

[Shri Tridib Kumar Chaudhuri]

appeared in the press that the Government are not going to bring up the report of the Commissioner for Linguistic Minorities for discussion in this session. What is the truth in the matter?

Shri Satya Narayan Sinha: As far as the report of the Commissioner for Linguistic Minorities is concerned, we are not thinking of bringing that report for discussion in this session at least.

Shri Tridib Kumar Chaudhuri: Why?

Some Hon. Members rose—

Mr. Speaker: The House seems to be desirous of discussing the report. What is the difficulty in bringing up the report for discussion in this session?

Shri Tridib Kumar Chaudhuri: The whole country is interested in it. They are agitated over it.

The Minister of Home Affairs (Shri G. B. Pant): I have no particular difficulty. If the House wishes to take it up, we may bring it forward.

Mr. Speaker: Very well. I will fix some time. It has been pending since the last session. Let it be disposed of as early as possible now.

12.27 hrs.

PREVENTIVE DETENTION (CONTINUANCE) BILL—*contd.*

Mr. Speaker: The House will now take up further consideration of the following motion moved by Shri Datar on the 1st December, 1960, namely:

“That the Bill to continue the Preventive Detention Act, 1960, for a further period, be taken into consideration.”

It appears some objection was raised yesterday that this Bill requires the recommendation of the President. The President has given his recommendation, and the financial memorandum, required to be appended in such cases where some expenditure is involved has also been sent to me.

Shri Braj Raj Singh (Ferozabad): It should be circulated.

Mr. Speaker: Yes.**

Shri Nath Pal (Rajapur): The hon. Minister told us categorically with a great show of assurance that this does not involve any kind of financial obligation. It is, therefore, a bit strange that today, we are told that the financial obligation has been satisfied.

The Minister of Law (Shri A. K. Sen): I do not think that I said it

**Reproduced, as ordered by the Chair:

THE PREVENTIVE DETENTION (CONTINUANCE) BILL, 1960

Financial Memorandum

Under Section 8 of the Preventive Detention (Continuance) Bill, State Governments are required to no provision in the Act requiring the etc. to the Members of the Advisory may, however, have to incur some functioning of the Advisory Boards. estimate of the expenditure which amount is not likely to exceed

Detention Act, 1950 which is sought till 31st December, 1963 by the Pre-1960, the Central Government and the appoint Advisory Boards. There is payment of any salary, allowances, Boards. The Central Government expenditure in connection with the It is not possible to make an accurate may be involved annually but the Rs. 5,000.

did not involve any kind of financial obligations. All that I said, as far as I know, is that it is very negligible because it is only the Union territory. I never said that it did not involve any financial commitment.

(Interruptions).

Shri Nath Pai: He said it will involve expenditure. He further added that because there is payment on account of some advisory committee, we assumed that there would be some finance involved.

Mr. Speaker: But hon. Members must be glad that he abides by the decision of the House.

Shri Braj Raj Singh: The progress of this Bill has been very slow. So, the time may be extended. As it is, the time allotted is only five hours

Shri Mahanty (Dhenkanal): The time may be extended.

Mr. Speaker: The time allotted is five hours. Time taken is 2½ hours. We have 2½ hours more left.

Shri Naushir Bharucha: Much time was taken up by the point of order.

Mr. Speaker: Why did the hon. Member raise it? So, we are taking up the Bill now, at 12.30. We must finish it today.

Shri Braj Raj Singh: How can it be finished?

Mr. Speaker: We must start the private Members' business which is normally at 2.30. We will sit for an hour more and dispose of this matter today. It has to go to the other House also. We will sit for an hour more in the evening to dispose of the Private Members' business.

Shri Vajpayee (Balrampur): The Home Minister may reply on Monday.

Shri S. M. Banerjee: A letter was referred to yesterday and here is a news item which is very important. It says:

"Law body's advice on Detention Act—P.M. to study demand:

Mr. Nehru is understood to have informed Acharya Kripalani and four other Opposition members of the Lok Sabha that their suggestion to get the advice of the Law Commission on the provisions of the Preventive Detention Act would be examined. While the contents of the letter, which is understood to be confidential...."

Mr. Speaker: I am not prepared to allow.

Shri S. M. Banerjee (Kanpur): It was raised yesterday.

Mr. Speaker: He can brief any hon. Member to refer to this. Incidentally, any hon. Member bringing some cutting and referring to it without my permission means, he takes the permission of himself to start a debate and he speaks. It is not right. I am not prepared to allow it. We are in a democratic State and many things appear there. Am I to allow every hon. Member irrespective of his turn?

Shri Braj Raj Singh: If it is to be finished today, enough discussion cannot take place. It may be extended to Monday.

Mr. Speaker: Very well. In pursuance of the desire expressed in the House, we will start the non-official business at 2.30. The hon. Minister will reply on Monday. So, the whole of the time till 2.30 is at the disposal of hon. Members. Each hon. Member may take 10 minutes.

Shri Mahanty: The distribution of time seems to be uneven. We cannot do justice to the subject in 10 minutes.

Mr. Speaker: Sometimes if an hon. Member is making good points, I allow him some more time. Why does he in anticipation prevent me from doing so? Shri Achar may continue his speech.

Shri Achar (Mangalore): Mr. Speaker, Sir, I was submitting yesterday that we have as much respect for

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liberty as anybody else and we are not happy to have such an enactment in our statute-book. At the same time, I was submitting that the circumstances are such in our country that we cannot but have a law of this kind. I remember the hon. Member who spoke before me yesterday went to the extent of saying that he would like to have this Act permanently in the statute-book of our country. I totally disagree with that contention. We would be very happy if it is removed from the statute as early as possible; it should remain not a moment more than what is absolutely necessary.

But unfortunately, more than everything else, the respect for law in our country is so very low. I gave instances of how even for small things people start satyagraha. My hon. friend, the Socialist leader, Shri Braj Raj Singh, was angry with me because I made a small mistake with regard to their satyagraha regarding Hindi. He said, the satyagraha is not that everybody should speak Hindi, but nobody should speak English. That seems to be the principle.

Shri Braj Raj Singh: No, no.

Shri Achar: I need not go into the argument as to what exactly it is. The point is, even on a point like the question of language, if there is difference of opinion, you would not abide by what the law of the country or Parliament says and you would start a satyagraha. I do not mean to say that such illegality cannot be curbed by ordinary law; it can be and for that purpose detention law may not be necessary. But the general atmosphere in the country is, apart from ordinary people, even in the case of leaders of parties, their respect for law is so low. I cannot understand it.

Shri P. N. Singh (Chandauli): No respect for bad laws.

Shri Achar: I want to meet that argument. Yesterday, Shri Asoka

Mehta, leader of the PSP, said it is a lawless law. It is very good rhetoric, but how is it lawless law? I say it is a legal, lawful law. Our wise Constitution-makers have held that if we want a law of that kind, certainly we are entitled to pass such a law. This Parliament has passed that law. I suppose we are in a majority—350 in number—and all the others together come to about 150. So, majority of people representing this country have passed this law; the Upper House has passed it and the President has given his assent. Is it not legal law, lawful law? How can you possibly say it is lawless law? Maybe a minority think that it is not proper law. Any ordinary person who knows something of law would certainly say this is lawful. As I said, for rhetoric, one may say it is lawless law. Constitutionally and from any point of view, definitely it is a lawful law. I would also say it is a popular law, because the majority of the people accept it.

Let us go a step further. The hon. Member who spoke on behalf of the communists said this law has been used very vindictively. I would like to have some instances to prove that. I would not like to go into personalities, but because some names have been raised, I would like to say a word about it. Where is the vindictiveness? Can he show that leaders of the other parties who are opposing us have been put behind the bars specially, say, at the time of the elections? Where is the vindictiveness? How many people have been dealt with under this law?

Even Shri Mehta took exception yesterday saying the Minister has taken a very complacent view that the number is very small. Is it a complacent view of thing? I do not understand it like that. All that the Minister was saying was, he was giving statistics to show that the Act has been very carefully used. It is not that we are happy with it. Nobody is happy in having a law of this kind. I do concede it is a black law.

But unfortunately in this country, there are blacker people indulging in black acts. That is the position. Otherwise, nobody is happy to have a law of this kind.

Before I conclude, I would submit one thing. Who is responsible for continuing an Act of this kind? It is the people in the Opposition who are creating the atmosphere of defiance of law. Probably they are responsible. I will give one or two instances.

Shri Braj Raj Singh: Within the Congress or outside?

Shri Tyagi (Dehra Dun): There is no opposition within the Congress.

Shri Achar: I suppose the hon. Member knows what Opposition side is and what Government side is. I was submitting that some instances also were given. (*Interruptions*). I suppose it is the Speaker who has to give the ruling and not others.

Mr. Speaker: He need not answer them. He can go in. I will give him two more minutes.

Shri Achar: I would submit that yesterday one or two instances of individuals, who are even members of this House, have been detailed. Take, for example, the instance of the hon. Member from Rajapur. Why was he detained? We know the circumstances. All kinds of obstacles were set up against the Government and an attempt was made to paralyse the entire government. They wanted to have a breakdown of law. That was the situation. Under certain circumstances a person is detained. If he is going to bring in chaotic conditions and anarchy is there anything wrong in detaining such a person? I am sure all of us have seen one scene here in this House, and I am sure the Speaker will remember it. One stalwart gentleman, a member of this House, was named. He had to go out of this House but he would not go. Then what happened?

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Shri Braj Raj Singh: He should have been detained under the Preventive Detention Act!

Shri Achar: I am only showing the attitude of people towards law. The Speaker was thoroughly disobeyed and nobody would listen to his ruling. Finally, the Marshal of the House had to proceed to him.....

Shri Mahant: Sir, I would like to know how it is relevant.

Shri S. M. Banerjee: It is absolutely irrelevant.

Shri Achar: It is absolutely relevant, because it is a question of respect for law.

Shri Vajpayee: On a point of order. The hon. Member is referring to some incidents which happened in this House which we have all forgotten. What has it to do with Preventive Detention Act?

Mr. Speaker: The hon. Member is a lawyer and he argues that even when responsible Members here do not obey the ruling of the Chair, what will be the position outside. Of course, I am aware that argument is far-fetched. So far as the Members of this House are concerned, I have always stated that no hon. Member will quote the incidents in this House, either for or against, because that will lead to some kind of recrimination when members say "you or he said so". It leads to controversy which has to be avoided. There are many other instances which the hon. Member may quote.

The only point here is not whether the Preventive Detention Act as such is good or bad, but whether it should be continued or not. That is the only short point. For that he need only refer to what has happened, what are the circumstances generally, whether the time has come to dispense with the Act or not and whether the circumstances still warrant the continuation of this Act. For that purpose,

[Mr. Speaker]

he need not quote the conduct of hon. Members in this House.

Shri Achar: I only wanted to point out the attitude of even the topmost people towards law. So, these people will be taken as examples and this contagion will soon spread to the lower strata. If the leaders and members of the opposite side co-operate and create an atmosphere of respect for law, then certainly such a law need not be continued. But, as it is, what do we find in the border areas? In the border areas an atmosphere is being created and propaganda is being carried on that even Chinese rule is better than Indian rule. Such a sort of propaganda is going on. I have already referred to the incidents in Punjab and Assam. I have also stated how even the leaders of parties on minor points are starting *satyagraha*. Even when a *satyagraha* is started, if it is conducted in a proper way it is well and good. But our experience is that every *satyagraha* almost always ends in violence and looting of houses.

Shri Braj Raj Singh: May I point out, Sir, that though the *satyagraha* went on for ten months, not a single instance can be quoted by the Government of any violence?

Shri A. K. Sen: Let the hon. Member be allowed to continue his speech.

Shri Achar: I am concluding. I would say that I would be very happy if this black Act goes out of the statute-book. I shall be extremely happy when that happens. But the point is that we must be in that position and for that we must create such an atmosphere. I will say that it is the people who are in opposition that are responsible for the continuation of this law. Everywhere they start disobedience of law. If they bring about an atmosphere of respect for law then there will be no necessity for an Act of this kind. And I

will be very happy if it goes even tomorrow.

Acharya Kripalani (Sitamarhi): Mr. Speaker, this is the fifth or sixth time when I have to speak upon this Bill and, therefore, I do not want to go into the details of it, which have been covered by my predecessors, the speakers who spoke before me. I am concerned more with principles than with details.

It is a very curious phenomenon in the life of individuals, communities and nations that they suffer from certain inconveniences, certain injustices, certain tyrannies but when they come in power they are very anxious to inflict those very injustices and tyrannies on others. A young boy who has been spanked by his father, when he becomes a father does the very same thing to his son.

Shri Tyagi: Because he has been taught to do so.

Acharya Kripalani: He does not remember how he felt what he felt then. When a nation has achieved its liberty, it goes forth depriving other nations of their liberties. The English people hanged a king for achieving their liberty, but they deprived half the world of their liberties. The French people did the same, the people of Netherlands did the same and, the Americans did the same—got their liberty and denied it to the Negroes—and then the Russians did the same; they fought against the Czar and now they control many countries; and our neighbour China did the same. It seems neither the individuals learn nor nations and communities learn from what they have suffered and the world always goes on as usual.

There is another curious fact which was also mentioned by our Prime Minister in the United Nations Organisation, that once we go on a wrong path, then we create a bad *karma* and that progressively drags

us further and further down. This particular law, when it was passed, created a bad karma. When it was passed in that year, it was passed on a particular occasion for a particular purpose, at a time when our Government was faced with many difficulties and there was rebellion in Hyderabad, Telengana, and there was the likelihood of such rebellions occurring again on behalf of a party which was behaving in an irresponsible way and was creating confusion; it was only to meet that particular threat. But when you once do a wrong thing, then of course you go down with an accelerated speed.

It was for one year and we were assured that as soon as that trouble disappeared this law will be taken away. Then it was for two years. Then it was for three years. It has been going on for ten years. One of my hon. friends in the Congress said that he wanted it to be perpetually there. It is almost perpetually there. Another hon. friend says that he does not want it perpetually but he wants it to continue. This is a very strange phenomenon.

We were taught that bad means in order to secure a good end vitiate it. This is the lesson that our hon. Prime Minister taught to the whole world when he went to the UNO. Here we are doing this evil without consideration and without giving thought to what we are doing. We are sowing the seeds of future confusion in the country.

One hon. friend said that this is a legal law. I may tell him—I do not know whether he is a lawyer or not—that I am not one bit convinced. A law can be a lawless law. The Rowlett Acts were legally made by the Government and yet we called them lawless laws.

Shri Naushir Bharucha (East Khandesh): Rowlett Act was a better one.

Acharya Kripalani: Whether it was better or worse, the Government of

that day, a foreign government, was able to go on conducting its affairs in revolutionary times without ever once applying the Rowlett Bills that had been passed into law. We were a revolutionary party and the law of the land was considered sufficient for us except during the time of the War. It was only during war that they exercised the extraordinary law, the Defence of India Act and put us behind the bars.

Shri A. K. Sen: That is not a fact, if I may say so in all humility. There have been several Criminal Law (Amendment) Acts passed by the British regime under which thousands of people in Bengal alone were arrested and kept under detention.

Acharya Kripalani: They were Criminal Law (Amendment) Acts as the hon. Law Minister should know. He should bring forward a Criminal Law (Amendment) Bill then because Criminal Law (Amendment) Acts would make the people go to law courts, engage the lawyers.....

Shri A. K. Sen: No. I am sorry, Sir.

Mr. Speaker: The hon. Member has evidently got the amendment of the Criminal Procedure Code in mind. The Criminal Procedure Code is the ordinary law of the land. The Criminal Law (Amendment) Act, though the name was different, was the Preventive Detention Act.

Shri A. K. Sen: Regulation 3 of that was used in very many cases.

Mr. Speaker: But this is the Preventive Detention Act.

Acharya Kripalani: I was saying that all of us, including yourself, were arrested under the ordinary law of the land. It was in very exceptional cases that Regulation 3 was applied. That was a foreign government and ours was a revolutionary movement.

Mr. Speaker: I am afraid we were not detained or arrested under the ordinary law.

Acharya Kripalani: Except during the course of the war, as I myself said, when the Defence of India Act was applied; the ordinary law applied when there was no war. Today we have no war. We are not at war even with China what to talk of any other country. Today in peaceful times and when this Government boasts that it has been able to keep law and order and bring about peace and unity in the country while our neighbours are in a disturbed condition and some of them are under dictatorships, when we have been prospering and when we have got a good government and a democratic government, why vitiate that government by this law. We are told that only 400 or 500 people have been arrested under it. Why could these 400 or 500 people not be arrested under the ordinary law?

I remember when I was arrested in 1920 I was arrested under section 107. I do not exactly remember.

Shri Tyagi: Section 107 is about bad characters.

Acharya Kripalani: It is a restraining Act. It is as good as security act. You have sections 107, 108 and 109. Some of us were arrested under section 109 on the plea that we had no ostensible means of living and as a matter of fact it was right. We had no ostensible means of living in those days. These sections are there. You have not repealed them. You can restrain people. Then why do you want extraordinary powers?

When this Bill was first introduced by Sardar Vallabhbhai Patel, I remember the House was hushed. The House looked like a frightened House. It thought "What are we going? We, who have fought the battle of freedom, are going to deprive our own countrymen of that freedom, the freedom of the individual." He was apologetic

about it. But now-a-days year after year, whenever the Bill comes, we find a kind of frivolity in those who introduce the Bill. We find a kind of lightness as if they are doing something very ordinary. They say it is only continuing the Act. We are not even allowed to discuss the details of it. It may be wrong in the details, but we are precluded from discussing them because the Bill says, "We are continuing the Act. That is all."

If I remember aright and if my memory does not fail me, one of the provisions of this Act has a provision against creating undesirable and unfriendly relations between our neighbours and ourselves, that is, with foreign countries. I say I am guilty of having tried to bring about unfriendly relations between India and China. Of course, I have done it in Parliament. I would wish they were friendly. But anybody could say that I was trying to bring about unfriendly relations. Even I would then come under the purview of this Act.

Shri Tyagi: At present they are not very friendly relations.

Acharya Kripalani: It may be, but the Government considers that we are yet in friendly relations with China. If I make a speech outside the Parliament—here I am protected, so I venture to make this speech—I may be hauled up tomorrow under this Preventive Detention Act.

13 hrs.

The real danger to the country does not arise except through ourselves. We are thinking of external dangers, but we are not thinking of internal dangers which are created by ourselves in this country. As long as our politics is regulated through class, caste, communal and provincial rivalries, whatever law we make against evildoers, it will not be effective. Our Constitution will be undermined if there is no common citizenship and people are fighting on caste basis. If candidates are put up for election on caste

basis and on communal basis. If the States are fighting linguistic battles and often we the leaders are involved in these and—we, who are responsible people, encourage such parochial, such caste and such communal feelings. We are not ourselves free from evil. If there is rivalry and jealousy amongst ourselves for party causes, for the capture of power, if we cannot keep united among ourselves, we are lost if the ruling party cannot keep unity among its own ranks, how is it going to keep unity in the nation? I do not know. Why are congressmen dis-united? They are dis-united because of office, because of power, because of factions.

Shri Tyagi: They are not.

Acharya Kripalani: If there is corruption in our country, we cannot prosper. If we lack love of the country, if we lack patriotism, if we lack unity, if we are not common citizens of a common country. We shall fall. These are the real dangers to which our leaders give no thought. They are giving thought only to external means of extricating the country from the moral corruption in which it is caught. They are providing legal means of saving the country. The country cannot be saved merely by legal means. The country can be saved only by moral means. That defect is within us. We do not analyse ourselves. We are our greatest enemies and therefore the greatest enemies of the country.

Shri Yajnik (Ahmedabad): Mr. Speaker, I join the friends on this side in making an emphatic protest against the manner in which this Bill has been brought and the aim, with which it is brought of continuing this Bill for the next three years. A Congress Member asked if we have made out a case for not continuing the Bill. I say, the onus is on the other side. It is for the Government to make out a case for continuing this Bill and perpetuating this Bill. In fact, under cover of continuing it for 3 years, 1 year or 2 years at a time. The main

question is, what is the position in the country?

Friends on this side told us, Acharya Kripalani has told us just now that the Congress boasts of having peaceful rule of law in this country. Mention has been made about the Punjab, of Assam. There was explosion in Assam before anything can be done about it. I do not think that this Act has at all helped the Government in settling the problem of Assam. About our frontiers, I will not say, because, our relations with Pakistan, anyhow, whatever the merits of the Canal Treaty, have improved and our borders are being settled. Even with regard to China, the Prime Minister was pleased to state that the propaganda on the border has considerably eased now. The main point is this. I am afraid the Minister also had it in mind when he pointed a finger or he looked at our friend, Shri Braj Raj Singh, the leader of the Socialist party in this House, which believes now and again in inaugurating a policy of fight and satyagraha. My hon. friend Acharya Kripalani laid great stress on this method of fighting the Government, the method of satyagraha, the method of civil disobedience, I plead also guilty in sharing faith, with Shri Braj Raj Singh and members of the socialist party and many other parties also, in the efficacy of this method of satyagraha in the present conditions of the country.

Shri Vajpayee: On occasions or permanently?

Shri Yajnik: On occasions. But the occasions are very frequent. I am afraid we are not availing ourselves of all the occasions of taking to satyagraha.

I say with all responsibility this Government whether in the Central or in the States is being run more or less as a Congress private company limited. It is working in an authoritarian manner. It is working without any regard for the opposition and the

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independent political elements in the States and in the Centre. What has one to do then? Gandhiji, the Father of the nation has given us this marvellous instrument of civil disobedience which is the only alternative to armed rebellion. Surely, none in this House, and I am sure, none in this country today, no sane man believes in resort to arms as a method of protesting against the Government of the day.

Shri A. K. Sen: What about election? Can't you express it by your vote in the general elections?

Shri Yajnik: Yes. Votes is one method. Let me take the example of this division of the bi-lingual state of Bombay. Can we fight for it and get it by securing the vote of the majority in this House? We had to fight, resort to satyagraha, for months together and we had to send more than 2000 people to the jail, till the Government felt like giving serious consideration to this matter. So also it happened in the Maharashtra.

It has been stated in this House very often that this Government does not listen to reason, and the Government only gives consideration and attention to any matter when there is some disturbance, when there is some trouble, when there is some satyagraha when there is some active opposition to the rule of law. As I stated, when the community or large masses of people are at variance with the Government and when the Government does not take to the policy of persuasion, conciliation and discussion with the opposition members or with the representatives of the opposition, what are they to do? The only alternatives are either violence or peaceful satyagraha. Gandhiji, in 1942, 1930 and 1920 showed us the way of satyagraha. Let nobody say that it does not hold good even when we have our own Government. Vinobaji was travelling in Gujerat. Some people asked him if the Janata Parishad was right in carrying on the Shaheed Smarak satyagraha

even when we have our own Government. Vinobaji, who is the authentic representative of Gandhiji said, yes, I can conceive of occasions when the people would be perfectly justified in taking to civil disobedience even when we have our elected representative Government. Let me tell the Government that as time is passing, more critical times are facing us. More loans, debts, more currency, higher prices, the country is passing through a time of serious discontent. I may warn the Government that if they think, that this satyagraha, civil disobedience, marches of all kinds, marches to the Assembly and to Government offices are to be stopped by pass this Preventive Detention Bill, I say they are living in a fool's paradise. These movements are going to continue as discontent is increasing, as prices are increasing every day and the poor are getting poorer and the rich are getting richer, and as long as this bureaucracy is wooden.

Shri Raghbir Sahai (Budaun): That is not the aim of the Preventive Detention Act.

Shri Yajnik: I know. The point is that even the Home Minister did suggest that this Act was necessary in view of the continuance and continuous eruption of civil disobedience. I know that it has not been applied to us even when we practised satyagraha. We had just had it on the 13th November and we had it also on 2nd October, the birthday of Gandhiji, and we will have it again and again till certain injustices are rectified, and I am sure that, with all that we know about the efficacy of peaceful methods, the only alternative we have is taking to this civil disobedience in order to convert the Government to our view if possible, to melt their hearts, to persuade their minds, and ultimately to create a situation in which they have to help but to do the right thing and to give justice to the people.

The Rowlett Act, the lawless law, was mentioned. The Preventive Detention Act was called the lawless law, and Shri Achar took objection to it. I am one of those in this House, there are others also I am sure, the Home Minister also, who participated in the civil disobedience movement that was organised by Gandhiji against the Rowlett Act. What was the situation disclosed at the time of the Rowlett Act? The report definitely disclosed the existence of organisations having as their objective armed rebellion and violence in this country. There was a big report, and the Rowlett Act was passed. What was the Rowlett Act? The Rowlett Act was certainly much better than this Preventive Detention Act.

Shri Naushir Bharucha: Very much better.

Shri Yajnik: The Rowlett Act, maybe, started sort of Star Chambers and the freedom of the accused was restricted. Anyhow, there was court proceeding, there was interrogation, there was evidence, there were defence witnesses, there were prosecution witnesses. Maybe there was no appeal against the judgement of the court, but even so, there was some semblance of a court and legal procedure. And what have you got here? Only, within a few days you are giving a small charge-sheet, and then you can go to the advisory council and make your representation. No evidence will be led, no defence evidence can be called.

Shri Tangamani (Madurai): You cannot personally go there.

Shri Yajnik: You may go personally. Sometimes they might be pleased to listen to you, but that is all. But beyond this chargesheet they have got the report of the Collector or the report of the Government which is not known to the people who are detained at all.

I remember 30 men of the Maha Gujarat movement were spirited away

in the night to the Yerawada Jail under preventive detention, and what was all that about? There was a scuffle between the people and the police, and some of our people who were proclaiming from the housetops every time the salutary effects of a peaceful movement, who were trying to dissuade the people from throwing stones, were themselves clamped in jail, because they were supposed to have incited, they were accused of inciting the people to throw stones. It was yes against no. There were photographs. Well, the photographs only showed that these people were holding up their hands. They had raised their hands, but raising the hands may be one way or the other. The fact is that all the people protested in vain, they represented to the Government that they had never incited the people, that they had been fasting to induce the people to keep peace, that they had been speaking time and again about the preservation of peace, that the whole movement was based on peace. Thereafter the law was not applied, but the point is that it has been applied, it has been applied to M.L.As. and M.Ps., it has been applied to a large number of people—maybe, they have been released soon afterwards either at the instance of the High Court or the advisory council. But the Act has been abused.

What I am concerned to state is that this Act is much worse than the Rowlett Act, and the situation today is infinitely better than what faced the British Government at that time. I say while the situation has changed for the better, the law has gone worse. That cannot be denied.

And how are you operating it today? Do you think that the arrest of Master Tara Singh under the Preventive Detention Act has stopped the agitation in Punjab?

Shri Tangamani: It has increased.

Shri Yajnik: It has only increased and opened the flood gates of mass

[Shri Yajnik]

discontent and mass movement, the parallel of which perhaps has not been witnessed since 1947. That is what has been done by the application of the Preventive Detention Act to Master Tara Singh. Master Tara Singh could have been dealt with in another manner. Time was when the Prime Minister and the Home Minister and others invited him to discussion.

I am not going into the question of the Punjabi Suba, but the main thing is that you arrest a man and there is a blaze. That is not the way of doing things. I would therefore say that while the conditions are infinitely better, the law is worse than what was applied by the British Government. Therefore, I would appeal to the Home Minister to consider again the advisability of this matter, refer this matter if possible to the Law Commission and seek their advice, and finally erase this blot, shameful blot from the statute-book of this country.

श्री श्री प्र० ना० सिंह (चन्दौसी) : श्रीमान्, चूंकि मैं इस काले कानून में स्वतः भ्रुतभोगी हूँ, इसलिए थोड़े अधिक समय की इंडलर्जेंस चाहूंगा।

निरोधक नज़रबन्दी कानून की अवधि को बढ़ाने के सिलसिले में सरकार की तरफ से इस सदन के सामने एक प्रस्ताव रखा गया है और इस प्रस्ताव को रखते समय दातार साहब ने जो भाषण किया है उसको मैंने बड़े ध्यान से सुना है। लेकिन मुझे उस भाषण में कोई ऐसी दलील नज़र नहीं आई जिससे यह पता चलता हो कि इस कानून की अवधि को, इसके जीवन को बढ़ाये जाने की कोई आवश्यकता है। सन् १९५० में जब यह कानून यहां आया और समय समय पर दो साल के लिए या चार साल के लिए, जब जब इसकी अवधि बढ़ाने का सवाल पेश होता रहा है तब तब यही दिखाई पड़ता रहा है कि इस निरोधक नज़रबन्दी कानून को जितनी

जल्दी खत्म किया जाए उतना ही अच्छा है।

सविधान सभा में डा० अम्बेदकर ने आर्टिकल १५ (ए) को जुड़वाने के लिए जो बातें कही थीं उनमें से एक यह थी कि प्रिवेंटिव डिटेंशन की व्यवस्था का कारण यह है कि अभी भारत की स्थिति स्पष्ट नहीं है, राजनीतिक पार्टियां भविष्य में क्या करेंगी, उनका क्या रोल होगा, स्पष्ट नहीं है और चूंकि उस समय असाधारण स्थिति देश में विद्यमान थी इसलिए संविधान के अंदर प्रिवेंटिव डिटेंशन की बात आई। मैंने कंसिट्र्यूट्स असैम्बली की वृत्त को देखा है। उस समय वृत्त में श्रीमान्, आपने भी हिस्सा लिया था। प्रिवेंटिव डिटेंशन के सिलसिले में श्रीमान्, की तरफ से भी एक सुझाव दिया गया था कि कम से कम छः महीने के बाद जो लोग डिटेन किए जाते हैं, उनके केसिस को रिव्यू किया जाना चाहिए। इसी के साथ साथ महात्मा गांधी के नेतृत्व में हम सभी लोगों ने इस देश की आजादी के संग्राम में भाग लिया है और मैं अपने को इस बात के लिए सौभाग्यमान समझता हूँ कि देश की आजादी की लड़ाई में ट्रेजरी बैचिज पर जो लोग बैठे हुए हैं जिस तरह से उन्होंने भाग लिया है उसी तरह से मैंने भी भाग लिया है और लगभग तीन साल के लिए मैं लगातार डिफेंस आफ इंडिया क्लज के अन्तर्गत बन्द रहा हूँ सन् १९४२ के जमाने में जबकि मैं एक विद्यार्थी था।

मैंने उस समय का सरदार बल्लभ भाई पटेल का भाषण देखा और उन्होंने उस समय की स्थिति को अपने भाषण में रखा और कहा कि हिन्दुस्तान में कम्युनिस्ट पार्टी एक ऐसी पार्टी है जिससे हिन्दुस्तान की सीक्योरिटी को खतरा हो सकता है। लेकिन इस सिलसिले में भी मैं यह कहना चाहता हूँ कि इस मामले में भी स्थिति बदल

चुकी है। जब कि तेलंगाना की घटनाएं हुई उस समय कम्युनिस्ट पार्टी का इनसरेक्शन में विश्वास था लेकिन अब हिन्दुस्तान की कम्युनिस्ट पार्टी जनतंत्री व्यवस्था में विश्वास करती है और हिन्दुस्तान की मौजूदा हुकूमत को जनतंत्री तरीके से बदलने का विचार रखती है। ऐसी हालत में मैं कहूंगा कि जब डा० अम्बेडकर ने संविधान सभा में निरोधक नजरबन्दी कानून को रखा और जिस स्थिति में सन् १९५० में सरदार वल्लभ भाई पटेल ने इस सदन में इस कानून को पेश किया, उस स्थिति में और आज की स्थिति में बड़ा अन्तर आ गया है। सन् १९५० से दस साल गुजर गए और इन दस सालों में हम महसूस करते हैं कि स्थिति बदल गयी है और जो शंकाएं पहले थीं वे अब नहीं रही हैं। अब हिन्दुस्तान में कोई पार्टी हुकूमत को बदलने के लिए शस्त्र रास्ता नहीं अपनाना चाहती बल्कि आज सारी पार्टियां मौजूदा हुकूमत को बदलने के लिए या अपने दल की सरकार बनाने के लिए जनतंत्री पद्धति का इस्तेमाल करना चाहती हैं।

मैं ने देखा कि इस समय जो स्थिति है उसके सम्बन्ध में कोई विशेष बात नहीं कही गयी। बहुत से माननीय सदस्यों ने कहा कि सीमा का मामला सामने है और कुछ लोग इस देश के अन्दर सीमा के बारे में भिन्न राय रखते हैं, इसलिए इस कानून की आवश्यकता है। लेकिन श्री दातार के भाषण से मैं नहीं जान सका कि सरकार भी इस चीज को ऐसा सही समझती है या नहीं। सीमा के मामले में प्रधान मंत्री ने यह स्पष्ट कर दिया है कि उससे मौजूदा हालत में कोई बहुत बड़ा खतरा नहीं है, कोई इमरजेंसी की हालत नहीं है। जब हिन्दुस्तान में ऐसी स्थिति हो तो उस स्थिति में इस निरोधक नजरबन्दी कानून को जारी रखना और इसकी अवधि को बढ़ाना किसी तरह से उचित नहीं कहा जा सकता।

इसी के साथ जब हमारे राज्य मंत्री श्री दातार सहाय इस सदन के सामने यह बात रखते हैं कि इस निवारक नजरबन्दी कानून की अवधि को बढ़ाया जाए, तो हम यह भी जानना चाहेंगे कि जो पिछले दस साल गुजरे हैं उनमें इस कानून का दुष्प्रयोग तो नहीं हुआ। हम जानना चाहेंगे कि इसका किस तरह इस्तेमाल हुआ। साथ ही मैं यह भी जानना चाहूंगा कि क्या हिन्दुस्तान में ऐसी स्थिति आज है कि इस कानून को जारी रखा जाय। मैं इस बात को दिखाना चाहता हूँ कि इस कानून का गतल इस्तेमाल किया गया है। इसलिए मैं साफ तौर से सदन को कहना चाहूंगा कि इस कानून की अवधि को नहीं बढ़ाना चाहिए। कल श्री दातार ने अपने भाषण में कहा कि इस कानून का इसलिए इस्तेमाल नहीं किया गया कि राजनीतिक पार्टियों के कार्यों को और आन्दोलनों को स्टाइफिल किया जाए। इस सम्बन्ध में मेरे पास जो आंकड़े हैं उन को मैं सदन के सामने रखना चाहता हूँ। सन् १९५६-६० में २१६ आदमी गिरफ्तार हुए निरोधक नजरबन्दी कानून के अधीन। उन में से ८७ आदमी ऐसे हैं जो कि राजनीतिक पार्टियों से संबंध रखते हैं, ७० आदमी गुंडाईज्म के लिए हैं और कुछ लोग अपने यहां के डाकुओं को शरण देने के लिए हैं। सन् १९६० में सितम्बर, तक १५३ आदमी गिरफ्तार किए गए हैं जिन में से आठ राजनीतिक पार्टियों से संबंधित बताए जाते हैं। लेकिन ३४, ३६ या ३७ और आदमी ऐसे हैं जो कि इंडियन सप्लाइज के सिलसिले में गिरफ्तार हुए हैं केन्द्रीय अधिकारियों की हड़ताल के सम्बन्ध में नजरबन्द लोग राजनीतिक पार्टियों से संबंध रखते हैं। अगर हम इस संख्या को भी जोड़ें तो सन् १९६० में सितम्बर तक इस कानून के अधीन जो गिरफ्तार लोगों में राजनीतिक पार्टियों के लोगों की संख्या ४०, ४२, ४५ या या इस से भी ज्यादा होगी।

[श्री प्र० ना० सिंह]

इस कानून का मंशा यह है कि इसका उपयोग उन लोगों के खिलाफ किया जाए जिन से स्टेट की सीक्योरिटी को या देश के डिफेंस को खतरा हो। इस सिलसिले में मैं आपसे कहना चाहता हूँ कि सन् १९५६ में जो लोग इस कानून के अधीन गिरफ्तार किए गए उन में से डिफेंस के सिलसिले में गिरफ्तार किये गए लोगों की संख्या पांच ही थी। इस कानून का उपयोग उन लोगों के विरुद्ध किया जाता जिन से कि देश की प्रतिरक्षा को खतरा होता या देश की सुरक्षा को खतरा होता तो यह बात समझ में आ सकती थी क्योंकि यही कानून का मंशा है। लेकिन सन् ५६ में इस सिलसिले में केवल पांच आदमी गिरफ्तार किए गए और सन् १९६० में इस सिलसिले में एक भी आदमी गिरफ्तार नहीं किया गया। इससे स्पष्ट है कि इसका लगातार इस्तमाल ऐसे कार्यों के लिये किया जाता है जो राजनीतिक विरोधी पार्टियों के लोग करते हैं।

मैं इस सिलसिले में एक और उदाहरण देना चाहता हूँ। माननीय गृह मंत्री जी इस समय मौजूद हैं। उनको याद होगा कि जो जो घटनाएं उन के सामने हुई देश की आजादी की लड़ाई के सिलसिले में। उस समय उनका विशेष स्थान था और मौजूदा हालत में एक विशेष स्थान है, चाहे वह उत्तर प्रदेश का मामला हो या देश के किसी अन्य भाग का। आचार साहब ने कहा कि सोशलिस्ट पार्टी तो सत्याग्रह करना चाहती है। मैं यह स्पष्ट कर देना चाहता हूँ कि जहां तक सत्याग्रह का सवाल है, देश को यह फैसला करना है कि जनता के असंतोष को अहिंसा के माध्यम से व्यक्त किया जाए या हिंसा के माध्यम से व्यक्त किया जाए। अगर मौजूदा सरकार यह समझती है कि जनता के असंतोष को हिंसा के माध्यम से ही व्यक्त किया जाए तो यह मौजूदा सरकार को भी मुबारक हो। हम तो यह नहीं चाहते। हम

तो चाहते हैं कि लोकतंत्र मजबूत हो और लोकतंत्र तभी मजबूत हो सकता जब कि अहिंसा का रास्ता अपनाया जाए। इसलिए हम अहिंसात्मक आन्दोलन द्वारा जनता के मौजूदा असंतोष का साथ देना चाहते हैं।

दातार साहब ने मणिपुर की चर्चा की और कहा कि बार्डर का इलाका है और वहां पर सोशलिस्ट पार्टी के लोगों ने सत्याग्रह शुरू कर दिया है और वहां रेसपांसिबिल गवर्नमेंट की मांग की। अगर हमने रेसपांसिबिल गवर्नमेंट की मांग की तो कौन सा बेजा काम किया। आप वहां के लोगों को रेसपांसिबिल गवर्नमेंट न देकर गलती करते हो और यदि हम लोग उसकी मांग करते हैं तो इस में क्या बेजा है। वहां पर जो पहले रेसपांसिबिल गवर्नमेंट थी उसको हटा कर आपने वहां ब्योरेक्रेटर रेजीम स्थापित कर के। अगर वहां की जनता कहती है कि रेसपांसिबिल गवर्नमेंट के वक्त जो उसकी हालत थी उस से आप अच्छी हाल पैदा करें तो इस में असाधारण बात क्या है।

सन् १९५४ में डा० राम मनोहर लोहिया मणिपुर गए पर उनको वहां के कानून की धारा १०७।१७ के अधीन गिरफ्तार करके बन्द कर दिया। उस के बाद सेशन जज ने उनको छोड़ दिया, लेकिन बाहर निकलते ही उनको निरोधक निजरबन्दी कानून के अधीन गिरफ्तार कर लिया गया पर हाईकोर्ट ने उनको छोड़ दिया। फिर भी यहां कहा जा रहा है कि वहां मूवमेंट फ्रिजिल आउट हो गया। इस पार्लियामेंट के एक सदस्य हैं श्री अचा सिंह, उनको अभी तक नहीं छोड़ गया है और कहा जाता है कि मूवमेंट खत्म हो गया और सारे लोगों को छोड़ दिया गया है। श्री अचा सिंह उस इलाके के लोगों का प्रतिनिधित्व करते हैं, वह मणिपुर के लोगों की रिस्पॉंसिबिल गवर्नमेंट की आकांक्षा

को व्यक्त करते थे। उनकी आकांक्षा को पूरा नहीं किया गया और उनको अभी तक नजरबन्द किया हुआ है और कहा जाता है कि मूवमेंट खत्म हो गया है।

मेरी नजरबन्दी के सम्बन्ध में भी हाउस में चर्चा की गयी थी। मैं उस सिलसिले में गृह मंत्री जी से इतना ही कहना चाहता हूँ कि आज यह स्थिति है कि नौकरशाही दिन पर दिन गिरती जा रही है। मौजूदा सरकार के मंत्री भामंतवाद का तरीका बरत रहे हैं। अगर कोई मंत्री किसी जिले में चला जाता है तो आप देखें कि नौकरशाही उस के पीछे लगी हुई है। अगर कोई जिले का ही मंत्री हुआ तो वे लोग २४ घंटे उसी के पास रहते हैं। अगर यह सामन्तवाद नहीं है तो क्या है। यह लोकतंत्र का तरीका नहीं है। अगर आपके मंत्री सामन्तवादी तरीके से रहते हैं तो मैं इस संबंध में कुछ नहीं कहना चाहता लेकिन मैं गृह मंत्री महोदय का ध्यान अपने केस की ओर दिलाना चाहता हूँ। अब तो उसका फैसला हो गया और एक बहुत लम्बा जजमेंट दिया गया है, जिसकी मुझे तकलीफ भी अभी तक नहीं मिल सकी और शायद गवर्नमेंट को भी नहीं मिल पायी है। लेकिन जो मेरे पास सर्टीफाइड कापीज हैं उन के आधार पर मैं कुछ निवेदन करना चाहता हूँ। मुझे इस कानून के सेक्शन ३ के क्लॉज १ ए० के सब क्लॉज २ और तीन में मेंटिनेंस आफ पब्लिक आर्डर और सिविल सप्लाईज के सिलसिले में गिरफ्तार किया गया लेकिन जो चार्ज मुझे डिस्ट्रिक्ट मजिस्ट्रेट साहब ने दिया उस के अपरेटिव पोशन में वह कहते हैं:—

"For the aforesaid reasons, I am satisfied that you are likely to act in a manner prejudicial to the maintenance of public order and, therefore, I have passed an order for your detention to ensure the maintenance of public order".

पब्लिक आर्डर के लिए गिरफ्तार किया जाता है। डिटेंशन आर्डर के सिलसिले में जो

कारण बताये गये हैं उन में यह कहा गया है कि मेनटेनेन्स आफ पब्लिक आर्डर के लिए आपका डिटेंशन जरूरी है। वह आर्डर Items (II) & (III) of Sub-clause (a) of Subclause (1) of Section 3

मातहत दिया गया था और वह आर्डर मेनटेनेन्स आफ पब्लिक आर्डर के सिलसिले में था और साथ ही मैं मेनटेनेन्स आफ इमेंगिएल सप्लाईज के सिलसिले में भी था। आर्डर तो इन दोनों के लिए था लेकिन जो चार्ज देते हैं उस में केवल मेनटेनेन्स आफ पब्लिक आर्डर का जिक्र आता है अपरेटिव पोशन उसी की बाबत है। श्रीमन्, मैं कहना चाहता हूँ कि क्या इस बात को देखा नहीं जा सकता है कि आज हमारे देश में नौकरशाही कितनी लापवाह बनती जा रही है? मैं इस बात को स्पष्ट कहूँ कि यह मामला हाई कोर्ट में भी उठा था। मैंने अपने पेटिशन में स्पष्ट तौर पर इस बात को कहा था कि मैं उत्तर प्रदेश के गृह-मंत्री श्री कमलापति त्रिपाठी का विरोधी रहा हूँ असेम्बली के चुनावों में सन् १९५७ के चुनावों में मेरा उनका डाइरेक्ट कंटेस्ट रहा। दो दिन तक तो मैं इलकशन में लीड करता रहा लेकिन तीसरे दिन मैं उन के खिलाफ नैरो माजिन से हारा और बाद में उसी इलाके से मैं पार्लियामेंट का मेम्बर चुना गया। इसलिए उत्तर प्रदेश के होम मिनिस्टर साहब का मेरे प्रति जो रुख है वह एक अच्छा रुख नहीं है। अब श्री त्रिपाठी उत्तर प्रदेश के होम मिनिस्टर नहीं रहे हैं। खैर वे रहें या न रहें मुझे इस से कोई सरोकार नहीं। वैसे वे बहुत अच्छे व्यक्ति हैं, भले आदमी हैं और पंत जी उनको बहुत अच्छी तरह जानते हैं। मैं भी चूँकि उसी शहर का हूँ जिस शहर से कि श्री त्रिपाठी का सम्बन्ध है इसलिए मैं भी उनको बहुत अच्छी तरह से जानता हूँ। यहां पर मैं यह अवश्य कहना चाहता हूँ कि उस समय जो वहां के अधिकारी लोग थे उन अधिकारियों पर यह एक असर था कि इस प्रभु नारायण सिंह को बंद करो जैसे

[श्री प्र० ना० सिंह]

भी हो फिर ऊपर पूछने वाला तो कोई है नहीं। ऊपर कोई देखने वाला तो है नहीं। माननीय गृह मंत्री के पास जब केन्द्र में यह मामला आया था तो उचित तो यह था कि गृह मंत्री महोदय स्वतः इस मामले को देखत और उनको मारे जरूरी कागजात और रेकार्ड्स वगैरह को देखना भलना चाहिए था।

मेरे केस को लेकर हाईकोर्ट ने जो जजमेंट दिया है वह लगभग ६० सफे का है और उसमें विस्तार से बनलाया गया है कि किस तरह से मेरे बारे में प्रीवेंटिव डिटेन्शन ऐक्ट की एक एक धारा का उल्लंघन किया गया है। सैकशन ३ जिस के कि अंदर एप्रूवल होना चाहिए वह एप्रूवल नहीं है और सैकशन ७ के बमोजिम जो नोटिस मिलना चाहिए वह नोटिस नहीं मिला।

ग्राउन्ड्स और डिटेन्शन मिलनी चाहिए वह नहीं मिलीं। हाई कोर्ट ने कहा है कि in the present case each one of these three ingredients of section 7 of the Act had been ruthlessly disregarded by the State Government.

इस के बाद कई और चीजों के सिलसिले में कहा गया है कि it was a borderline case, मैलाफाइडी हो भी सकता है और नहीं भी हो सकता है। अब मैलाफाइडी साबित करना बड़ा मुश्किल है और इसका साबित करना इतना मुश्किल कार्य है कि जिसका कि कोई ठिकाना नहीं। अब पूरा जजमेंट तो मुझे अभी तक नहीं मिल सका लेकिन मैं उस के थोड़े से पोर्शंस यहां हाउस के सामने पढ़ दूँ जो कि प्रेस में बहुत वाइडली रिपोर्ट हुए हैं। मैं जनाब की इजाजत से २ नवम्बर के लीडर अखबार से गृह मंत्री महोदय और सदन के सूचनायें कुछ उस जजमेंट के हिस्से पढ़ देना चाहता हूँ।

"Their Lordships said that there had been a clear breach of the provisions of section 3 of the Act in so far as the order of approval was not passed by the State Government within the period of 12 days after the making of the order of detention. Even the purported order of approval was not really an order of approval. It had materially modified the initial order passed by the District Magistrate and could not, therefore, be strictly considered an order of approval at all.

"Their Lordships proceeded to consider section 7 of the Act and were also of the opinion that there had been a serious violation of the contents of this mandatory provision of law in a number of ways. It provided these safeguards to the person sought to be detained. Firstly, the grounds in support of the order of detention must be communicated to the detenu within a period of five days from the date of detention. Secondly, these grounds must be communicated by the particular authority that made the order. Thirdly, the grounds communicated should be such as to enable the detenu to have an opportunity of making an effective representation against the grounds. They were of opinion that in the present case each one of these three ingredients of section 7 of the Act had been ruthlessly disregarded by the State Government".

हाई कोर्ट का वह जजमेंट काफी लम्बा है। तीन दिन तक हाई कोर्ट के न्यायमूर्तिमान जजमेंट डिक्टे करता रहा और सात आठ दिन तक हाई कोर्ट में प्रार्थमेट्स चलते रहे। मैं उस जजमेंट से केवल कुछ हिस्सा और हाउस के सामने पढ़ देना चाहता हूँ जो कि मैलाफाइडी के सम्बन्ध में है।

"Their Lordships said that the remaining charges related to a large

number of irregularities and illegalities which had been committed by the authorities concerned in the present case. It was no doubt true that these existed.

"They did not, however, necessarily indicate a case of *mala fides* on the part of the authorities concerned. Such difficulties might be the result of inefficiency or carelessness on the part of the authorities concerned. Every day in cases that came before them, they noted serious lapses and irregularities committed by such authorities. They did not, however, necessarily show that the authorities who were responsible for them acted in a *mala fide* manner.

"Their Lordships observed: 'There is a general deterioration of efficiency in these matters. As a court of law, we can express our dissatisfaction with it and disapproval of these acts which come to our notice in the course of cases before us. All that we can do is to set aside the orders which are the results of such irregularities and illegalities. In order, however, to find a charge of *mala fides* established in a case a court of law would, however, require something more than the bare existence of such defects in the proceedings that are sought to be impugned'.

"Their Lordships added it was not, however, possible for them to state definitely whether there was absolutely no basis at all for the charges levelled on behalf of the petitioner. All that they could say was that it was possible that the case might be a case of *mala fides* and it was also possible that the case might not be a case of *mala fides*; it was a borderline case".

Shri Braj Raj Singh: The judgment is a censure of the Government.

श्री प्र० रंग० सिंह : मैं इस चीज को कहना चाहता हूँ कि आज शासक दल द्वारा

किस तरीके से अपने राजनैतिक विरोधियों को दबाने के लिए इस निरोधक नजरबन्दी कानून का इस्तमाल किया जा रहा है। इसी सिलसिले में जो और भी समय समय पर गिरफ्तारियां होती रही हैं और जिस मनमाने और गलत तरीके से होती रही हैं उनको श्रीमान ने खुद देखा होगा। संविधान परिषद् में उस पर बहुत बहस हुई थी। मुझे करीब डेढ़ महीने के लग गये कि किसी तरह से मैं अपनी पेटिशन तैयार कर सकूँ। डेढ़ महीने की मृतवातिर लिख पढ़ी के बाद जाकर कहीं मुझे अपनी पेटिशन हाईकोर्ट में दाखिल करने की इजाजत मिल पाई थी। डेढ़ महीने के बाद मेरी पेटिशन हाई कोर्ट में जा पायी।

इसी के साथ साथ एक दूसरी दिक्कत हमारे सामने है। यह कहा जाता है कि ऐडवाइजरी बोर्ड बना दिये गये हैं। अब यह ऐडवाइजरी बोर्ड क्या है? अब मैं इस के संबंध में अपने माननीय गृह मंत्री से कहना चाहता हूँ कि इन ऐडवाइजरी बोर्ड्स में यह जो आपने आई० ए० एस० आफिसर्स को जज बना दिया है और उनको इन बोर्ड्स का चेंबरमैन बनायेंगे तो उस हालत में कैसे हम इस बात की उम्मीद कर सकते हैं कि वह आई० ए० एस० आफिसर्स उन बोर्ड्स में बैठ कर हमारा ठीक से फैसला कर सकेंगे? अलबता अगर प्रीव्हेन्टिव डिटेन्शन ऐक्ट में आप यह व्यवस्था रखते कि सुप्रीम कोर्ट के जज और चीफ जस्टिस ऐडवाइजरी बोर्ड्स में रहें तो उन से सही तौर पर इंसफ मिलने की उम्मीद की जा सकती थी। यह सही है कि संविधान ने सर्टन प्राविजंस दिये हैं और उस के खिलाफ आप नहीं जा सकते हैं और इसलिए आपको ऐडवाइजरी बोर्ड्स की इस तौर पर व्यवस्था करनी पड़ती है।

अब मेरा केस ४, ५ जुलाई को ऐडवाइजरी बोर्ड से आया। ५ तारीख को मुहर्रम

[श्री प्र० ना० सिंह]

आ और उस दिन हाईकोर्ट बंद था। मैं ने ऐडवाइजरी बोर्ड्स से रिक्वेस्ट किया कि यदि सलाहकार परिषद् के माननीय सदस्यगण इस चीज को चाहें और मैं भी स्वयं थोड़ा समय चाहता हूँ तो दूसरे दिन मेरा केस हो जाय। लेकिन मुनवाई को टाला नहीं गया और यह फैक्ट की बात है कि ५ जुलाई को लखनऊ की अवध बेंच पूरा हाईकोर्ट खुलवाया गया और मुझे कहा गया कि हम इंतजार नहीं कर सकते। और हमें तो अभी फंसला देना है और चुनावों के ४, ५ जलाई को जब कि मुहर्रम था, मुहर्रम की छुट्टियाँ थीं, उस समय अवध बेंच का हाईकोर्ट खोला गया और उस में मेरा केस बाकायदा लिया गया। अब हम तो परेशान थे ही बेचारे चपड़ासी और अहलकारान भी सब के सब उसी एक केस के कारण परेशान थे और सचमुच में ही उन बेचारों को तो मुहर्रम ही हो गया। मैं तो चाहता था कि मुझे एक दिन का मौका मिल जाय लेकिन ऐडवाइजरी बोर्ड अपना फंसला देने के लिए डिटरमिंड था।

आप सेशन ७ के सत्र-क्लाज २ में कह चुके हैं कि यदि कोई बात पब्लिक इंटरैस्ट में नहीं होगी तो वह ग्राजन्ड्स में नहीं दी जायगी। ऐडवाइजरी बोर्ड्स में डैटैन्स के बिहाफ पर प्लीडस और वकील लोग प्लीड नहीं कर सकते हैं और ऐसी हालत में हम इन ऐडवाइजरी बोर्ड्स से क्या उम्मीद रख सकते हैं? बाहे कोई बड़े से बड़ा लाइयर क्यों न रहा हो लेकिन अगर वह पांच, सात या दस वर्ष प्रैक्टिस का काम छोड़ दे और दूसरी लाइन में चला जाय तो वह पूरी तरह गुड्स डेलीवर नहीं कर सकता है और कुदरती तौर पर उसे यह उम्मीद करना कि वह पूरी तरह महारत से पूरे ला प्वाएंट्स को डील कर सकेगा सही न होगा। अब हमारे स्वयं माननीय गृह मंत्री अपने समय के एक माने हुए वकील रहे हैं लेकिन अब अगर यह कहा जाय कि

ऐडवाइजरी कमेटी के सामने वह किसी डैटैन्स का केस प्लीड करें तो यह जरा कठिन होगा क्योंकि वह सारी ला की बातें उनको याद आती चली जाय यह जरा मुमकिन नहीं मालूम देता और हो सकता है कि उनको वह सब बातें याद न हों जोकि उस केस के सम्बन्ध में जरूरी हों।

हमारे त्यागी जी ने भारतीय संविधान सभा में कहा था कि अगर इम प्रिवेन्टिव डिटेंशन के विरुद्ध शिकायतें आयेंगे कि इमका किन्हीं व्यक्तियों अथवा राजनैतिक पार्टियों पर दुरुपयोग हुआ है तो वे इसको जारी नहीं रखेंगे। अब इसके दुरुपयोग का सबमे बड़ा सबूत श्रीमन यह है कि केरल में जिनके कि लिए आप कहते हैं कि वे डिक्टेटरशिप की मान्यताओं में पले हुए लोग हैं, ऐसे लोगों की हुकूमत केरल में थी और आपने आन्दोलन चलाया और उनकी सरकार को खत्म करने का आन्दोलन चलाया। उस आन्दोलन में हम आपके साथ नहीं थे और हमने यहां भी पार्लियामेंट में गवर्नमेंट के इंटरवेंशन के और प्रेसीडेंट के इंटरवेंशन के खिलाफ वोट दिया था। वहां पर गवर्नमेंट को खत्म करने के लिए इतना जददस्त आन्दोलन चलाने के बावजूद कम्युनिस्ट सरकार ने प्रिवेन्टिव डिटेंशन एक्ट का इस्तेमाल नहीं किया। इस से प्रकट होता है कि विरोधी दल इस विषय में ज्यादा उदार साबित हुए हैं और आगे भी उदार साबित होंगे।

मैं यह भी कहना चाहता हूँ कि माननीय त्यागी जी को संविधान सभा में जो खतरा महसूस हुआ था, उस को उन्हें अपने दिल से निकाल देना चाहिए। यह एक काला कानून है, जो कि हिन्दुतान के स्टैट्यूट बुक पर है। तेरह वर्ष की आजादी के बाद भी इस को कायम रखना हमारे लिए कलंक की बात है। इस बात की कोई जस्टिफिकेशन नहीं है कि इस को एक मिनट के लिए भी हमारे स्टैट्यूट बुक पर बना रहने दिया जाये

Shri Mahanty: Mr. Speaker, Sir I believe the hon. Home Minister shares the view.....

Some Hon. Members: Sir, no Member from this side has been allowed.

Mr. Speaker: There is no chance of any hon. Member on this being detained.

Shri Mahanty: Mr. Speaker, Sir, I believe the hon. Home Minister will have no hesitation in sharing with us the view that preventive detention is not going to be a permanent feature of our civic life. Then, it boils down to this. It is a temporary measure; it is a temporary expedient to meet certain exigencies of circumstances. Therefore, I venture to submit before this House whether we are justified in giving piecemeal extension to a measure which was never meant to be a permanent one. (*Interruptions*). Therefore, the limited issue before us is to examine whether the exigencies of circumstances, whether the time content as it is today in this country justifies the piecemeal extension and whether we are justified in further extending this measure which is now about to lapse.

To consider this, it will be very important to determine the genesis of this measure. As it has been pointed out by other hon. Members, Sardar Patel, in 1950, never meant it to be of a permanent character. (*Interruption*). A large number of detainees were going to be released in 1950 and that he had offered as a justification for bringing this measure. In 1951, the other Home Minister, Shri Rajagopalachari, in bringing this Bill, had said that mere preventive measures of the sort covered by the present Bill will not solve all our difficulties. We have to act at both ends. We have to take constructive measures for the amelioration of the condition of the masses. We know that this is the best preventive measure against subversive activities. Therefore, at that point of time, the successor of Sardar Patel, even in

the year 1951, had no doubt in his mind that this is a merely temporary measure and the real measure to counteract subversion was ameliorative measures and not preventive detention.

Dr. Katju the other Home Minister, in 1952, also expressed the same opinion. He said that this Bill was not going to be enacted for the suppression of any political opinion but it was directed against individuals who may be engaged in activities which may be dangerous to the preservation of defence or to the conduct of our external affairs or to the security of India and that it was never meant to be a permanent feature of law.

Shri Tyagi: Our present Home Minister is also of the same view.

Shri Mahanty: Therefore, I began by saying that the hon. Home Minister shares with us the view that this is not going to be a permanent measure.

The next point that I would like to put before him is this. Whether the present time context necessitates the re-enactment of this statute? For that we shall have to rely not on our subjective feelings which, I am sure, the hon. Home Minister will never accept. I do not say that we should be guided by emotions. Let us go by facts. What do I find? From 31st December 1959 to 1st September, 1960, out of 160 people detained under this Act, this is the break-up, for violent activities 49,—Violent activities have not been defined—Violent activity may mean anything and everything. Then, you find for goondaism 54. Then, we have Naga hostiles 9; instigating breaches of law 2; espionage 1; and so on. If we analyse these figures we will find that the majority, at least 70 per cent have been detained under preventive detention for violent activities and goondaism.

I do not know what the definition of goondaism is. Whatever that may be, I find that the goonda is going to be the ubiquitous person who is providing a sort of *raison d'être* for having this

[Shri Mahanty]

preventive detention. In that case we shall have to see what are the judicial pronouncements about goondas, detained under preventive detention.

There have been two cases during this period of one year. There is the case of *Rabinder Kumar Sardarilal vs. Rajasthan Government* where the ground was given was that he was a goonda and subsequently other charges followed. The High Court held in this case that if the local police is helpless in securing conviction of a criminal he should not be detained under the Preventive Detention Act.

There has been another case in Mysore. It was *Sangappa Mallappa Kodipi vs. Mysore Government*. There again, the ground was that he was a member of a gang and he was a goonda. The hon. High Court have held that Preventive Detention provisions actually are taking the place of the Criminal Procedure Code and they are being utilised for the purpose of detaining habitual criminals.

I have cited these two cases to show that you are now going to utilise preventive detention as a short-cut to maintain law and order. This House has to consider this neither in emotion or in bias. Whether we are going to allow preventive detention to be utilised as a short-cut for the maintenance of law and order is a legal question. Why do I say so? There is a valid reason for that.

You will find in the Act that even a Police Commissioner can authorise detention of a person under preventive detention. The hon. Home Minister must be knowing Police Commissioners much better than I do because he has come more in contact with such Police Commissioners the kind of which has been described in this Act. Here is a police officer; he authorises detention. He is entrusted with the maintenance of law and order. He cannot secure the conviction of a person in the normal course of law. There-

fore, he takes recourse to this unusual, abnormal process and secures conviction as a goonda. And, as I have already said, the High Courts of Rajasthan and Mysore have had to make pronouncements, nullifying such detentions.

There is another aspect and that is a very vital and fundamental aspect which should not be ignored. It has been said, time and again, that the Constitution of India had also contemplated preventive detention; otherwise, the words 'preventive detention' would not have occurred in article 22(4) of the Constitution. You will find that in our Constitution no freedom has been unrelated, no freedom has been unrestricted except the freedom of the Government, except the freedom of the Ministers, except the freedom of the high-handed officers. Every freedom in this country is related and restricted. When we come to article 9, what do we find? We find that certain fundamental freedoms with reasonable restraints have been guaranteed to the good citizens and not to criminals, who are a danger to society. There are criminals; but there are any number of provisions in the Criminal Procedure Code to take care of them. Here, you are dealing with citizens who are not *prima facie* criminals, about whom you have no clear charge but you have only a suspicion and a notion that the activities of these persons may be contrary to the best interests of the security of our State. Therefore, I would beg of you to consider whether you are entitled to keep a citizen in detention without sufficient reasons for even twelve days. Your Constitution says that reasons for detention must be communicated to the person concerned within 24 hours. Now, let us take this point. The hon. Minister said that *suo motu* they have released some persons; he seems to have taken some pride in doing so. I was really pained at that; I was pained that a man of his eminence should be talking like this. It only shows that there were no justifiable grounds to have detain-

ed these persons who were subsequently released. What moral, political or ethical right have you then to keep a man in detention even for 12 days, if you have no charge against him? That is a tragedy too big for tears.

You are talking of developmental plans and for that you need preventive detention. This is what the hon. Minister said yesterday. In that case, you can make it a chapter of your Plan... (Interruptions). If you want to have development by putting citizens behind the prison bars under preventive detention, it is better we preach anarchy than obedience to law, which is no law.

My last argument will be this. I have analysed the time-context and in my humble and limited way I have tried to bring out the enormities of the situation arising from the implementation of this law. Now, section 3 of this Act lays down the circumstances under which the Central Government or the State Government may authorise preventive detention. One of the most fundamental and principal considerations, is the security of India and the defence of India. We all know that our northern borders are galore with anti-national activities. Now, how many persons have been put in detention? You have been able to detain none. We know what has been happening in the Nagaland? How many people have been detained here?

Shri Braj Raj Singh: Shri Achaw Singh is one of the detenus in Manipur.

Shri Mahanty: I am not talking about Manipur; I am talking about the Nagaland. According to these figures, you have been able to book 9 Naga hostiles and two for instigating and breaches of law. You have not been able to put a single person in the Northern borders of India, where it is a serious problem and our security is threatened. I believe that the hon. Minister will have no manner of doubt in his mind that the principles of even this lawless law, undesirable law, had not been given effect to where it was necessary and it was required.

Shri Tyagi: In the opinion of my hon. friend, it was justified to apply it there?

Shri Mahanty: Do not run to conclusions.

Pandit K. C. Sharma (Hapur): Do not look for logic.

Shri Mahanty: What I am saying is that it has not been utilised even in the northern borders for which it was meant originally. It was never meant for goondas for whom there is the Criminal Procedure Code. I submit that this has been utilised by an inefficient administration to book persons whose convictions they could not procure under the due process of law. This law has been used as in the case of Shri P. N. Singh, to satisfy the political vendetta, to square up political accounts; it has been utilised for the other types of persons for alleged habitual goondaism which is never defined in law, in court in statute and certainly this is not the way in which they should be dealt with. Therefore, I maintain and I have no manner of doubt in my mind that this is a lawless law and it should be resisted and we have done our duty by voicing our opposition to the extension of this lawless law and it will be perfectly within our right to agitate for its repeal outside this House also.

Dr. M. S. Aney (Nagpur): Sir, I think the hon Minister who moved the motion for consideration of this Bill has not made a proper approach to the question at all. I am of the opinion that the step that the Government is taking is not right and statesman-like. The hon. Minister has tried to show that after all this statute has been in existence on the statute book and it has been working and only 500 people had been affected till this time and he placed all the classifications under which these cases came and so on. It looked to me that he was taking the whole thing in a light-hearted way; he forgot that he stands as a member of the Congress Party. The Congress Party has a tradition behind

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it. The Congress is not an organisation which has just come up only at the time of the last elections or at the time of Independence; it has been in existence for the last 70 or 75 years or even more and all these years it has developed a tradition. You, Sir, know as much as we do, we, the members of the Congress Party sitting in this House—that one of the points on which the Congress Party was very keen during all those days was to fight for the liberty of the individual, for the repeal of all repressive laws which oppressed the liberty of speech, liberty of action, liberty of association and so on. You may also remember, Sir, the memorable occasion when our late Satyamurthy moved a Bill in this House for the repeal of all repressive laws, including the Rowlett Act also and the marathon speech in the House which thrilled all the persons. That was the spirit in which the Congress was working in the old days and that was the reason why the country was behind Congress. It was this spirit which placed before the people a kind of an ideal of liberty and which enabled the people to support the Congress all these years.

14 hrs.

The Congress has come to power and naturally the people expected that all these evil things that existed before will gradually disappear. But what do they find today? Some of these repressive laws are being made again and the Preventive Detention Act is one of those laws. I know the peculiar difficulties that prevailed when this law was made. People were then given to understand, as many hon. Members have stated it before, that it was meant to last only for a year. But a bad thing has always got some good taste about it. It would satisfy the sordid taste of the man, and once he gets habituated to it he is unwilling to part with it and the vicious habit grows in him. It is not only true in the case of some individuals, it is also true in the case of groups of men who happen to be in power.

Sir, this Preventive Detention Act is not only bad by itself. But it has got some other worse features also. It demoralises the State which uses it. Along with this law there are the normal laws also even which are similarly used by them. There is one peculiar thing which you must note. Bombay and Calcutta are considered as the most progressive States. It is those States which have made the greatest use of this law, as if the progress of the State or its people is to be judged by the incompetence of the Government there to rule with the normal laws. They require abnormal laws to rule the people and that seems to be the test of the competency of those people who are called progressive.

My point is this. There is a strong vicious tendency generated in those people who are responsible for administering this law. This law is being administered by the States and not by the Central Government which enacts it. It is actually administered by people like the District Magistrates or some other magistrates who are authorised to do it. I do not know whether the figures relating to Bombay given by the hon. Minister include the persons detained under this law from the division of Nagpur-Berar. To my knowledge, Sir, they were 18 in number. Out of these 18 persons, one was released by the Government themselves without giving any reasons. Of the remaining 17 persons, ten were released by the Administrative Board. They found that the grounds given were untenable against the explanations taken from the accused and, therefore, they could not be detained at all. In the case of five persons their applications were allowed by the High Court and they were set at liberty. Only in the case of two persons the High Court did not allow the applications and their cases are pending before the Supreme Court—I shall not say anything about those persons.

Who were these men? They were not men who were guilty of any

heinous offences, they were men belonging to a political group who were fighting for the sake of having Vidarbha separated from Maharashtra. That is the fight that they were carrying on. 17 persons belonging to that group were detained. The main object of detaining those men was to see that by taking away the leading men the movement was paralysed. In this way, instead of fighting with the rival group in an honourable manner, allowing them to have all constitutional freedom to carry on the movement, unfortunately, the Government resorted to this Act.

What is the meaning of releasing all those persons after some time? The reason is quite plain. The Administrative Board itself found that the District Magistrate had acted not wisely in detaining those men and he had not sufficient grounds to detain them. Acquittal by the High Court also means the same thing. It means that the persons to whom these powers are delegated, the persons who are empowered to administer the Act have no proper discretion to make a selection of persons for the sake of detention under this Act. Out of 17 persons who were detained by them 15 persons have been released in this way—ten by the Administrative Board itself, five by the High Court and one by the Government themselves. Such are the District Magistrates who are administering the province of Nagpur at present.

My point is this. Not only the Act is bad, but it creates a demoralising tendency among the people who are empowered to administer it. Instead of dealing with people under the normal law they resort to this handy weapon, they try to keep the persons under detention and get rid of the whole affair. Therefore, the operation of high-handedness is there on a greater scale than was anticipated by those who framed this law. The law was designed to secure freedom of the country against all persons who had evil designs against the freedom of the country. Now it is being used for other purposes and by officers who

have not got the slightest responsibility, not even one-tenth of the responsibility which the elderly statesmen who sit on the Treasury Benches here carry. When you are asking for continuation of this law you have to look to this point also.

I shall try to bring to your notice the various grounds that were mentioned against those who were detained by the Government. The first ground was that they had made a conspiracy on some particular day for the sake of carrying on certain violent activities in the city of Nagpur. On that the finding of the court was that the affidavits filed by the Government failed to prove that there was reasonable ground for the District Magistrate to come to the conclusion that there was a conspiracy. It was said that a meeting at a particular place was held. On the other hand, the fact has come on the record that the person at whose house this conspiracy was said to have been made was himself not present there and he was in jail on that day. Another person who was supposed to have been present there was also injured on that day. When these things were found the High Court made very stringent remarks. They did not say that there was *mala fide* they simply said that there was not enough proof before the court to hold that the District Magistrate had sufficient grounds before him to come to the conclusion that there was any conspiracy being made.

The second ground was that these persons attacked a procession which was started by the people of Nagpur on that day in connection with the Shivaji festival. The affidavits that were filed before the court showed that the persons who were detained had not attacked the procession but had gone there to persuade the people not to go by a particular way to avoid a certain clash. It is they who were beaten, it is they who were injured, it is they who were sent to hospitals. All these facts have been recorded in this judgment. I do not

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want to read the whole judgment. I shall read out only the relevant portion. It says:

"In the circumstances, in our judgment, the order of detention passed on the 8th June is not legally valid. In view of the conclusions reached, it is not essential for us to deal with the second question raised by the petitioner."

Then, the judgment says:

"It has been averred by the petitioner that on the 22nd April, 1960, Mr. Mazurkar was also in jail under detention and it was impossible for him to have attended the meeting. It has not been denied in the affidavit filed before the district magistrate that Mr. Mazurkar was on detention on the 23rd April, 1960. The statement made by the petitioner that Mr. Mazurkar was also under detention on the 22nd April, 1960 has therefore to be accepted, and when it is accepted, it is clear that even if it is assumed that there was any information laid before the district magistrate about the holding of the meeting on the 27th April was not authenticated or verified or credible information, and in the absence of any affidavit of a person having personal knowledge, it cannot be said that there was material before the district magistrate regarding the alleged meeting on which he could reasonably act."

So, all the grounds on which the district magistrate tried to justify the detention have been found by the court to be untenable and unjustifiable. They have not used the word *mala fides*. So, I do not also want to use that word. But the thing is, *bona fides* is certainly dubious even if *mala fides* were not proved.

I mention these facts for this reason, because, my hon. friend Shri Datar, when he made his speech

yesterday, said that the law was being administered in a general way and in a satisfactory manner. It is not so. Only a few cases go to the high courts, the facts have been thrashed out there and still fewer cases go to the Supreme Court. But whenever they go, it is generally found that those orders that have been passed are generally passed by persons in authority who are not sufficiently vigilant and do not care to see that all the requirements of the law which are there are duly taken note of in passing their orders.

For these reasons, I condemn this law which is bad as it subverts the rights which have been guaranteed to the people, under the chapter on fundamental rights in the Constitution, and secondly, it allows the State Governments to use other laws also in a manner which will be high-handed. I can only say that this law is certainly bad and it does not deserve to continue.

I should like to make one more point before I sit down. The number of persons who have been detained under this law is only 17. But under the other laws there are thousands of persons who are detained and even now hundreds are there who are awaiting their trial. The trials are going on for months together. There is a kind of terror. It is the police rule that is going on in the city of Nagpur at least. I am sure that so long as the Central Government justifies a law like this, the temptation on the part of the State Governments to use all their extraordinary powers under the ordinary laws will remain there, and instead of allowing the people to be ruled by normal laws, they will have recourse always to abnormal laws, and the people will feel that they are being deprived of their liberty which they are entitled to have, having fought the battle for freedom and after having stood and suffered for the principles of liberty.

Therefore, I would humbly press on the attention of the hon. Home

Minister that he should take all these facts into consideration, not only what has been done before but what is likely to come hereafter, and he should consider whether it is wise to perpetuate this Act.

There was one hon. Member from the Congress Benches who was saying that this measure should be permanently put on the record. I regret the Congress has gone down to that stage. Instead of repealing it, not only did the hon. Member want it to be continued for some period but he wants it to be permanently put on the statute-book. The mind of the Congressmen themselves is being changed. From the love of liberty, they have cultivated a new love for power, and in order to see that power remains in their hearts, they want to use every right of power which can be arbitrarily used! To that state, our minds are gradually changing. I therefore want the hon. Home Minister to take all these points into consideration and see if he can consider it right not to press this motion.

Shri Vajpayee: Are we to understand that the discussion will be continued on Monday?

Shri V. P. Nayar (Quilon): Some; not all.

Mr. Speaker: Not even some. Only there will be the reply of the Home Minister that day.

Shri B. K. Gaikwad (Nasik): We may be allowed to speak today.

Shri N. R. Muniswamy (Vellore): It is an important measure.

Shri Vajpayee: All shades of opinion have to be expressed.

Mr. Speaker: There is no chance of some hon. Members at all being detained. I can understand persons who have suffered one way or the other desiring to speak. I leave it to hon. Members.

Shri Tangamani: The time allotted was five hours. There is discretion

for you to extend it by another hour. We have taken four and a half hours till now. Then, one and a half hours would remain. If the hon. Minister takes half an hour or so, about one more hour will finally remain.

Mr. Speaker: If the House is willing to sit longer, we will have this discussion till 3 O'clock, and the hon. Minister will reply on Monday.

Shri S. M. Banerjee: Let us have this till 3-30.

Mr. Speaker: Will hon. Members confine their speeches to ten minutes each?

Some Hon. Members: Yes.

Mr. Speaker: Then, I will ring the bell at the end of ten minutes, so that I could call as many hon. Members as possible. So, we will conclude this discussion at 3-30. The non-official business will be taken up at 3-30 and we will go on till 6 O'clock.

Shri N. R. Muniswamy: There is the President's At Home at 4-15. Many of us want to go to attend it. So, it will be advantageous to have the discussion on Monday.

Mr. Speaker: The reply of the Minister will be on Monday. I am not going to extend the time. When some hon. Members do not want this Bill to be on the statute-book and when they want to vote against it, I want to have it finished even today.

Shri Vajpayee: We are prepared to forego the President's At Home. We would like to speak on Preventive Detention Bill.

Mr. Speaker: I leave it according to the desire of hon. Members. I will continue with this debate till 3-30. That means extending the time by an hour and a ha.f. The hon. Home Minister will reply on Monday and none else would speak on the Bill that day. He will reply on Monday.

Shri Raghbir Sahai: Mr. Speaker, Sir, I have listened to the speeches of hon. Members both on this side as well as on the other side for the last two days with very great attention. Every time this Bill or this Act is brought up before this House for its life being extended, it always creates a heated debate in this House. Almost the same kind of arguments are being repeated; arguments on moral, ethical, philosophical and constitutional grounds, every kind of argument is being advanced, sometimes with very great emotion, passion and indignation. I cannot say whether that indignation shown in this House is always righteous or not. My friends, who are opposing the extension of this Act forget that there is a clear provision in the Constitution with regard to that and towards which attention of hon. Members was drawn by the Minister yesterday when he made the motion for extending the life of this Act.

Article 22—which deals with arrest and detention in certain cases—clearly lays down:

“Nothing in clauses (1) and (2) shall apply—

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.”

This is a clear provision under the Constitution. The point for us to consider is when does that occasion arise when preventive detention should be used or an enactment of that kind should be brought forward before Parliament.

It is a legally constituted Government that is working here and in every State. Government has got the right to decide for itself whether the occasion has arisen for bringing forward the provisions of this Act. This Government does not act in an arbitrary manner. The law and order

position is a State subject, and every State, as the Minister stated yesterday, has very clearly said that they want the extension of this Act, including Kerala.

The other day my esteemed friend, Shri Asoka Mehta, brought forward a number of arguments in regard to the withdrawal of this Act and he said that it should go lock, stock and barrel. We can appreciate his sentiments, because he is very straightforward. But his own colleague Shri Pattom Thanu Pillai, Chief Minister of Kerala, has agreed to the extension of this Act. So, there is difference between a PSP gentleman in office and a PSP gentleman out of office. It is not only emotions, passions and indignations under which a Government is run. Government can only be run by cool-headedness, reasonableness and wisdom. I ask my friends to exercise that amount of reasonableness, coolness and wisdom.

14.25 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

All the arguments that have been advanced yesterday and today by my friends of the Opposition point to this fact that we on this side are mere blood-suckers and we want to imprison everybody who disagrees with us. With all humility, I would say, we have also been political workers for our whole lives and we very much value and appreciate the value of freedom. But if there are circumstances in which public order is disturbed and public security is disturbed, what is the Government going to do, if it does not act on the advice of the State Governments?

More relevant in this connection would have been to point out, as some hon. Members did, the instances where the Act has been abused and to say that greater attention should have been paid to those instances. I am not prepared to say that the Governments are infallible. That is not the aim of the Government here or in the

States. Mistakes could have been made. But there are checks and counter-checks whereby those mistakes would be minimised.

When we see the working of this Act, we find how carefully the provisions have been exercised. The hon. Minister yesterday gave a resume of the figures for the last three years. With your permission, I would also like to quote some figures. On 30th September, 1957, the total number of detenus was 205, out of which were 30 from West Bengal for goondaism and 100 from Punjab for violent activities. On 31st December, 1958, the total number of detenus was 72, out of which from West Bengal, 50 were detained for goondaism and 2 for preaching violence. On 31st December, 1959, the total number of detenus was 90, out of which from West Bengal alone 56 were detained—54 for goondaism and 2 for preaching violence. On 30th September, 1960, the total number of detenus was 116, besides 96 detained on 31st December, 1959, out of which the number from West Bengal was 53—48 for goondaism and 5 for violent activities. All these figures have been culled from the statistics supplied to us by Government. There are certain distinct trends which you would observe. The trend is about goondaism and I am sorry to say that West Bengal is taking the lead in this respect.

There is a Goonda Act of 1923 in West Bengal, which says that 'goonda' includes a hooligan or other rogue. In U.P. also there is a Goonda Act of 1932, which was amended in 1942, where 'goonda' means a hooligan, bul'y, rogue or badmash. Why should there be so much solicitousness for this class of people? Why should there be so much anxiety for these people who take the law into their own hands? Why should they not be relegated to the position which they deserve?

It has been stated that these people can be dealt with under the ordinary law. Everybody knows that if we

resort to ordinary law, it causes inordinant delay. Also, when these nefarious persons are there, how can evidence be called against them? It is because of these difficulties that the Preventive Detention Act has been enacted and is being used.

Some hon. Members have referred to the Preventive Detention Act of 1950. The Preventive Detention Act of 1960 is very different from the Preventive Detention Act of 1950. I submit the sting out of the tail has been taken away. You would find how this Act has become different. Every detenu can interview a lawyer of his own choice. In Bengal, this right has been exercised by a number of detenus.

Mr. Deputy-Speaker: The hon. Member's time is up.

Shri Raghurib Sahai: May I have a couple of minutes more?

Mr. Deputy-Speaker: The Speaker has said that after 10 minutes, the next Member is to be called.

Shri Raghurib Sahai: I bow to your ruling.

श्री वाजपेयी : उपाध्यक्ष महोदय, नजरबन्दी कानून की अवधि को तीन वर्ष के लिए बढ़ाने का विधेयक इस बात का ताजा प्रमाण है, ताजा उदाहरण है कि संकट के काल में सरकार जो असाधारण अधिकार प्राप्त कर लेती है, उन्हें फिर आगे जा कर छोड़ना नहीं चाहती है। परिस्थितियाँ बदल जाती हैं, किन्तु सरकार अपने दस्त्रागार में जो हथियार इकट्ठे कर लेती है उन्हें कम करने के लिए तयार नहीं होती है।

श्री दातार के भाषण से ऐसी किसी भी असाधारण परिस्थिति का परिचय नहीं मिलता जिस का सामना करने के लिए नजरबन्दी कानून की आवश्यकता हो। और अगर उत्तरी सीमा पर चीन की कार्रवाई से कोई असाधारण परिस्थिति उत्पन्न हुई भी है तो

[श्री वाजपेयी]

प्रधान मंत्री जी और गृह मंत्री जी इस बात की घोषणा कर चुके हैं कि उसका निराकरण करने के लिए एक अलग विधेयक इस सदन के सामने प्रस्तुत किया जाएगा। मैं नहीं समझता जब सरकार सीमा सम्बन्धी प्रचार पर नियंत्रण लगाने के लिए एक अलग विधेयक लाने का विचार कर रही है और उसका सम्भव है समर्थन भी किया जाए तो फिर इस नजरबन्दी कानून की अवधि को बढ़ाने का क्या औचित्य है। इस चीज को अभी तक स्पष्ट नहीं किया जा सका है। राज्य मंत्री महोदय ने यह भी दावा किया है कि इस विधेयक को राजनीतिक विरोध को समाप्त करने के लिए काम में नहीं लाया गया। मैं इस दावे का खंडन करना चाहता हूँ और मेरा उन से निवेदन है कि जिस प्रकार से यह नजरबन्दी कानून पश्चिमी बंगाल में पिछले तीन साल से भारतीय जनसंघ के कार्यकर्त्ताओं के खिलाफ काम में लाया गया है, इसके बारे में गृह मंत्रालय की तरफ से जानकारी इकट्ठी करें। १९५६ में हमारे भारतीय जनसंघ के तीन प्रमुख कार्यकर्त्ताओं को, १४ सितम्बर को नजरबन्द कर दिया गया। १९५८ में जनसंघ के संगठन मंत्री को नजरबन्द किया गया और जिस तारीख को एक साल की नजरबन्दी काटने के बाद वह जेल से छूटे उसी तारीख को जो जनसंघ के दूसरे मंत्री थे, उन्हें गिरफ्तार कर लिया गया। जो गिरफ्तारी के कारण दिए गए हैं उनकी ओर मैं आपका ध्यान खींचना चाहता हूँ। एक कारण तो यह दिया गया है कि वे नेहरू-नून समझौते के खिलाफ प्रचार कर रहे थे। मैं नहीं समझता कि नेहरू-नून समझौते के खिलाफ प्रचार करना कोई नजरबन्दी का कारण हो सकता है। आज सारा पश्चिमी बंगाल नेहरू-नून समझौते को कार्यान्वित करने के खिलाफ एक आवाज से खड़ा हो गया है। ऐसी स्थिति में क्या आप सारे बंगाल को इस नजरबन्दी कानून में बन्द करेंगे.

श्री स० मो० बनर्जी : जेलें इतनी नहीं हैं विन्यास कर लें।

श्री वाजपेयी : केवल यही कारण उच्च-न्यायालय में जा कर निराधार साबित न कर दिया जाय, इसलिये एक कारण और भी जोड़ दिया गया जिस को मैं अभी कोट करूंगा। श्री राम प्रसाद दास जो कि जनसंघ की आल इंडिया वर्किंग कमेटी में भाग लेने के लिये नई दिल्ली आ रहे थे उन्हें एक दिन पहले गिरफ्तार कर लिया गया और उन पर आरोप लगाया गया, मैं कोट करता हूँ :—

“That you intend to proceed to Delhi on 9th October, 1958 and that you are likely to instigate plans which may adversely affect the personal security of the Prime Minister of India.”

Shri Tyagi: It is a serious charge.

श्री वाजपेयी : मैं मानता हूँ कि यह बड़ा गम्भीर चार्ज है, किन्तु क्या गृह-मंत्री जी इस बात को अपने हृदय पर हाथ रख कर कह सकते हैं कि जनसंघ की आल इंडिया वर्किंग कमेटी में भाग लेने के लिये आने वाला कोई व्यक्ति यहाँ आ कर हमारे प्रधान मंत्री जी की सुरक्षा को खतरा पहुँचा सकता है, उन के जीवन के खिलाफ षडयंत्र कर सकता है, और अगर ऐसा कर सकता है तो केवल उसी को गिरफ्तार क्यों कर लिया गया, पूरी वर्किंग कमेटी बैठी हुई थी उस को आप गिरफ्तार कर सकते थे। अगर आप समझते हैं कि देश के प्रधान मंत्री जी के सम्बन्ध में हमारे दिलों में इतना भी आदर नहीं है तो मेरा निवेदन है कि आप भारतीय जनसंघ पर प्रतिबन्ध लगा दीजिये और नहीं तो कम से कम हमें विश्वास में ले कर बताइये कि जनसंघ में कौन ऐसे व्यक्ति हैं जो प्रधान मंत्री जी की हिफाजत नहीं चाहते

हैं, हम पार्टी में उस के खिलाफ कार्रवाई करेंगे, पार्टी से उस को निकाल देंगे। षडयंत्र हमारे देश के प्रधान मंत्री के जीवन के खिलाफ हो और हमें बताया भी न जाये और फिर ताज्जुब की बात देखिये कि एक साल के बाद वह व्यक्ति रिहा कर दिया गया। अगर वह कोई षडयंत्र कर रहा था तो आप अभी भी उस के खिलाफ मुकदमा चलायें और उस को सजा दिलवायें। लेकिन ऐसा नहीं किया जाता है। आखिर में हाई कोर्ट में उस का मुकदमा गया और उस ने कहा कि अमुक व्यक्ति को जल्दी से जल्दी छोड़ देना चाहिये। मगर हाई कोर्ट के निर्णय को नहीं माना गया। चार महीने तक उस व्यक्ति को जेल में बन्द रखा गया, हाई कोर्ट के फैसले के बाद भी। मैं हाई कोर्ट के फैसले की कुछ पक्तियाँ, उपाध्यक्ष महोदय, आप के सामने रखना चाहता हूँ। कलकत्ता हाई कोर्ट ने अपने फैसले में कहा :

"As successive Secretaries of the Jan Sangh appear to have been arrested and detained for long periods, although nothing untoward appears to have occurred, we have no doubt that the Government will consider the question of releasing the detenu as soon as possible".

यह कलकत्ता हाई कोर्ट की सिफारिश है, मैं इसे फैसला नहीं कहूँगा। सरकार को चाहिये था कि इस सिफारिश का आदर करती मगर हाई कोर्ट की इस सिफारिश के बाद भी उन को और चार महीने तक जेल में बन्द कर के रखा जाता है। बाद में उन को छोड़ा गया। मैं पूछना चाहता हूँ कि क्या यह नजरबन्दी कानून का दुरुपयोग नहीं है ? अगर आप समझते हैं कि देश में कोई ऐसे तत्व हैं जो देश की शान्ति को, देश की सुरक्षा को संकट में डालना चाहते हैं तो उन पर खुली अदालत में मुकदमा चलायें, उन की आपत्तिजनक कार्रवाईयों पर रोक लगायें, मगर नजरबन्दी कानून की झाड़ ले कर उन्हें उन के वैध कार्यों से रोकना इसे कभी भी उचित नहीं

कहा जा सकता। नजरबन्दी कानून किसी भी व्यक्ति के खिलाफ लाया जाये, मैं उस के समर्थन में नहीं हूँ, फिर चाहे वह शेख अब्दुल्ला हों या मास्टर तारा सिंह हों। बिना मुकदमा चलाये किसी भी व्यक्ति को नजरबन्द रखना ठीक नहीं है। और अगर देश में कोई ऐसे तत्व हैं, ऐसी शक्तियाँ हैं, जो देश की स्वतन्त्रता को, देश की सुरक्षा को संकट में डालना चाहते हैं, जो विदेशों से धन या हथियार प्राप्त कर रहे हैं, जो पंचमागियों के रूप में काम कर रही हैं, उन के लिये एक ला आफ ट्रीजन आप अलग से बना सकते हैं, गद्दारों के खिलाफ एक कानून आप अलग से बना सकते हैं। मगर नजरबन्दी कानून और उस का इस तरह का राजनीतिक दुरुपयोग, इस का कोई भी समर्थन नहीं कर सकता है।

मैं गृह मंत्री महोदय से निवेदन करना चाहता हूँ कि पश्चिमी बंगाल में जनसंघ के कार्यकर्ताओं के खिलाफ यह एक्ट जिस तरह से काम में लाया गया है, उस की वह जांच करें और हमें बतायें कि हमारे कार्यकर्ता वहाँ ठीक काम कर रहे हैं या नहीं कर रहे हैं। अगर नहीं कर रहे हैं तो हम उन के खिलाफ कार्रवाई करेंगे। लेकिन केवल पुलिस की रिपोर्ट पर आप कार्रवाई करना चाहते हैं। उपाध्यक्ष महोदय, मैं आप के सामने पुलिस रिपोर्ट का एक उदाहरण पेश करना चास्ता हूँ। पुलिस ने अपने प्राउन्ड में लिख दिया कि अमुक दिन जनसंघ के कार्यालय में एक मीटिंग हुई थी उस में आप ने भाषण दिया कि पश्चिमी बंगाल से सब मुसलमानों को खदेड़ देना चाहिये। हमारे कार्यकर्ता का कहना है कि उस दिन मैं उस मीटिंग में गया भी नहीं था और पश्चिमी बंगाल जन संघ के वाइस-प्रेसीडेंट को जो एक मुस्लिम सज्जन हैं, उन का कहना है कि मैं उस मीटिंग में था और ऐसी कोई बात नहीं कही गई। ब किस को सच माना जाए। ऐसी हालत में क्या केवल पुलिस रिपोर्ट पर आप किसी आदमी को एक साल के लिये नजरबन्द कर

[श्री वाजपेयी]

देंगे ? मेरा निवेदन है कि नजरबन्दी कानून के इस तरह के उदाहरण सरकार के इस दावे का खंडन करते हैं कि सरकार इस कानून का दुरुपयोग नहीं करती। सरकार को चाहिये कि इस कानून की अवधि को बढ़ाने से पहले, वह इस बात का विचार करे, हम को समझाये, सदन को विश्वास में ले और बताये कि आखिर देश में ऐसी कौन सी परिस्थिति है जिस में लोगों को बिना मुकदमा चलाये नजर बन्द करने का अधिकार उसे चाहिये। श्री दातार के भाषण से इस प्रकार की किसी स्थिति का संकेत नहीं मिलता। सम्भव है पंडित पन्त इस सम्बन्ध में कोई प्रकाश डालें लेकिन उन्हें भी मैं स्मरण दिलाना चाहता हूँ कि नजरबन्दी कानून किसी को, किसी भी दल को, किसी भी पार्टी को खत्म करने का तरीका नहीं है। अगर आपको यही करना है तो उसके लिए आपको दूसरे तरीके अपनाने होंगे और उन तरीकों में जनता का विश्वास प्राप्त करना होगा। लोगों को नजरबन्द करके कांग्रेस पार्टी अलोकप्रिय बनती जा रही है और जिन कांग्रेस के सदस्यों ने इस बिल का समर्थन किया है, उनको मैं चेतावनी देना चाहता हूँ कि वह दिन दूर नहीं है जब कांग्रेस की सरकार, इसलिए कि—वे कांग्रेस के संगठन में उसका विरोध करते हैं, इस कानून के अन्तर्गत उनको भी नजरबन्द कर देगी।

Pandit K. C. Sharma (Hapur): I have heard with attention the speeches of my friends in the Opposition and I agree with them that this law, talking in the sense of the traditional meaning of law is not a law which can be supported on the principle of natural justice or due process of law under the American Constitution. But I beg to submit that the conception of natural justice, as enunciated by English people, was the result of centuries of peaceful life of the English people. Never the people in the world

have been so obedient, so respectful to the letter and the spirit of law as the English people have been. Even an enemy of the English people, who has been found guilty of treason, can still stand in the King's way in London. But here even the Prime Minister could not go to unveil the statue of Shivaji because 2,000 people, violent people, are obstructing him. There cannot be a sadder commentary on the lack of respect and obedience to law and respect to the majesty of law. It is a queer phenomenon that a person sits here as a counterpart of the first Minister of the President and he rises himself not with a view to help and make a contribution to the best of his ability to get the best of laws for the country but he will do his best to break the law in the way he likes. Such a phenomenon is impossible to be found out in any constitutional democracy.

I regret and I am sorry that such a law should be necessary. But if you have got such a leader in the opposition, such a law becomes unavoidable. The traditional notion of law is that there should be nine sorts of hearing, some of which, it is true, are not provided in the Preventive Detention Act. But that traditional law is passed when there is peaceful condition. But what is the position in India? The opposition leaders are in the front in breaking the laws in Assam. The situation there is, according to the comments of a distinguished paper:

“Political differences, regional sentiments, economic factors, factional rivalries and personal ambition have all added a part in the breaking of the law and order and creating a state of anarchy”.

Now, is it a peaceful condition? Is it a condition where the due process of law can be invoked in defence? Liberty itself must become a logical consequence, the resultant factor of the peace and order prevailing in the country.

I read another aspect of the question, and it is this. We have seen the classic conception of law. But what is the present conception of law?

"It must be emphasized with all vigour, the classic law was a law of bodies".

that is to say, every man must secure his liberty to do whatever he likes:

"while ours is a law of functions. The Romans created a juristic status; our task is juristic dynamics. For us persons are not bodies, but units of force and will; and things are not bodies, but creations of these units."

The hon. Minister of Home Affairs stated that we need this law for the progress and development of the country through the Plan. So, law has to be respected, liberty has to be respected for their positive functioning in the interests of the people themselves. Liberty has no meaning if it does not help the creation of better future for most of the people. So, the whole argument that liberty is in peril does not hold good.

Then there was a reference to lawless law. Ours is a constitutional democracy and whatever the Constitution permits is lawful. Within the limits of the Constitution any law passed by Parliament is a good law. A law would be passed for meeting a situation prevailing in the country. Nobody can deny that in Punjab, U.P., West Bengal and Assam a situation has been created which necessitates the continuance of this law. If the very section of the people who are supposed to help in building up a better future, a peaceful atmosphere and some respect for law and greater contribution for prosperity and healthy growth of the people, if the very same people are creating a situation of chaos then nothing can be done. To meet such a contingency, this sort of legislation helps the executive to maintain peace and order. Even in the Criminal Procedure Code there is provision for detention sec-

tions 109 and 110. The principle of preventive detention against crime has always been accepted in all the civilized countries. It is only in U.K. and America, which have got natural justice, rule of law and due process of law that this provision is not there. In the other continental countries there are more rigorous laws to prevent crimes, etc. and to ensure respect for the majesty of law, without which progress of a country is something impossible.

Dr. Krishnaswami (Chingleput): Mr. Deputy-Speaker, the time is short and so I shall only go briefly over some of the points that have been raised in this debate. The Minister of State in his speech yesterday gave us an utterance marked by logic and lucidity. Sir, I am opposed to this Bill; I am opposed not only to the way in which this Bill has been brought, but also to the substance of this Bill. But I should like to ask my friend, the Minister, whether he is promoting this Bill with great reluctance. It does seem to me to be more appropriate to say that you are promoting this Bill with great reluctance when you seek an extension of measure of this kind by means of an expiring laws continuance Bill. What is it you have done? The House will be shut out most effectively from considering any amendment to the principal Act. All that we will be asked to do is to vote either 'Ayes' or 'Noes' for the continuance of this measure.

And with the right to personal freedom abrogated it does seem to be very strange that no chance is given even to the representatives of the people to propose amendments with a view to making it less rigorous. I know there has been great praise for advisory boards. My hon. friend pointed out that an advisory board was a safeguard. That safeguard had to be put in there because of the constitutional provision. But I should like to point out that it is very clear to anybody who has given thought to the working of these advisory boards that they are totally unlike all High

[Dr. Krishnaswami]

Courts and that there is no possibility of sifting evidence as in the case of High Courts at all. Therefore, I should not like my friend to make a great deal of fuss when there is no need to make a fuss about these advisory boards at all.

I should like those of my friends who are here to give some attention to the very very sinister feature of this measure and I would wish that they would pay some attention to how they have worked in practice. Sometimes it happens, often it happens, that instead of seeking recourse to normal law, government seeks recourse to this extraordinary measure even when the normal law would be sufficient.

Hon. Members here have pointed out that in the case of the Government employees' strike there was no need whatsoever to invoke the Preventive Detention Act, Heavens would not have fallen if the Preventive Detention Act had not been invoked. The force of public opinion was there to sustain the ordinary machinery of justice and I am certain that without invoking this measure it would have been certainly very easy to put down the strike. The only thing that happened was that the authorities resorted to this measure only in order to lock up a few men in anticipation of a great outbreak of lawlessness. The ordinary administrative machinery was more than ample to control the Government employees' strike.

There is one feature about this Bill which struck me as odd and to which, I am sorry, my hon. friends did not advert sufficient attention. This measure is extended to cover 1962, the year in which our election is to take place. Can there not be a legitimate fear that this may be used against political parties and would this not lead to a fear that chances of a fair election are being jeopardised? I should like my hon. friends to ponder over this matter. It would have been altogether very satisfactory if even in

the case of continuing this measure they had decided to allow it to lapse six or seven months before the election is scheduled to take place for it would create a better atmosphere in the country, and a change in outlook may result—it may be psychological, it may be subjective—that the elections are being conducted in a much fairer manner than they would be with the presence of this Preventive Detention Act on the statute book.

The main argument of my hon. friend is that this preventive detention measure is necessary in order to restrain large outbreaks of lawlessness. But what is it that has occurred? Wherever outbreaks of lawlessness have occurred on a large scale the Preventive Detention Act could not be invoked. It would be next to impossible to invoke the Preventive Detention Act where strong linguistic passions are roused, where large groups believe in breaking certain laws. That was the reason why in Assam, for instance, we could not invoke the Preventive Detention Act in order to curb the agitators.

I have heard a great deal about this argument about security. I am all in favour of security being maintained and of subversive elements being controlled. But I am asking this one simple question. I ask my hon. friend the hon. Home Minister to apply his mind to this aspect of the matter. If a particular State on the border requires special measures, there surely are local security Acts. The State legislatures and the State executive have ample powers for dealing with the situation. There are already on the statute book several public security Acts and, if necessary, they can be tightened up. Why should we have an all-India measure covering the whole of India and practically advertise to the world at large that we are in such a serious situation that we cannot get on without a Preventive Detention Act? No case has been made out for a Central Act. In spite of my patiently listening to my hon.

friend, the hon. Minister of State, I must say that he has given a singularly unconvincing performance yesterday. I have not in the least been convinced by what he has pointed out.

On all these matters we have pursued the whole thing in a sort of a routine way. My hon. friend said that there are only a few cases of people being locked up. Surely if there are a few cases—and I am willing to accept his argument for a moment—why then should we not use the ordinary law to control these cases? There are other considerations which, they say, they have in view. My hon. friends opposite have pointed out that the Constitution authorises us to pass a Preventive Detention Act. I say and I say it with the utmost confidence that while the Constitution does not preclude the passing of Preventive Detention Act legal, it certainly does not invite or encourage the Government to pass this measure. In fact, the Constitution-makers were much wiser than the Government in having suggested certain safeguards which ought to be taken into account even in the gravest of grave emergencies. Article 357, 358 and 359 point out that even if the President declares an emergency and suspends all the rights under Article 19, a minimum safeguard, namely, that of having an advisory board and of giving the detenu a right to appear before that should be maintained. In fact, that was the reason for putting this preventive detention clause in Chapter III which deals with fundamental rights and not to give an opportunity to hon. Ministers to invoke this as an excuse for perpetuating the Preventive Detention Act.

If my hon. friend, the hon. Home Minister, is still convinced that this measure is necessary, the obvious and proper course for him would be to take Parliament into confidence, to have a bill referred to a Select Committee and then convince us that this measure is necessary. What is this way of treating Parliament and suggesting that we are passing this meas-

ure after obtaining the views of Parliament? This is a very serious measure. This is a measure which affects personal liberty and it ought to be the duty of hon. Ministers as well as that of legislators to have an opportunity of examining every one of these clauses. They are most important because they affect the liberty of the subjects. Then only we should give any approval whatsoever to this measure. If the hon. Home Minister feels that this is the proper procedure to follow then, of course, I would welcome it. But since already my hon. friend, the Minister of State has committed himself by saying that this measure is most satisfactory, I have very few hopes of their reconsidering their position on this matter.

14.58 hrs.

Mr. Deputy-Speaker: Shri Gaikwad.

Shri B. K. Gaikwad: Sir, on behalf of my party, Shri Katti will speak.

Shri D. A. Katti (Chikodi): Mr. Deputy-Speaker, Sir, I rise to oppose this Bill which seeks to continue the Preventive Detention Act. In the year 1950 when this measure was first introduced it was intended to be for one year only. But during the last ten years nearly four or five times it has been extended and this Bill has now been brought forward to extend it again for three years.

The hon. Home Minister has argued to justify this measure, but his arguments are not convincing at all. In view of the situation that is existing today I think this measure is not at all necessary. The temporary character of this measure shows that such a measure should be brought into being only when circumstances exist where the security of the State or public order is threatened. From the working of the Preventive Detention Act during the period of 1st December, 1959 to 30th September, 1960, we can very well come to know that the situation which was existing when this measure was introduced does not exist today. During the last three years only 569 people have been detained

[Shri D. A. Katti]

and that too not under section 3(1)(a) (i) but for goondaism, dacoity, smuggling etc. It shows that the situation today does not warrant this measure at all. It shows that the people are most sober and not more revolutionary. People are tolerant even in spite of their bitter opposition to Congress rule in the country. They have not done anything which shows that the situation does not warrant it.

15 hrs.

Secondly, this very report submitted by the Government, Statistical Information regarding the working of the Preventive Detention Act, says that during these 9 months, ending 30th September, 1960, about 153 people were detained, not under section 3(1)(a)(1), but mostly for goondaism, for dacoity, smuggling, etc. I want to know from the hon. Minister whether there are only 153 goondas in the country out of 40 crores. There are definitely more goondas hundreds and thousands. In what way are we dealing with these goondas? Of course, we have got the ordinary penal law. Under that law, the rest of the goondas are dealt with. If at all you want to deal with goondas, why have this special measure at all? There is no meaning in that.

An Hon. Member: For special goondas,

Shri D. A. Katti: Liberty of the individual is most important. We want democracy to enjoy liberty. The Constitution has guaranteed it. This measure unduly interferes with civil liberties. Under the penal law, we have accepted one principle that even if ten offenders go unpunished, one innocent man should not be punished. Here, we are just doing the contrary. We are prepared to punish 10 innocent people just to see that one offender does not escape. One principle we follow there and another principle we follow here.

My hon. friends on this side said that this Preventive Detention Act has

been misused, and the High Courts have held in certain cases that detention was mala fide. This Act gives a most arbitrary power. When I see these things, I am not surprised at all, because, this measure is meant for misuse. The purpose of this measure is misuse. Even in respect of laws where there is good intention, they are not properly enforced, in certain cases. In my district, there is the prohibition law. One innocent man who had not taken illicit liquor was caught by his hands by two constables—they were in the main street of the town of Chikodi—and he was being dragged in the midst of a big crowd of people. I asked why he was being dragged. They said that he was drunk. He said that he had not taken any illicit liquor. He was shouting mercilessly and the spectators were helpless. Illicit liquor is such a thing that we can smell it from a distance even. In my place liquor is called by the name morarji. They do not say illicit liquor, they say morarji. Because Morarji had enforced this law. He was innocent. Others smelt his mouth and we found that he had not drunk. The constables ran away from that place. This is how the law is being enforced, a law which has got good intention. Here, the intention is misuse. I say this is meant for misuse because there are reasons for that.

The hon. Home Minister, Shri Datar...

An Hon. Member: Don't promote him.

Mr. Deputy-Speaker: Order, order.

Shri D. A. Katti: ...is my guru and I have got some respect for him. In spite of that, I would like to ask him one thing. He said in his speech that to deal with unruly elements and lawless elements, this measure is necessary. His report shows that in most of the cases, only on the ground of goondaism the people were detained. Amongst all these detenus there

is not even a single congressman. May I take it for granted that congressmen are not at all goondas? Are they all saints? Are they all real honest disciples of Mahatma Gandhi?

An Hon. Member: And Gautama Buddha.

Shri D. A. Katti: If you want to detain a person on the ground of goondaism, innumerable congressmen ought to have been detained. Very recently, in my district, there were local board elections. A congressman comes and speaks from the platform, that the Congress is fire and those who criticise the Congress, it will burn them and reduce them to ashes. Can there be any bigger goonda than this? Why has he not been detained?

This measure is meant for misuse, for the purpose of suppressing political opponents. They want to suppress most deliberately political opponent in the country. We want to have parliamentary democracy. We want to make it a success. For that purpose, we must have a healthy and powerful opposition which, unfortunately, we are not having. The Congress party should also come forward to help the growth of such a powerful opposition. Instead of doing that, the Congress party is suppressing the growth of the opposition parties.

I would like to ask another question whether goondaism is more dangerous to democracy or this want of powerful opposition is more dangerous to democracy. Which is more dangerous? Definitely want of powerful opposition is more dangerous. Because there is no powerful opposition, you are having this absolute power. Your rule is mis-rule. That is why people are suffering. I would like to say that the Congress party is trying to retain power by bogus votes, by preventing voters from voting, by all means, whether fair, foul, rational, irrational, fair, unfair; all the means they are adopting. Somehow they want to retain power. This measure

is also one of such means. If at all you want to retain power, don't speak of democracy and parliamentary democracy. Do away with the Constitution. Dissolve this Parliament. Make Jawaharlal Nehru your dictator....

Mr. Deputy-Speaker: His turn is up. Lala Achint Ram.

Shri D. A. Katti: I oppose this black Law.

लाला अचिंत राम (पटियाला) : माननीय उपायध्यक्ष जी, यह बात सच है कि प्रिवेंटिव डिटेंशन एक्ट से गवर्नमेंट ऐसी ताकतें ले रही है, जो कि आम तौर पर उसके पास नहीं होनी चाहिये। जब सरदार पटेल ने यह मेज़र पेश किया था, तो बजा तौर पर बहुत दुःख का इज़हार किया था।

श्री ब्रजराज सिंह : इन्होंने तो कच बिल्कुल दुःख का इज़हार नहीं किया।

लाला अचिंत राम : माननीय सदस्य कहते हैं कि इन्होंने बिल्कुल दुःख का इज़हार नहीं किया, लेकिन मैं कहूंगा कि अगर वह १९५७ की पन्त जी की तकरीर को देखें, जो कि उन्होंने यह बिल पेश करते हुए की थी, तो वे मुतास्सर हुये बगैर नहीं रहेंगे। इस सिलसिले में उन के दिल में भी वही जज़बात हैं, जो कि माननीय सदस्यों के दिलों में हैं। जिन लोगों ने सारी उम्र आज़ादी की लड़ाई लड़ी, उन के बारे में यह कहना कि उन को आज़ादी का कोई फ़िरक नहीं है, मेरे ख्याल में उन के साथ बेइन्ताफ़ी है।

श्री ब्रजराज सिंह : मैं श्री दातार की बात कह रहा था।

लाला अचिंत राम : दातार साहब पन्त जी के डिप्टी मिनिस्टर हैं। वह उनके बिहाफ़ पर इस बिल को पेश कर रहे हैं। मैं यह अर्ज़ करना चाहता हूँ कि माननीय

[लाला अर्चित राम]

सदस्य श्रीर खास तौर पर श्री अशोक मेहता, जो कल इस पर बोले थे, दातार साहब, पन्त जी और सरदार पटेल के जज्जबात को देखें। वे गवर्नमेंट को ऐसे ही एक्यूज न करें। सवाल यह है कि जब उन को गवर्नमेंट में होने का मौका मिलेगा, तो वे क्या करेंगे। कल उन्होंने कहा कि सौ, सवा सौ आदमी इस के मातहत पकड़े गए हैं और हम को एक एक आदमी की आजादी, लिबर्टी, का फ़िक्र है। मैं यह दरखास्त कर्हंगा कि वे इस मामले को जरा वैलेंसिड ब्यू से देखें। अगर पंद्रह हजार आदमी पकड़ें, तो बुरा है, दस हजार पकड़ें, तो भी बुरा है, नौ हजार पकड़े गए, तो भी बुरा है और अगर सौ आदमी पकड़ें, तो भी बुरा है। मैं अर्ज करना चाहता हूँ कि जहां गवर्नमेंट ने ठीक काम नहीं किया है, वहां उस को डिस्क्रेडिट दीजिए, लेकिन अगर उसने कुछ अच्छा काम किया है, तो उस को क्रेडिट देना चाहिये। इस में क्रेडिट की बात यह है कि दस हजार से सिर्फ़ सौ आदमी ऐसे रह गए हैं, जिन को इस कानून के मातहत पकड़ा गया है। एक सूरत यह भी आ सकती है कि कोई भी न पकड़ा जाये। जैसा कि मैंने अभी कहा है कि हम को इस बारे में एक वैलेंसिड ब्यू लेना चाहिए। दस हजार से सौ रह गए, यह एक अच्छी बात है। हां, यह सावल किया जा सकता है कि सौ भी क्यों रहें। विस आई कैन प्रॉपरस्टैंड। इसके सिवा मेरा चार्ज जरा और है। मेरा चार्ज यह है कि गवर्नमेंट ने रेस्ट्रेंट के बजाय ओवर-रेस्ट्रेंट बरती है। मुस्लिम लीग जब पैदा हुई तो यह एक छोटा सा बच्चा था। यह छोटा सा बच्चा था केरल में भी। आज आप देखें कि बारह बरस के बाद जमायते-इस्लाम का अभी एक जल्सा हुआ है —

श्री प्र० ना० सिंह: केरल में भी मुस्लिम लीग के साथ कांग्रेस ने दोस्ती कर

ली थी।

लाला अर्चित राम : मैं उसके भी खिलाफ़ हूँ।

मैं कह रहा था कि अभी जल्सा हुआ है जिसमें जहरीली तकरीरों की गई। हजारों लोग इकट्ठे हुये। मुझे पता नहीं इस पावर का इस्तेमाल करना उनके खिलाफ़ जायज़ था या नाजायज़, लेकिन आप इस पर गौर कर सकते थे। अगर आप समझते कि जायज़ था तो आप इन पावर्स का इस्तेमाल भी कर सकते थे। आग जब लग चुकेगी तो सिचुएशन आपके बस में नहीं रहेगी। इस वास्ते वक्त पर कार्रवाई करना ही अच्छा होता है। मैं नहीं चाहतका कि आप दबाव में आ कर इन पावर्स को इस्तेमाल करें और न ही आप खुशामद में आयें। जो जस्ट चीज़ है, उसको आप करें। आप खुद ब्याल करें कि मुल्क में कैसी कम्युनल फीलिंज हैं और देश की राजधानी दिल्ली में ये क्या शकल अस्तित्थार कर गई है। मेरा खयाल है कि गवर्नमेंट बजाय रेस्ट्रेंट के ओवर-रेस्ट्रेंट कर गई है, बजाय काशस होने के ओवर-काशस रही है।

मैं समझता हूँ कि अगर आप नामंली बिहेव करते तो असम में जो कुछ हुआ न हुआ होता। असम में दस हजार घर जला दिये गये। आप कह सकते हैं कोई बात नहीं, उनको हम ठीक कर लेंगे, लेकिन ऐसा एटी-ट्यूड अस्तित्थार करना ठीक नहीं है। वक्त पर आपने सिचुएशन को कंट्रोल नहीं किया और उसका नतीजा देश को भुगतना पड़ा और दस हजार घर जल गए। इतना नुक्सान उठाने के बाद आप ने सिचुएशन को कंट्रोल किया तो क्या किया। तो मैं कहूंगा कि you are suffering from over-restraint and over-conscientiousness.

अभी कुछ प्रसंग हुआ स्ट्राइक हुई थी। मैं नहीं मानता कि जो स्ट्राइक हुई उसके अन्दर सिव्चुएशन कंट्रोल नहीं हो सकती थी, उससे पहले ही उसको कंट्रोल किया जा सकता था। लेकिन आपके अन्दर ओवर-कान्फिडेंस था। आप समझते थे कि ये हमारे एम्पलायीज हैं, इनको हम ठीक कर लेंगे, इनको हम पे दे देंगे। आपने गवर्नमेंट चलानी है, बाहर वाली दूसरी पार्टियों ने नहीं चलानी है, जिम्मेदारी आप पर है, मुल्क को ठीक हालत में रखने की जिम्मेदारी आपकी है, इसलिये आप इसमें इंटररेस्टड हैं कि किस काम को कैसे करना है। लेकिन इंटररेस्टड होते हुये भी, आप ओवर-कान्फिडेंस में आ गए। आपने कहा पे कर देंगे और आपने पे कमिशन की रिपोर्टमेंटेशन पर अमल नहीं किया। अमल क्यों नहीं किया और क्यों देरी की, यह सवाल उठता है। तो मेरा आपके खिलाफ यह चार्ज है कि आप रेस्ट्रेंट ही नहीं रख रहे, ओवर-रेस्ट्रेंट रख रहे हैं। आप जो पावर लेने जा रहे हैं, अमल तो उसका इस्तेमाल ही न करें, लेकिन अगर इसको इस्तेमाल करने की जरूरत महसूस हो तो आप अिअके नहीं। अगर अिअकेंगे तो नुकसान होगा। मैं कहना चाहता हूँ कि आज यहां पर ही ऐसी तकरीरें होती हैं, कम्युनल वायरस फैलाया जाता है कम्युनल पायजन फैलाया जाता है कि आप कुछ करते ही नहीं हैं। वक्त पर आप करेंगे तब काम होगा बर्ना नहीं।

अशोक मेहता साहब ने कहा कि मास्टर तारासिंह की ताकत को गवर्नमेंट जानती नहीं थी। मैं समझता हूँ कि उन्होंने यह बात अरा ठीक नहीं की। गवर्नमेंट अच्छी तरह से उनकी ताकत को जानती थी और उनके मुखालिफों की ताकत को भी जानती थी। गवर्नमेंट ने ऐसे मौके पर उनसे बुआहिदा किया और यह जानते हुये किया कि वहां एक कम्युनिटी पंजाब में है जिसको

डिफाई नहीं करना चाहिये, लेकिन उसको डिफाई करके किया। मैं चाहता था कि उन्होंने यह कहा होता कि आपने मास्टर तारा सिंह से पूछ लिया है कि रिजनल फार्मूला कहां इम्प्लेमेंट नहीं हुआ है और इसका वह जवाब देते तो और बात थी। लेकिन यह बात नहीं है कि गवर्नमेंट उनकी ताकत को नहीं जानती थी।

आप जानते हैं कि दिल्ली में क्या हुआ। लोगों का चार्ज है कि यहां पर इंडिसक्रिमिनेटली गिरपतारियां की गई हैं। लेकिन एक बात मैं कहना चाहता हूँ। जिस तरह से माब ने पुलिस स्टेशन पर हमला किया और पत्थर फेंके उस वक्त जिस रेस्ट्रेंट से गवर्नमेंट ने काम लिया, वह छोटी बात नहीं थी। उन हालात में गोली चल जाना मामूली बात थी।

श्री प्र० ना० सिंह : रोड चलती है।

साला अर्चित्त राम : मैं दूसरी बात कर रहा हूँ। मैं कहना चाहता हूँ कि जिस रेस्ट्रेंट से उस वक्त आपने काम लिया वह मामूली बात नहीं थी, तारीफ के काबिल बात थी। अगर आप गोली चला भी देते तो आप पूरी तरह से जस्टिफाइड होते लेकिन आपने ऐसा नहीं किया और इसके लिए आपकी तारीफ की जानी चाहिये। यह ऐसी मिसाल है जिस पर बाकी देश में भी अमल होगा।

आखिर में मैं इतना ही कहना चाहता हूँ कि आप ओवर-कान्फिडेंस से सफर कर रहे हैं, ओवर-रेस्ट्रेंट से सफर कर रहे हैं। अगर आप इन दोनों से सफर न करते होते तो आपकी इतनी नुक्ताचीनी न होती और जिस तारीफ के आप मुस्तहिक हैं वह आप को मिल जाती। इस वास्ते मैं कहना चाहता हूँ कि आप ओवर-कान्फिडेंस और ओवर-रेस्ट्रेंट से सफर न करें और न ही ओवर-डू कीजिये।

Shri Naushir Bharucha: The Bill before the House is an unparalleled piece of legislation which could only be justified in case of the gravest peril to our national existence. The Bill is nothing but the negation of democracy, negation of the rule of law, negation of civil liberties.

It has been pointed out that certain safeguards have been incorporated in the Bill, so that the detenu gets at least a fair hearing. It has been pointed out to us that within five days of his arrest, he has to be supplied with the grounds; within twelve days, the local Government has to confirm the order of arrest and the advisory board has to hear his case within 30 days. May I point out with due respect that all these safeguards are absolutely illusory?

In the first place, the advisory board cannot be given the facts if the police officer thinks fit. Secondly, the board cannot go into the truth or otherwise of the allegation. The detenu has absolutely no right to get all the facts. What is more, he cannot know the name of his accuser, much less cross-examine him. And still more surprising as it may seem perhaps the implications of this Act have not been properly understood—even the High Court has got no right to get at the truth of the allegation. The High Court is prevented and it is helpless. It has no right to find out whether a particular allegation made by a police officer is right or wrong. I should like to know what type of law this is which says that the High Court shall not enquire into the truth of allegation made against the accused. The nearest parallel that I can think of is the one which I learnt in the school days in a text-book. *The Tale of Two Cities*, according to which in pre-revolutionary France, a nobieman had the right by means of *lettre* to confine a person in prison and forget about his existence. That is the nearest parallel we can find to this preventive detention.

It has been compared to the Rowlett Act. May I point out to you that the

Rowlett Act was ten times better than this Act? Why? In the first place, the Rowlett Act was not applied to the whole of India. It provided that it could be applied only to declared areas where the Governor declared that the civil administration could not be carried on by reason of anarchical organisations working there. Secondly, the accused under the Rowlett Act got a trial. Three Judges tried him, may be without a jury, but three judges did try him. He had the right of cross-examining the prosecution witnesses. Nothing of the kind here.

I shall not take the time of the House, but I shall quote what had been said against the Rowlett Act by some of the most eminent Members present in the then Imperial Legislative Council. The hon. Vithalbhai Patel said:

"I was, I might state, surprised that the Government have thought it proper to introduce the measure at this juncture. It is one of those blunders which a Government not responsible to the people is likely to commit in a moment of excitement."

Dr. Surendranath Banerjee said that the provisions constituted a peril to the sacred rights of personal liberty.

Shri Jinnah said:

"To any man who believes in law and justice, these measures are abhorrent and shocking. It is the most fundamental principle of law and justice that no man should lose his liberty without a judicial trial and in accordance with the accepted rules or justice."

And then Pandit Madan Mohan Malaviya said:

"This is a grave departure in principle from the rules which have been hitherto laid down for the trials of offences."

If this could be said of an Act which was much more reasonable than the Preventive Detention Act, I ask what

may be said of this particular measure in this House?

Here, may I point out one thing to the hon. Minister and to all those Members who have supported this black legislation? They said that there are goondas, and there are people who make administration and rule of law impossible, and Government cannot get on without the help of this Act. There are two answers to that. The first is that even in the gravest hour of national peril in the torments, when Britain stood alone against the might of Germany when France had fallen, and when there was the gravest danger to the security of the nation from the number of spies there, Britain did not promulgate any Preventive Detention Act. Not even in the gravest hour of national Peril when it was fighting for its very existence, did Britain do that. Secondly, today, the whole of India spends nearly Rs. 150 crores on police administration. May I know whether Rs. 150 crores are spent over police administration in the whole of India so that you could enact this Preventive Detention Act and impair the civil liberties of the people? I feel, even though we may today feel helpless, posterity will one day judge that here was a Government which traded in the name of Mahatma Gandhi and which enacted a law which had been condemned in one breath by all those made the Indian National Congress great.

Dr. Vijaya Ananda (Visakhapatnam): I am the last in the batting order today, as we are adjourning the debate on this Bill at 3-30 p.m.

I want to ask why anybody should be frightened of a Bill of this kind, if he is a law-abiding citizen. That is my main argument. If I am a law-abiding citizen, I have no reason to fear anything. This Government is a popular Government consisting of the representatives of the people of India, and they would be the last people in the world to introduce any measure, unless it was really necessary.

Many things have occurred, since the days when we achieved our freedom. Even Sardar Patel who was known as the 'Iron Man of India' also had to go ahead with this Bill. Then came Rajaji, who, as you know, was very popular with everybody. He would have been the last man to go on with a Bill of this kind, but he also went the whole hog with it. Then, there is Pantji, who is our Home Minister, who fought for freedom, and who took most of the beatings on his back at the time of the Simon Commission; he had a terrific practice at the Bar, and he gave up everything for the sake of freedom. And would he introduce a Bill of this kind for the continuation of this Act, had it not been for the good of the country?

Of course, Members have been saying that there has been misuse of this Bill. I just cannot understand how it could have been so. I am not particular about mentioning the names of the hon. Members, but one particular Member said that his measure should have been here, only if there had been a war. Well, Sir, war is quite a different thing, but there is war going on underground today. That is how I feel. The activities of certain people in this country necessitate a law of this kind. There are underground activities going on. (*Inter-rptions*). I am at the wicket at the present moment, and I shall stick to my wicket, despite what any hon. Member might say. I say, Sir, that this measure is necessary for the safeguarding of India.

In recent days, and in recent months, there have been border incidents, incidents of a type which is unknown in the history of India, and yet we are trying to blink over them, and trying to forget what had happened.

What would have happened during the strike, had Government not had recourse to a measure of this nature.

15.25 hrs.

[**SHRI MULCHAND DUBE** in the Chair]
That strike was for the purpose of

[Dr. Vijaya Ananda]

paralysing this Government, and to make this Government useless, to overthrow this Government. So, a measure of this kind was absolutely necessary. I am not making any speech in an apologetic manner, but in a very definite way, I say that it is an absolute necessity.

Shri Braj Raj Singh: That is why it should be made permanent.

Dr. Vijaya Ananda: If there are people indulging in activities in which they ought not to, then Government will have to resort to such methods, for aught I know, but a popular Government would be the last Government to do anything of that kind, unless it was absolutely necessary. That is what I would like to say. And I ask that if you are a law-abiding citizen, and you respect the laws, why on earth you should be frightened of the laws? Why should you be frightened? Only if you do a bad act, you would be scared. If you are a just man and a law-abiding citizen, you would be a happy man going about as a free citizen of this country.

Shri Vittal Rao: For bad acts, the Criminal Procedure Code and the Indian Penal Code are there.

Dr. Vijaya Ananda: After all, this is not a new legislation. This has been in vogue for years and years on end. This Bill is only a continuation of the old Act, to safeguard India from possible destruction.

Let me put it to you in my own way. Supposing there is news of somebody trying to bring down the Taj Mahal, would Government have to keep quiet on that? Would Government not take measures by which such an act could be prevented? (*Interruptions*).

Shri V. P. Nayar: In Agra, there is a better place for such people.

Dr. Vijaya Ananda: I am only giving an illustration. Supposing today,

Government hears of somebody planning to destroy the Bhakra-Nangal dam or some of the big dams, are Government to keep quiet? Are they not to take some action to prevent such a thing being done? That is what I have to submit. This Act is for the purpose of safeguarding the country. No one need have any fears, as long as he is a well-behaved man.

In saying this, I would like to give you just a small quotation of what Home Minister Rajaji said at one time, when sponsoring a similar Bill. This is what he said:

"The measure I am asking the House to continue, is certainly an infringement of what may be called a normal principle of criminal justice. Who can be happy when introducing a measure for placing people under detention without going through the formalities of a legal trial? It is a confession of abnormalcy. But the Government cannot be conducted on an unreal basis. The Government's responsibility to the nation demands admission of unpleasant truth as well as maintenance of ideals to the best of our ability. I would like to ask Members the straight question: Have you any doubt in your mind as to the need for the measure? Are you prepared to advise the Government to rest content with the ordinary law and give up any investigation? Are you prepared to say: 'Let Communists and other conspirators do what they like; wait till the offence is committed and prosecute when and if you get the evidence?'"

Maintaining that it is impossible to take any such risks, Shri Rajagopalachari said:

"We have to act sternly and weed out mischievous and violent elements ruthlessly."

Shri V. P. Nayar: Since then, Rajaji has been clean-bowled.

Dr. Vijaya Ananda: This was said by the man who was once called the conscience-keeper of Mahatma Gandhi.

Shri P. N. Singh: Now, Rajaji has changed that opinion.

Dr. Vijaya Ananda: Not so far as this is concerned. These words are in the book, and they can be read by any hon. Member if he so desires.

As my innings have come to an end, and it is now half past three of the clock, I would conclude now. I thank you very much for giving me this opportunity. I would once again say that there is no need for anybody to be frightened as long as he is a good citizen of this country.

15.30 hrs.

COMMITTEE ON MEMBERS' BILLS
AND RESOLUTIONS
SEVENTY-THIRD REPORT

Shri Jhulan Sinha (Siwan): I beg to move:

"That this House agrees with the Seventy-third Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 30th November, 1960."

Mr. Chairman: The question is:

"That this House agrees with the Seventy-third Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 30th November, 1960".

The motion was adopted.

RESOLUTION RE: NATIONALISA-
TION OF GENERAL INSURANCE
—contd.

Mr. Chairman: The House will now resume further discussion of the following Resolution moved by Shri T. B.

Vittal Rao on the 18th November 1960:—

"This House is of opinion that General Insurance should be nationalised".

Out of 2 hours allotted for discussion of the Resolution, only one minute has been taken. Shri T. B. Vittal Rao may continue his speech.

Shri T. B. Vittal Rao (Khammam): I moved my Resolution for the nationalisation of general insurance encouraged by the remarkable progress made by the Life Insurance Corporation. Secondly, in our economy, industrialisation is going on and there is need to improve the general insurance business not only with regard to industries and other things but also with regard to crop and cattle insurance. Now, general insurance covers only fire, marine and miscellaneous. Thirdly, the revealing facts that have been disclosed as a result of inquiries into the working of the New Asiatic Insurance Company and the Ruby General Insurance Company that are going on, are another factor.

Shri P. R. Patel (Mehsana): These are credit institutions, and the naming of those institutions will rather have some adverse effects in foreign countries where we get business. We get business of about Rs. 12 crores every year from foreign countries.

Mr. Chairman: He need not refer to the names.

Shri Tyagi (Dehra Dun): Arguments can be advanced without mentioning the exact names of any firms. After all, this business is very sensitive.

Shri Sadhan Gupta (Calcutta-East): It was stated in the Rajya Sabha.

Mr. Chairman: We need not go by what has happened there.

Shri T. B. Vittal Rao: For the information of the House, I may quote the reply given by the hon. Deputy