

The first related to redress in distressed areas. There were two schemes. One was gratuitous feeding about which it was agreed that 5000 maunds of wheat and 5000 maunds of rice were to be issued and the people were to be fed without any charge and so long as the situation demanded additional releases of foodgrains would be made. That scheme was implemented immediately.

The second proposal was that wheat and rice in equal proportions should be sold at a very much reduced price. 10,000 tons of wheat and 10,000 tons of rice were immediately released there and have been sold at Rs. 15 a maund. This proposal was also immediately implemented.

The second portion of the policy was about greater concession. After studying the situation and after discussing with the Bengal Government it was agreed that the Centre will take over the responsibility of feeding Calcutta, and the Bengal Government will cordon off this area, so that no smuggling may be possible. We made this agreement in June and the question was one of implementing it for the next six months of this year and if necessary for the whole of next year. At that time Calcutta had in its stock actually 94 days' rationing stock. Therefore actually the question was about the remaining three months, when the rice procured by the Bengal Government which was still a rural area should remain in the rural areas. Before this scheme was evolved, the Bengal Government had asked the Centre to allot them one lakh tons of rice, and I had agreed to it. After this scheme was evolved, it was also suggested that some rice may be allotted which may be sold over and above the rations, so that the necessity for smuggling may not prevail. I agreed to this suggestion. The proposal was that 20,000 tons should immediately be placed at their disposal and an allotment for this purpose may be made to the extent of one lakh tons or whatever may be necessary. The balance from the one lakh was to be carried over for the next year. I returned and made arrangements in that direction, and two lakh tons were actually allotted. We cannot manage to despatch there all of the quantity allotted in one month. 44,000 tons actually reached the Bengal Government in the next month, i.e. for June and part of July. We allotted to Bengal the one lakh tons that we were importing from China. Out of this 37,000 tons reached there, while the balance is to come, in the course of this month

and the next month. Therefore, it is wrong to say that the two lakh tons of rice was not allotted.

The third portion of the policy concerned the modification in the procurement system and the allowing of free movement in the area outside Calcutta. I think, if I may quote from the statement that I made in Calcutta on 12th June on which the decision was taken, it will be found that I said then that from next year the levy system will be introduced and after the introduction of the levy system, the ban on inter-district movement will be removed. I do not know where the misunderstanding has arisen. So far as the levy system being introduced and free movement being allowed are concerned, it will be found in my statement made on 12th June at Calcutta and published in all the papers that that was to come into force for the next year, after the procurement of the present *aus* crop has been made. Therefore that portion and only that portion was to come into force from next year, and all the other things were to be given immediate effect to, and they have been given immediate effect to also.

PREVENTIVE DETENTION (SECOND AMENDMENT) BILL.—*contd.*

Mr. Speaker: The House will now proceed with the further consideration of the Preventive Detention (Second Amendment) Bill. As we want to finish this stage of the Bill I would again appeal to the hon. Members not to take a long time for speeches. The points, as I said in the morning, have already been brought out, and hon. Members are practically repeating the same thing, the illustrations being different. So far as the principle is concerned, there is no new point that is coming in, and I find a large number of hon. Members anxious to say something, and they want to associate or dissociate themselves with the Bill, publicly and openly. That is the main cause of their desire to speak, but their speeches should be very short,—as short as possible.

पंडित ठाकुर बंस भांडा : (गुड़गांव) इस बिल पर कई रोज से बहस हो रही है। जो तकरीरों में ने इस बिल पर सुनीं उन के सुनने के बाद में आप की सेवा में अदब से अर्ज करता हूं कि दर असल इस बिल का जैसा डिस्पैशनट कनसिडरेशन (dispassionate consideration) होना चाहिये था वह

(पंडित ठाकुर दास भार्गव)

इस हाउस में नहीं हो रहा है। रैक्रिमि-
नटिरी स्पीचेज़ (recriminatory
speeches) ऐसी स्पीचेज़ (speeches)
कि जो पुराने बाक़बात सन् १९४७-४८ को
दोहराती हैं, हो रही हैं। वह बातें बार
बार कही जाती हैं और एक दूसरे के ऊपर
हमले किये जाते हैं, या ऐबस्ट्रैक्ट क्वेश्चन्स
(abstract questions) के ऊपर
जिन की कि इस हाउस में कांस्टीट्यूशन
(Constitution) के होते हुए इजाज़त
नहीं होनी चाहिये थी, इस तरह के नुक्ते
ख्याल से इस बिल पर तक़रीरें हो रही
हैं। मैं आप की खिदमत में इस बिल पर
सिर्फ़ इस के क़ानूनी नुक्ते ख्याल से और
इस के प्रैक्टिकल नुक्ते ख्याल से अर्ज़
करूंगा।

इस हाउस में यह कहा गया है कि
यह क़ानून कुदरती इन्साफ़ के खिलाफ़ है
कहा गया है कि यह लीलेस ला (lawless
law) है और किसी दूसरे मुक्त में ऐसा क़ानून
नहीं है। बल्कि इस से भी बढ़ कर आज एक
साहब जो कि मेरे से पहले बोले थे, महारा-
जा साहब पटना, उन्होंने यूनीवर्सल डिक्लेरेशन
आफ़ ह्यूमन राइट्स (universal
Declaration of Human Rights)
में से चन्द एक आर्टिकल्स (articles)
पढ़ कर सुनाये और हाउस में यह फ़रमाय
कि यह बिल डिक्लेरेशन आफ़ ह्यूमन राइट्स
के खिलाफ़ है। एक ऐतराज़ इस बिल के
बारे में यह किया गया है कि फ़ंडामेंटल
राइट्स (fundamental rights) के
चैप्टर (chapter) में कैसे इसे हमारी
कांस्टीट्यूएंट एसेम्बली ने रख दिया और
उस की वहां जगह नहीं है। यह फ़ंडा-
मेंटल राइट है ही नहीं। मैं अदब से
अर्ज़ करना चाहता हूँ कि फ़िलवाक़ यह चीज़
फ़ंडामेंटल राइट्स जो बनाये गये थे उन को

पूरे तीर पर न समझने की बज़ह से ऐसा कहा
जा रहा है। दर असल यह एक राइट
(right) है और दफ़ा २२ में जो दर्ज़ है
वह निहायत ज़बरदस्त फ़ंडामेंटल राइट
है और यह उन उसूलों के मुताबिक़ है
जो कि यूनीवर्सल डिक्लेरेशन आफ़ ह्यूमन
राइट्स में दर्ज़ हैं।

मैं अदब से अर्ज़ करना चाहता हूँ कि
कि दरअसल किसी क़ानून को, किसी मामले
को, ठीक नुक्ते निगाह से देखने के वास्ते
यह ज़रूरी है कि अब्बल तो उन हालात
को देखा जाये जिन हालात में वह क़ानून
बनाया गया और फिर उस कसौटी पर उतारा
जाये जो क़ानून बनाने की आम तौर पर
मक़बूल कसौटियां हैं। जिस वक़्त कि यह
क़ानून कांस्टीट्यूएंट असेम्बली (Consti-
tuent Assembly) ने बनाया उस वक़्त
कांस्टीट्यूएंट असेम्बली ने दफ़ा २१, दफ़ा २२
और दफ़ा २० यह तीन चीज़ें ऐसी बनाईं जो
लाइफ़ एण्ड पर्सनल लिबर्टी (Life and
Personal Liberty) के मुताल्लिक़ थीं।
इस वक़्त मैं जनाब का वक़्त दफ़ा २० को
दुहरा कर या पढ़ कर जाया नहीं करूंगा
लेकिन दफ़ा २१ और २२ निहायत ज़रूरी
हैं जिन को मुझे आप की खिदमत में अर्ज़
करना है। जहां तक कि ज़रायम का
सवाल है, उस के वास्ते दफ़ा २१ बनाई
गई। किसी शख्स को तब तक सज़ा न दी
जायेगी जब तक कि उस क़ानून के मुताबिक़
नहीं होगा जोकि ला (Law) ने मुक़रर
कर दिया है और यह चीज़ यूनिवर्सल
डिक्लेरेशन आफ़ ह्यूमन राइट्स में दर्ज़
है। अभी हमारे महाराजा साहब
ने सुबह तक़रीर फ़रमाई और उन्होंने
अपने आर्गुमेंट्स की स्पॉर्ट (support) मे
यूनिवर्सल डिक्लेरेशन आफ़ ह्यूमन राइट्स
में से कोट (quote) किया। मुझे अफ़-

सोस है कि क्रिमिनल आफ़ेन्सज (criminal offences) और प्रीवेन्टिव डिटेंशन (Preventive Detention) में जो तमीब उन्हें करनी चाहिये थी, वह उन्होंने नहीं की और अपनी रपोट में उन होने जितने आर्टिकल्स इस हाउस में पढ़ कर सुनाये, वह सब के सब क्रिमिनल आफ़ेन्सेज के मुताल्लिक हैं, लेकिन हमारा यह प्रीवेन्टिव डिटेंशन एकट क्रिमिनल आफ़ेन्सेज को टच (touch) ही नहीं करता है। दफ़ा २१ हमारे फ़ंडामेंटल राइटस् में है और उस का कोई सवाल इस हाउस में पैदा ही नहीं होता। इस हाउस के अन्दर जितनी में नें तक़रिरे सुनीं हैं, उन के अन्दर बड़ी भारी गलती यह है कि मेरे उन दोस्तों ने यह समझ रक्खा है कि दफ़ा २२ उन लोगों के खिलाफ़ इस्तेमाल हो सकती है जिन्होंने कि कोई जुमं किया है, लेकिन हकीकत यह है कि दफ़ा २२ उन लोगों के लिये बनाई गई है जिन की निस्वत यह कहा जा सकता है कि उन पर एक शुबहा है कि वह फ़लां तरीके से अमल करेगे और बिहेव (behave) करेगे, ऐसे लोगों के खिलाफ़ दफ़ा २२ का इस्तेमाल किया जायेगा जिन के ऊपर सस्पिशन (suspicion) हो और जो कि एक कोर्ट आफ़ ला (Court of Law) में साबित नहीं हो सकता और जिस को अदालत के रूबरू पकड़ा नहीं जा सकता सिर्फ़ ऐसे लोगों के मुताल्लिक दफ़ा २२ का इस्तेमाल होगा और इसलिये अबतक जो बहुत सी रीज़निंगस (reasonings) यहां हाउस में की गई हैं, वह बिल्कुल एक गलत बुनियाद पर की गयी हैं और वह सब गलत साबित हो जाती हैं। यह कहना कि:

No person should be condemned before he is heard. This is a natural right. Who denies it?

यहां पर यह जोर देना कि कांस्टीट्यूशन में दर्ज है कि किसी शख्स को सजा नहीं

होगी जबतक कि कोर्ट आफ़ ला में पूरी एवीडेंस (evidence) नहीं पेश होगी और उस शख्स को भी पूरा मौक़ा अपनी सफ़ाई के पेश करने का नहीं दिया जायेगा, उस का इस मौजूदा क़ानून से क्या ताल्लुक है। यहां पर सारी बहस इस बात की हुई है कि जिस शख्स को पकड़ा जाता है, उस को अपने डिफ़ेन्स (defence) का इस क़ानून के मातहत कोई मौक़ा नहीं है। मैं कहना चाहता हूं कि यह चीज़ बिल्कुल गलत है और लोगों ने इस के बारे में ऐसा एक ग़लत ख़्याल अख़्तियार कर रखा है। जहां तक प्रीवेन्टिव डिटेंशन का सवाल है, इस के मुताल्लिक एक भी दफ़ा इस क़ानून में ह्यूमन राइटस् में नहीं है, बल्कि जो तीन चार दफ़ायें हैं वह क्रिमिनल आफ़ेन्सेज के मुताल्लिक हैं। और मेरा यह दावा है कि यूनिवर्सल डिक्लेरेशन आफ़ ह्यूमन राइटस् में एक भी दफ़ा हमारी दफ़ा २२ के बरखिलाफ़ नहीं है और मैं चैलेंज करता हूं कि कोई भी शख्स उस में दफ़ा २२ के बरखिलाफ़ कुछ भी निकाल दे। मुझे तो शर्म आती है, जब मैं अपने क़ानून दां अशख़ास की ज़बान से यह सुनता हूं कि यह जो क़ानून हम बना रहे हैं, यह एक ला लेस क़ानून है। कौन नहीं जानता कि हम ने हिन्दुस्तान की सारी कंसंट्रेटेड विज़डम (concentrated wisdom) सारी मुत्तिफ़िक़ा विज़डम के सलाह मशविरे से इस क़ानून को बनाया और जिस कांस्टीट्यूशन के बनाने में हमारे डाक्टर श्यामा प्रसाद मुखर्जी और डाक्टर अम्बेडकर भी शामिल हैं। कांग्रेस ने बड़ी अक्ल से काम लिया और कांस्टीटुएण्ट असेम्बली में कोई पाटों देश की ऐसी नहीं छोड़ी जिस के बेहतरीन आदमी उस क़ानून के बनाने में वहां शिरकत न कर रहे हों, कांग्रेस ने देश के तमाम

[पंडित ठाकुर दास भार्गव]

बेस्ट ब्रान्स (best brains) को उस काम में शरीक किया और उन के सलाह मशविरे से यह क़ानून बनाया गया उस कांस्टीट्यूशन के मुताबिक ही यह हमारा मौजूदा क़ानून है, तो फिर मेरे दोस्त किस बिना पर यह कहते हैं कि यह लालेस क़ानून है। सुप्रीम कोर्ट के अन्दर जो ला है, ओर जिस को सुप्रीम कोर्ट ने क़रार दिया है कि फ़लां चीज़ ठीक है और फ़लां चीज़ ठीक नहीं है तो मैं अपने दोस्तों को बतलाऊं कि हमारा यह क़ानून भी सुप्रीम कोर्ट के अन्दर गया था और सिवाये इस की एक दफ़ा के जिसे सुप्रीम कोर्ट ने शलत क़रार दिया और हम ने बाद में लेजिस्लेशन (legislation) के द्वारा उस दफ़ा को भी सुप्रीम कोर्ट के हुक्म के मुताबिक़ दुस्त कर दिया। जिस क़ानून को सुप्रीम कोर्ट ने भी कह दिया हो कि वह सही ला है, उस के बाद भी लोग अगर यह कहे जायें कि यह लालेस क़ानून है, तो मेरी समझ में या तो वह लोग ला की तारीफ़ नहीं जानते या जान बूझ कर इसलिये ऐसा कहते हैं कि वह यह कहना पसन्द करते हैं कि यह लालेस क़ानून है। लेकिन मैं आप को बतलाऊं कि असलियत यह है कि हम लोग एक बड़े असें से खुसूसन् बूकला साहबान जो कोर्टस् के अन्दर प्रक़िटस करते हैं वह एक ऐसे एटमोसफ़ियर (atmosphere) में रहते हैं जो कि प्रैक्टिकल हालात से ज़रा दूर होता है, दिन रात क़ानूनों के जाल में उलझे रहते हैं और दुनिया में क्या हो रहा है, इस की कोई पर्वाह नहीं होती, मुवक़िलों से मुक़दमों में बड़ी बड़ी फ़्रीस ले लेते हैं और आराम से सो जाते हैं, इसलिये उन्हें दुनिया में क्या होता है, इस का पता नहीं रहता, और इस बास्ते

जब दुनिया में आ कर देखते हैं तो हमारी हालत दिगरगू होती है और हम चीक पड़ते हैं। यह लालेस क़ानून है, कहां से हम ने सीखा, किस को लालेस कहते हैं। सन् १२१५ में मैग्नाकार्टा (Magna-Carta) बना था, सन् १६७८ में डिक्लेरेशन आफ़ राइटस् (declaration of rights) बना और १७८८ में फ़्रन्च रैवोल्यूशन (French Revolution) हुआ था :

No man shall be condemned without being heard. It is quite true.

यहां सन् १९५० में जो हम ने क़ानून बनाया यह एक ऐसी चीज़ के मुताबिक़ था कि लोग कहते हैं कि ऐसा क़ानून न अमरीका में है और न विलायत में है। अगर दोनों जगह ऐसा क़ानून नहीं है, तो मैं अदब से अपने उन दोस्तों से पूछना चाहता हूँ कि आख़िर फिर इस क़ानून के उसूल कहां से लिये गये हैं और कौन कह सकता है कि यह लालेस क़ानून है? मेरी अदब से गुज़ारिश है कि इस से अच्छा क़ानून मौजूदा हालात में जो दफ़ा २२ के अन्दर है हम नहीं बना सकते थे और न ही कोई दूसरी स्टेट बना सकती है। जनाबवाला हमें क़ानून में इस बात की इजाज़त थी कि हम इस को कांस्टीट्यूशन की रू से एक परमानेंट (permanent) क़ानून बनाते और जिस के अन्दर तीनों चीज़ें लिखी होती कि वह क्या असा होना चाहिये कि जिसके अन्दर एक आदमी को बग़ैर ट्रायल (trial) डिटेंशन में रखा जा सके और क्या वह हालात होने चाहिये कि जिन में बिना ऐडवाइज़री बोर्ड (Advisory Board) को रेफ़र (refer) किये हुये गवर्नमेंट एक शरस को तीन महीने से ज्यादा कैद में रख सके और अगर ऐडवाइज़री

बोर्ड बने तो क्या उस के उसूल व जाबता होने चाहिये यह सब दफा २२ में दर्ज है, और सरकार इस को एक परमानेंट कानून बना सकती थी, लेकिन उस ने ऐसा न कर के हालात को देखते हुए जब जब जरूरत पड़े, इस कानून को ऐक्सटेंड (extend) करते जाना और मुनासिब सुधार और तब-दीली करते जाना ही मुनासिब समझा। जनाब को बखूबी मालूम है कि इस सरकार में वह लोग शामिल हैं और उन लोगों की यह सरकार है जिन्होंने पिछले जमाने में इस प्रीवेंटिव डिटेंशन ऐक्ट के मातहत कितनी ही मुसीबतें झेलीं और कैद में रहे, उन लोगों के लिये मेरे दोस्तों का आज यह कहना कि वह प्रीवेंटिव डिटेंशन ऐक्ट को जानते नहीं हैं और उन को इस के बारे में किस्से सुनाना, यह जायज और दुरुस्त नहीं है। हमारी सरकार ने इस को पक्का कानून बनाना पसन्द नहीं किया, इस कानून को जिस को हमारे एन० सी० चटर्जी फरमाते हैं कि यह हमारे ऐडमिनिस्ट्रेशन (Administration) पर एक ब्लॉट (blot) है, काटजू साहब हमारे पसन्द नहीं करते कि यह परमानेंट कानून बने। इसी लिये सरदार साहब ने सब से पहले इस को एक साल के लिये करवाया था और इस को पास करवाते वक्त उन्होंने भी कहा कि हम इसको परमानेंट फीचर (permanent feature) नहीं बनाना चाहते हैं, फिर इस को रिन्यू (renew) किया गया और इस में तरमीम की गई, लेकिन यह हर मर्तबा कहा गया कि हम इस को परमानेंट फीचर नहीं बनाना चाहते। यह भी कानून बना दिया गया; क हर एक केस ऐडवाइज़री बोर्ड के पास जायेगा, हालांकि कांस्टीट्यूशन में यह है कि कुछ खास ऐसी सूरीयें हो सकती हैं जिन में तीन महीने से ज्यादा किसी आदमी को बिला

ऐडवाइज़री बोर्ड के सामने पेश किये हुए कैद में रखा जा सकता था, लेकिन हम ने ऐसा कानून नहीं बनाया और कहा कि हर केस ऐडवाइज़री बोर्ड के सामने जाये। जनाबवाला देखें कि आहिस्ता आहिस्ता यह कानून हम ठीक करते जा रहे हैं और पहले पहले जब सरदार साहब इस को लाये एक साल के लिये तो उन्होंने फरमाया कि यह एक ही सिटिंग (sitting) में पास हो जाना चाहिये और चुनांचे यह कानून उसी वक्त पास हो गया, उस वक्त हालात और तरह के थे, उस के बाद दोबारा यह फिर ऐक्सटेंशन के लिये पेश हुआ, बहुत बहस मुबाहिसा हुआ और लोगों ने उस में बहुत हुज्जतें पेश की और हमारी गवर्नमेंट ने उस कानून के अन्दर हमारी कुछ तरमीमों को भी माना जिस के अनुसार ऐडवाइज़री बोर्ड को यह अख्तियार दिया गया कि अगर वह चाहे तो उस शख्स को अपने सामने तलब कर सके और उस की भी बात सुन सके और आज जनाब वाला उक्त तरमीम के मुताबिक हर शख्स को यह हक दिया जाता है कि बतौर हक के ऐडवाइज़री बोर्ड के सामने जाये और उस के सामने अपनी कहानी पेश कर सके। पिछले कानून के अन्दर हर एक कलक्टर, डिस्ट्रिक्ट मैजिस्ट्रेट और एडीशनल डिस्ट्रिक्ट मैजिस्ट्रेट और कलकत्ता के पुलिस कमिश्नर को यह अख्तियार हासिल था कि अगर कोई शख्स इस कानून की जद में आवे तो वह उस को गिरफ्तार कर सकते थे और फिर लोकल गवर्नमेंट (Local Government) को रिपोर्ट कर देते थे, और लोकल गवर्नमेंट को उस गिरफ्तारी के हुकम पर कनफर्म (confirm) करने की कोई जरूरत नहीं रहती थी, लेकिन आज जो यह नया बिल आया है, इस में लोकल गवर्नमेंट प्राविन्शियल गवर्नमेंट के उपर एक ड्यूटी

[पंडित ठाकुर दास भार्गव]

(duty) डाली गयी है कि वह उस केस का देखे, पन्द्रह दिन के अन्दर उस केस की रिपोर्ट हो, और गवर्नमेंट यह देखे और तय करे कि आया यह अस्त्रियार ठीक इस्तेमाल हुआ है या नहीं, इतना ही नहीं लोकल गवर्नमेंट की इस में यह ड्यूटी बतलाई गई है कि वह उस केस की रिपोर्ट सेंट्रल गवर्नमेंट (Central Government) के पास भेजे और सेंटर की गवर्नमेंट को यह अस्त्रियार दिया गया है कि वह इस बारे में अपना निर्णय दे। मुझे यह मानने में कोई ताम्मुल नहीं है कि जैसा कहा गया है कि यह सख्त कानून है और इस के ऐप्लीकेशन (application) में लोगों को बहुत दुश्वारियां पेश आई हैं, बहुत सी सूरतों में ग्राउन्ड्स (grounds) नहीं दिये गये हैं और बहुत से केसेज में लोगों के साथ सख्तियां हुई हैं, मैं इन सब शिकायतों को मानने को तैयार हूँ, क्योंकि यह बाक़या है और हकीकत है कि जो नोबुल स्पिरिट (noblesprit) आज यहां के हमारे बीस मिनिस्टर्स के अन्दर मौजूद है, वह सारे ऐडमिनिस्ट्रेशन के अन्दर मौजूद नहीं है वह नोबुल स्पिरिट हमारे सारे सरकारी अफसरान के दिलों में परकुलेट (percolate) नहीं कर पायी है।

मैं हर्गिज यह मानने को तैयार नहीं हूँ कि यहां जो कानून हम पास करते हैं उस के लोकल ऐप्लीकेशन (local application) में खराबियां नहीं होतीं। मेरे लायक दोस्त ने जो खराबियां सुनाई, श्री गोपालन ने जो बहुत सारे किस्से सुनाये, ऐन० सी० चैटर्जी साहब और दूसरे साहबान ने जो मिसालें बताई, मैं नहीं कहता कि उन में सच्चाई नहीं है। लेकिन मैं जानना चाहता हूँ कि दुनियां के अन्दर कौन

सा कानून है जिस के अन्दर बेइन्साफ़ी नहीं होती, जिस के अन्दर शिकायतें नहीं होतीं और जिन का खराब यूज़ (use) नहीं होता। जनाब को मालूम है कि आज पेनल कोड (penal code) और दूसरे कानूनों के अन्दर पचास फी सदी कन्विक्शन्स (convictions) होते हैं और कम से कम पचास फी सदी मुकदमे खारिज हो जाते हैं। पचास फी सदी मामलों का चालान दुरुस्त नहीं होता। चूंकि हर केस में सजा नहीं होती और न हर केस में इनसाफ़ होता है इस लिये शिकायतें होती हैं, लेकिन जनाब के सामने यह सवाल नहीं है, कि प्रिवेन्टिव डिटेन्शन (preventive detention) में भी सारे आदमी सही नहीं होते। इस बिल को सिलेक्ट कमेटी (select committee) में ले जाना चाहते हैं। मैंने चन्द तरामीम के नोटिस दिये हैं और हमें उन पर ज़ोर देना चाहिये ताकि हमारे कानून के अन्दर इस तरह की शिकायतें न हो सकें जिन का जिक्र किया गया है। लेकिन यह चीज बिल्कुल मुस्तलिफ़ है इस चीज से कि यह कानून ही नहीं होना चाहिये। हमारे कानिस्ट्र्यूशन में अब्बल दर्जे का फंडामेन्टल राइट है। मैं हाउस को दफा ३५५ पढ़ कर सुनाना चाहता हूँ जिस के अन्दर हिन्दुस्तान की पंतीस करोड़ आबादी के लिये एक फंडामेन्टल राइट ग्रांट किया था। दफा ३५५ में जो कुछ लिखा है वह इस तौर पर है:

"It shall be the duty of the Union to protect every State against external aggression and internal disturbance and to ensure that the government of every State is carried on in accordance with the provisions of this Constitution."

मैं अदब से अर्ज करना चाहता हूँ कि यहां पूछा जाता है कि इस में क्या फंडामेन्टल राइट दिया गया है। मैं कहना चाहता

हूँ कि यह ३५ करोड़ आदमियों का फंडामेंटल राइट है कि स्टेट (State) के अन्दर, भारत की जो सरकार है उस सरकार के अन्दर इन्टीग्रिटी (integrity) कायम रहे, भारत सरकार के अन्दर हर एक आदमी को भूख से बचाया जाये और हर एक आदमी को इंसाफ़ मिले, सरकार एक्स्टर्नल एग्रेसन (external aggression) को रोक सके, और इन्टर्नल कमोशन (internal commotion) न होने दे इसलिये यह जिम्मेदारी जो दफ़ा ३५५ में यूनियन गवर्नमेंट की है वह सारे देश का फंडामेंटल राइट है अगर इस की रू से चन्द आदमियों को बेजा तकलीफ़ होती है, तो उसका हमें सख्त अफ़सोस है। हम नहीं चाहते कि किसी को तकलीफ़ हो, लेकिन अगर अनएवायडेबल (unavoidable) चीज़ें हो जाती हैं तो उन की तरफ़ देश को ध्यान नहीं देना चाहिये, और अगर ध्यान देना है तो बहुत सी चीज़ें हैं जिन को हमें बर्दाश्त करना पड़ता है। यह मैं कहना चाहूंगा। जहां हमारा यह फंडामेंटल राइट है वहीं दफ़ा २२ में यह दर्ज है :

"Protection against arrest and detention in certain cases."

यहां भी प्रोटेक्शन (protection) का लफ़्ज़ दर्ज है कि प्रोटेक्शन क्यों है। शायद कहीं इन्डिस्क्रिमिनेट अरेस्ट (indiscriminate arrest) वगैरह हो जाये तो गिरफ्तारी के बाद खास कानून के अन्दर उन को कार्यवाही करनी होगी। हर एक आदमी के लिये इन्डिविजुअल फंडामेंटल राइट (individual fundamental right) भी है, अगर उस के अंदर यह न होता कि कभी कोई आदमी प्रिवेन्टिव डिटेन्शन ऐक्ट के अन्दर गिरफ्तार हो जाये तो उस का बचाव न हो अगर कान्स्टिट्यूशन

में से दफ़ा २२ निकाल दें तो सारे का सारा फंडामेंटल राइट अधूरा रह जाता है। दफ़ा २१ में दर्ज है कि किसी आदमी को किसी जुर्म के लिये सज़ा नहीं हो सकती जब तक उस को क़ानून के मुताबिक़ सज़ा न दी जाये। लेकिन दफ़ा २२ के अन्दर दर्ज है कि अगर किसी को पुलिस अरेस्ट कर ले तो उस के साथ क्या किया जाये। रामास्वामी साहब ने बताया कि पुलिस को कहां तक हक़ हासिल है। मैं जनाब का वक़्त ज़्यादा नहीं लेना चाहता वरना मैं जनाब को दिखाता कि हमारे यहां जितनी स्पीचें हो रही हैं, और डिस्कशन (discussion) हो रहा है उस में सिर्फ़ यह कहा गया है कि पुलिस को क्या हक़ है। आज किसी आनरेबल मेम्बर ने नहीं कहा कि क्रिमिनल प्रोसीजर कोड (Criminal Procedure Code) को ख़त्म कर दो, किसी ने बिल पेश नहीं किया कि इंडियन पेनल कोड को हटा दो। उन की रू से जो अख़्तियार है और दफ़ा २२ में जो अख़्तियार है उस में बहुत फ़र्क़ नहीं है। गो कि मैं मानता हूँ कि उस का ठीक इस्तेमाल होना चाहिये। इस के लिये यह कहा गया है कि जब आर्डिनरी ला आफ़ दि लेंड (ordinary Law of the Land) से काम न चल सके तभी यह इस्तेमाल किया जाये। इस प्रिवेन्टिव डिटेन्शन (Preventive Detention) के क़ानून के ज़रिये किसी आदमी को सज़ा नहीं दी जा सकती। यह एक प्यूनिटिव (punitive) तो है ही नहीं। इसमें आदमी को क़ानूनन तकलीफ़ नहीं दी जा सकती। यह प्यूनिटिव डिटेन्शन नहीं है, यह प्रिवेन्टिव डिटेन्शन है। हम इस लिये किसी आदमी की आज्ञादी छीनते हैं कि वह इस स्टेट को कोई नुक़सान न पहुंचा दे, हम उस को और कोई तकलीफ़ नहीं देना चाहते हैं यह बात

[पंडित ठाकुर दास भार्गव]

बिल्कुल साफ़ है। इसलिये मैं अर्ज करूंगा कि अगर कोई शस्स जुर्म करता है तो उस को इस एक्ट के मातहत हर्गिज नहीं आना चाहिये। इस से इस स्टेट को ही नुकसान हो शस्स इस प्रिवेन्टिव डिटेन्शन (Preventive Detention) की जद में आता है वह ज्यादा से ज्यादा १२ महीने की जेल पा सकता है, वह भी सिम्पल (simple) और बार्ड रुपया रोज़ उस के ज्ञाने पर खर्च आता है जब कि एक मामूली कैदी पर बहुत कम खर्च होता है। इन दोनों के अन्दर फ़र्क क्या है। दफ़ा २२ के अन्दर दर्ज है दोनों तरह के अश्लास के वास्ते। अगर एक आदमी को पुलिस मामूली जुर्म में गिरफ़्तार करेगी और दूसरे को प्रिवेन्टिव डिटेन्शन के मातहत तो दोनों के वास्ते हिदायतें दी हुई हैं। उस में लिखा हुआ है कि जितनी जन्द हो सके उन को डिटेन्शन के ग्राउन्ड्स दे दी जाये। दोनों के वास्ते एक सा हुकम है। इसलिये दफ़ा २२ (५) में दर्ज है कि उन को फ़ौरन, ऐब सून एज मे बी (as soon as may be) बतलाया जाये कि उनके ख़िलाफ़ क्या चार्ज (charges) हैं और उन को मौक़ा दिया जाये कि वह अपना रिप्रेज़ेन्टेशन (representation) कर सकें।

इस के अलावा जनाब मुलाहजा फर्मायेंगे कि एक मामूली ऐक्यूज़ड (accused) को २४ घंटे में मैजिस्ट्रेट के सामने पेश करने की शर्त है उस के बाद इस में अगर पुलिस चाहे तो १५ दिन तक अपनी कस्टडी (custody) में रख सकती है, और डिस्ट्रिक्ट मैजिस्ट्रेट ऐडिशनल डिस्ट्रिक्ट मैजिस्ट्रेट या कमिश्न आफ़ पुलिस बम्बई और कलकत्ता चाहे तो रिमांड (remand) ले कर पंद्रह पंद्रह दिन कर के और भी अरसा

कस्टडी में रखा जा सकता है। लेकिन अगर प्रिवेन्टिव डिटेन्शन में गिरफ़्तार करना होगा तो फ़ौरन गिरफ़्तारी की बजूहात देने होंगे। इस के वास्ते बहुत साफ़ शारायत दी हुई है।

मेरे लायक़ द स्न डा० जयसूर्य साहब ने सबेरे अपनी तकरीर में बहुत सी बातें कहीं, मेरे दिल में उन के वास्ते बहुत इज़्ज़त है क्योंकि वह मिसेज़ सरोजनी नायडू के फ़र्जन्द अर्जमन्द हैं। लेकिन जब उन्होंने आज बर्क (Burke) साहब की स्पीच पढ़ कर सुनायी तो मुझे बहुत पुरानी बात याद आ ग कि बर्क साहब ने आरबिट्रेरी (arbitrary) लफ़्ज पर कैसी जोर की बहस की थी। लेकिन वह बहस यहां पर लागू नहीं हो सकती मैं तो कहना चाहता हूं कि आरबिट्रेरी चीज़ रह ही कहा जातो है जब कि गवर्नमेंट पाबन्द है कि आदमी को ऐडवाइज़री बोर्ड के सामने पेश करे। और अगर ऐडवाइज़री बोर्ड का यह फ़ैसला हो कि काफ़ी बजूहात नहीं है तो गवर्नमेंट को अख्तियार नहीं है कि किसी शस्स को एक दिन भी कस्टडी में रख सके। ऐडवाइज़री बोर्ड की तमाम फ़ेहरिस्त श्री राजगोपालाचार्य साहब ने हमारे सामने पढ़ कर सुनाई थी। आज जितनी बहस में ने सुनी, किसी साहब को मैं ने यह कहते नहीं सुना कि जहां तक ऐडवाइज़री बोर्ड का ताल्लुक़ है उस के आदमी ठीक नहीं हैं, वह गवर्नमेंट के आदमी हैं, सरकार के येस मेन (Yes men) हैं, वह झूठी चीज़ कहते हैं वह बेजा तौर पर लोगों के साथ ग़दारी करते हैं, एक साहब ने भी यह नहीं कहा जिन लोगों की फ़ेहरिस्त पढ़ कर सुनाई गई थी उन के बारे में क्या शुबाह हो सकता

है कि वह इन्डेपेन्डेंट (independent) आदमी नहीं हैं। जो मुकदमे १०७ और ११० के अदालतों में आते हैं, वह डेढ़, दो वर्ष तक चलते हैं। आज १०७ में और इस कानून में क्या फ़र्क है। अगर एक आदमी रांगफ़ुल (wrongful) काम करता है तो पुलिस का सब इन्स्पेक्टर उसे गिरफ़्तार कर सकता है, अगर वह ब्रीच आफ़ दो पीस (breach of the peace) करता है, या उस का जुर्म करने का इरादा है तो एक सब इन्स्पेक्टर उसे गिरफ़्तार कर सकता है। आखिर इन में क्या फ़र्क पड़ता है। कोई खास फ़र्क नहीं है सिवा इस के कि इस में गिरफ़्तार शरू को अदालत में ले जाना होता है, और यह काफ़ी नहीं है कि उसे अदालत में ले जाया जायें, उस को हक़ है कि वह वकील करे, और अपने लिये जिरह करे। इस में क्या हक़ है। अदालतों में तो केसेज (cases) बरसों चला करते हैं, लेकिन यहां पर जल्द से जल्द यहमामला खत्म किया जाता है।

4 P.M.

और इस के आगे जनाबवाला मुलाहिजा फ़रमायें। जब कि एक हालत में एक इन्सान रियल (real) जुर्म में पकड़ा जाता है, इस हालत में शुबहा में पकड़ा जाता है। उस के पास्ट रिकार्ड (past record) को देख कर, उस के मूवमेंट्स (movements) को देख कर शुबह में उसको पकड़ा जाता है। मैं अदब से पूछना चाहता हूँ कि जिन लोगों को शुबह में पकड़ा जाये वह क्रॉस ऐग्जामिनेशन (cross examination) किस चीज़ पर करेंगे। कैसे वह गवाह बुलायेंगे, कैसे उन का ट्रायल (trial) होगा। हाँ जहां कहीं ओवर्ट ऐक्ट (overt act) की बात हो वहां पर शहादत हो सकती

है और उस के लिये गवाह भी हो सकते हैं। अगर उस के खिलाफ़ यह चार्ज हो कि उस ने कलकत्ते में ओवर्ट ऐक्ट किया तो वह यह शहादत दे सकता है कि वह उस दिन कलकत्ता में नहीं था। इसी वास्ते में चाहता हूँ कि ऐडवाइज़री बोर्ड को यह ताक़त दी जाये कि किसी भी केस में वह गवाह भी बुला सके और डाक्यूमेंट्स (documents) भी ऐग्जामिन कर सके। ऐडवाइज़री बोर्ड में बड़े अच्छे और तजुर्बाकार आदमी होंगे। आज मैजिस्ट्रेट नया नया आता है। कालिज से निकलने के बाद नौ महीने की ट्रेनिंग के बाद वह चाहे जिस आदमी को दो साल की सज़ा कर देता है। लेकिन यह ऐडवाइज़री बोर्ड के आदमी हाई कोर्ट के जज होंगे। यह दस साल से कम प्रैक्टिस वाले ऐडवोकेट (advocate) नहीं होंगे। यह बड़े तजुर्बाकार होंगे। उन को यह ताक़त दे दी जाये कि अगर वह किसी शरू को बुलाना चाहें तो उस को बुला सकें। मैं ने पहले भी यह तजवीज़ की थी। जब यह मामला कांस्टीट्यूट असेम्बली के सामने था तो एक आफ़िशियल अमेंडमेंट (official amendment) आया था कि यह अरसा एक साल से ज्यादा नहीं होना चाहिये उसे बहुत से लोग जिन में मैं भी था एक साल भी नहीं रखना चाहते थे। हम को एक साल भी जरूरत से ज्यादा मालूम होता था। लेकिन जनाबवाला यह तजवीज़ की गई कि यह बात आयन्दा पार्लियामेंट पर छोड़ दी जाये महज़ शुबह में पकड़ लेने के बाद इस से ज्यादा अरसे तक डिटेन (detain) करने की जरूरत नहीं है। इसलिये मैं अर्ज करना चाहता हूँ कि एक साल से ज्यादा डिटेन न किया जायें। इस वक़्त जो कानून है उस की रू से यह चीज़ १५ मह ने तक हो सकती है। इस बारे में मेरे

[पंडित ठाकुर दास भार्गव]

दोस्त कृष्णस्वामी ने इस हाउस में अर्ज किया था कि बिलायत के अन्दर कानून यह है कि वहां के होम मिनिस्टर सरटीफ़ाई (certify) करते हैं कि इस केस को मैं ने देख लिया है, इस केस में यह जरूरी है कि इस आदमी को डिटेन किया जायें। हमारे देश में मुझको यह मुमकिन नजर नहीं आता है कि हमारे होम मिनिस्टर साहब हर एक केस को देख सकें क्योंकि यहां ऐसे हालात बन सकते हैं कि जहां पर बहुत ज्यादा इस किस्म की ऐप्लीकेशन्स हों। हम दरजे ब दरजे आगे बढ़ रहे हैं। पहले यह कानून था कि अगर डिस्ट्रिक्ट मैजिस्ट्रेट गिरफ्तार करता था तो वह उस मामले को लोकल गवर्नमेंट को रैफर कर देता था। अब हम ने यह तबदीली इस कानून में की है कि लोकल गवर्नमेंट इस को कन्फर्म (confirm) करे। मैं चाहता हूं कि हमारी सेंट्रल गवर्नमेंट इस काम को करे क्योंकि सेंट्रल गवर्नमेंट पर लोगों को बहुत ज्यादा भरोसा है बमुक़ाबले स्टेट्स गवर्नमेंट्स को मैं सेंट्रल गवर्नमेंट पर इस मामले की जिम्मेदारी डालना चाहता हूं कि सेंट्रल का वह मिनिस्टर, जिस की जिम्मेदारी ला एंड आर्डर (law and order) की हो जब तक वह इस को कन्फर्म न कर दे उस वक्त तक वह डिटेन पक्का न हो। एक चीज़ इस बारे में मैं खास तौर पर अर्ज करना चाहता हूं। मैं यह तरमीम चाहता हूं जिस का श्री गोपालन साहब ने जिक्र किया है। इस में शक नहीं है कि एक शरूस को डिटेन करने से पहले यह देखा जाय कि इस के एंटीसिडेंट्स (antecedents) क्या हैं और यह पहले डिटेन हो चुका है या नहीं। लेकिन मैं कहना चाहता हूं कि क्रैम की मीयाद भुगतने के बाद हर

एक शरूस जेंटिलमैन (gentleman) बन जाता है। अगर एक आदमी एक दफ़ा डिटेन हो चुका है तो उस को दोबारा उसी ग्राउंड पर डिटेन करना ठीक नहीं। जब तक फ़ेश काज़ (fresh cause) न हो उस वक्त तक उस आदमी को उसी मामले के बारे में दोबारा डिटेन नहीं किया जाना चाहिये। यह हमारे कांस्टीट्यूशन की दफ़ा २० के प्रिंसिपल के खिलाफ़ है। उस में दिया हुआ है :

"No person shall be prosecuted and punished for the same offence more than once."

यहां तो कोई प्रासीक्यूशन (prosecution) भी नहीं और कोई पनिशमेंट (punishment) भी नहीं है। यहां तो सिर्फ़ डिटेन है। इसलिये बिला फ़ेश काज़ के उस शरूस को उसी काज़ पर दोबारा डिटेन नहीं करना ॥हो॥ मैं अदब से गुज़ारिश करना चाहता हूं, जनाबवाला, कि यह तीन चार बातें इस में से अलग कर दी जायें जिन के बारे में शिकायत है। लेकिन जो मेरा क्रिटिसिज़्म (criticism) है और जो मैं अर्ज करना चाहता हूं अपने दोस्तों से वह किसी क्रदर मुस्तलिफ़ है। तरमीम कानून में की जायें ताकि कानून अच्छा हो जायें। लेकिन कानून को ही खत्म कर दिया जाये यह दुरुस्त नहीं है -

जनाबवाला १५ अगस्त, १९४७ को जब मैं पार्लियामेंट को आ रहा था तो मैं यह उम्मीद लिये आ रहा था कि आज हिन्दुस्तान को आज़ादी मिलेगी। उस रोज़ मैं ने रास्ते में देखा कि कम से कम तीन सौ आदमी स्वराज्य के खिलाफ़ मशालें हाथ में लिये हुए नारे लगा रहे

थे। वह चाहते थे कि हम को स्वराज्य न मिले। क्या हम को याद नहीं कि उस वक्त जो हमारे राजे महाराजे थे उन्होंने किस तरह उस के खिलाफ काम किया वह हमारे लीडर्स (leaders) महात्मा गांधी व नेहरू व पटेल साहब के निशाने बना बना कर उन पर बन्दूकें और पिस्तौलों की गोलियां चलाने की मशक़ें करते थे। मैं उस सारी हिस्ट्री (history) को दुहराना नहीं चाहता। लेकिन मैं यह अर्थ करना चाहता हूँ कि जब देश के अन्दर यह हालात थे, जब वेस्ट और ईस्ट पाकिस्तान से लाखों की तादाद में लोग यहां पर आ रहे थे, देश के अन्दर गवर्नमेंट का बायकाट (boycott) और सिविल रेजिस्टेंस (civil resistance) हो रहा था, उस जमाने में उस गवर्नमेंट ने जो कि उस वक्त बरसरे इक़तदार आई थी और जिस के आदमियों को ऐक्सपीरियेंस (experience) नहीं था, उन को ऐक्सपीरियेंस था इस चीज़ का कि ऐलियन गवर्नमेंट (alien Government) से यहां की आजादी को किस तरह से लें पर ऐडमिनिस्ट्रेशन का ऐक्सपीरियेंस नहीं था। अगर उस जमाने में हम ने यह क़ानून पास किया, तो उस के लिये देश के लोगों को हमारी गवर्नमेंट को क्रेडिट (credit) देना चाहिये जिस ने अमन अमान कायम रखा। इसकी जिम्मेदारी हमारे डा० श्यामा प्रसाद मुखर्जी की भी उतनी ही थी जितनी कि और मिनिस्टर साहिबान की। आज मैं उस वक्त के सारे के सारे हालात को दुहराना नहीं चाहता। मुझ से पहले अभी जिन साहब ने तक्ररीर की उन्होंने कहा कि मैं यह तसलीम कर सकता हूँ कि हो सकता है कि सौराष्ट्र के अन्दर ऐसे हालात हों जहां कि इस ऐक्ट की ज़रूरत हो। हमारे

भाई नथवानी जी ने, जो कि सौराष्ट्र से आते हैं हम को बतलाया कि वहां हालात ऐसे हैं कि वहां इस ऐक्ट की ज़रूरत है मेरे एक दोस्त ने राजस्थान के बारे में किस्सा सुनाया कि वहां क्या हालात हैं राजस्थान के बारे में तो मैं खुद भी काफ़ी जानता हूँ। और दूर जाने की क्या ज़रूरत है। ज़िला हिसार में पैम्सू में जो हालात हो रहे हैं वह इस किस्म के हैं वहां इस की सख्त ज़रूरत है। वहां आदमियों को किडनैप (kidnap) किया जाता है। एक गिरोह ने एक सेठ को गिरफ़्तार कर लिया और कहा कि चालीस हजार रुपये दो तो छोड़ेंगे। कभी किसी के बच्चे को किडनैप कर लेते हैं। यह जुर्म तो हमेशा होते रहे हैं लेकिन अब जो यह जुर्म हो रहे हैं यह कांसपिरेसी (conspiracy) के किस्म के जुर्म हैं। ऐसे लोग यह जुर्म करवाते हैं जिनके खिलाफ़ कोई ऐवीडेंस (evidence) अदालती कार्यवाही के लिये नहीं है। अब लोग इस देश में कहते हैं कि हमारा ऐवीडेंस ऐक्ट पुराना हो गया है, यह जमाने के मुताबिक़ नहीं है। उन का कहना है कि जिस तरह जमाना तबदील होता रहता है उसी तरह जुर्म करने वाले भी तबदील होते रहते हैं और उन के तरीक़े तबदील होते रहते हैं। तो उस के साथ ही क़ानून में भी तबदीली होनी चाहिये। मैं अदब से अर्ज़ करूंगा कि हमारे देश में जो हालात हैं वह दूसरे मुल्कों में नहीं हैं और किसी मुल्क से हमारा मुकाबला नहीं किया जा सकता। मैं अदब से अर्ज़ करना चाहता हूँ कि हम ने विलायत में यह देखा है कि वहां पर मलिका मुअज़्ज़मा को बच्चा होते वक्त उतना ही कपड़ा दिया जाता है जितना कि एक मज़दूर औरत को दिया जाता है। कुछ दिन हुए हमारे ऐम्बेसेडर साहब विलायत तशरीफ़ ले गये थे। वहां पर चीनी का राशन

[पंडित ठाकुर दास भार्गव]

था। उन को कुछ शगर के कूपन्स मिले थे। उन्होंने उन में से कुछ अपने शोफर को देना चाहे तो उस ने कहा कि क्या आप मुझ को अपने मुल्क के खिलाफ़ करना चाहते हैं। मैं ने हाउस में कहा था कि मैं नहीं जानता कि कितने ऐसे आदमी हैं कि जिन्होंने यहां ब्लैक मारकेटिंग (Black marketing) न किया हो: सिर्फ़ एक साहब ने तरदीद की अभी हमारे दोस्त एन० सी० चटर्जी साहब ने, जो कि एक मशहूर कानून दां हैं और मशहूर तकरीर करने वाले हैं, अपने अनडाइंग (undying) अल्फ़ाब में कहा कि हुकूमत को डिक्ट्रोल (decontrol) कर देना चाहिये इस रिप्रेशन ऐक्ट का। यहां रिप्रेशन (repression) तो है नहीं। पर मैं अदब से अर्ज करना चाहता हूँ कि आज इस मुल्क के लिये यह बहुत जरूरी है कि यहाँ डिक्ट्रोल फूड का कर दिया जाये। लेकिन मैं आप से पूछता हूँ कि किस तरह इस डिक्ट्रोल को कामयाब बनाया जा सकता है। आज इस डिक्ट्रोल की वजह से लोगों के दिल में जोश है और वह कहते हैं कि हम अपने देश में खूब गल्ला पैदा करेंगे और ऐसा इन्तिज़ाम करेंगे कि बाहर से न मंगाना पड़े। हम अपने मुल्क में साढ़े बारह करोड़ रुपया खर्च करके भी गल्ले की पैदावार की कमी को पूरा नहीं कर सके हैं। तो अगर इस डिक्ट्रोल को कामयाब बनाना है तो इस पावर को गवर्नमेंट के पास रहना चाहिये क्योंकि यहां बड़े बड़े होर्डर्स (hoarders) और प्राफिटियर्स (profiters) और ब्लैकमारकेटियर्स हैं। उन सब को गवर्नमेंट इस ऐक्ट के मातहत खत्म कर सकती है। मैं अदब से अर्ज करूंगा कि इस देश के अन्दर अनाज काफ़ी है और होर्डिंग की वजह से हम को

अनाज नहीं मिलता। अगर यह पावर (power) नहीं दी जायेगी तो इस देश के अन्दर उन बड़े बड़े ताजिरी पर हम क़ाबू नहीं हासिल कर सकेंगे जो कि हजारों मन गल्ला खरीदते हैं होर्ड करते हैं और चाहते हैं कि भाव बढ़े। मामूली तौर से आप इन लोगों को नहीं जान सकते हैं। तो अगर आप दरअसल यह जरूरी समझते हैं कि अनाज का डिक्ट्रोल होना चाहिये तो यह पावर गवर्नमेंट के हाथ में होनी चाहिये। अगर यह पावर गवर्नमेंट के हाथ में नहीं होगी तो वह इस का इलाज नहीं कर सकेगी।

मैं ने एक शिकायत भी किसी अपने भाई अपोजीशन के गैम्बर से नहीं सुनी कि जिस ने यह कहा हो कि जिन आदमियों की फ़हरिस्त हमारे होम मिनिस्टर साहब ने बतलाई थी कि ९३ आदमियों को गिरफ़्तार किया गया था वह ठीक नहीं था। किसी भाई ने अपोजीशन (opposition) की तरफ़ से यह नहीं कहा कि सौराष्ट्र के अन्दर गिरासदारों के खिलाफ़ जो कार्यवाही की गई है वह दुरुस्त नहीं थी, जिस का नतीजा, जनाबवाल, में यह निकालता हूँ कि जहां तक ला एंड आर्डर का सवाल है, जहां तक कि एसेशियल सप्लाय (essential supply) का सवाल है, इस देश के अन्दर मैं ने किसी क्रिस्म की कोई शिकायत नहीं सुनी कि इस क़ानून का अच्छी तरह इस्तेमाल नहीं हुआ। फिर शिकायत कहां है? शिकायत वह है कि जहां सिक्योरिटी आफ़ स्टेट (security of State) का सवाल है, कि जहां किसी कम्युनिस्ट भाई को या हिन्दू महासभाई भाई को या किसी और को पकड़ा गया। जहां तक उन का सवाल है उन की शिकायत है कि हमारे बरखिलाफ़ इस का

अच्छी तरह इस्तेमाल नहीं किया गया। मैं पार्टीक्यूलर केसेस (particular cases) के बारे में नहीं कह सकता जब तक कि पूरा इल्म न हो। मुमकिन है कि उन की शिकायत कुछ हद तक जायज हो। लेकिन उन का यह कहना कि इस क़ानून को न बनाया जाये, इस की मशीनरी को न रखा जाये, ठीक नहीं है। यह कहिये कि कुछ अफसरान ने ठीक काम नहीं किया तो उन को आप सजा दिलाइये। उन को सरदार पटेल के लफ़्ज़ों में

Shri Raghabachari (Penukonda): Is there one case where you have punished an officer?

पंडित ठाकुर दान भार्गव : अगर यह शिकायत है कि लोगों ने इस का ठीक इस्तेमाल नहीं किया

Mr. Speaker: Order, order. The hon. Member may proceed with his argument without replying to the questions put.

पंडित ठाकुर दास भार्गव: तो आप उस इक्लरार को याद दिला सकते हैं और गवर्नमेंट पर जोर डाल सकते हैं। आप के अख्तियार में है कि जो शस्स मैला फ़ाईड (mala fide) तरीके पर किसी आदमी को गिर-पतार करेगा उस को क़ानून सजा देगा। जो आदमी गुड फ़ेथ (goodfaith) में काम नहीं करेगा उस को सजा मिलेगी, इस में क़ानून आप के साथ होगा। लेकिन इस बिना पर कि एक आदमी रिश्बत लेता है, एक जज ठीक फ़ैसला नहीं करता तो उस पर आप कहते हैं कि इस क़ानून को तोड़ कर फ़ैक दो, आई० पी० सी० (I. P. C.) को रद्द कर दो, क्रिमिनल प्रोसीज्योर कोड को रद्द कर दो, क़ानून को हटा दो ठीक नहीं है। अगर इस क़ानून में नुक़स है, कोई ख़राबी है तो हम इस वास्ते बैठे

हैं कि इस क़ानून को इस्स्त करें। अगर इस का ठीक तरह से इस्तेमाल नहीं होता तो हम चाहते हैं कि ठीक तरह से इस्तेमाल हो और ग़लत इस्तेमाल करने वाले को सजा दी जाये। हम सब इस बारे में एक एम (aim) रखते हैं और वह यह है कि इस देश में अमनो अमान हो, हर भाई को इस देश में वह हक़ जो स्वराज्य ने दिये हैं पूरी तरह हासिल हों, वह पूरी तरह अपनी पर्सनेलिटी (personality) को अटेन (attain) करे। इस में हम सब मुत्तफ़िक़ हैं।

मैं जानता हूँ कि काम करने के मुत्तलिफ़्फ़ तरीके हैं। और अब तक बावजूद होम मिनिस्टर के अपील करने के यह कहना हमारे कम्यूनिस्ट भाइयों ने क़बूल नहीं किया कि हम अपने मैथड (method) को तबदील करते हैं। वह अपने मैथड को जैसा चाहें रखें या न रखें, लेकिन मैं अदब से अर्ज करना चाहता हूँ कि जहां तक [इस देश में इस क़ानून का सवाल है, यह कानून निहायत माकूल निहायत इयूमेन (humane) और सब के इंटरैस्ट में है। यह उन लोगों के भी इंटरैस्ट में है जिन को कि डिटेन किया जाता है, क्योंकि अगर उन को डिटेन नहीं किया गया तो वह जुर्म करेंगे। तब उन को सजा होगी और वह क्या सजा होगी? दस साल, या सात साल की सजा होगी। यह दफ़ा १०७ जिस के बरख़िलाफ़ लोभ इतना कहते हैं मैं जानता हूँ, खुद अपनी प्रैक्टिस में मैं ने देखा है कि जिन आदमियों की जमानतें लीजाती हैं यह उन के फ़ायदे के लिये हैं। जिन आदमियों की जमानतें ले ली गई वह गांव के गांव जो आपस में लड़ते झगड़ते थे, वह सब सिर्फ़ जमानत

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से जर्मबन्द हो जाता है तो यह एक साइ-कोलाजिकल (psychological) सवाल है। जो जेलखाने बने हैं वह इस बास्ते कि जो बादमी पैथालाजिकली डेफ़िशियेंट (pathologically deficient) समझे जाते हैं उन को वहां रखा जाये। उनको तोड़ने की जरूरत नहीं है बल्कि जरूरत यह है कि उन जेलखानों में उन को रख कर ठीक किया जाये और उन लोगों को कहा जाये कि तुम जो जुर्म करते हो, देश के बरखिलाफ़ जो कार्यवाही करते हो वह न करो। (इस समय घंटी बजी।) जनाब की घंटी बज गयी है, मैं अब एक मिनट भी और ज्यादा नहीं लेना चाहता हूँ।

Pandit S. C. Mishra (Monghyr North-East): By the debates that have taken place in this House we can to a great degree understand what the fate of this Bill is going to be. But before this august House passes this Bill into an Act, I think it is proper that it should hear the view-points of everybody who has got a view on this subject.

I know it is very difficult for me or for anybody else on this side of the House to prove his *bonafides* as soon as he stands to oppose this Bill. As soon as a man stands up, the other side scan him with a mental telescope. Well, is he a communist? Then, for them, there is a ready made reply: he has got a guilty conscience, he wants to make misuse of his freedom, and, therefore, he is opposing this Bill. If it is somebody like Dr. Syama Prasad Mookerjee, then another formula is ready: perhaps, he will not misuse it himself, but he is in bad company. These two handy formulas are always there. Therefore, if we oppose this Bill, either we are subversive, or somehow we have fallen in bad company. (Interruptions).

Mr. Speaker: Order, order, let him proceed.

Pandit S. C. Mishra: I wish to hear their questions—what is the harm?

Now, I wish to say that many of my friends on this side have been fighting for the freedom of India for the last thirty years. May be certain people on the other side are placed very high,

because their achievements have been great. For example, when a steamer sails on the high seas, some people may be standing high on the decks. But at the same time there are certain people who are down below. It would be a great mistake if at the end of the voyage one were to say that those people who were on the deck were responsible for the success of the voyage and not those who were stowing coal below.

An Hon. Member: If they are making holes below?

Mr. Speaker: Order, order.

Pandit S. C. Mishra: Now, where do they find themselves at the end of thirty years. So long as we are here in this House under your protecting arm, or by the proximity of a great leader like our Prime Minister, we are safe. But, I wish to tell the House that as soon as I go outside and put my first step on the roads, immediately, an idea comes into my mind that I am walking in this great city of Delhi not by right—I am not speaking of the privileges of an M.P. that has been demonstrated to be a fiasco, I am speaking of the rights of an ordinary man—but because the great God of Delhi, I do not know what you call him, the Deputy Commissioner or District Magistrate's eyes have not fallen on me.

We have not been used to living on favours or sufferance all this life. That is why we stand here to oppose this measure. The hon. the Home Minister said that it is only thirteen or five, people who have been detained according to this law. But what I say is whereas only five people might have been actually in jail when he said that, as soon as this measure is put on the Statute Book, you put your clawed foot upon the liberty of every right thinking man. It is not a question of your detaining him or you do not put him in jail. But the liberty and freedom of every right thinking man is put under duress as soon as this Bill becomes law. Please accept that position. You cannot run away from this position. (Interruptions). I understand why you interrupt me. I am sorry I have forgotten Lenin's dictum in which he said: never should you address them as you or we; that class must always be addressed as they. They ask: unless a man is wicked, how can this law be applied against him. I will not say everybody on the other side, but many people on the other side in their whole life have never known what it is to differ from authority. How can they understand my position?

With all respect, I will not say everybody. But if those friends introspect among themselves they will find that, for the life of them, many people on that side have never felt it, and shall never feel it. Of course, for them there cannot be any preventive detention. I ask my friends over there whether a law is a good law or a bad law, well, the test is not how it acts on the ruling party, does it? In the worst days of Nazi rule or Nazi terror, I ask you, was any man of the Nazi Party put under detention or put to torture? I do not mean to say that the Congress Party is as bad as the Nazi Party. No. I say it may be a hundred times or a thousand times better. But that is not the question. Whether the ruling party is a good party or a bad party does not matter here. Anybody who for the time being happens to find himself in agreement with the thoughts and ideas of a ruling party or a battalion or a clique—I am not at all contemplating those things with respect to the Congress Party—but I say whatever a ruling party is, any man who happens to be in consonance with that party, well, he can never understand what the meaning of a bad law is. They cannot.

What is the meaning of a right-thinking man? The right is to be able to differ, to have different views, to think differently. Is that a hypothetical right only? No. It must be tested in action. And what do we find here? The hon. the Home Minister said that this measure is not intended to be applied against any party, and therefore our friends on the Congress side may say: well, friend, why are you afraid of it? The Home Minister may say: I am not going to apply this Act against any party; therefore whether it is the Communist party or the Socialist party or the Praja party or any other group, they need not be afraid of this. I wish the Home Minister had been pleased to put this Act against parties. Why? Because, then we would have known and a man would have been able to choose where to stand. If you say that the Communist party is declared to be an illegal party, well, then it will be up to that party to decide what it can do, and if it really represents the wishes and the needs of the people it will survive; otherwise it will go. If you put it against the Praja party or the Socialist party and declare that everybody who chooses to become a member of these parties will be put under detention because the Government has decided that their actions are subversive, then again it will be open to us and to the whole country to decide whether to side with this party

or not. And things may be decided quickly.

But what does this measure choose to do? The gracious Home Minister said that it is directed against individuals. Now, is there any method—at least I do not know and I cannot think of any method—by which a man can abjure being an individual? A man can abjure being a Communist or a Socialist if he chooses, but there is no conceivable method by which a man can choose not to be an individual. Therefore, what is this law and this Act? As soon as you pass this, certainly it is not against any party, but I say it is against every right thinking man or every man who may be an individual.

Well, Sir, our great leader is not here. He had always been saying that a young man who does not think dangerously has no right to live. It is a great loss to the country that the lineage of our revered leader who is no more in this world, I mean Pandit Motilal Nehru, has not been represented further today by some male scion. I am sure if there had been a younger Jawahar today, he would have been here on the opposition benches. I can say that.

An Hon. Member: Never.

Mr. Speaker: Order. order.

Pandit S. C. Mishra: I tell you one thing. It was in the year 1930. The Home Minister might remember it. The District Magistrate of Allahabad simply wrote a letter to our hon. leader—he was still then my leader of course, though he is not my leader today—and a notice was served on him “You don’t proceed to Bombay this week”. The reply immediately was—I remember those electrifying words, “I am not accustomed to taking orders from anybody save the institution which I serve”. And it was a grand reply. It was a reply that sent the whole youth of India in thrill. He has said so many times that those who cannot think dangerously have not got a right to live, they are not the real sons of India, they are not young men. My friends can say that Panditji has made a complete somersault, and he may see the necessities just the other way. But I say you have not burnt all the writings of that Pandit Nehru. If you had burnt or banned those books, young men anywhere would not have gone through those words. But the books are there and in spite of whatever is said in this House, they will produce the same effects that they produced in those days. For thirty years, along

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with that great and beloved leader we had been fighting to make India livable, not livable on favours and sufferance. Favours and sufferance were there of course and there were 'good boys' then—there are better boys now. Yes, they have. Who can say that? But the question is we have been fighting to make India livable for everybody.

After this Act it is not livable for everybody. You may say that people will not be put in jail because they belong to certain parties. But certainly they will be put in jail because they do not flatter the authorities. And from here to the district towns and below to the *thanas* if you go down and down, it will end in a complete flattery, subjugation and what not.

I will bring out certain things and show how this Act will in the end operate. For the present I am confining myself to this remark that whatever you say, this Act that you are going to put on the Statute Book—somebody took exception to article 22 of the Constitution and said it was a blot—I say that this Preventive Detention Act will be a desecration of the Statute Book. My hon. friend from the Punjab has argued that there are so many laws and they have not spoken one word about those things. Perhaps there are 670 sections—I could not be a *vakil* at any time—Perhaps there are six hundred and odd sections in the Criminal Procedure Code. It has been said that there is no conceivable thing in the whole world that cannot be brought under the purview of that Penal Code, yet people do not object. And they put the simple question: unless these people are subversive or have a guilty conscience how is it that though they can put up with so many sections of the Penal Code but they make a big hue and cry over this very innocent piece of legislation that the Home Minister has introduced? I may just put the question in the opposite way. 600 and odd sections have been made in a very grand book by higher brains and I know that they have made it completely to subjugate the country; but how is it that you find yourself not competent to deal with any situation that might arise in the country and you are hugging to this one section? Why are you hugging to this section? It is not that we create this impression in the minds of the people. They are clever enough to understand that the Government have got so many sections and still they are introducing this one section. It

must be something novel; it must be something dangerous; it must be something like an atom bomb. There are at least three legs on which a civilized state stands; the executive is one branch, legislative is another branch and judiciary is the third branch. What is the attempt here? I say that parliamentary democracy has given India a new field and we are holding on to it and trying to survive. The British people might be very great people and they might go on with the same methods of Parliament and save their Government. But here in India very soon you and I and everybody have to think what to do. What is happening here? Somehow the executive now controls the legislature and I ask the 500 and odd friends sitting here to consider one point. We are not here as the executive. We and they, all of us are not here as executives but we are here as legislators and we and they should understand what the country demands, where the good of the country lies and not simply be dictated by what the executive demands. We must not go on and give them everything that they want. The hands of the executive are pretty long and they are putting their legs on the legislative section of the country.

Now a very peculiar thing is happening with this Act and that is, now the executive want to make the judiciary either impotent or they want to put it into cold storage. This is the third attempt that is being made to control the legislature by the executive. The executive is trying to control the judiciary. Judge after judge from the Supreme Court has said that. They say that these laws are lawless laws but we are bound hand and foot and we cannot interfere. That was quoted by every hon. friend here. With this one piece of legislation that is being introduced in this House, we are transgressing the very ancient boundaries that have been placed upon the rights of the executive. They somehow had captured one branch. Now they are putting their legs upon the second branch and therefore I say: They cannot understand and they can never imagine the possibility of ever having to differ with the executive and with the Government. Of course, they shall never realise our position but there are those who think that they have a right to differ and to think in a different manner and if necessary to think in a dangerous manner. They can understand that they are not to be in a jail. The whole of India is like a jail. The whole of India is converted into a detention house. Therefore the

objection that ranges from this side has not been that you are putting in jail a few people here and there but with this piece of legislation you are putting in jeopardy the liberty of every citizen who does not happen to be on the Government side. If that is your intention, then have it. We cannot stop it. After this law is passed into an Act, if our India does not become a State of Slaves, certainly it would become a State of serfs. I would like to remind my friends on the opposite side that all serfs were never tortured. Only those serfs were tortured by their Lords who happened to oppose or differ from the will of their masters and exactly in the same way you have placed India in the same position. It is paining us to find that after fighting all our lives in the attempt to make India safe for everybody to live, we find that our country has again been thrown back to a state of serfdom. There is still time to think about it and I know you can very well do without this Act. Certainly you can do it, but the thing is that tigers generally live on antelopes but once the tiger tastes human blood, the whole appetite of the tiger for the antelope disappears and after that it cannot live on anything save human blood. I was greatly puzzled and surprised when I found a lady Member of this House demanding blood. In the history of India we know of great ladies in Rajputana and everywhere in India who had played a noble part, but now I find the lady standing up from the Congress benches and demanding blood. If you were to accept the position which the lady Member had propagated, then the whole of India would become a detention camp. She has given us many examples from the State of Delhi. I will now read one quotation for that lady Member. I am reading from the *Statesman* of July 12th:

"On October 20, 1950. Ram Singh a cycle repairer was taken into custody in connexion with a cycle theft." (The first time I had read this, I thought the man concerned was a cycle lifter). I quote: "On October 24th Raizada Bodh Raj a Delhi lawyer applied for bail in the court of Mr. Bhanot who ordered Ram Singh's release. His relations took the warrant of release to the police station but Ram Singh was not set at liberty. They visited the Police Station again on the morning of October 25th and were told that Ram Singh was being interrogated in a room in a corner of the *kot-wali*. They knocked at the door of the room and when it was opened they were horrified to see that

Ram Singh, who was in hand-cuffs, was standing against a wall, the chain of the handcuffs was tied to a peg in the wall and several constables armed with *lathis* were beating him."

"The relations of Ram Singh begged of the Sub-Inspector, Jinda Ram to spare Ram Singh, but Jinda Ram said that he would continue to beat until he gave a clue to the stolen property." (I think that so far the hon. Minister will be with the Sub-Inspector.)

"They handed the release order to the Sub-Inspector but the latter said that Mr. Bhanot had no right to accept bail and that he would not release him. The Sub-Inspector asked Ram Singh whether he had bought cycle parts and when he replied that he had not bought any, the Sub-Inspector, it is alleged, kicked him and told his relations that he was going to kill him. Ram Singh begged of them to get him out of the clutches of the police as they had been torturing him and were likely to kill him. The Sub-Inspector took the surety bond and other papers from Ram Singh's relations and told them to leave the police station immediately.

They then presented a fresh application to Mr. Bhanot the same day—25th October—complaining that the police had flouted his earlier orders, Mr. Bhanot asked for an immediate report in regard to the allegations made and on October 26, Jinda Ram submitted a report to the effect that Ram Singh had been released in one case and arrested in another."

I am reading this specially for the Home Minister.

"On October 26, the prosecution alleged, the police took Ram Singh to the court of Diwan Ram Swarup, a magistrate, and presented an application that he be allowed to remain in police custody for 14 days—the minimum period. The magistrate remanded Ram Singh to police custody. As soon as the order was passed Raizada Bodh Raj entered the room and presented two applications, one for Ram Singh's release on bail and the other for his medical examination as he was alleged to have been tortured by the police. The magistrate revoked his previous orders and directed that Ram Singh be produced before him the following day. He also directed that he should be examined by a medical officer. Ram Singh was not produced by the police before Diwan Ram Swarup on

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October 27, but he was produced in the court of the Tehsildar at Delhi and remand was obtained up to November 11."

This is what happened. Please hear.

"Ram Singh was found dead on November 3 in the House of the Assistant Sub-Inspector." This was all in Delhi.

Shri H. G. Vaishnav (Ambad): On a point of order, Sir, is this connected with any detention order?

Pandit S. C. Mishra: If it is a point of order, I shall reply. (*Interruptions*).

Mr. Speaker: Order, order. Let there be no heat about this. His contention apparently seems to be that, though a law may be enacted here he is expressing his fears of this type about the administration of the law. The police action was not in pursuance of the Criminal Procedure Code. He wants to invite the attention of the Government to the fact that the Government have to be careful in administering the law if enacted. That is his point.

Shri C. D. Pande (Naini Tal Distt. cum Almora Distt.—South-West cum Bareilly Distt.—North): On a point of information, Sir,...

Mr. Speaker: No, no; it is not necessary. I do not want the hon. Member to interrupt.

Shri R. K. Chaudhury (Gauhati): On a point of information, Sir, does the hon. Member want the law to be changed on this ground?

Mr. Speaker: Order, order. The hon. Member is advancing his arguments and I think he is entitled to do so without interference. It is for each hon. Member to hear him and interpret his argument as he likes. He must have an opportunity of expressing his views.

Pandit S. C. Mishra: What I wish to draw the attention of the House to is this. I am glad that the Leader of the House is also here to hear this report of what is going on in Delhi. A very poor man, Ram Singh—his age is not given here; may be 18, 19, or 22—is put in custody and he is being tortured. When his relations go to see him, he begs of them, 'Save me, save me; I am being killed'. They try their best. They run after magistrates; they obtain bail; they are running about. Every day the victim is being taken from court to court and in the end, his dead body comes out. For these 13 days a grim drama was going on in this great city

of Delhi. Sir, if you would excuse that expression, the Servants of India Society was working there. By servants, I mean Government staff. I know my hon. friend the lady Member will say, that in the inter-communal marriage case, perhaps one man had been stabbed. I know that full well. But, he had been stabbed by somebody in the heat of the moment. Now, for full 13 days, the victim, a very helpless young man is being killed in the city of Delhi. Not one Sub-Inspector, but the constables were beating; the Asst. Sub-Inspector is there. He is found dead in the house of the Asstt. Sub-Inspector. At least five or seven of these servants know that a man is being tortured to death for full 13 days. I would ask the Secretary and everybody here. I know that if a man is stabbed, perhaps, you will say I cannot save him. Here in this great city, where this Parliament is sitting, a young man, perhaps a poor man, he is being killed and nobody is able to save him. He has got his vakil; his relations are running about; but they could not take him out alive. Even the magistrates were there. I know that Sub-Inspectors have not been armed with this power; but the district magistrates have been. As soon as some papers are placed before the district magistrate by the Sub-Inspector, or whatever you may call him, who will take the odium of refusing? I would ask of the Home Minister this. If people are to be detained, let them be detained under the signature of the Home Minister here or the Home Minister of the States. They will say, 'No, no.' Do you know why they say, 'No, no'? They will say, why should we make our hands dirty; let our conscience be clear; we can go and tell the people, we cannot be looking to every case; there may have been abuses and misuses; you cannot blame us for these things. It is exactly for this purpose that they are arming the district magistrates with these powers. I say this to him and to my friends on this side. It would be a pleasure to me to know that Dr. Katju had himself personally considered my case and he has signed or the Home Minister of my State had considered my case and has signed it. There would be the satisfaction that the case has been judged by a peer of my own status. That has been the one thing for which the whole world has been fighting. Here also, I say trials are jury trials. Anybody would have had the satisfaction that he had been tried by some jury. But, our Home Minister is not going to give us that much satisfaction. I want to remind the Home Minister one thing. When

you utilise such wide powers for the first time, people think that perhaps there is an emergency. I shall quote some examples from history. The Detention of India Act was passed in 1914. Thousands of our young men, the flower of our country were clapped in jail. At that time everybody knew that the British Government was fighting with its back to the wall. Therefore, they could condone it. What happened in the year 1919 when they wanted it to be put permanently in the Statute Book in the form of the Rowlatt Act? I would again quote the words of our Prime Minister. He said: "So long as it was a war measure, the country had somehow put up with it, but at the end of the war"—and his words were these—"Indian people were shocked to find there were some trials, but they had been like conspiracy trials"—about Kamagatamaru and certain other incidents. "The Britishers staged some trials, but they looked like conspiracy trials, and therefore the whole of Indian youth, the whole of Indian manhood stood up against the Rowlatt Act."

I wish to tell the Home Minister, the Finance Minister, and everybody else—I wish to tell them: Yes, at one time you may say it and people will take your word at its value. They will think: Perhaps there is some emergency, let them have those powers. They will think, perhaps: "I should sacrifice some of my liberty for the sake of my country." When you are making it a permanent Statute, the same thing will happen. The people will not be able to understand your attitude. They will think: "These people have tasted blood, and they cannot do without taking our liberty".

Some people have spoken about Rajasthan and Saurashtra. Do you know what is going to happen? When a man begins to take opium for the first time, a little drop will do. It is the first stage. The next month, that dose must be doubled. Six months afterwards, what is going to happen you all know. Yes, this is that very dose that our benign Government is taking. Yes, for the first time, you have restored peace and order in Saurashtra. Make it a permanent Statute for which you are just preparing. If at the end of these two years, the Home Minister is still there, he will come and ask for more powers. Those people would have found out how to evade these orders. They will certainly, and then new orders, new Acts, and new regulations will be required. And, therefore, I shall ask this House, every friend on the other side who happened to be associated—many of them were

associated with the old fight for freedom—I wish to ask them very humbly, as a comrade in that fight, where will it lead to in the end? It will go on deteriorating and deteriorating till this India will become itself a Nazi camp and nothing else. You raise your fingers at Russia and this and that. In a very few months, everything will have vanished, and we shall be there in a dictatorial camp, and wider and wider powers will be required to keep peace and tranquillity in our country.

I will tell you why this Act will not suffice. I will read one little quotation again. You can pass as many detention orders as you please, but you will not be able to keep peace if you go this way. This is dated 12th July, again somehow; this is from Bombay, Satana:

तहारावाद के एक प्रतिष्ठित नागरिक श्री दुअन्ना पाठक के २१ वर्षीय पुत्र श्री काशीनाथ पाठक ने जहर की गोलियां खाकर कल रात अपनी आत्महत्या कर ली। यह बम्बई विश्वविद्यालय से कृषि में बी० ए० कर चुका था बड़े प्रयत्नों के बाद भी कोई नौकरी या काम न मिलने के कारण जीवन से निराश हो कर अन्ततः उसने यही करना उचित समझा।

I hope you have understood it.

Several Hon. Members: No, no.

Pandit S. C. Mishra: A graduate, Sir, not an ordinary graduate—a graduate in agriculture—perhaps if the Finance Minister had allowed the river valley schemes etc. to go on, he would have been required—this man—I wish to draw the attention of the revered Dr. Katju—this man has done such a bad act. He has deprived our motherland of a very good flower, of a bright, shining youth who would have been of very good use to this country. I wish, Sir, this Preventive Detention Act had been passed earlier by our friend, and this man had been detained and prevented from killing that graduate. I wish it had somehow been found possible to detain him before he had killed himself. It is a very gruesome act.

[MR. DEPUTY-SPEAKER in the Chair]

Lakhs and lakhs of graduates are living unemployed in this country. I have not got the time, and you have not got the patience to go into it. You may have files and files of those graduates who have not been able to find a living and they are on the point

[Pandit S. C. Mishra]

of choosing one of two things. This agricultural graduate—I think if the hon. Leader of the House were here, he would say he was not a man worth the name. Yes, he was not a man worth the name because before he killed himself, he ought to have tried to kill that atmosphere, that situation which was strangling him. He did not do that. But what about all the other graduates who are now on the verge of starvation? Pass as many detention Acts as you like. Every graduate is faced with this situation that he shall either choose to kill himself, or shall say that he will dedicate his life to the changing of such a system, a system which is putting him in this position. And for him no detention Act, no preventive detention is enough.

On Friday last, you know, a friend on this side caused a scene here, but if you take into consideration why heat was not generated on any other occasion before, and why it was generated on that occasion.....

Mr. Deputy-Speaker: It is not necessary to refer to that.

Pandit S. C. Mishra: The friend here rather expressed himself very grievously, but what was it that he was going to tell? What was it that his fettered soul had to express? I say hundreds and thousands and millions of such educated people outside are on the verge of starvation, on the verge of putting pills of poison on their tongues. Now, every man on this side feels like this: "How shall I go outside and tell the people of India, the right-thinking man, the dangerous thinking man, if he asks: what were you doing here?"

Mr. Deputy-Speaker: There are other Members also to speak.

Pandit S. C. Mishra: I remember one incident, Sir, during those freedom days when certain young boys were beaten by the Police while they were picketing wine drums. They were badly beaten, and when the Police tried—I was myself present there—I was so much upset that I flung myself right under the drum in order that I might get on me some injury, and I know when a young man on this side grievously mis-expressed himself, what does he mean? He wishes to register a protest, and the protest is: If you must pass this Act, pass it.

Shri Syed Ahmed (Hoshangabad): He will commit suicide?

Pandit S. C. Mishra: But before you pass the Act, you will have to walk over our bodies. That is what he

wanted to say. He will be able to tell his friends outside: "I did my best, but even with all the protest I could put in, these people, those who govern India, they have passed this Bill into law." That was what was in his heart.

I will come immediately to the Bill.

5 P.M.

Mr. Deputy-Speaker: The hon. Member may reserve it to a later occasion. Hon. Members are anxious to exercise their right to speak, and are coming to the Chair one after the other. The hon. Member who is speaking now also came to the Chair to get an opportunity, to talk. He has been given an opportunity, but if that opportunity is taken advantage of to bar other Members from speaking, I can only say that that is not right.

The hon. Members also said that there is one other Member from his own party, Mr. Sarangadhar Das who should be also called upon to speak. I am willing to call him. But if this is the manner in which the hon. Member has taken possession of the House for such a long time, it is rather unfortunate.

Pandit S. C. Mishra: I have taken only about 25 minutes till now.

Mr. Deputy-Speaker: The hon. Member has taken 50 minutes already. The previous speaker Pandit Thakur-das Bhargava finished at 4-10 p.m. and it is now 5 p.m., and so the hon. Member has taken already 50 minutes, and he is starting discussion on the Bill only now.

Pandit S. C. Mishra: Till now I was opposing the Bill on general principles, why such a provision ought not to be in the Statute Book. Now I shall come to the Bill itself.

In this one session of this House, we have passed so many Bills and are sending them to the people in the form of gracious presents. The people will be charmed to find that this new Government is certainly now sending them great things. We have passed the Criminal Law Amendment Bill, and so many other Bills, and this is another which we are proposing to present them. I am afraid, the wish of the hon. the Home Minister seems to be to divide India into two sharp camps; either the people come into his camp and escape detention, or they get detained and go into Mr. Gopalan's camp. His wish seems to be that there should be no other shade in India, except these two shades. It has also been provided in this Bill that anybody who attacks the foreign relation policy will also be detained...

Pandit Thakur Das Bhargava: Which Section or Clause of the Bill is the hon. Member referring to?

Pandit S. C. Mishra: I thought the hon. Member had gone through the Bill. I shall just give that Section.....

Mr. Deputy-Speaker: The hon. Member need not waste his time in satisfying another hon. Member.

Pandit S. C. Mishra: Yes, Sir. That will help me also to a certain extent.

Only two days back, I was talking in the lobby to some of my friends: "Why is it that we cannot say to the Pakistan Government: 'Well, give us back our dear and beloved Badshah Khan. We want him back. He is a very great part and parcel of India?'" I told them that there might be some difficulties. Now I know after this Bill has come, what the difficulty is. We wish to have good foreign relations with Pakistan. Therefore if any Indian attacks Pakistan's foreign policy he might talk in a way which might be prejudicial to that theme. Now you will agree with me that Pakistan also has a foreign policy towards India which is just the opposite of ours. When Badshah Khan attacks Pakistan's foreign policy he can be detained also under the same Preventive Detention Act as the one we have got here, and the hon. the Home Minister is telling in so many words to the Pakistan Government: "You are perfectly justified in killing him with your Statute on preventive detention, because he also attacks the foreign policy of your government." Section 12 of the original Act contains a provision that a person who attacks the foreign policy of a government can be detained. If we pass this Bill also, we will only be telling Pakistan: "Detention till death of Badshah Khan is justified." (*Interruption*). Sometimes, Sir, they are becoming a little less careful about their appearances as, they were so much meticulous about their coats and pyjamas, but about other appearances our benign government have nothing to tell us. They do not want to save their own appearances.

It has been said that this Bill has been introduced in a form which has been improved, improved to the benefit of the detenus themselves. I had taken pains myself to find this out. I do not know whether our hon. Ministers themselves go through these things, or they only read out what has been worked out by their assistants, but it has been said that the Bill has been amended for the better.

For instance, I shall just read out clause 8 of the Bill which seeks to substitute the words 'revocation or expiry' in place of the word 'recovery', in sub-section (2) of section 13 of the principle Act. The original Section read like this:

"The revocation of a detention order shall not bar the making of a fresh detention order under section 3 against the same person."

I hope my hon. friend Mr. Chatterjee has dealt at length with this matter. One day I was there in the Supreme Court. By chance many detenus were brought—I do not know from which province, but they were all released on only one point, on which the Attorney-General or somebody representing the Government could not satisfy the judges. The orders of detention that were passed on these detenus were to expire by the 31st December of that year. Fresh orders were served after a period of 24 hours or so, in all the cases. The lapse on the part of the Government is sought to be amended now. I quite understand the Opposition objecting to this. They have a right to protest against this measure. But once the Bill is brought before the House, why should not the Hon. the Home Minister say: "We have amended the original Act on this side by this clause and that or on the other side by this clause or that." Why should he leave it for the Opposition to fumble and say that the Detention Bill has been made the worse. By the addition of one single word 'or expiry'. I think all the detenus who have been released or are likely to be released can be still detained under a fresh order. And yet it is said that the Bill has been improved to the benefit of the detenus.

Now I come to clause 7 of the Bill. The proposed new Section 12 A fixes the maximum period of detention as follows:

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

The earlier provision was that a person can be detained only for a shorter period. But now a period of twelve months has been provided. Now you say that for one year at one stretch with one order you can detain him and you can certainly renew that order whenever you like. (*Interruption*). And you say that the Bill has been liberalised—that is what has been put before the House. Now, Sir,

[Pandit S. C. Mishra]

one amendment clause 5 of the Bill reads: "(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) every offence under clause (b) of sub-section (1) shall be cognizable". In many cases because the offence was not cognizable, therefore the arrest could not be made. Now on four important issues you are making the Bill worse and still you say that you are liberalising it. I do not say that you have no right, but please put before the House everything; let it be a clean statement of facts. Why is it a 'hide and seek' game, I do not understand. Yes, you have got the right to hang people, to do anything you like, but let the whole truth come before the House. That is one complaint I have to make.

Shri Namdhari (Fazilka-Sirsa): Sir, the hon. Member has taken more than half an hour.

Pandit S. C. Mishra: Therefore, I say that Government should either withdraw this Bill or if they so wish, take some more time, say two or three months, and extend the Bill for that period and in the meanwhile they should ascertain public opinion. Challenges have been thrown on that side—Go and ask the people. Some people said: "We have come with a mandate". A friend on that side was describing that such and such man who has been elected when he was going about in the country was saying: "I will slay such and such man". Are we to take it that he has got the mandate to slay? I do not think that because he was talking like that during the election, he has got a mandate to slay. Similarly I say: Yes, you are elected, I know. But you cannot say that you have got a mandate to make this Act a permanent Act. That is what I wish to draw your attention to. With these few words, I would request my friends to consider the Bill from all angles.

Prof. Agarwal (Wardha): Some hon. Members may be perhaps a little surprised that one who is interested mostly in education and economic planning should choose to speak on this subject, but I am constrained to stand today here because I find that Gandhiji's hallowed name is being used to cover all kinds of sins and acts including those of violence. One hon. Member said that when people had to rise against vested interests it was but natural that they resorted to violence because Gandhiji, he said, observed that it was better to use violent methods than to be cowards

This is of course true—that Gandhiji did say that it was better to use violent methods and not to be cowards, but in what context? He was trying to point out that non-violence has to be of the brave and not of the coward. My friend forgot volumes that Gandhiji wrote on non-violence, but he choose to quote that particular phrase while defending the creed of violence. Then there were some observations regarding Gandhiji's name in connection with the Rowlatt Act. It is true that Gandhiji was not in favour of excessive laws. But we do forget that in this very country there have been people—and perhaps are—who killed Gandhiji himself and when such anti-social elements have to be suppressed and have to be placed under control, it is but necessary that some measures of this kind have to be enacted. Unfortunately, there are one or two Gandhians—and I am very sorry to say that—who have given some impression to the country that after all there is not much difference between Gandhism and Communism. There are some people who have said that Gandhism is Communism minus violence and the participation of some of the Gandhites in the international peace conferences has unfortunately given an impression that there is not much difference between the two creeds. I stand here today as one who has been a close student of Gandhism for the last ten or fifteen years to say that this suggestion that there is not much difference in ideology, there is just some difference in technique, is a completely erroneous notion. If we study the basic principles of Gandhism and Communism, we find that they are poles as under. (*Interruption*). We know how Communism depends on the materialistic interpretation of history, on the philosophy of dialecticism, thesis, anti-thesis, synthesis, how it attaches the greatest importance to matter and regards spirit only as a bye-product, how it stands on the principle that the end justifies the means, and not what Gandhiji said that it is the means that is most important, and when we see all this I am astounded how Gandhiji's name could be used to cover all kinds of acts of violence. I may say that Acharya Vinoba Bhave when he undertook the Telengana walking tour tried his very best to plead with the Communist friends to declare in very clear terms that they abjure violence. He said: "I like your cause of land redistribution and I am prepared to work with you shoulder to shoulder, but if you do not denounce violence, if you do not clearly indicate that you do not stand for this philosophy of

violence, till then how can I work with you?" He interviewed people in jails—the Communist friends. Later on, perhaps many of us will remember, how Mr. Dange wrote to Vinobaji and Vinobaji said in his reply: "I am convinced that so long as the Communist friends do not declare in clear terms that they do not stand for violence as a philosophy, it is impossible for anybody to work with them or to appreciate their cause". It may be that in Telengana there have been some police excesses and it is, of course, the duty of any Government to see that such excesses do not recur. But so long as there are people in this country who regard violence as one of the inevitable methods for the welfare of the poorer classes of people, I fail to understand how the duty of any Government can be performed without having some legislation which would give them enough powers. When I speak of the Communist friends, therefore, I would beg of them in the interests of their own party and of the country and the poor people for whom they stand, to consider this open invitation of Vinobaji very seriously. Still he is saying—he said so at the last Sarvodaya Sammelan at Banaras—that he would invite the Communist friends if they really care for the interests of the people to sit with him, to discuss with him his programme of land redistribution and to work with him but with a very clear indication and clear announcement that they do not stand for the main philosophy of violence.

Then there are people in this country besides the Communist friends who have tried to exploit the economic situation. I speak of the businessmen and the capitalists who have during the last few years tried to hoard and blackmarket and tried to exploit the poor people. And now that the policy of decontrol has been launched it is very necessary, as was said by my friend there, that these tendencies of blackmarketing and profiteering are curbed and for that also I would plead with the Government that they should take very strict measures in this way and acts of hoarding should be very severely punished.

There are also other cases. There are some communal forces still who dream of 'communal raj'. There are people who in the name of science—I am very sorry to say that—some sort of famine prevention society are throwing bombs at the police. And it is said that they do not believe in violence but in science. How is it possible for any Government to overlook

such acts? In spite of the clear indication in the Constitution about untouchability, in the Punjab and in several other parts of the country there are still people who continue to harass the untouchables, the Harijans, and I would raise my voice here and say that the Government should not allow that sort of anti-constitutional acts any longer, and the arm of this Preventive Detention Act ought to be extended to that section of people also.

Therefore, I feel that the Government is justified in enacting such laws but I would say in all humility that the Government should also realise that such laws ought to be used very sparingly. It does not mean that because there is this law as soon as there is any trouble in any area the police officers should at once rush to the provisions of this law. They should try to exhaust all other possibilities and this Act should be resorted to only if absolutely necessary. Further the Government should also realise, and I hope it does realise, that after all ultimately it is not merely legislation, it is not merely force that matters. If conditions have to be improved then the Government has to launch a far-reaching economic programme. Land distribution, solving the problem of unemployment and under-employment through the spread of small-scale industries and other avenues of employment, levying of death duties or inheritance duties, and such other things in order to bring about more of economic equality. Many things have to be done and done quickly because ultimately, as Chancellor Hutchins of the Chicago University said to Americans, if communism or any other violent influence has to be effectively kept in check the economic order has to improve. I have no doubt that the Government would realise that if these elements have to be kept in check—and they have to be kept in check—then we have to proceed with far-reaching economic reforms at a very early date.

So far as the Bill is concerned, the Government has already made some improvements, for example, about informing the State Governments within 15 days, also about informing the Central Government, and also giving more right to the detenu to appear in person before the Advisory Board. I hope that the police authorities will be given instructions to use this Act very sparingly and also to frame charges more carefully and intelligently. If that is done I think the Government would be justified in having this legislation because it would be used only in emergencies and Government will be fulfilling its

primary duty of ensuring safety and democracy in this country.

Dr. S. P. Mookerjee (Calcutta South-East): We have discussed for two days this Bill which has now come before this Parliament for the first time. We have discussed many matters in connection with the Bill which although arising out of its provisions may not be strictly relevant to it. But that was but natural because feelings had been roused in the House and also outside and there was some manifestation of such feelings in the deliberations. I shall attempt to place before the House as dispassionately as possible the principal reasons why we are opposing this measure and also why we are dissatisfied with the provisions of the Bill as it stands amended. It is nobody's case, in the first instance, that Government should not take adequate steps if crimes are committed in the country. We have a lurid picture held out before us by various Members belonging to the Government Party depicting how lawlessness has developed in various parts of the country and how the situation has deteriorated in some areas. Nobody has ever suggested that Government should acquiesce in such occurrences. Further I would assert that it is nobody's case that personal freedom in any country can be absolute. Limitations are imposed in every part of the civilised world, and naturally when the interest of organised society demands certain limitations they are wilfully accepted by the citizens of every country. Here we are considering, comparatively speaking, a small issue—small in its content but extremely important so far as the principle goes—namely, whether a man should be arrested and kept under detention without trial. Here also we have conceded that a situation may arise in the history of any country, during a period of war or during a period of crisis, when the personal liberty of a citizen has to be temporarily curbed and he has to be kept under detention without being placed before a court of law. Reference has been made to the Constitution of our country. Dr. Katju is surprised at everything now—he will pardon me if he himself surprises us. He says that the Constitution has made these provisions. If the Constitution had not made such provisions Parliament today could not have considered this piece of legislation. We were repeatedly told, and rightly told, when the Constitution was framed that ours being a written Constitution the powers and functions of Parliament and of Legislatures in India have got to be properly clarified and embodied in the text of the Constitution. Is it

suggested that because the Constitution provides for detention without trial Government will take advantage of it and make use of it even though the occasion does not demand it? Is it suggested that it will become a sort of permanent law of the land and not a law to be utilised in times of emergency? What is it that we did in our Constitution? We had certain emergency provisions. Naturally those emergency provisions are of a drastic character because there the Constitution is virtually suspended barring the operation of the High Court. No doubt it can be brought into operation in an entire State or in any part thereof but that would mean the deprivation of the citizens of practically all rights and liberties. If the situation did not assume such serious proportions and yet the exigencies of the circumstances required that the ordinary law of the land should not be allowed to function, we had those provisions of preventive detention law under our Constitution. But this was admittedly a permissive provision and nothing more.

So, here the question is very simple: Has the Government placed before the country and before Parliament sufficient facts to justify continuance of the Preventive Detention Act? That is the question which the House has to answer and how are you going to come to a reasonable conclusion? In 1950 Sardar Patel brought this Bill before the House. We all remember the extraordinary circumstances under which that Bill was passed into law in the course of four hours but limited to one year only. In 1951 Rajaji came and brought forward a Bill for the extension of this Act for a further period of one year. As my hon. friend Pandit Thakur Das Bhargava has pointed out, certain alterations were made at that stage but both Sardar Patel and Shri Rajagopalachari pointed out that this was nothing but an emergency legislation and the circumstances then obtaining in the country, they claimed, justified its extension. When Dr. Katju came before the House about four or five months ago, he made certain declarations from which he cannot resile today. He said:

"I suggest to you most respectfully that the six months may be a very trying and testing period for that. If these professions are genuine and nothing happens, very likely there may be no necessity for the Act or there may be no necessity for this very modified Act. Let us see what happens. I say and I repeat once again that there had been many recent professions

during two or three months. We will watch, we will consider, we will see whether they are genuine or not."

Dr. Katju : I agree with what I had said.

Dr. S. P. Mookerjee : Dr. Katju says "I agree". I hope he sticks to what he had said at that time.

Dr. Katju : I do undoubtedly.

Dr. S. P. Mookerjee : That was on the 28th February, 1952. At that time Dr. Katju announced that about 1100 persons had been kept in detention in the whole of India. The figure is here, and on the 15th June, 1952 the figure had come down to 989. I asked for information on a very simple matter of fact. I requested Dr. Katju the other day to let the House know how many persons were put under detention since the 1st March, 1952. I have not got the answer. The other day I spoke to the Home Secretary, who sent me a reply to the letter that I had written to the Home Minister and he said that the Government of India did not possess that information. But he agreed with me that the number would be very small. That will be the real test. If the Home Minister had given this assurance to Parliament that he was prepared to abandon this Act or modify it drastically, provided he found that, during the period between then and the present occasion when the House is being asked to consider the extension of this Act, the country had reacted favourably—if he had done that, then I would ask him to produce full information before the House. He has not produced it yet. What is the principle involved? Dr. Katju is surprised, "What is this opposition for? What has happened?" What has happened is this, that you are adopting a principle of law which is repugnant to any democratic Constitution in any part of the civilized world except at a time of emergency or crisis. There are totalitarian countries where Home Ministers—if they exist there—shake their hands as Dr. Katju is shaking now. They may say that they do not recognise this sort of personal liberty. But ours is a different Constitution. If you say that you do respect individual liberty, that you do not want that the executive should become supreme and take away the liberty of any individual even for a temporary period except in an emergency or crisis, if you stick to that ideal, then you must admit that this Bill is completely unjustifiable under the circumstances through which India is passing today.

I have been going through the proceedings of the Indian Legislative

Assembly during the days when the Leader of the Opposition in this very House was no other than Pandit Motilal Nehru, when the Swaraj Party was here and the place of Dr. Katju was taken by Sir James Crerar, whose memory must be still fresh in the minds of many Indian. Bills like the present one then came before the House. There was one great Bill, the Public Security Bill. Pandit Thakur Das Bhargava who spoke eloquently in support of the principles of this Bill was a member of the Swaraj Party then and Shri B. Das and Babu Ramnarayan Singh also were Members. I could find only these three Members amongst those present here.

Pandit Thakur Das Bhargava : I belonged to the Nationalist Party.

Dr. S. P. Mookerjee : At least I saw your name. Your party does not matter. You were a Member of the House. The party label was not given in the list of Members. In that House the Public Security Bill was brought. It was a Bill directed only against foreigners, not even against Indians. It affected only foreigners coming into India and suspected of spreading communistic ideologies, and they were to be treated in an arbitrary fashion without any fair trial. They were to be detained. They were to be got rid of the soil of India. It was a memorable House. There sat Pandit Motilal Nehru. There was Lala Lajpat Rai. There was Pandit Madan Mohan Malaviya. There was Srinivasa Iyengar. As I was going through the Debates, Pandit Motilal, I found, raised a point of order that the whole Bill was out of order, as my humble self did this time on another consideration. The reason given was that the Government of the day was not prepared to disclose the evidence which would justify the passing of such a measure. There sat in the Chair the President, Shri Vitthalbhai Patel. After the debate had finished and as the President was about to give his ruling, Bhagat Singh was standing in a corner in the gallery and a bomb fell on the Treasury Benches. It was that historic occasion. The House was adjourned.

An Hon. Member : It was a foreign Government.

Babu Ramnarayan Singh (Hazari-bagh West) : This Government is worse than the foreign Government.

Dr. S. P. Mookerjee : The next day Vitthalbhai Patel ruled the Bill out of order. He said that if the Government was not prepared to place the evidence before the House, the House was not going to consider that Bill. Sir James

[Dr. S. P. Mookerjee]

Crerar, the Home Minister, did not even raise a protest, but within half an hour the then Viceroy and Governor-General, Lord Irwin, came to the House and personally announced that the Bill was being passed into law through the ordinance-making powers of the Governor-General. That is the tradition of the Congress Party. How is it that you are proceeding today? I have got some cuttings and some extracts from Pandit Motilal Nehru's speeches. It is not an abstract philosophy on the principles of Communism, about which my learned friend gave such a good lecture. It dealt with a very pertinent question and the same question is before the House, namely, is it justifiable to have detention without trial? Pandit Motilal Nehru's thesis was that if there was a crisis, if there was an emergency, then of course things should be different, but normally, he said that he "detested" such a provision. What he said sums up the position in a few words. I cannot express the same idea so eloquently in so few words. I wish that Pandit Jawaharlal Nehru was here to listen to what Pandit Motilal Nehru said sitting in his place when a similar Bill was under discussion in 1929. He said:

"My submission is that the principle of the Bill is a very simple one",

Dr. Katju may listen—

"and it comes to this. Where the courts will not convict, give us power to punish. That is the principle of the Bill. You may conceive it in any embellishment of style, but that is the thing to which it resolves itself."

And then he proceeds to demolish the arguments which were advanced by my hon. friend Pandit Thakur Das Bhargava who said, "We give you an Advisory Committee. Look at that. What a great act of benevolence it is. We give a copy of the grounds. There sits the Advisory Committee to consider the grounds, and yet you say that we are doing an injustice to that man." This is the reply which Pandit Motilal Nehru gave to Sir James Crerar. There was a provision there also that the detenu's case would be placed before a tribunal of three High Court Judges. There was no question of an Advisory Committee. The grounds had to be communicated to the accused. The judge must have access to other papers also, but only on the basis of the grounds supplied the tribunal would be able to decide what was to be done. He said:

"This man is to be brought before three experienced judges.

I say that if this man were to be brought before three angels, they would not be able to do anything for him. And why? Simply because though the judges are their, they are crippled, they cannot exercise their functions."

Interruptions at this stage my late lamented friend Mr. Kabiruddin Ahmed. Those hon. Members who know him would appreciate the value of such interruptions. Of course, Pandit Motilal Nehru did not seek the protection of the Chair. He was there to reply to every interruption in his inimitable way. Asks Mr. Kabiruddin Ahmed: "Why?" Pandit Motilal Nehru:

"Because the evidence is one-sided, because they are told not to lay the whole of the evidence or the facts before the accused."

Let the House listen to this—the first Parliament of free India. Appreciate the seriousness of the decision which the House is going to take—not a matter to be laughed at or joked about.

"What can a judge do in those circumstances", he continues. "How can he possibly expect the case against the accused to be disproved, unless the accused knows what was the case. All that you give to the accused is a general statement. These three learned judges sit there. The counsel of the accused has no access to the documents, the confidential documents, and the accused—what can he do? So, the poison is there to taint the fountain of justice and the man is not made acquainted with the allegations and evidence against him. This is called justice! Can there be anything more barbarous than this?"

I do not know whether Dr. Katju is taking note of the word "barbarous", or he will protest against it.

Dr. Katju: I am just listening.

Dr. S. P. Mookerjee: Pandit Motilal Nehru concludes by saying this. Pandit Bhargava says that brilliant men will be members of the Advisory Committee; distinguished men will be there. The reply that Pandit Motilal Nehru gave was this:

"I say, don't please give me these three judges. Give me three men from the street. Produce all your evidence before these three men."

And the Congress Party then crow...

Babu Ramnarayan Singh: Hear; hear.

Dr. S. P. Mookerjee: "Hear; hear" were loudly uttered by Congressmen then, as my hon. friend Babu Ramnarayan Singh does today:

"And let me cross-examine him and criticise that evidence. Then you can do what you like with him. There is no use giving three High Court Judges. You might give me three Privy Councillors. With that restriction on their power, they cannot help the victim."

That summarises in a nutshell certain fundamental principles from which India cannot depart whether India is under foreign rule or whether India is a free country.

I came across, Sir, another statement of a shorter nature, from a comparatively smaller man, but still very important, and I shall just read out to you a few lines. This gentleman, a distinguished lawyer, wrote a Foreword to a book ten years ago on "Recent Judgments in India," including some very notable judgments delivered. And this is what he says:

"Detention on mere undisclosed and often on groundless suspicion without charge or trial is opposed to all notions of natural justice and all canons of civilised administration."

That gentleman's name, I find, is Dr. Kailas Nath Katju. I do not know, Sir, whether he holds the same opinion having become the Home Minister of free India; I suppose it is a case of Dr. Jekyll and Mr. Hyde.

Now, Sir, Pandit Motilal Nehru was a man of emotion and when the discussion on that Bill took place, he gave certain names to the Bill. We are not going to the Select Committee, in view of the attitude taken by Government. I shall speak about it later. But I shall suggest some amendment to the title of the Bill, because it comes from no other person than Pandit Motilal Nehru. Dr. Katju may consider it.

"If a name has to be given by me to this Bill, I am disposed to call it "Slavery of India Bill—No. I", because I expect others to follow, or the "Safety of Bureaucracy Bill", or, if you like "Public Danger Bill."

It is a big choice; let Dr. Katju choose one of these as he likes.

Here is a speech, of course, not delivered in the House, delivered by

Pandit Jawaharlal Nehru himself in 1936 about the principle of detention without trial. The House must not misunderstand me. I concede that occasions may arise in the history of a country when detention without trial may be justified. But you cannot just treat it as *sandesh* and *rasgulla* that you make it a normal part of the law of the land and start relishing it. That is the principle on which we are fighting today and if Dr. Katju can show us by facts and figures that a crisis exists—which I am going to refute—which justifies a Bill like this, then it will be a matter for us to discuss. Pandit Jawaharlal Nehru also spoke about the Detention Bill:

"A Government that has to rely on the Criminal Law Amendment Act and similar laws that suppresses the presses and literature, that bans hundreds of organisations, that keeps persons in prison without trial, is a Government that has ceased to have even a shadow of justification of its existence."

Not mere justification, but a shadow...shadow all round the House.

Sir, what are the justifications given? When it fell to my lot to oppose the introduction of the Bill, Dr. Katju got up vehemently and said that he was going to give a reply when the time came and he would flood the house with facts. The next day I thought we might have a repetition of the Assam floods on the floor of Parliament. But what floods came? It was a flood of misplaced eloquence; it was a flood of anger, of vituperation, of unworthy invectives, against those who may not have the good fortune to agree with him today. What are the facts given? One is Saurashtra. Look at Saurashtra. Let us look at it. What is happening in Saurashtra? Was not a Preventive Detention Act already in existence in Saurashtra? Was not there a Government functioning? Was there not a Government functioning in Delhi? Why were things allowed to deteriorate to that extent? And who is this Bhupat? Has he risen up from 'Bhu'—suddenly he was born out of earth? Who is he? I hear he was a police officer under the Bombay Government. I hear he and his gang were of great assistance to the Congress in capturing Junagadh a few years ago. He was a loyal citizen helping in a great cause. Now today he has gone astray. Let us get hold of him. The other day one hon. Member said he was being helped by police officers; we are told he was helped by one section of the Ministry. We are told that there was a lot of conspiracy, party split, etc., in the tiny

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little State. It requires a different treatment, perhaps of a more drastic nature than the Preventive Detention Act. Why did you allow things to deteriorate to that extent? How could Bhupat run away to Pakistan? Where was the police? These are inconvenient questions.

So far as Saurashtra is concerned I can assure Government that if really the situation is so bad in that part of India, let Government come out with full facts and figures and ask for special powers and there will be none in this House who will oppose the granting of such special powers. If law and order cannot be restored in one particular part of India for certain extraordinary circumstances, do not play with this Preventive Detention Act alone, for it is a negative measure and only irritates the People. Here you can put anybody whom you do not like behind prison bars.

What was the other case? Hyderabad is of course there. There we are having conflicting reports. At any rate, nothing has happened there since the 1st of March, 1952. You cannot go on referring to what happened in Hyderabad two years ago and make that a justification for the continuance of the Preventive Detention Act now. If you feel that things are still wrong in Hyderabad and if you feel that there are charges against an organized party, the Communist Party of India, have an enquiry. Why allow them to come here? If any of them are implicated, get hold of them. But do not do it in accordance with the Star Chamber procedure. Do it openly. If you want, have a secret trial, a trial *in camera*. But place everything and let the truth come out.

What other case was referred to? Calcutta, Calcutta! What has Calcutta got to do with the Preventive Detention Act? It is no use Dr. Katju drawing from his experience as Governor of West Bengal when things were bad two years ago. He himself admits that normal conditions have been restored. Now, what happened in Calcutta? Today the Food Minister made a statement. It is a most unfortunate situation in that unfortunate city. There was a food crisis there. Famine has come into existence in some parts of the province. It is admitted. The Food Minister goes there and propounds a scheme. I also met him and we assured him—all parties—that we would stand by the Government in eradicating famine and solving this food problem if a really generous policy is put into operation. All parties came forward. But con-

fusion has started as regards the implementation of that policy. The House must appreciate what the point is. Today the whole province is broken into so many units and fragments and you have drawn lines, cordons. Those hon. Members who come from areas where cordons exist—not cordons between one district and another, between one sub-division and another, but cordons even inside a sub-division—know what the results are: suffering, corruption, misery. And the scheme of Mr. Kidwai envisaged that those cordons should disappear. So the people clamoured: give effect to it now, let us get some advantage out of it now. There is some confusion as to whether the necessary stocks will be available.

Now, a demonstration was there. If lawlessness is there, lawlessness has to be checked. But how did the situation develop? There is no question of Preventive Detention Act here. They came out. Suddenly section 144 was widened and they attempted to break the cordon, they attempted to hold meetings. I have just got a paper cutting here which will tell you that we are following exactly the same method as our previous Government used to follow in such cases. This is a report which was published in the "Amrita Bazar Patrika" which, as is known, is not unfriendly to the Congress, or, if I may put it positively, is quite friendly to the Congress. If I may read a few lines, it just describes how the police creates a situation whereby there is loss of life, breaking of heads and a great deterioration of the situation. This is written by a staff reporter who was present on the spot. You know the Ochterlony monument. The police came and surrounded that place. There was just a handful of young boys and some girls who were sitting under the monument at 4-30 p.m. The police allowed the meeting to be held and there was no obstruction. Crowds collected and were standing further away from the place. And in between the two, the mighty police force of West Bengal were standing.

"The progress of the meeting was uninterrupted and was not interfered with by the police, standing close by. The only movement effected thus far was in respect of a batch of the mounted policemen, who shifted from the west to the south-eastern direction of the monument. There was an immediate reaction to this movement and the small crowd of listeners who had gathered at the rally thinned away.

At 5 o'clock the order was given by a superior Police Officer to break the meeting and arrest the defiers of the law. The mounted policemen quickly encircled the base and completely isolated the group of youngmen and boys from the vast crowd of sightseers. *Lathi* charge then followed on the unarmed and unresisting breakers of the law, with scanty consideration if the situation merited it at all. A few who did not apprehend the development beforehand were evidently frightened, but that did not in any way mitigate either the humiliations or sufferings they were put to. The prison van was quickly filled in by the arrested.

The reaction to this sickening scene on the crowd in the outlying areas was quick."

Mark it, Sir. The report is that they started throwing stones and brickbats which took the situation beyond control. Who led the situation beyond control? The police and not the unlawful assembly of just a handful of young boys. They might have been arrested and taken to the police station.

"Stone chips and bricks began to be rained vigorously against the policemen, who could however utilise the mighty column of the Monument as a screen to shield themselves against these missiles. The newspaper reporters, however, were less fortunate and though they were not interfered in their work by the authorities they occupied a point which was open and afforded no protection against flying missiles. One of them was hit by a stray chip right in the centre of his forehead rather seriously."

And the other column contains the official statement issued by the West Bengal Government. About this *lathi* charge, those hon. Members who have seen the Bengal papers would have seen those pictures of how the bodies were all scattered in the streets and how they were dealt with by the police and how law and order were being maintained. The Government statement said that whatever the police did had to be done because stones and brickbats and other things were being thrown at the police and therefore the police had to take action. The same white-washing as before!

You talk of Calcutta. Are you going to solve the problem by the Preventive Detention Act? The real problem has to be tackled. There may be some mischief-makers. I do not say there

are not. There may be, there will be everywhere. You can control them. Is it possible anywhere, in any part of the world, that suddenly thousands of men will start running and organize a demonstration unless there is something burning in their hearts, unless there is some affinity, some feeling of sympathy which makes them go and join with those organizers of demonstrations? Do not behave like Hallet and Maxwell. Look deep into the matter and by all means preserve law and order. I do not say that the country should be handed over to *goonda* elements. Not at all. But at the same time, proceed symptomatically. Find out what is the real cause for these disturbances. Otherwise you yourselves will be handing over the country to those who want to create chaos. Why is it that no Bengal Minister, no Congress leader in Calcutta has come out in the open streets? Where are those people gone? why do they not appeal to the people, ask them to listen to them? The city may many places outside the city, are handed over to the police—simple police, complex police, armed police, this police and that police have all come out and surrounded the different parts of the city. Are you going to have a police *raj*? That was another example which was trotted out by the Home Minister.

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Why not find any other example? Another argument he gave which was an argument against his own thesis. Dr. Katju said: "I am not applying this against any party as such. No. Not the Communist Party, not the Hindu Mahasabha, not the Jan Sangh Party, not the Socialist party, not any party as such but only dangerous individuals." I could have understood if you had said that your attack is against a party, that this is a party which has a subversive programme, that Government is convinced of it and you want to crush it. The other day the Home Minister said: What a miracle it is that all communists, communalists, industrialists, ex-rulers, independents all have combined? If you like to call it so it is a miracle. We do differ from the Communist Party. I have come here fighting against the Congress and the Communist Parties. I was slandered and I was attacked. Many of my friends here went and spoke in my constituency against me. I know where I differ from them. They know it also. Yet there may be, will be matters of common interest. Similarly there are many others in the Opposition with whom we do not agree on all points, but we have set up a standard in this House. I shall claim we are 126

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Members of the Opposition; we may be groups of three or four or five or different parties with different ideologies but we have not allowed ourselves to be made a play-thing at the hands of the Government benches; we are trying to form a consolidated Opposition on matters where we are agreed. The Communist Party supported the Government on the Kashmir issue and they are keeping company with Dr. Katju. I do not support the policy on Kashmir. My hon friend, Mr. Nambiar went to Agra and made a terrific speech in support of Pandit Jawaharlal Nehru so far as Kashmir is concerned. That is all right. We agree to differ, but yet, we can agree on certain fundamental issues. This is one such fundamental issue, and we are able to combine together. I thought the hon. Home Minister would congratulate the Opposition that the small groups have combined into one bigger group for certain purposes. You laugh at us. I hold no brief for the Communist Party. If there is any evidence against the Communist Party, come out with it. You flirt with them whenever it suits you. You attack them whenever such an attack is necessary. That game will not do. You are being unjust to the people of India. If you feel that it is a party which has sold itself to foreign countries, if you feel that it is a party that is receiving funds from foreign countries, if you feel that it is a party which is playing a double game here as some hon. Members said this morning that outside it is UG and here it is OG, if you feel like that, I say it is the duty of Dr. Katju, the Home Minister to bring forward a charge to their very face and prove it. If it is found that this is true, we would support the Government. We do not want any party to raise its head which owes its loyalty to any foreign country. We may differ on any matter and that is fundamental (*Interruption*). We are not aware to the extent that the hon. interruptor is aware because he belongs to the ruling Party and I do not like this sort of attitude. The Communist Party is functioning. None of them has come here by the grace of the divine Home Minister of India or the divine Prime Minister of India. They have fought with us and they have come with the mandate of the people. Forget not one thing. Wherever you have carried on your repression, be it Hyderabad or be it West Bengal it is there that the verdict of the people has gone against the Government and against the Congress. The people have given their verdict against the Congress. It is no use

being satisfied with their solid strength inside the Parliament at Delhi. Hear the rumblings outside. The people do not want to support the Congress. They supported people like Tushar Chatterjee. He was released seven days before the voting took place and he floored the Congress candidate with a majority of thousands of votes. These are the miracles which the Home Minister should think about in his heart of hearts. What is the use of saying that there is a miracle because we have combined here? What is a communalist? If it is to love one's country, to love one's community and not to think ill of another community, if we feel with and attempt to unite 30 crores of Hindus living in India, India that has been liberated after 1,000 years, if we try to recover our lost position in a manner which is 100 per cent. consistent with the dynamic principles of Hinduism for which Swami Vivekananda stood, I am proud to be a communalist. If you say I am a communalist who thinks ill of any community, I have no place to live in India as a Hindu. You have been entirely mistaken. The Congress surrendered itself during the last thirty-five years at the feet of the communal leaders. Did you fight against the Communal Award? Who gave the communal percentage for the purpose of having some pact with the Muslim League? Who agreed to partition the country against the advice of Mahatma Gandhi? You might have done it with the best of intentions, because you thought that you could thereby get rid of the British Government but having sold the country at the altar of communalism, to come forward and say that we are communalists is a perversion of truth. What are these gentlemen the many thousands and lakhs who are outside? The white cap covers a lot of good things and a lot of bad things. You can find among them people who stand for castism. (*Interruption*). Is it not a fact that there are people who have stood on a caste basis? Is it not a fact that there are amongst the Congressmen many who are also soaked in communalism of the worst type? Is it not a fact that there are many amongst them who were great communal leaders in the days when the Muslim League was in power, whose hands were literally soaked with blood, about whom there were cases in the courts of law and today they are putting on white caps and they have become *sadhus* real *tapasis* or great souls. We who have spoken out one kind of truth, we become communalists. We are not going to tolerate these remarks any more. We would ask those who

make these remarks to examine our political or other views and say we are wrong in this or that. Defeat us in arguments, but if you want us to be defeated by abuse, to that extent we are not non-violent but we will give you back in the proper coin.

Sir, I hold no brief for the ex-rulers but it is surprising that Dr. Katju had a fling at them. Is it not good that they have become democrats? Is it not good that they have come down from their ivory tower? They have come to this House as elected representatives as Dr. Katju has been. They have not come as nominated Members. If these communalists, communists, industrialists, ex-rulers go and join the Congress ranks, they become great patriots, but if they have the courage of conviction and independence to say that they will remain in the opposition they become communalists and undesirables and for them the Preventive Detention Act has to be put on the Statute Book. Why is it that we are opposing this measure? I have given the reasons and the further reason is that you have grossly abused the powers that you have in your hands and for that reason you cannot legitimately demand that you should further be trusted. Case after case has been placed before this House.

Reference was made to the inter-communal marriage in Delhi. One gracious lady Member spoke out of her heart this morning. It is certainly open to any adult in India to marry any other adult under law. My personal opinion is that it is a private affair and no one should interfere with it. But this was not such an easy matter. If it was a private matter, who gave it this wide publicity? You, Sir, know the Secretary of the Constitution Club well. I had requested him to tell me whether the Constitution Club knew that this marriage was going to be solemnized there and he told me that they never knew that the Constitution Club was being hired for celebrating the inter-communal marriage. Who issued those 600 invitations? The bridegroom was one who was drawing a salary of Rs. 100 or Rs. 150. Who were these great leaders, marriage-minded leaders, inter-communally marriage-minded leaders who were behind the scenes? Where did they get this money from for getting the invitations issued? Was it something that had to be trumpeted and who was this bridegroom? I am told that he was a Muslim Leaguer till 1947, a communalist to the core, a Secretary in charge of the Muslim National guard—a *Salar*. After the partition he puts on a white cap and he gets a job and he gets the status of a Congress

man and the more the merrier he is, because he marries a Hindu wife. This is the great transformation of communalism into secularism in this great secular State of India.

Who supported it? That is the point. The Preventive Detention law should have been applied against persons who were meddling with the affairs of private people and trying to foment this marriage leading to chaos. That good lady wept that women today are not being properly looked after, that they are not being protected, that they do not get the respect that they deserve. How can a lady who goes about and interests herself in a marriage when she knew that the father of the girl was against the marriage, expect any respect from any quarter? That father came to me. I cannot forget his face. He wept. He was there in Lahore; he had a house in Lahore. He had left everything there in 1947. His words which are ringing in my ears are these: "If I wanted to hand over my girls and sisters to Pakistanis, I would not have come away from Lahore; I came here to seek shelter. Even without my knowing, these Congress Leaders have gone about privately and are celebrating my daughter's marriage." I am not blaming the Congress; take it from me. Because, I know, I have had talks with many important Congress leaders belonging to Delhi and outside and they were as much ashamed as myself; they were as sorry as myself that this small private affair was suddenly given this wide publicity and it turned out to be something of paramount public importance in this great city of Delhi.

Then comes the Preventive Detention Act. Orders were issued against some individuals, one of whom was a Member of Parliament. The proceedings of the Privileges Committee have come to the House. I do not think that we will have a chance to discuss them this session. What is the strange fact that occurred with regard to Mr. Deshpande. The event took place here on the 25th, between the 21st and the 25th. That colleague of ours went to Gwalior on the 20th and did not return to Delhi till the morning of the 26th. He was not here at all on the days of occurrence and when the disturbance took place. He did attend the meeting on 26th evening. But, what is the charge-sheet which was handed over to him, under the Preventive Detention Act, by the District Magistrate of Delhi, who incidentally was the Registrar of Marriages also,—the Registrar of Marriages, who was very much annoyed when the order of the Sub-Judge was going to be served on him, the order by which

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he was restrained from performing his delicious function as the Registrar of Marriages on this occasion. Sir, I am disclosing no secret, because we have said that in our Minute of Dissent in the Privileges Committee report that the statement made by the District Magistrate before the Privileges Committee was to the effect that Mr. Deshpande was organising the whole thing from Gwalior. We were most amazed at that statement. We thought it might have been a mistake. But, he persisted in the statement and said that he had everything to do with the occurrence in Delhi and he was doing it from Gwalior. I ask the Home Minister whether he will enquire into the matter. That has relation to the Bill that we are considering. Such cases will never go to the Advisory Committee. What is the lacuna in the Bill? For six weeks, anybody in any part of the country can be spirited away under the orders of the District Magistrate, without anything being done on his account. Without any restriction that arbitrary power has been handed over to the Executive. It is proposed that we should continue it in times of peace. I have requested the Home Minister that we should have some answers; there must be some evidence to show that a Member of Parliament, who was being arrested under the Preventive Detention Act, was organising such demonstration in Delhi from the interior of Gwalior constituencies where he was fighting in favour of Dr. Khare, who was a candidate for election. Not he alone. I do not wish to take the time of the House.

Mr. Deputy-Speaker: Would the order not be confirmed within 15 days, under this Bill?

Dr. S. P. Mookerjee: He has been released.

Mr. Deputy-Speaker: Any preventive detention order passed by a magistrate will have to be reported either to the State Government or the Central Government within 15 days.

Dr. S. P. Mookerjee: Quite true; but he has been released after six days.

Mr. Deputy-Speaker: It is not for one and a half months.

Dr. S. P. Mookerjee: Even for 15 days, he can be spirited away; he can be taken away without his case being placed before anybody.

Mr. Mauli Chandra Sharma, and Mr. Joshi, advocate of Delhi and others

were detained, one after another. Grounds of detention have been mentioned which are utterly false. What is the protection of the citizens against such false grounds. They cannot go to the Home Minister. The law does not give them any protection. In fact, I was amazed to find that as many as five gentlemen were charged with having presided over the same meeting, on the same day, at the same hour at the same place. Were there five chairs, one on top of another? Was it a ladder, one Chairman sitting above another? What is it? They did not even care to know. There is a charge that in 1947 some gentleman had broken the ban on the Hindu Mahasabha session at Bhagalpur. That session was held in 1941, not 1947. I, as a Minister of the Government of Bengal, had the proud privilege of being arrested as a dangerous man under the Preventive Detention Act and kept surrounded by about two dozen armed policemen at Colgong in Bihar. That it distorted and mentioned as a reason for detention in June, 1952 in the city of Delhi.

I gave notice to the hon. Home Minister, according to your instructions, of another case which has recently taken place in Ajmer. If this sort of incidents happen, even if one happens it puts the Government at once into discredit. This gentleman is one Mr Kaka Trilokchand, a Sindhi gentleman, who has been a member of the Provincial Congress Committee, a member of the All India Congress Committee and what not, till 1947 in Sind. Since they have all come away, they have settled in Ajmer. I have got here a copy of the detention order and a copy of the petition submitted by this gentleman before the District Magistrate of Ajmer,—the facts are these. Dr. Katju says, I have nothing to do with 48, 47, 1950. He said on 18th July: "Give me *taja* things, absolutely crisp; I do not want old thing". Here is a crisp case; the man is still in Jail. Kumari Bhagavanti Devi, aged 16, a Sindhi refugee girl, came from Kalyan camp to Ajmer, accompanied by a certain Shafi Mohammed, who was aged about 55 or so. This girl was found to file an affidavit saying that she had adopted Shafi Mohammed as her father and that he treats her as his daughter. There were pleaders present. They were surprised—who this gentleman was and who this girl was. Suddenly a Hindu girl comes and says that she has adopted this gentleman as her father. Why? Some enquiry was started. They went to the District Magistrate and to the police officer and said that this matter was to be looked

into. Nothing was done for three days. Then, on the 3rd, a public meeting was called and there was great feeling in the city of Ajmer. The public meeting was banned by the orders of the District Magistrate. There was no violation of the order. The organisers respected the ban and did not hold the meeting. At night, Kaka Trilokchand and another prominent gentleman, Pandit Jialalji were put under arrest under the Preventive Detention Act for internal security.

Shri Jwala Prashad (Ajmer North): No, it is wrong. Jialalji was not arrested.

Dr. S. P. Mookerjee: Very well. I beg your pardon. It was Mr. Bachan who was arrested. I give you another name Mr. Trilokchand and Mr. Bachan were arrested. Apparently that gentleman knows something about it. Pandit Jialalji went to the District Magistrate. That is not the important point. Then there was great commotion in the City with the result that the next day these gentlemen were released. Something happened. Later on, enquiries were made and it was found that against this alleged adopted father there was a warrant for the innocent offence of kidnapping or abducting, and this gentleman had escaped, and so the warrant had been issued. And so this girl, as soon as she went back, the Police got hold of the girl, and the alleged adopted father escaped. On 3rd July, 1952, Kaka Trilokchand was again arrested under the Preventive Detention Act, and I have got here a copy of the order. Four reasons are given for his detention according to our provision, and the first two grounds are in connection with Kumari Bagwanti—the same grounds are repeated after one month—and the third ground is that "On 10-6-52 you were heard making communal propoganda in connection with the murder of a Sindhi boy whose dead body was recovered at... Ajmer, on 2-6-52." Apparently a Hindu boy was found murdered in a Muslim locality, and there was some feeling in the City. The Police enquiry is going on. Nothing has been found out so far.

Then, "As Editor, you wrote an article in the paper under the caption 'Challenge to those who keep an eye on Sindi girls'. This article is calculated to incite Hindus against Muslims, and in furtherance of your aim to create trouble, you delivered a speech at a public meeting on 16-6-52."

And he was arrested on 7-7-52, i.e., three weeks after he had addressed the meeting.

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And then, the next is—apparently many girls are kidnapped—in the secular State, communal parity must be maintained—on 25-6-52, a Sindhi girl was illegally kept by a Marwari gentleman. Ground No. 4 is: "You raised this alarm, and there was some disturbance on that ground".

Now, an appeal has been issued. I have got a copy here, Sir. A public appeal has been issued about this arrest which is signed amongst others,—communalists, industrialists there may be; I do not know whether there are Communists. I have not counted them—there are some Congressmen who have signed this appeal and protested against the arrest in very strong terms. The gentlemen who have signed are: Ch. Shivrinarain Singh, Secretary of the Congress Party in the Assembly. Chagganlal, Chief Whip of the Congress Party. S. S. Deedwania, Advocate, leader of the Congress Party and Member of the Provincial Congress Committee and a host of other people, 17 or 18 people who have protested against this. And the most alarming thing is in the reply which this gentleman has filed before the Magistrate, he has brought forward this allegation that he had been against the Home Minister and the Home Minister had been doing things which were against the interests of the State, and it was because of his personal enmity that this arrest had been effected. Pandit Thakur Das Bhargava said the Advisory Committees are never changed. In this case at least the constitutional Advisory Committee has been changed after this man was arrested, and the case is now pending. I will not go into the details of other cases. But such cases have been brought to the notice of the Home Minister. It is clear that the Act is not operating even for the avowed purposes which have been claimed to be purposes by the Home Minister.

I have spoken for nearly 50 minutes, and I do not wish to speak long.

Mr. Deputy-Speaker: The House will rise at 6-30.

Dr. S. P. Mookerjee: Not at 8?

The only thing which I wish to say at the end is this, about going to the Select Committee. We from this side, from the Opposition, all unitedly made a request that we should be given a chance to consider the entire Act. We do not think the Act is necessary, but if you feel the Act is essential, then these weaknesses which have been discovered, the abuses that we have seen, must be rectified, and if you want to

[Dr. S. P. Mookerjee]

keep people under detention for a short while, precautions must be taken so that there will not be any chance of putting innocent men in jail without trial. We, therefore, wanted, in accordance with the assurance given by the Home Minister, that the entire Act should be allowed to be considered by the House. Sir, that assurance was given by the Home Minister himself last time. I rose on a point of order, and the Speaker has ruled that it is open to the House to do so. He says under the rules he cannot do it, but if the House feels that the entire Act should be examined by the Select Committee, there should be no objection. I would make this public appeal to the Home Minister, and especially to the Prime Minister, not to shut out discussion of all the provisions of the entire Act. For the first time this very important and controversial measure has come before the elected Parliament of India. Do not take shelter under the plea that it is an amending Bill and you could only touch the clauses that have been incorporated in the Bill. That will be an unworthy act of any Government who feel strong enough that it has the facts and figures to justify the passing of such a measure. If, however, Sir, in the wisdom of the Prime Minister it is decided that this privilege should not be given because we are only amending, we cannot force our decisions on the House. We can only appeal to the House and say that we should proceed cautiously. We think that we can make a contribution in the consideration of this matter. If, on the other hand, that decision is taken, then, we from the Opposition will not serve on the Select Committee. Let the Select Committee be appointed with Congress Members; then, when the Bill comes, it will take its normal course. But, Sir, with the present policy of drift that is continuing, Preventive Detention laws will not save it. We must be able to put our heads together to think of some other measure. Here, for the first time, an opportunity presents itself which is before the Prime Minister. You have the entire country in this House. Almost every political party in this country has come to this House with its accredited representative elected through adult franchise. If there is any charge against any party that it is going astray or doing anything against the national interest, there is the Prime Minister to make the charge, and we will be prepared to question it and to reply to it. In the difficult times through which we are passing, with the food crisis, the economic troubles, the international situa-

tion developing like this and also the East Pakistan situation developing in its own way, should, create a better atmosphere in this country if a really parliamentary Government can be carried on, not a Government of the majority by its brute force, but a Government where the majority and the minority should be able to co-operate with each other. We have offered the hands of co-operation to the Prime Minister times without number. We may not agree with everything that is done. That freedom must be given to us to oppose where we feel such opposition should be made, but, if, blinded by the knowledge that power is in your own hand, that you can do whatever you like—the order has to come from that quarter, and the House will say “yes”. We have seen the wonderful spectacle the other day on the motion for introduction of the Constitution (Amendment) Bill, how Members shouted naturally from their innermost heart, and how immediately the great man said he assented, and it was perfect, all assented. It was discipline, Sir, I shall not say dictatorship. I shall call it discipline. That is the sort of discipline which should be maintained by any political party worth its name. But, if he wants that in this crisis, we should hammer out our differences round the table, that offer is before the Prime Minister. He can reject it on an issue such as the Preventive Detention Bill on which some of us, many of us, all of us feel so strongly, and go his own way. For the consequences, he and his Government and his party will be responsible, not we.

Mr. Deputy-Speaker: I will call the hon. Home Minister to reply.

Shri Sarangadhar Das: I have the right to speak on such an important measure like this. The hon. the Speaker also has promised to give an opportunity to me.

Mr. Deputy-Speaker: I was present here when the hon. Member and also another member belonging to his party came to the Speaker. He was prepared to allow both the hon. Members to speak. I insisted therefore upon the other hon. Member belonging to his party finishing his speech early enough to allow the hon. Member also sufficient time to talk. But that hon. Member has taken a lot of time, nearly 50 minutes, and then started going into the provisions of the Bill (*Interruption*). Order, order. The hon. Member must hear what I say. I even appealed to the other hon. Member who is the leader of his party at present to

ask him to conclude his speech. But he had no control over his followers or I do not know perhaps he did not like him to sit down.

I cannot prolong the debate simply because one hon. Member wants to speak. Even if it were that the House were to sit up to 8 p.m., by this time I would have called upon the hon. the Minister to speak, as he must have the necessary time to reply to the various criticisms that have been made on this side. The time that will be taken between now and 8 p.m., would have been available only to the hon. the Home Minister and not the other Mem-

bers. I shall therefore be calling upon the hon. the Home Minister to reply.

Shri Nand Lal Sharma (Sikar): What about independents?

Mr. Deputy-Speaker: There are independents, but they will have other chances.

The hon. the Minister will reply tomorrow and I shall adjourn the House now till 8-15 A.M., tomorrow.

The House then adjourned till a Quarter Past Eight of the Clock on Wednesday, the 23rd July, 1952.