the law is only the coercive factor, the coercive power of the State in whose name and as whose agent the Government acts, there, we cannot say that every law that is passed is bound to be respected. If we want to create conditions in our country, where there will be a spirit of law-abidingness, where the people will respect the Government. Our Government must at the same time create those conditions, try to create the confidence of the people. It is not by force that that can be achieved. The confidence of the people, I am sorry to say, has been shaken. It is not merely because of the way that

[Shri R. N. S. Deo]

our Government has acted in the last four years; it is not simply because of the other factors which have led to the failure on the part of the Government, but it is the very outlook, the psychological outlook of our Government that is at fault. Numerous instances have been quoted of how this law has been misused, of how on flimsy grounds this law has been enforced and abused. I have no wish to adduce more such instances. I would just mention one case of how this has been used in spite of all the assurances of the Treasury Benches that it is not meant against political parties. Just before the elections—there is a district in Orissa called Koraput which was supposed to be a stronghold of the Congress—and just a few months before the election suddenly the Congress found that its position there was shaky and that people had become supporters of our party the Gana-Tantra Parishad and the Preventive Detention Act was used to put the Secretary of our party there under detention and under most flimsy grounds. One of the grounds was that he had instigated the people to riot in a place and it was subsequently proved that he was not present in that place on that particular day. He was far away. Ultimately the Advisory Board recommended that he should be released and he was released. But it was only a few days before the actual polling and by this our party suffered a great loss. In spite of all this we did succeed and won six out of the ten contested seats, but we lost four. This is just an instance of how this has been used in the past for suppressing Opposition parties.

Another important fact that arises in this connection is the callousness and indifference shown towards the liberties of the people. We have heard so many arguments here that in order to prevent people from committing a crime or endangering the security or disturbance of the essential supplies of this country, people should be put in detention and when these instances are pointed out of how this has been misused and abused in the past, it is argued on the other side: Well there may be some mistakes committed. In some cases it may be that the officers were inexperienced or they were incompetent and the mistakes had been made but I should have expected that the attitude of this House would have been that not a single person should be arbitrarily detained and not a single person's liberty should be jeopardized in this manner. Today we hear arguments that it does not matter

if one innocent person is condemned and if nine other guilty men are imprisoned. This is entirely contrary to all notions of civilised administration. In this connection, I would like to refer to the Universal Declaration of Human Rights. Whenever reference is made to the human rights our Minister says that it is too high. I ask—are the declarations of this General Council of the United Nations of which our country is a member, where we keep sending delegations and spending lakhs and lakhs every year to be treated so lightly? If we do not believe in those principles of the United Nations, then why have we taken the Kashmir issue to that body and why are we sending delegations there and spending so much money every year?

I would draw the attention of this House to Article 9 of the Universal Declaration of Human Rights:

"No one shall be subjected to arbitrary arrest, detention or exile."

Then Article 10 says:

"Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him."

Article 11 says:

"(1) Everyone charged with a penal offence has the right to be presumed to be innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence."

It is very curious that in one case the hon. Home Minister takes the view that preventive detention is penal. If it so, then, how can he avoid this Article 11 of the Universal Declaration of Human Rights.

I would next refer to Article 29 of the same Declaration which lays down the limitations to those rights:

"(1) Every one has duties to the community in which alone the free and full development of his personality is possible."

"(2) In the exercise of his rights and freedoms, every one shall be subject only to such limitations as are prescribed by law solely for the purpose of securing due recognition and respect for the

rights and freedom of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."

"(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations."

When this particular Article was discussed, and the question of the limitations on the fundamental rights was being considered, this point about detention was also taken into consideration and it was recognised that there would be necessity of limiting the rights guaranteed under these different Articles. But, it was never contemplated that any one charged with a criminal or penal offence would be detained without trial and without legal aid.

Then I would refer to the draft convention, the International Covenant of Human Rights. "A number of Articles in the substantive part of the First Draft Covenant contain limitations and restrictions. Moreover, Article 2, in the first part of the Covenant allows States Parties to the Covenant to derogate from their obligations in the case of emergency or public disaster 'to the extent strictly limited by the exigencies of the situation'. However, even this escape clause is specifically exempted from application to rights guaranteed under certain Articles. The right to life, to freedom from torture, to freedom from arbitrary arrest, from debt imprisonment, from conviction under *ex-post-facto* law, to recognition as a person before the law, to freedom of thought, conscience and religion—these rights, under no circumstances may be abrogated by any Parties to the First Covenant." I recognise perhaps, that this Covenant has not yet been signed. But, it does indicate how the mind of the civilised world is working. It is definitely recognised that even during emergencies, this right of freedom from arbitrary arrest is not to be suspended.

. It has been argued that our Constitution allows such a measure. Article 22 of the Constitution has been referred to. My hon. friend Mr. Chatterjee has characterised that as a blot on our Constitution, and that it is a disgrace to our Constitution. That article goes counter to the Declaration of universal human rights. It is very strange to argue that because such an article is there in the Constitution, because it is permissible to enact such a law, we must enact such a law. I should have thought that the hon.

Home Minister would have taken the line that one should do what one ought and not what one can. That brings us to the question of the necessity of such a measure. It has been said that at the time of the adoption of this Constitution, there was a situation in the country which justified such an encroachment on the fundamental rights and such a provision in our Constitution. But, are these conditions still obtaining in our country? The disturbances in Saurashtra, the dacoities in Rajasthan and unrest in different parts of the country are quoted to justify that an emergency exists in our country. The hon. Home Minister has also said that he consulted all the State Governments before bringing this measure before this House and that it is the unanimous opinion of all the State Governments that such a measure should be enacted. But, I should have thought that the unanimity should have gone against the necessity of such a measure. We all know that the conditions in India all over the country are not such as to justify our saying that emergency conditions exist. It is conceivable that conditions may be bad in parts of the country. I could have conceded the existence of an emergency, and I think it would have strengthened the arguments of the hon. Home Minister if a few of the States where really the conditions were bad, had suggested the enactment of such an Act. But, when unanimously, every State, even those where there is complete peace and tranquillity, want continuance of such a measure, it is quite apparent that this thing, like a habit-forming drug, has gone to the head of the administration and they want to keep this arbitrary power with themselves, to use it as a short cut, because it is difficult to convince people by argument and tact, but it is very easy for the officers to have recourse to this arbitrary power whenever it pleases their whims. Therefore, this very argument should make this House suspicious of whether there is really an emergency existing in this country.

Now, much has been said about Saurashtra. Of course, we do not know what the facts are and what exactly is happening there. We hear all sorts of contradictory stories. We know that some of the ruling princes have also been detained. We know that the Ruler of Dhrol has been detained. The Ruler of Dhrol happens to be an elected Member of the Legislative Assembly of that State and it is said from the other side that it is for the purpose of suppress-

[Shri R. N. S. Deo]

ing the Opposition that such a detention order has been passed. Without knowing the facts, it is very difficult to judge. We may concede that there is such an emergency situation in Saurashtra. We are even prepared to concede that there might be such an emergency situation in some parts of the country. It would still have been better for the Government, if they at all felt the necessity of such a measure, to have restricted the measure to certain parts of the country. Why have a general law on the Statute Book of the country which is liable to be so much misused, which has, in fact, been so much abused, as numerous instances have already shown. Therefore, this measure is bad in theory and in practice, and such a law should not remain on the Statute Book.

I need not go into the other arguments because they have been already controverted and it is really very amazing to find the weakness of the arguments in support of the Bill. We were expecting that during the course of the debate, hon. Members who were supporting the Bill, would bring forward some cogent reasons, but we have been disappointed. All the arguments that have been brought forward are weak. They are not convincing. The hon. Member who just spoke before me quoted the provisions of the Criminal Procedure Code to justify preventive detention. He suggested that even the police have got powers to arrest, though not for the purpose of preventive detention. But that analogy does not apply to cases like this. There it is not preventive detention. It is arrest under suspicion and with the least possible delay, the man has to be produced before a Court of Law, and he has to be charged with the crime, if there is a crime. So, that analogy does not apply in this case. Some people have also argued that actually it is not detention without trial because there is an Advisory Board, but the procedure followed in the case of the Advisory Board is not the same as that followed in a judicial court. There, this right of cross-examination, this right of legal representation, all these things are allowed. It is said that there is need for secrecy, therefore there cannot be a public trial. It may be conceded that where there is need for secrecy, the trial may be held in secret. There is nothing to prevent it, but, why deny the right of legal representation, why deny the right of cross-examination. These are things which

are conceded to people detained in similar circumstances, not exactly similar circumstances, but on suspicion.

**Mr. Deputy-Speaker:** One hon. Member cannot go on taking the time of the House.

**Shri R. N. S. Deo:** I am coming to the end, Sir.

**Mr. Deputy-Speaker:** He need not repeat what the others have said. He must also give an opportunity to others to speak.

**Shri R. N. S. Deo:** I will now end, Sir, by saying that even in other countries during emergencies, these rights are conceded to the detenus, and at least in peace time these should have been conceded here. But, Sir, in any case, I appeal to the Government to review their attitude and drop this Bill.

पंडित ठाकुरदास भागवत ( गुडगांव ) :

जनाब डिप्टी स्पीकर साहब, अब एक बज गया है। अगर आपकी इजाजत हो तो मैं कल अपनी स्पीच शुरू करूँ। अगर आप का हुक्म हो तो मैं दो एक किन्करे पेश कर दूँ।

**Mr. Deputy-Speaker:** It is nearing one O' Clock. The House stands adjourned to 3-30 P.M.

*The House then adjourned till Half Past Three of the clock.*

*The House re-assembled at Half Past Three of the Clock.*

[MR. SPEAKER in the Chair]

STATEMENT RE: FOOD SITUATION  
IN WEST BENGAL

**Mr. Speaker:** The hon. the Minister for Food and Agriculture will now make a statement on the Food Situation in West Bengal.

**The Minister of Food and Agriculture (Shri Kidwai):** Sir, I regret I was not present here when the two adjournment motions re: the food policy in West Bengal were moved in this House. I think there is some misunderstanding somewhere about the implementation of that policy. There were three portions to the policy that was laid down when I visited Bengal in the second week of June.