

**RE: ADJOURNMENT MOTION  
ABOUT LABOUR SITUATION IN  
KANPUR**

**Shri S. M. Banerjee:** (Kanpur): May I submit, while respecting your decision about the adjournment motion about the labour situation in Kanpur and the closing down of three mills, I submit a Calling Attention notice has been moved by Shri Jagdish Awasthi. We do not get any opportunity to discuss the whole question at the time of the Calling Attention notice. I want to impress on you, Sir, if this adjournment motion is allowed, we will be given some time to discuss. This is a question of 14,000 labourers.

**Mr. Deputy-Speaker:** Is that all?

**Shri Jagdish Awasthi** (Bilhaur): This is a very important matter.

**Mr. Deputy-Speaker:** In the first instance, the hon. Member began by saying that he respected my decision. But, in fact, he did not respect it.

**Shri S. M. Banerjee:** I do

**Mr. Deputy-Speaker:** If I may judge, it is not submission to that decision of mine. It is having one's own way. It was not submission to my decision. I am sorry for that. Anyhow, if he wants that some discussion should take place, the Calling Attention matter is coming up and then we can decide. I have already said the other day that, if any hon. Member feels aggrieved by the decision, he can come into the Chamber and then have a discussion. We will discuss whether something could be done about that and I will also advise the hon. Member to follow the same path. Then, we will see what can be done. The Calling Attention Notice is there. Perhaps that would be coming up soon. Now, we might proceed with the further programme. The hon. Home Minister.

**PREVENTIVE DETENTION (CON-  
TINUANCE) BILL**

**The Minister of Home Affairs**  
(**Pandit G. B. Pant:**) Sir, I move:

"That the Bill to continue the Preventive Detention Act, 1950,

for a further period, be taken into consideration."  
12.05 hrs.

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

**Shri Khadilkar** (Ahmednagar): On point of order,....

The Preventive Detention (Continuance) Bill is here. We have not been supplied with the original Act which is to be continued. In the margin of section 2 of this Bill, it is said, "Amendment of section 1, Act 4 of 1950". So, though it is said to be a Continuance Bill, it is in fact an Amendment Bill. If one section is to be amended or a part of it, are we not entitled to question the other sections or seek amendment to sections other than section 1?

Secondly, I would like to submit that consequential amendments are necessary. In the original Act, when the States Reorganisation had not taken place, there is mention of Part C States. I have not got a copy of the latest revision, unfortunately. Whether there was a revision of that nature regarding Part C States is not clear from this Bill. Therefore, my submission is that as the measure is before this House to amend that Act and continue it further for a period, we are entitled to revise or amend or oppose all other sections as they are. So, the original Act must be supplied before this Bill is taken into consideration.

**Pandit G. B. Pant:** I do not really understand the exact character of the objection. So far as the original Act is concerned, it has been in operation all these years and I should imagine that every hon. Member of this House is acquainted with its contents. It would be presumptuous on my part to assume that even one single Member in this House, after all the controversies, discussions and debates that we have had, still continues to be unacquainted with the contents of the Bill. Copies must be in the Library. If any one had any further desire to see a copy, one could have perhaps taken the trouble of going to the Library and seeing a copy. If the hon. Member had asked, I would have tried to furnish him with one, or if

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he had so desired, two or three copies even. But no suggestion was made to me.

As to the other question about amendments, I think you have given a ruling in this connection already, previously, on more than one occasion that where Bills are introduced in this House only with a view to extend the existing Act, there can be no amendment of the provisions of the principal Act. So, I do not think there is any force in the objection.

Mr. Speaker: Let me dispose of one simple point. I am not going into the other matters now. The first question is, we have not reached the stage of amendment yet. I am not called upon to give a ruling hypothetically. There may be no amendment moved. Why should I give a ruling. The only point is, copies of the original Act have not been supplied. Hitherto, our ruling has been that that portion which is actually touched in the previous Bill is alone given here. As to whether on account of clause 2, this is a peg to hang on, this is a substantive amendment and other amendments can be moved or not, I will dispose of that when we come to that. This is an Act. This is not a Bill. It is there in the Library. He could have gone to the Library and looked into it. If copies were not available, and if he had written to me, I would have made many more copies available to hon. Members. There is no point of order.

Shri A. K. Gopalan (Kasergod): May I make a submission, Sir?

Mr. Speaker: Later; not now.

Shri A. K. Gopalan: I had written a letter to you now.

Mr. Speaker: I will come to it. I will never dispose of any matter without giving an opportunity to hon. Shri Gopalan.

Shri S. M. Banerjee (Kampur): That would apply to others also?

Mr. Speaker: To all. The hon. Minister.

Pandit G. B. Pant: The subject matter of this Bill has come up before

this House on more than one occasion. So far as the fundamentals are concerned, they have been discussed. Full-dress debates have been held and the leading Members of this House have expressed their views. It is difficult for me to say anything that would tend to win them over to my point of view, or even in any way soften the edge of their opposition.

An Hon. Member: What about the edge of your Act?

Pandit G. B. Pant: The edge of the Act will, I hope, not hurt any one who tries to lead a peaceful life.

Shri Sadhan Gupta (Calcutta-East): Experience is otherwise.

Pandit G. B. Pant: The Bill itself is a very simple one. It is a one line Bill. It asks only for the extension of the existing Act. It does not propose to do anything new. So, if any onus lies, it lies on those who want to disturb the existing conditions. I am only trying to continue what the Act had provided, but I must at the same time confess that it is a matter of regret to me that I should have to pilot a Bill to which some of the respected Members of this House are sincerely opposed. There is opposition sometimes for the sake of mere opposition, but I quite realise that in the matter of this Bill some of the Members for whom I have great regard do really hold opinions of a different type. I wish it had been possible for them to view things in their totality, and reject the theories which have been trotted out from time to time, modulated by the realities, the hard realities of the situation in our own country.

I feel that the principle of detention had to be accepted because of the conditions in which we have to function. No one can accuse the authors of the Constitution of any lack of scrupulous regard and respect for individual liberty and other fundamental rights. If we have a written Constitution which guarantees social justice, equality, liberty and frater-

nity, we owe it to those authors and to their patriotism and to their regard for the realisation of the dream of a society in which all could live with ease, in peace, with freedom, and contribute to the good and the welfare of all and each. It was with that objective that those who were tried representatives of the country tried, and those who had undergone various ordeals framed our Constitution.

In that Constitution, though many countries have not got such a Constitution, they embodied the fundamental rights, and the fundamental rights that had been so guaranteed in our Constitution are, I think, so comprehensive, that hardly any other Constitution can compare favourably with them.

But while doing so, they felt they had to make provision for preventive detention too. Why did they do so? Was it a real joy to them? Did they not appreciate the benefits, the value, the potency of individual liberty? Did they not have sufficient respect for the principle of individual liberty? If, in spite of that, they considered it a necessity, an inescapable necessity to introduce that clause, it was because the circumstances in the country demanded that such a provision should be made.

So, it is not against the wishes of the authors of the Constitution. We are not in any way acting against the basic principles. It is desirable that we should appreciate the position and assess this Bill, however unpalatable it be, at its correct worth. Its merits and demerits may be taken into account in the light of the basic principles contained in our Constitution and also the provision made therein for such a Bill.

Under article 22 of the Constitution it is open to this Parliament to pass Bill of this type. Of course, when a provision is made, it is made because those who are charged with the res-

ponsibility of framing the law not for that day alone but for decades, for children and children's children, have to take a far-reaching view and to have vision. It is in these circumstances that the first Bill was born, and since then there have been amendments from time to time.

Statements have also been furnished and occasionally discussed in this House about the number of persons detained, the reasons for the detention, the references made to the Advisory Boards and the results of such references.

As hon. Members know, this Act, the Preventive Detention Act, 1950, provides for detention for the protection of the security of India, for the defence of India, for the maintenance of essential supplies and services for the preservation of order and security of the State, and also for one or two other matters. No one can say that these purposes by themselves are not desirable. Every one will agree that it is necessary that these objects, for which these provisions have been designed, should be ensured and fully safeguarded. So far as these objectives are concerned, there can be no difference of opinion.

I may also submit that there is some departure from the normal procedure adopted in the preliminary report. If there had not been any deviation there would have been no occasion for this Act. It is because it makes some deviation from the ordinary Anglo-Saxon procedure that we have adopted in our country, that this Act had been framed. But even in those countries which have now this Anglo-Saxon jurisprudence and ways of trial there were many decades and many centuries when laws of this type and, if I may say so, much more drastic, were enforced. Even in the most advanced countries today some of the well-known political parties cannot function; they are not allowed

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to do so. We, on our part, have repealed laws which empowered the Government to declare any association or body as unlawful. So, all parties are free to function in our country. At least there is no law that would empower the Government to outlaw any party. In the olden days there were laws of that type and the spirit of those laws still exists in the most civilised countries of the day.

I may also say that we have also removed all fetters on the press and the Press (Objectionable Matter Act has now no place in the Statute Book.

**Shri Vajpayee (Balrampur):** What about Punjab?

**Pandit G. B. Pant:** I did not quite catch the word, but, I think, there is not much force in what is being said. So, Sir, now we have come to this House for the continuance of this Bill. If we had felt, as we did in other cases, that we could dispense with it consistently with the duties and responsibilities that we owe to the millions of peaceful citizens in this country, we would have readily done so. It is because after careful thought we feel that we would be by adopting such a procedure virtually going in the right course and doing something which will be to the benefit of the country that we have brought this Bill. Our object—I hope, it is the object of all of us—is to work for the welfare of the entire people, for the cultural; economic and, if I may say so, even spiritual advancement of the millions living in this land. We wish that all ways of progress may be fostered and every encouragement given to all such measures. So far as that goes, I think, there can be no difference of opinion, and it will be accepted that that is the common objective of all of us.

Then, in order to achieve that objective it is necessary that there should

be peace in the land, that there should not be upheavals, that there should not be organised outbursts, that things should move in a way which would enable the large mass of the people living in this land to discharge their duties and functions in an undisturbed manner. For that purpose, we have sometimes to adopt methods which impinge upon the liberty of individuals. We have penal laws in the country which come under various Acts and thereunder men are punished. But, here in this Bill we are not providing any punishment as such. It is a preventive Bill.

**Shri Naushir Bharucha (East Khandesh):** Great mercy!

**Pandit G. B. Pant:** It is designed to save people from doing mischief to others and inviting trouble on themselves. It is in a way the protector of both because if people are not prevented from interfering with society in a manner which will upset the order and tranquility, which is the base of all progress, then it would be harmful to them, and also necessary to others.

The Bill, though it does not provide for regular trial, does provide ample safeguards. Firstly, a person who is detained must be given the grounds on which the detention is ordered, within five days if he is detained by the District Magistrate or a Commissioner of Police. Then the order, if not ratified by the State Government within 12 days, should be deemed to have lapsed. If it is communicated or affirmed by the State Government, or if an order is passed by the State Government, then a reference should be made to an Advisory Board within 30 days.

An Advisory Board consists of three persons. One of them must be a High Court Judge. And others too should be persons who are either Judges of the High Court or entitled to such appointment. So, there is a Board consisting of eminent persons with vast judicial experience and with

an ingrained habit of fairness and fair play to dispose of such matters. It is only when such an order is confirmed that it can continue but it can in no way continue for more than 12 months. That is the maximum limit. And the Board must give its findings within the framework of this Bill so that minimum deviation from the ordinary procedure may be made. In the circumstances, I think those who are not satisfied with the Bill will at least take these factors into account.

Then, when this Act first started the number of detentions was very large. In 1950 the number detained came to 10,962; in 1951, it was 2,316; in 1952, 1116; in 1953, 736. On the 30th September this year, the number of detenus came to only 205 or 207—I am not sure. But, it is between 205 and 207.

An Hon. Member: It is 205.

Pandit G. B. Pant: Thank you.

Out of that, 101 are from the Punjab alone. The reasons are known to the House. If they are left out, the rest would be about 100, just a little over 100, so that from 11,000 the number of detenus has gradually come down to 205, or leaving one State alone, to 104.

Raja Mahendra Pratap (Mathura): Then the Bill is not needed.

Pandit G. B. Pant: If the continuance of the Act had led to the increase of crime in this manner or if it had been proved that the Act had been used without care and circumspection there would have been some sort of plausibility about such a suggestion. But the course of events shows that the Act has served a very useful purpose and the Act had been used with very great caution and very sparingly and its use and its existence have resulted in a considerable reduction in the number of those who had to be detained. So, that is rather an

additional argument for the continuance of the Act, not for its discontinuance.

There is one point which is worth considering. It is this, whether we have reached a stage when we could carry on the affairs of the country without some sort of reserve power of this type. I submitted that there are other countries who, in the early days when their freedom was not mature or when they had just started, and for many decades and centuries thereafter, had laws much more drastic than this. Our independence started only 10 or 11 years ago. It is a matter of congratulation and gratification that in spite of the teething troubles, we have been able to advance and to forge ahead.

Shri Sadhan Gupta: Now you want to bite.

Pandit G. B. Pant: The facts have to be recognised that there are subversive agencies, there are disruptive factors, there are communal compartments, there are castes which make our society somewhat different from the society existing in other countries and there is that respect for law and order in other countries which is not shared by everyone here.

In the United Kingdom, a constable carries tremendous authority and no one can question it. What he says has to be obeyed and carried out. The evidence recorded by a police officer is admissible in evidence under the law. But, here you have a different position. Here the law is passed by the Parliament which carries the will of the representatives of the entire country. They are sometimes openly flouted and flouted in an organised manner. We see people going round sometimes to carry out a campaign for preventing others from adopting a language or for forcing others to adopt one. These things do not stand on non-violence alone. Once it starts, then courts are raided, roads are blocked and inevitably violence follows in some form or other. And

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it is not a matter which is restricted to a few, but vast numbers of people are sought to be brought within the fold of those who lead and organise such movements. This leads to disturbances of public tranquillity, to violence and menaces, the peaceful progress of the State. So, the Bill is needed.

No one in the U.K., whether he likes the law or not, defies it. There the Labour Party may nationalise the collieries and the Conservative Party may hold a different opinion. But it does not carry out a campaign of defiance with its content of violence against the other party. It allows the law to have its course. It bides its time. It may come there in future and change it, but we see here in Uttar Pradesh the campaign was carried, for months and months, for forcing the Government to adopt Hindi for all purposes forthwith, immediately and at once. In some other places, such as in the Punjab, the campaign is conducted to force the Government not to allow or not to ask the students to read Gurmukhi in their schools as a part of their curriculum. Similarly other things happen. I will not refer to other cases of that type.

We read out the other day the statements made by some of the leaders of Dravida Kazhagam, Madras, to kill the Brahmuns and cut their throats.

**Shri Sadhan Gupta:** It is acting in self-defence.

**Pandit G. B. Pant:** I do not know whom Shri Sadhan Gupta seeks to defend.

**Shri Sadhan Gupta:** Government

**Pandit G. B. Pant:** I do not think there is any danger to him. It is a grave matter and what I say is this. That is not one man who says so, but there are thousands of others, and they are melted by one individual, and the whole area is affected and infected. How are you going to main-

tain law and order there if you cannot proceed against the persons?

**Shri Panigrahi (Puri):** How many of them have been arrested or detained?

**Pandit G. B. Pant:** Well, I do not exactly know, but I gather from the question that if they had been arrested, the questioner would have considered it right and that is what I am concerned with.

Well, similarly in other cases; there was that other case in which, in Ramanathapuram, a sort of a reign of terror was let loose—

**An Hon. Member:** How did they come to know?

**Shri B. C. Kamble (Kopergaon):** By whom?

**Mr. Speaker:** The hon Members know it, and if not, they may look into the papers. Whoever might be responsible, do you mean to say that if it is X, "go away", and if it is Y, "catch hold of him"?

**Pandit G. B. Pant:** The weakest section of the community was not only maltreated but hundreds perhaps something like 3,000 of houses were set on fire. Several people were killed and the police had to take recourse to firing in order to save large sections against the mad persons who were carrying on that campaign. I do not know if all these facts can be compared with the way things happen in other countries. So, analogy will not guide us and by saying that such things do not happen in other countries we do not profit. We wish such things do not happen in our own country. We have to hang our heads in shame because of that.

Only the other day, I think there was some suggestion that, when a railway accident happened, when some rails had been deliberately removed, a subversive activity had been done by someone who had in a

way so mischievously prepared the death trap for hundreds travelling by train. Can such a thing happen in other places—subversive movement can be indulged in with tremendous harm and injury to the community?

We know what happened in Kharagpur just sometime ago. We know how buses were burnt, post-offices were sometimes reduced to ashes and how even attempts were made to blow up bridges here and there. We also know, leaving aside this happening, that bombs and crackers have been used from time to time in order to create terror and to do injury to people.

**An Hon. Member:** They will be left scot-free.

**Pandit G. B. Pant:** I am not able to catch every word that is spoken and I do not think there is much in them to force me to stop my own few remarks that I am making and to attend to the others. Everyone will have ample time and I am at the service of everyone even outside the House if not here.

Then we see what has happened in Kashmir. We see how espionage is being practised, how—many may not be knowing—money is pouring in from Pakistan for the purposes of sabotage in Kashmir and how in other ways such sorts of preparations for violence are being made. Can all these things be proved in a regular way in a court of law?

**An Hon. Member:** No.

**Pandit G. B. Pant:** Well, if they cannot be, should they be allowed to go on and should the people be allowed to suffer from these outrages? If not, then, has a remedy to be found or not? You may say, "Your police is not competent." Assuming it is not competent, are the people to be allowed to die before our police becomes competent? (Interruptions). What I may submit is, to say that our police

is not competent is not quite so accurate.

As hon. Members know, when the revolutionary party in Ireland,—the Sin Fin movement—was on and violent deeds were done day in and day out, the police was not able to arrest anyone. So, our police is immensely better. (Interruptions).

**Mr. Speaker:** Order, order. I shall note down mentally and commit it to writing here, all hon. Members who are interrupting and treat their interruptions as speeches, and they would not have any opportunity to speak.

**Shri Sadhan Gupta:** Will you not allow even longer interruptions?

**Shri Narayanankutty Menon (Mukundapuram):** Is it also preventive in a way?

**Pandit G. B. Pant:** I was submitting that so long as happenings of this character are reported and so long as there is organised defiance at the initial, intermediate or the ultimate stage to be faced, the society has to be protected.

This measure is a protective measure and it does not harm anyone and every attempt is made to see that nobody is wrongly punished.

The small number involved which has been the reason for bringing forward a measure like this itself testifies to the caution that has been observed in enforcing it. This is something which has to be put into operation with the utmost care. If after proper scrutiny it is felt necessary in the larger interest of the country that some action should be taken so that the millions may enjoy their liberty, this action will be taken. (Interruptions). This matter has been discussed in this House again and again. I am thankful for the hon. members for having allowed me to speak. Sometimes we find a tendency not to allow one to have his say. I fully realise that all that I have said

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cannot appeal to hon. members opposite. Some of my remarks may not be appreciated by them. But I hope they will concede that it is only with a desire to preserve the liberty of the millions living in this land and to enable the country to make peaceful progress without disturbance that this Bill, in the existing circumstances has been considered necessary and that is the reason why I have made this Motion for consideration.

Mr. Speaker: Motion moved:

"That the Bill to continue the Preventive Detention Act, 1950 for a further period be taken into consideration."

I have received some amendments to this Motion. There are some amendments stating that the Bill may be circulated for eliciting public opinion by the 15th February, 1958. This Bill expires on the 31st December, 1957. I have received 20 or 25 Motions for circulation giving dates beyond the 31st December, 1957. Therefore, if this Bill expires, another Bill in the original form will have to be brought before the House. So, this is a dilatory motion. (*Interruptions*). Order, order. I shall accept the amendment given notice of by Shri Sadhan Gupta. Now, the rest of the amendments are of a dilatory nature. I rule them out of order. There are two sorts of amendments, namely, for eliciting public opinion and for reference to a Select Committee. I am accepting one amendment by Shri Sadhan Gupta.

Regarding reference to a Joint Committee, there are two amendments given notice of by Shri Braj Raj Singh and Shri T. K. Chaudhuri. It is stated that the Joint Committee may be asked to report by the 15th of February, 1958. I don't know what the Joint Committee could do when the term of the Bill would have expired. That is one objection. I would like to hear any one hon. mem-

ber who would like to speak on this point before I give my ruling. I am prepared to hear one spokesman from the Left. I shall then hear the hon. Minister and then I will give my ruling. Now, this is a continuance Bill. What is the purpose of sending it to a Select Committee? There are no special points to be gone into by a Select Committee. Therefore no purpose will be served by sending the Bill to a Select Committee. In a Continuing Bill, the provisions are continued for another two years or three years. The only point is, whether it is in the interests of the State to continue them. A discussion on that point can take place. No amendments could be moved to any of the Sections of the Original Act. Amendments to original sections of the Act will not carry out the intentions of the House.

Therefore, the amendments can only be of a purely formal nature and not of a substantial nature. I would request hon. members to refer to the rulings given earlier. In House of Commons also this is the practice. This matter came up here in connection with the Preventive Detention Bill on more than one occasion, as well as the Delhi-Ajmer-Merwar Rent Control Act of 1947. It is the practice in the House of Commons that no amendment to merely continuance Bill should be allowed. Supposing the Government itself brings in an amendment, the consequential amendment thereon could be allowed. This Bill only proposes to substitute the words "31st December, 1957" in the original Act by "31st day of December, 1960." It is not an amendment which goes into the merits of the case. Therefore, all amendments to other sections of the original Act are out of order.

Regarding reference to a Select Committee, hon. members are aware that any bill can go to a Select/Joint Committee only when the principles are accepted by the House. In that case hon. members can bring in an amendment for reference of the Bill



to a Select Committee. Where you cannot make an amendment in the House itself, what is the purpose of sending a Bill to the Select Committee? Therefore, it is an infructuous amendment and the time of the House need not be allowed to be wasted. Under these circumstances, this motion, that is, amendments for reference to the Select Committee also, seem to be out of order. Now I am giving an opportunity to the hon. Members before deciding what ought to be done. Since Mr. Gopalan has sent me a letter, I request him to speak.

13 hrs.

**Shri A. K. Gopalan:** It is true that there was a ruling on this subject. But I may point out that though there was a ruling when it was first introduced, when we were asked to be in the Select Committee, there was discussion on whether we will be allowed to discuss about the original Act and finally we were allowed to discuss the Act as a whole in the Select Committee. We were given permission for that. The Leader of the House was also there and in the discussion it was said that we can discuss it.

**Mr. Speaker:** The hon. Member must know that there were substantial amendments to some provisions in the Act and then it was referred to the Select Committee. So amendments were allowed to be moved. Now there are no amendments at all.

**Shri A. K. Gopalan:** As far as the Members of this House are concerned, this is the first time that we are discussing this Bill. It is true that in the last House in the first session when it was first brought up, an opportunity was given to all the members to discuss it. Then, after two years, a Bill was brought forward for extension of the Act. But, as far as this House is concerned, there are so many members who are new and who have had no discussion about this Bill. They are asked to give permission for extending the Bill.

My request is that those new members of this House, who are many, may

also be given an opportunity to discuss the Bill as a whole and the amendments also. That is my submission. Because, according to this measure, many of the members are asked to give permission to extend the life of the principal Act. Many of the hon. Members may accept amendment to the original Act. But they must be given an opportunity to express their opinion on the original Act. That opportunity is not given now. They are only asked to say whether they are for or against extending the principal Act.

I say that all the new members must be given an opportunity because they have not discussed it so far. They had no opportunity to discuss the original Act. So, I submit that this may be allowed.

**Shri Parulekar (Thana):** When the life of the Act is being extended the life of all the sections of the Act are also being extended, which are otherwise bound to expire with the life of the Act itself. So, in that sense we are re-enacting the Act with all the sections. Therefore, the House has a right to move amendments to all the sections which the Act contains. Along with the life of the Act, we are extending the life of other sections of the Act also. Therefore, it is a fresh Bill and we are entitled to move amendments to each section of that Act.

**Shri Naushir Bharucha:** I quite appreciate the rationale of the ruling which has been laid down so far, namely, where only the life of the Act is to be extended, amendments should not be allowed to the various clauses of the Bill. If nothing material had transpired since 1950, there is no need for fresh discussion. But I also submit that any discussion that takes place under the rule should be helped and not hindered. The rules are intended to facilitate the discussion, to bring out what is in the minds of the hon. Members of Parliament. I would, therefore, request the Chair to depart from the previous rulings to the extent

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that when a new House meets, which had not had an opportunity of discussing the clauses of an important Bill, members of that House must be given an opportunity to place their views as representatives of the people.

Secondly, where circumstances have so vitally altered since the enactment of the substantive Act as to create a material difference in the provisions of the Bill, then, in such cases it should be open to the Chair to construe the amendment for extension as if the extension was intended to apply to every individual clause. Suppose the Government say that clause 3 or clause '4' of the Act would be extended for three years, then the members should be entitled to move amendments to these clauses.

Therefore, merely by reason of the fact that the Government chooses a particular method of extending the life of the Act, the Chair should see to it that the Government does not thereby manage to escape from criticism on the various clauses of the Bill. Therefore, I would request the Chair to depart from its previous rulings to this extent, that is, where it is a new House, where there are substantial changes in the circumstances since the enactment of the Act, and where in the opinion of the Chair there is sufficient case made out for the provisions to be considered, in such cases the normal practice may be departed from and the Chair may permit amendments to be moved to the various individual clauses of the Bill.

**Shri Sadhan Gupta:** I am moving my submission on the point that you have posed, namely, whether in view of the limitations imposed by the rulings, there is any further scope for amendment in the Bill, as it has been introduced. I would adopt the arguments that have been advanced by previous colleagues about the legality or the advisability of allowing amendments to the parent Act itself. But, apart from that, accepting the rulings for the moment that no amendment is possi-

ble in respect of the parent Act and we must confine ourselves to the Bill, as it has been presented before the House, I would submit that even then there is considerable scope for amendment.

In the first place, there is the question of the time limit, the length of time for which the parent Act is to be extended. Are we to extend it for three years, four years, six months or for a lesser period? Now there are many amendments, proposing different time limits for extension. Many notices of amendments have been given for different time limit for the extension of the Act. This matter can be very properly dealt with in a Select Committee, if it is sent to a Select Committee. In the House we can only give our reasons for not extending the time limit and the Home Minister can give only a reply. But, in the Select Committee we can discuss it informally, more frankly; we can exchange our views and, maybe, we might arrive at a particular conclusion.

Secondly, clause 1 of the original Bill has been touched and, to that extent, we might also give notices of amendments about clause 1. For example, about the extent of the Bill, is it necessary to extend the Bill to the whole country or to a part of the country? For instance, if it is felt that it is necessary in particular parts of the country, we might confine it to them. For example, the Chief Minister of Kerala, in a meeting at Calcutta, had categorically stated that the Kerala Government has informed the Central Government that they do not want the Preventive Detention Act. Why should the Preventive Detention Act be still foisted on the Kerala State?

I would submit that amendment should be allowed to clause 1. The extent of the Act could also be determined in the Select Committee. So, in the first place, we could have a

profitable discussion in the Select Committee about the limit of time, that is, why the time should be limited to three years and why the time should not be limited to less than three years. Secondly we could also discuss profitably about the extent of the Act, whether it should extend to the whole country or to particular States or whether one or two States should be left out of account. These things can be profitably discussed in the Select Committee. Maybe, they may be introduced by way of amendments to the Bill and such amendments would be quite in order here as well as in the Select Committee. The only thing is that they might perhaps be more easily disposed of, or more profitably discussed and views may be exchanged frankly and thereby something may emerge, which would be better than what would emerge out of mere flinging of arguments and counter-arguments in this House.

**Shri T. K. Chaudhuri** (Berhampore) rose.

**Mr. Speaker:** I have heard sufficiently.

**Shri T. K. Chaudhuri:** About my motion I want to ask something. You have been pleased to observe that my motion is not dilatory but it is infructuous. Am I to understand by your ruling that the previous rulings on the subject of continuing Bills prevent the House from directing the Select Committee to go into the provisions of the substantive Act?

**Mr. Speaker:** Yes. The hon Minister.

**Pandit G. B. Pant:** In view of the clear and definite rulings given by the Chair previously, it is hardly a point to be mooted again. But from the arguments of the speakers on the other side, it seems they all accept that if it were the old Parliament that had been sitting, then in that case it would not have been open to that Parliament to go into the clauses of the original Act. Well, that being

accepted and conceded, the only point is whether with the recomposition of the Parliament, the procedure should vary by itself without the rules being changed or without the fundamentals being in any way varied. If the procedure of Parliament were to vary with the change in the membership of the Parliament, it would be a very slippery foot-hold; we could never be sure about the procedure that we should adopt.

In regard to the argument that it is after the general elections that we are considering this, that is exactly the point why there should be no discussion on the principle whether the Bill should be extended or not. For, as was indicated the other day that there was a strong feeling on the subject, I assume that this had been one of the main planks of various parties. If it had been so, then every one must have known everything about that Act; because people should have attacked that Act and tried to secure votes and to throw out Congressmen. So they should be better educated and more familiar with it than they would have been if there had been no election in-between. Then that proves, on the other hand, that on merits also the election has proved that the country is in favour of the continuance of this Bill.

**Shri Hem Barua** (Gauhati) rose.

**Mr. Speaker:** I would insist upon hon. Members observing the rules of procedure in this House. Though it was open to me to rule it out in accordance with the previous rulings I wanted to hear. I do not want to be arbitrary. I allowed opportunity to this side and then called upon the Minister, and finally I have to decide one way or the other. Thereafter hon. Members getting up and saying "one word" etc. is not proper. In the Supreme Court, if the hon. Member is not already a practising lawyer, he will find that this kind of thing will not be allowed. At the time when Shri T. K. Chaudhuri rose, if he also had desired to say something, I would have remained in my seat for

[Mr. Speaker]

two more minutes until I heard him also, I am not giving a ruling only for this House now. There are fourteen other Assemblies. They might say, "they have ruled like this". I am conscious of the fact that I am ruling not only for now, this will be a precedent. Therefore, I would like to hear as often as possible, but not indiscriminately like this.

I have heard sufficiently. This is not one of first impression here. The only point raised is that this is a new House. I entirely agree with Shri A. K. Gopalan and other friends that opportunities ought to be given to Members here who were not Members at a time when this Bill was passed or was extended on earlier occasions. I will certainly give them opportunity to discuss at length the various points—whether it is necessary in the altered circumstances, whether the facts that have been given are true or not, even apart from that whether the country cannot take a risk and do away with this and let us see for some time, whether the provisions are oppressive, what more could be done and so on. I will certainly allow ample opportunity for hon. Members to place their case.

My predecessor, Shri Mavalankar, went into this matter and said that with respect to individual suggestions, certainly, if they are agreeable to retain some of those provisions and say that some provisions are oppressive, Government may consider that and bring an amendment. We are sitting in the morning, at mid-day and in the evening, and therefore such amendments can be brought any time. No government, even with a majority, can bank upon that majority permanently. After all, men's minds are fluid. Therefore, if reasonable suggestions are made, Government can bring any amendment at any time. That is what my predecessor ruled.

It is not as if once for all there is anything decided permanently. We

are trying to judge from time to time.

Then with regard to the scope of the Bill, the point made is that when a Bill is brought, though it is a continuing Bill, should we not have an opportunity to consider every clause? True, but it will mean that once again we go through the clauses and the whole thing. Is not the time of the House equally precious? Are those Members who have already made up their minds to be ignored because another smaller section says "you must go into the matter"? The rules of procedure, I agree, are intended to do substantial justice. The one way which has been discovered is to allow this to continue and throw out the Bill on a single small clause; if the Opposition retains eight clauses and opposes only one single clause; it is open to them to do so, unless Government gives an assurance; and if they are sure and if they are going to throw out the Government, the Government would certainly bring another amendment. They will say "allow this Bill to pass, we are going to do it tomorrow". So there are ways and means. Whatever is the general opinion of the House, if it is expressed strongly, Government will react to it. Otherwise it will have to go out of office. Let us not take advantage of every small motion and enlarge the scope. We cannot get along with our work. That is the simple reason why I am not allowing the scope to be enlarged.

With regard to the amendments, Shri Sadhan Gupta said that they can be moved. Not absolutely. He said that amendment may be moved to clause 1 that the time need not be three years but may be one year. Certainly. But I am not in favour of saying that merely because the time is sought to be extended, we can go into the scope whether it should be applicable to the whole of India or whether a portion can be cut off. One Member says Kerala, another gentleman will say Madhya

Pradesh. That will be going into a substantial matter not covered by this amendment. Under these circumstances there is no purpose in sending it to the Select Committee.

Regarding Shri T. K. Chaudhuri's motion, it says that the Bill be referred to a Select Committee with instructions to go into the original sections of the Preventive Detention Act as well and suggest suitable modifications to the provisions of that Act. That is, what he wants us to do is to clothe the Joint Committee with power to go into those sections of the original Act and to touch them which we ourselves here on account of the special nature of the Bill are not competent to go into. Therefore this is an extraordinary proposition. A sub-Committee of the House cannot do what this House by itself cannot do.

Under these circumstances I felt that both these amendments for reference of the Bill to a Joint Committee are not in order. I accept the one for circulation by 19th December.

Shri T. K. Chaudhuri: There are some for extending the life by one year and so on.

Mr. Speaker: They are all in order. Those amendments restricting the period, I am going to allow.

Shri Sadhan Gupta: Sir, I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 19th December, 1957."

Mr. Speaker: Amendment moved.

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 19th December, 1957."

Mr. Speaker: Eight hours have been allotted for this.

Some Hon. Members: Nine hours.

Mr. Speaker: One hour is left to my discretion. I do not think clause

by clause consideration will take any time.

Some Hon. Members: One hour.

Some Hon. Members: Half an hour.

Mr. Speaker: I would like to have suggestions from the House. How much time shall we take for general discussion, for the clauses. I would request Shri S. A. Dange to make suggestions.

Shri Mohamed Imam (Chitaldrug): The Bill and the amendments may be discussed together.

Mr. Speaker: For the third reading?

Some Hon. Members: One hour.

Mr. Speaker: Clause by clause consideration?

Some Hon. Members: One hour.

Mr. Speaker: Six hours for general discussion...

Some Hon. Members: Seven hours.

Mr. Speaker: Seven hours for general discussion, one hour for clause by clause consideration and for third reading, one hour or half an hour at the discretion of the Speaker. Leaders of Groups will have half-an-hour.

Shri S. A. Dange (Bombay City—Central): Sir, the arguments put forward by the hon. Mover of the Bill are such that they do deserve very serious consideration. The arguments embrace matters of jurisprudence, a compliment to the Congress Party as to how the Anglo-Saxon jurisprudence is being repudiated by it, in favour of what may be called a Vedantic jurisprudence which should be harmonical with our traditions.

13-22 hrs.

[MR. DEPUTY-SPEAKER in the Chair.]

An argument has also been advanced and figures given how from year to year crime has decreased and that argument is used in order to show

[Shri S. A. Dange]

that a continuation of the Act is necessary in order to extinguish crime altogether. I want to put certain points before the hon. Minister so that he may reconsider his own arguments and his own position.

As regards jurisprudence and as regards the principle of the Bill, detention without trial, I will not go into all that abstract discussion. Because, as you know, some fifty yards from here, a very good abstract discussion on democracy is going on and we are trying to strengthen the commonwealth link through seminars on democracy, good lectures and so on. A very good link is being strengthened there. Whether Anglo-Saxon jurisprudence is overthrown or not, I do not know, especially when we sit in company with those who carried out the invasion of Egypt and with those who practise racialism in South Africa. Next door, I am told, the commonwealth link is being strengthened. I do not know what is going to be strengthened there with such people.

**An Hon. Member:** You are also represented there.

**Shri S. A. Dange:** I am not in favour of strengthening that sort of link

I need not go into that abstract discussion because, if I go into it, I would be over-stepping the time limit and also over-stepping the purpose of the Act.

I will take first the argument that crime has been decreasing. The hon. Home Minister says, in the conditions in which we live, the extension of the Act is a necessity. The conditions he illustrates are; there is Ramanathapuram, some language controversy in Punjab, there has been Kharagpur, this that and so on. Somebody is trying to burn the photographs of Mahatma Gandhi, somebody is trying to burn the Constitution, somebody threatening to kill brahmins, and so on. He asks, if such are the terrific conditions in which the country finds itself, is it not necessary

that we should have the power of this Act and that it should be extended?

The simple reply to this is, that his argument itself shows that the Act is useless, ineffective and therefore, there is no necessity for its extension. Ramanathapuram took place, when? When the Preventive Detention Act was in full force, and had not expired. Punjab agitation took place, when? When the Preventive Detention Act was in full force and had not expired. Kharagpur took place, when? If these things took place when the Preventive Detention Act was in force and if the persistence of the Act on the statute-book could not prevent Ramanathapuram incidents, how can that argument be used in order to extend the Act which is unable to prevent these things happening. I cannot understand the logic. You say you want the Act in order to prevent murder. The same type of murder is already taking place and you cannot prevent it. How can you say that it is necessary to extend the Act by three years in order to prevent like murders in the future? It is total bankruptcy of logic, simple bankruptcy of logic.

**An Hon. Member:** Where?

**Shri S. A. Dange:** Bankruptcy of logic in your Benches. Where? I can tell you. Here is an Act. If in December the Act had expired, if in January, Ramanathapuram incidents took place and if the hon. Minister had come to the House in February and said, see, the Act expired, Ramanathapuram took place, let me renew it, I could understand there is some logic on the other side. Ramanathapuram took place in spite of the presence of the Preventive Detention Act. Yet, he says, it is so effective that crime is decreasing. And yet the conditions are so very serious that it must be extended. I do not know what it should be called, logic or something else. Therefore, I say that the prevailing conditions are no argument for the extension of the Act. The conditions prevail in spite of the Act and in spite of its most widespread

use, as the hon. Home Minister himself has said. Therefore, on this ground of the prevailing conditions in the country, there is no reason why the Act should be extended. But, the Act is being extended.

The question from my side should be, why is it being extended. The answer from our side is this: all those things which are to the distaste of the ruling party are to be prevented. By the application of this Act and nothing else. It has nothing to do with murders, with strikes, nothing to do with speculation, nothing to do with famines, nothing to do with demonstrations of the normal type, nothing to do with the ordinary political activity. This Act is required only to impose the decisions which they want to impose on people against the decisions of the majority, against the will of the majority, against the sentiment of the majority, by the Government side. Therefore, it is an Act against democracy, because when the majority of the people want a certain thing, they are prevented from getting it by the application of this Act, or by the application of this Act in such a way that the leaders of that movement are prevented from functioning in the interests of the majority of the people.

The hon. Mover said that this Bill has been moved in order to guard the liberties of the majority of the people at the hands of a minority. Let me give the latest illustration of the biggest application of the Preventive Detention Act. Therein, fortunately, I speak from personal experience. Whether some Members like it or not, I speak from personal experience because I was a victim of the Act only last year, in January 1956. I also know how that wonderful machinery of the Advisory Board functions because I had the good fortune to appear before an Advisory Board in which a retired judge sat. I know the way enquiry was made. I know the way in which I was sent back to jail. I know the way in which I was released later on. That experience tells me that the Preventive Detention Act is a measure of a single ruling party which

wants to impose its particular ideas of ruling this country, of the reconstitution of the country against the will even of a majority of the people in a given State or in a given moment. That is the object. It is not the question whether the principle is right or wrong. Apart from that discussion, I am saying that this Act is being used for the interests of a party, for wrong ideas, ideas against the interest of the majority of the people in a given State, and therefore this Act should not be extended.

In 1956, whose statistics are here, 38 Communists, 3 P. S. P., 4 Workers and Peasants' Party people and one ex-Congressman were detained. There was no Congressman. A nice category, a nice political category—an ex-Congressman. Perhaps he was arrested for the crime that he left the party and joined somebody else.

**Shri Sadhan Gupta:** Became an ex

**Shri S. A. Dange:** You say you want the Act to continue because normal powers cannot be used. For what were they detained?—for preaching violence. Cannot preaching violence be prosecuted under the ordinary law? I should like the hon. Law Minister to tell me that. Is it necessary to have preventive detention? If a man is preaching violence, or making a speech that violence be committed, you can haul him under the ordinary law. Why is it necessary to have preventive detention and escape the obligation of giving him and giving the public the proper ground as to why he is being hauled up?

Another is for violent activities. Certainly an activity is an activity, a very objective truth. A man can be prosecuted and sentenced. Why do you not proceed under the ordinary law?—because violent activity is really not there at all but it exists only in the imagination of that political party which wants to suppress another party or a movement. Therefore, they do not want to use the ordinary law.

Then the third reason is "goonda—I do not know whether there

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is a category in law as "goondaism", or whether in jurisprudence a new thing has been added as "goondaism" I do not know what it means. Of course, in Bombay our ex-Chief Minister was enamoured of this word "goondaism", and once I had to ask him: "What is the difference between an honest goonda who says he is a goonda, and a Minister who practises goondaism with the help of the police?" Why should not both be brought under the Preventive Detention Act?

I say this because I find that provocations have been caused by Ministers themselves in order to exercise either the Preventive Detention Act or to cause violent activities by excited masses.

This latest example to which I was referring was the example of Bombay State. The Congress Party took a decision that Bombay State should be either divided into three States or should be one bilingual State, but shall not be made into two independent, separate unilingual States, and that Bombay City shall not be given to Maharashtra. This was the decision arrived at by the Congress Party. Agreed. May be they thought it was right. What should have been done? The decision should have been brought before Parliament and an Act passed. No. Just before the decision was to be announced by the Prime Minister on the radio a number of leaders of the Communist Party were arrested and put into jail under the Preventive Detention Act, and one day later the Prime Minister goes and announces it, and two days later a general strike takes place and firing starts. Who provoked violent activities, if the activities were violent? Was it not the arrest of these leaders right in the City of Bombay a provocation when they knew that sentiments were running high, when they knew that all Maharashtra felt they should have a unilingual State with the City of Bombay? Why did they arrest these people beforehand?—because they knew that that decision was against the sentiments and the opinions of the majority of the people in Maharashtra.

He says it is a microscopic minority. That microscopic minority in Maharashtra has captured every municipal corporation in Maharashtra. That microscopic minority has defeated the Congress Party in the elections. If he is using the argument of elections, we in Maharashtra won the elections against them. Then, why this Act for Maharashtra?—to impose a decision on a party against the will of the majority of the people of Maharashtra and also on Gujarat. And they did this by using the Preventive Detention Act on the 14th January arresting all the Communist leaders.

Unfortunately I was in Delhi. Now you would think that Delhi was quite a safe place. I went to Bombay on the 18th January after the strike had started, after the firing had taken place—and I was arrested at the aerodrome under the Preventive Detention Act. At the aerodrome I was hauled up, and when I was taken to jail somebody tells me: "You know what your arrest has caused?" I asked: "What?" He said: "The strike was going to be called off this evening, but your arrest has prolonged the strike further and further disorders, as they call it, have taken place." Was it not a case of provocation, a deliberate provocation by the ruling Congress Party, and particularly by the Chief Minister at that time to suppress the Marathi people and the workers in Bombay City? And then they come round and say: "We want the Act in order to prevent violence".

Violence had not taken place on the 14th January. On the 14th January you arrested and by the use of your Act you created violence. That is my charge, that by the use of the Act you create conditions in which violence starts. I would submit sincerely to the Congress Party to consider this question, that by some of the enactments they provoke people into bad actions, or provoke people into taking serious actions. They should consider whether such enactments should be carried on.



Take for example, an enactment like the illegalisation of the burning of Mahatma Gandhi's photographs. I wonder if Mahatma Gandhi's spirit would have liked his photograph to be protected by the law of a legislature. He would have said: "If my photograph is not liked by somebody, let him burn it. No harm." If his devotees want to protect it, they should say: "I will frame it and you burn it. Let us have it out between ourselves." Instead of the devotees fighting for the photograph, the policeman and the enactment of a legislature come in to protect the photograph of Mahatma Gandhi,—and a copy of the Constitution, a Constitution which is being amended every third day.

About the Constitution and the procedures of this House, the hon. Speaker said the other day there that one has to consider about the functioning of our democracy, representing 400 millions. We have one-tenth as quorum and 50 Members are present. Twenty-six vote for and 24 against a measure. How these 26 people represent 400 millions is the problem for our democracy to solve. This is the functioning of our Parliament and our democracy that the hon. Speaker himself illustrated by this example in that Seminar.

Such is our functioning. Through this functioning we enact the Constitution and all that. Good. Let us have the Constitution, but supposing somebody wants to protest against it? Is there any law anywhere in any country against a person, if he does not like the Constitution, saying: "All right, I will burn it"?

Mahatma Gandhi burnt foreign cloth, he burnt this and that. The British came and arrested him. They asked him why. He simply said: "I do not like foreign cloth, and I burn it. That is all." How is it violence? How is this type of burning violence? If a man burns a house, then it is violence and certainly take action against him, but why should there be the Preventive Detention Act? Nobody announces his intention of burning a house. Here the man at least

announces the burning of the Constitution.

Certainly I do not like his killing the Brahmins or killing anybody, but that should be treated not on political grounds. Such pronouncements have to be treated sometimes pathologically, morally, philosophically, politically. One must go and argue and convince the people. You cannot simply weld the stick where millions are concerned, and no preventive detention acts are useful where millions are concerned. This Act is used not to protect the majority, but to protect the standpoint of a given party against the standpoint of millions of people, and as I was illustrating, the use of the Act in January 1956 was a deliberate provocation against the Maharashtra people.

If such is the use of the Act, do you think it is reasonable to continue it on the statute-book and extend it by three years? Because this movement is not going to be put down by the Preventive Detention Act certainly. No movement was ever stopped by the Preventive Detention Act, no movement was ever prevented from spreading by the use of the Act.

For example, these figures of falling crime are not due to the Act. Because certain parties who wanted to continue on a certain line changed their line, the thing vanished and the figures went down. It was not as if the Preventive Detention Act philosophically converted them simply to a different standpoint. No, it was not the Act. Therefore, the figures are useless, but the figures and the examples which we put before you are useful to tell you that the use of the Act is a provocative element. Its application is highly provocative. And when it works, how does it work?

We were told that this movement does not belong to the people. I have shown you. You can refer to the records, you can refer to the reports. It is a movement of the people, of the majority of the people. The best thing would be to change the law. No. They won't change their line, they would extend the Act in order that others shall not pursue the line. The

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extension of this Act by three or three hundred years is not going to prevent the course of the Marathi people from continuing their line. I can tell you that.

Then comes the question, you will say, "was it not violence we were trying to prevent?" Violence has taken place. The Marathi people demanded a straight enquiry into the firing. If you think that these people or their followers whom you arrested, committed violence why not enquire?

There was a certain shameless statement made here by a Member opposite that the Maharashtra people outraged the modesty of Gujarati women. The statement was not verified by the Government and was allowed to be spread in the press and the proceedings of this House. It should have been corrected not by Preventive Detention Act on the part of the Home Ministry. And what was proved later on. The Home Minister can go into the records of that very man who charged us of these crimes and for which we were detained through this Preventive Detention Act. We have got the records that the Member who made this allegation himself was once convicted for the crime of rape. You talk of morals about us. Why not talk of morals of members of the ruling party? And, they come round and say that we were committing violence. If the facts are wanted they are published in the Marathi press. Records are there, judgments are there. The Congress Party did not expel that Member from their party but charges us about immoral crimes and such other things. But, they do not keep records of their membership. They are very careful about our records, of Members on this side of the House. Therefore, we know how the Preventive Detention Act works.

Mr. Deputy Speaker: It appears that each party keeps record of the other party

Shri S. A. Dange: They keep more records. We also sometimes get their records.

Coming to the question of the use of this advisory machinery. I was there before it. The judge was very nice. His other Assistants were very nice. I know all of them because they were in the Tribunals and various other Boards. What was the thing they asked me when I appeared before them? They asked me, "What can we ask you?" I said "Whatever you please". They said, "Do you stand for Samyukta Maharashtra?" I said "I do". They said, "Do you want Bombay City?" I said "Yes, sir. I do." "But the Parliament does not want it", they said. I replied "The Parliament is misinformed." I was then asked "What do you propose to do?" "I will agitate for it". They said, "Very good." They had other discussions. Police records were called for. They called two police officers to give evidence in my absence. I was not allowed to cross-examine the police officers who made the report. Later on I found that I was an undesirable thing and I should live in Dhana Jail perpetually. This is the way the Advisory Board functions.

The statistics show that out of the arrests made 17 were released by the Board and later on when we went to the High Court there was panic in the police ranks because the High Court found that many of these arrests were irregular. Grounds of detention had not been furnished. There was total anarchy. But the police found that times were very hard. They were so overworked with shooting that they could not produce proper grounds. The High Court was not satisfied and released some ten or fifteen people. Finding that the High Court was taking note of these things, Government started releasing us. Therefore, you get this large number that was also released "suo moto". Very wonderful Government! Not until High Court proved that these detentions were wrong the Ministry woke up and people were released. Is that the way in which this Act is to function? Is that the value of the Advisory Board?

I can cite one case for the attention of the Minister. There was one-day protest strike in Bombay Transport. The leaders were arrested and detained for full 364 days. One day strike, after which nothing happened; but the Minister insisted on keeping them in jail, because the gentleman who presided over the affairs of Bombay at that time was of a very vengeful, petty, mean mentality. He thought he could prevent that one-day strike. He failed. So the promoters of the strike were detained for full 364 days. If this is the type of mentality that is going to operate the Preventive Detention Act, it will not prevent, but promote what you want to prevent. It is, the governmental agencies that will incite people to do certain things. There is more and more tendency to such lawless laws being enacted, or if there are certain laws which are already there, to have more recourse to their use.

To give you another illustration. A monument of Shivaji was going to be erected on one of the forts in Maharashtra. Our Prime Minister was going to open it. The Ex-Chief Minister of Bombay State had written certain wrong things about Shivaji which he is not prepared to retract in spite of the assurance given for him that he has retracted. I make bold to say that he has not retracted. Now, the monument was a private affair. No doubt the Prime Minister was to open it. But, because a certain Minister opens a certain thing it does not become a State function; it does not become a law for everyone for the matter of that. One may agree or disagree with the Prime Minister, one may revere the Prime Minister or one may not like him. That is everyone's democratic right. What happened when I took twenty thousand people along with my other friends to march to that fort? You wanted the monument not because you revere Shivaji but because you have woken up to find that the people are demanding that you revise your opinions about him. We said you are not the

man who should open that monument. Our ground was simply this. You are Prime Minister, you are great. He, Shivaji, was a great man. Now two great men certainly should come together. No objection. But Shivaji was the founder of the Maharashtra State and the Prime Minister was the man who out-voted the State. Therefore, I say you have no moral right to open his monument. Therefore, I went to tell my Marathi people "do not attend this function". There was no question of violence. There was no question of breaking his meeting. They utilised one thousand trucks in order to take sixty thousand people for the purpose of that function. They knew, if left to themselves, the people would not walk a hundred miles, Nehru or no Nehru. Despite their love for Panditji and Shivaji, twenty thousand volunteers on our side walked on foot from villages in order to tell Panditji "You are using the monument for strengthening up bilingual State." The other party will say that sixty thousand of Maharashtrians came to pay homage to Shivaji and Panditji, and therefore, they stand by Pt. Nehru. Very good. If you use that occasion for supporting the bilingual issue, I want to protest. Why should not I be allowed the right to protest? Panditji was going to come on the 30th November and we were marching on the road on 29th November morning. On 29th we were prevented from walking along that road. The police came and said "you cannot go ahead". I said, "why not?" Is that the royal road-way where only the king can go? On what ground do you stop us? They said, "ground or no ground, you cannot go ahead." I said "Under what Act you stop us?". He said "some Police Act, I do not know which." He turned to the other police officer "which section do you use here?". The other man said, "It is, I think, Section 39 of the Police Act". I asked "Is that Sec. 39?". He said, "It may be Section 69, 70 or 71. You are going to be stopped. We have wide powers for preventing you from walking. You cannot go in that

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direction." It was our restraint that we did not break the order. It was our restraint that we did not send people down to that meeting where Panditji was carrying one thousand trucks and sixty thousand people.

At a latter stage we were told "This is a national function. Why don't you join us?" I said, "If we are going to be stopped at the gate, what does it mean joining you?". They said, "Join us without demonstration." We said, "This 20,000 will join, but let us discuss." Before we could discuss, we were hauled up under the Police Act—by wide powers under the Police Act. If those wide powers under the Police Act were capable of preventing me and 20,000 men from walking towards Pratapgah, why is this Preventive Detention Act necessary?

An hon. Member For 100 people

Shri S. A. Dange: For 4 M. P. and 100 M. L. As who were present there. It is said that Members of Parliament inherit the dignity of the British House of Commons. We certainly do inherit the rulings, but we do not know whether we inherit the dignity. What is the dignity? Can you understand a British M. P. being stopped from walking towards even 10 Downing Street? That won't be understood in Great Britain. That won't be understood in France or elsewhere. What is this talk of parliamentary democracy, what is the right of an M. P.? Does it mean that 4 or 5 Members are not allowed to go that way because the next day at 11 o'clock Panditji was going that way? We were not going to prevent Panditji going that way? We did not prevent it the next day. He marched that way and he marched in quite a cool manner. Certainly, we were also in a quite cool manner. All the arches raised in the streets were intact; not one flower was destroyed, not one stone was thrown. He walked peace-

fully and we also gave our slogans and said, 'we disagree with you'. This was our discipline. But, what was the discipline on the other side? One thousand trucks and 60 thousand people.

This is the way in which democracy is functioning. I am giving an illustration of the way in which it is functioning. Provocation was not on our side. It was on the side of Congressmen and Government. Handbills were printed that there was a conspiracy by Brahmins and they were going to kill Panditji and therefore come to Pratapgah to save Panditji. Such a provocation was prepared against us so that we should be invigiled into some bad affairs. These handbills and pamphlets were distributed by the Government buses. These were distributed in Government publicity vans in the district of Satara. When we told the Government they said 'Give us the number'. There is no mechanism in photography whereby we can show the number and date of a pamphlet that is being distributed from a van. No figures were given after that. We were told that Panditji was sought to be murdered, and they were taking action. Nobody can dare to take any dastardly action against Panditji. Whether we may agree or disagree on any question with Panditji, everyone would defend against any attack the Prime Minister of this country as he is today. We would give them that assurance. We were prevented, but those who were shady inheritors of the killing of Mahatma Gandhi have been welded into the Congress party and welcomed. They were being sheltered by the Government there. Those who did that in 1948, their inheritors were with your Government and we who stand by certain policies even though disagreeing with certain others, were prevented at the cost of our own lives from marching that way because the next day Panditji was going by that road. Is it the way of the functioning of democracy? We are not going to accept that way. I

would say consider the way in which the whole thing is developed. Consider the way in which it is being worked and consider whether all this is necessary.

We have wide police powers, wide prosecution powers at present existing. Why don't you come before the court of law and arrest me. I am not running away. Try me; if I am wrong sentence me. I have done 16 years in jail so far and I am prepared to give you 4 more years, if necessary, 4 years more at the end of my life. Why is this Act necessary? We have not avoided the consequences of our action. No; they won't have it that way; they will not enquire into the police firings; they will take action against the will of the people; in order to impose on it they will arrest people without a warrant under the Act. And when preventive detentions start, and strikes take place, they say, here strikes have taken place, and so we use this Act. See the way in which the police functions, the way in which the grounds of detention are given in the first instance; all this is a farce because the Act is made to serve as an instrument of a single party to impose its will, its own dictatorship on others. That is all. If that were not so, this would be unnecessary.

We have got enough powers to carry on; even for the imposition of those things which other people do not like. Therefore, I would plead with the hon. Minister to reconsider the question whether this is at all necessary, whether the things which he wants to prevent by the Act—some of those things ought to be prevented, as for example, the burning of Mahatmaji's photographs, or the burning of copies of the Constitution (that is my personal opinion)—can only be prevented by this Act. There is no need for that. Certainly, if a man is intending to kill another, you cannot prevent it by this Act. Nobody can know the intention of another. Think of those hand-granades that were being thrown in

Delhi in the meetings addressed by Pandit Jawaharlal Nehru. I am yet to see a man detained under preventive detention for that act or a proper prosecution taking place. The Government had to transfer even some Police officers and ranks in order to prevent that. This is the condition which the hon. Minister depicts and wants to eliminate by the use of this Act.

That condition cannot be changed by the use of this Act, by the extension of this Act. That condition cannot be changed without proper measures in consonance with people's will being taken. Through you I would request the Congress people to scan the list of those detained. Do you know that when a debate was taking place here about hoarding some of the rice mill owners in certain places were hoarding rice, sending rates higher, causing starvation in certain towns and villages? Have you got a single person detained under the Preventive Detention Act for hoarding rice against the interests of the people?

**Shri Naushir Bharucha:** They are congressmen.

**Shri S. A. Dange:** Have you got a single case of a speculator in shady dealings on the Stock Exchange causing a crisis in the market, causing difficulties in balance of payments so that we are forced to cut down this scheme and that scheme and rendering thousands of people unemployed being so detained? Is that not a serious social crime? That is not listed as a social crime; it is normal capitalist activity on the Stock Exchange, resulting in the normal closure of mills, resulting in the normal unemployment, normal starvation and normal death. How is the originator of such activity to be dealt with by the Preventive Detention Act, how is the originator of hoarding of rice in the rice mills to be detained under the Preventive Detention Act? All these activities are normal activities of a normal businessman! But if a

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worker strikes, then his activity is abnormal; if he leads a demonstration to the Minister's house, it is abnormal and the Preventive Detention Act must be used in order to prevent that man from marching there. Is that the way in which you are going to have values of running this democracy?

If that is the value in which it is going to be run, then, these Acts are not going to save democracy from being worse and worse. A majority in Parliament is not necessarily the sanction that everything that it does is necessarily valid and good. Therefore, I would request the hon. Minister to reconsider the whole question from the point of view of having a really good democracy running in our country, really preventing anti-social activities, really protecting the lives of the people and allowing all parties to co-operate in the development of our economy.

But the Act is not used against those who prevent the development of economy. In fact, those who prevent it sometimes become better Ministers than before. But those who really wish the development of economy are sent into the opposition purposely with malice, with vengeance. The demands of people are not granted and when people protest, this Act comes. What are you preventing?

You are not even preventing the collapse of the party rule which you want to adopt. The reduction in the figures of arrests does not show anything. As I told you please do not be exhilarated by these figures. Please show consideration to what the people are thinking whether in Punjab or Bengal or Maharashtra or in Gujarat. Even in Punjab, this thing cannot be prevented by the use of this Act, and the way in which you go on. I do not want to go into details.

This Act does not apply to Kashmir. It is rather a ticklish question.

Certainly we are having trouble in Kashmir. Certainly, the policies that this Government is following in regard to Kashmir are quite correct. I support them. But certainly we ought to consider whether a man should be kept in detention for four years. If it is wrong, then take him out of Kashmir and let him go out. Keep him in Bihar or in the Home Minister's own supervision in Lucknow or Allahabad. Let him have his liberty.

14. hrs.

Are we not strong enough to prevent one man destroying the whole State? If you think he is wrong? But detention for four or five years loses all its value, and it strengthens that tendency against that very policy which is the correct policy. Therefore, preventive detention will recoil on itself. Not that I support the view that Sheikh Abdullah took long ago. I think he was wrong in that, but there is no reason why four years' detention should be given. One year perhaps we might give, and say you prevented thereby the debacle of Kashmir or whatever it was—but, I do not discuss the affairs of that State. But then, may I suggest, is this an illustration of the way in which we all of us are trying to think? Are we, by imposition and continuance of this Act, really developing a normal, good democracy? Please put that question. I would say, No, you are not developing it. Therefore, please do not extend the Act".

Pandit K. C. Sharma (Hapur): I have very attentively listened to the arguments that the hon. Members, the Leader of the Opposition made. I am very much pained to find this observations not against logic and reason but even against public decency. I am yet to find an example in the modern democratic State where a Minister of State goes to unveil a statue of one who is called historically a liberator of his people, and someone to denounce the Minister, by standing on the street and saying:

"No, you will not unvell the statue". Such an action is not only against the spirit of law and democracy but something more. I beg to submit it is against human decency.

No State can exist where a responsible Member of Parliament, and for the matter of that, a leader of the party, can take to such a course of action. It offends against the very principle of human decency. Where human decency does not exist, the law does not come in, and no State exists, and where the State does not exist, where comes the democracy? What is the majesty of law, what is the normal way of living decently as a citizen ought to? But here is a case where a man has enjoyed the privilege of having been or being a representative of the people without being a citizen at all! A citizen must stand by the letter and the spirit of law.

What is the sanction for the State? How is a State made? The State is not made by the colour of the people. The State is not made by the race of the people, nor is a modern State made by the bond of religion, language and many other things that were important in the 17th and 18th centuries. The modern State is based on the norm of the legal order. It is the law that makes a State a modern State. If the majesty of law is not respected, the State does not exist.

**Shri S. A. Dange :** What is the law and the statute?

**Pandit K. C. Sharma :** What is the law? You shall have to answer. Nonetheless, what is law? Law is, the supreme law of the land is, the Constitution and a citizen has to obey the laws made thereunder.

**Shri S. A. Dange :** Where is the law about the Prime Minister unveiling a statue and somebody else being prevented from protesting against it? May I know that law? Where is the law?

**Pandit K. C. Sharma :** You will understand. Law is, sanctified, decent behaviour of man. If a man does not behave decently, he is not a citizen.

**Mr. Deputy-Chairman :** The hon. Member shall continue to address the Chair.

**Pandit K. C. Sharma :** All right I beg to submit that even the law requires certain minimum standards of decency on the part of the people, so that the letter and the spirit of the law may be accepted for working and for acting as a guidance for the citizen.

**Shri S. A. Dange :** Will he expel an indecent Member from his party according to the law of decency?

**Pandit K. C. Sharma :** That is not the question.

**Shri S. A. Dange :** Why not?

**Pandit K. C. Sharma :** The hon. Member is standing by what he has done. He should see what others have done.

First, let us look into this question. So far as the principle of the Act is concerned, I do not know that there is any doubt whatsoever so far as jurisprudence is concerned. For the matter of that, the law of prevention of a crime has long been recognised. Regarding that, there are sections in the Criminal Procedure Code. Section 106A deals with violent speeches or publication and Section 110E mentions "habitually commits or attempts to commit or abets the commission of an offence involving breach of the peace" and (f) mentions "is so desperate and dangerous as to render them being at large without security to the community". Section 117(4) enjoys the evidence of general repute. The person can be asked to provide the bond and can be kept inside the jail for his misbehaviour. Of course, he can provide the security bond.

Take the practical side of these two provisions, that is, sections 106 and 110 of the Criminal Procedure Code. These are in relation to the Bill under discussion. Generally two

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classes of people are put under the Preventive Detention Act, and those who would not like to give any security bond would naturally have to remain inside the jail for a number of years. If a man is kept inside the jail under section 110 of the Criminal Procedure Code, he loses much more of his reputation as a citizen than if he were kept inside under the Preventive Detention Act. They may say that remaining in the jail is the same, but under the Preventive Detention Act, the man is given greater opportunity to prove his innocence, because a better machinery is provided than if he were to come under section 110. He will have the right to cross-examine but then what is that cross-examination? It is just as in a summons case, and he can cross-examine only once which is in practice is not much helpful.

Then what is the sort of evidence that would be given? It is evidence of general reputation, and not of the commission of a particular act. So, in substance, there is not much difference between the two. But, on the other hand, the Preventive Detention Act is a better law than section 110 of the Criminal Procedure Code. Section 110 of the Criminal Procedure Code—sub-sections (E) and (F) have not been objected to by any of the Communist Members or the leader of that party.

Then the question arises whether there is any political expediency. Is there any warrant whatsoever in the history of political organisations that such an Act should be on the statute-book? My respectful submission is this. What Shri Dange says is, neither there, is a particular contingency nor is there any extraordinary happening that has taken place during recent years radical changes in the social and political structure of the society or in the economic way of living have taken place and they are yet taking place. The law must provide powers to meet the situation created by the

changes. Take, for instance, England under Oliver Cromwell. Drastic measures had to be taken because people, whose interest was affected, were likely to rise in revolt. The same thing happened during the French Revolution in 1789. The French revolutionary leader Robespierre was the worst hater of laws. He was the man who stood for what is today called administrative law. He did not like the long procedure of the court of law. Why? Because, changes were taking place in the social structure, in political machinery and economic way of living and those whose interests were affected, they had to rise in revolt. They had to raise their voice. Therefore, extraordinary measures were taken.

Now, coming to the heaven of their dream Russia, what happened there during the revolution? Lots of people were thrown into the jail and many were murdered. Did they take them to the regular courts of law? Were they permitted to employ lawyers? Were they permitted to place their case as an ordinary citizen does? No. But I do not think that the communist people acted in a way which was inhumanly cruel. Whether inhuman or human, whether desirable or undesirable, the way of life they wanted to adopt necessitated the sort of action that they took. Because, law can play its part only when procedure would be acted upon.

Now, what are the primary obligations of the Constitution? What is the primary obligation of a citizen with regard to the Constitution or, for that matter, with regard to the State? The primary obligation is to stand by the letter and the spirit of the law. Because, it is the law that creates the modern State. Unless the majesty of the law stand, the State does not come into existence. How are States created? They are not created by the type of colour one person has or the race of one person or



because he lives in a certain city. Not that. As you know, Pakistan has two parts. There is an eastern part and a western part. They are not contiguous. What is the binding force? What created the Pakistan State? The same norm, the same legal order. Unless the legal order exists, the State does not come into existence.

Now, take the case of Punjab. What is the Hindi agitation? A child has the right to read in the language—which is his mother tongue. Suppose a State does not permit that. His father can go to the Supreme Court and claim his right. What is it that entitles a number of hundreds of people to go on the road and make a hue and cry? Why should they hinder the work of the Legislative Assembly? What is the necessity for such sort of action? It is certainly not legal. It cuts at the very root of democracy. It cuts at the very root of the State. It cuts at the very root of decent way of living.

There are the judges of the highest tribunal here, the final arbiters of the peoples' rights. Why don't they go to them? Why should they resort to this agitation? Why don't they claim their right from the court of justice? Then it is called satyagraha. Satyagraha is a moral and ethical conception of action. How can the rowdies collecting thousands of people, defying the law and standing in the way of performance of legal obligations of the State machinery be called an ethical act, I fail to understand. It is a simple question.

Our people are yet to learn the primary obligation of being a citizen. The primary obligation is to obey the law. Other things come afterwards. Here my friends want employment. At the same time, you collect 20,000 people to say to a Minister you cannot unveil the Statue of Shivaji. How can employment be created when ordinary decencies and good behaviour of a citizen do not exist? How can you expect a mill to be run, when

you do not allow the mill manager to go to the office to work? Examine your own conduct in the light of what you expect others to do.

**Shri Braj Raj Singh (Ferozabad):** Gandhiji must be repenting for you in heaven!

**Mr. Deputy-Speaker:** The hon. Speaker has ruled that these interruptions would be taken into consideration for calculation of time. At least, they would lose the priorities that they otherwise would get.

**Pandit K. C. Sharma:** The third question is whether, under the present condition, it will serve any useful purpose or it is a useless measure. My friend, Mr. Dange, has advanced the argument: well, despite the Preventive Detention Act, certain things have taken place and if they take place despite this law being in existence, then it is useless. Well, it is just like an argument that if people are good, they behave well. So laws are unnecessary. If they are bad, they do not behave well. Then also, the law does not work because they would defy the law. Therefore, in that case too, law is unnecessary. Therefore, it is no use making a law and it is no use constructing any machinery which you call the government or the political organisation. If this sort of argument is to be accepted as to have validity enough to do away with the measure that we are considering, then as well you may say that a citizen is born, he lives, nothing happens; then he dies. So, if he dies, well he dies. So, what is the use of having been born? If a man does some thing even then he dies and if he does nothing, then too he dies; then life is useless. Therefore, the very existence, that is, the human being coming to this earth is a useless thing and life is itself meaningless.

But it is not logic. There is such a thing as the logico meaning, the interpretation of social laws and human life. Human behaviour has to be taken into account as a normal

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function of life itself and what factors would affect him and guide him to certain action or keep him from doing certain things that he otherwise would have done.

This is a long story. This is itself a science under which laws are made, they are enforced, governments are made and governments function. Taking that view into consideration, I beg to submit that situated as we are this law, that is the Preventive Detention Act, may for the good of the people be continued, and it will not do any harm either to the spirit of the law or the function of the law. I think it may do good and, God willing—man willing, of course, much more—we would be able to overcome certain phases of our life which are nothing extraordinary; they necessarily happen; because, a new state has come, a new social order is being brought in. For new Social Order and new economic way of thinking and the new measures being adopted, certain people revolt, and they revolt sometimes violently.

So it is much better to prevent the disturbances rather than let the disturbances come, play their part, disturb the peace and normal working and later on prosecute the people and convict them. Prevention is a much better way of doing things rather than convicting people later and sending them to jail for a longer time.

Sir, I am thankful to you for the opportunity you have given me to speak on this occasion.

**Shri Naushir Bharucha:** Mr. Deputy-Speaker, I rise to oppose this Bill which is nothing short of negation of liberty, negation of democracy and negation of the rule of law. This Bill is based on principles that are repugnant to the sense of natural justice and they are a bolt on the Constitution. They are based on the fact that the normal administration of

justice and police has failed. A measure of this type could have been justified only in the gravest of crisis where the security of the State is threatened by external aggression.

We feel that, apart from these defects, this Bill is intended to be used against political parties, particularly the Communist Party. I am not in love with the communist philosophy of life. But even a communist is entitled to justice.

May I also point out that a publication on the Preventive Detention Act, issued under the authority of the Congress Party in the Parliament of India, has this one significant paragraph:

"It is said that never in the history of Britain, not even when the pattern of Britain has changed, or when France had fallen, or when Belgium was overrun, or when Flanders had been occupied and Dunkirk captured, such a piece of legislation could be enacted."

Then the writer says:

"True it is, in England which is a democratic country, there is no Preventive Detention Act, but are there any communalists in England? Certainly not."

That is the philosophy on which this Preventive Detention Act is based. This booklet is published under the authority of the Congress Party in the Parliament of India, and you must accept it as the official expression for the reason.....

**An Hon. Member:** No.

**Shri Naushir Bharucha:** The Congress Party's.

**Shri Heda (Nizamabad):** It is only talking point.

**Shri Naushir Bharucha:** To my mind there is no parallel to the principles underlying this Act unless we

go to legislation such as the Bill of Attainder or perhaps the Preventive Detention Act of Kashmir. What type of legislation are we going to perpetuate for the next three years?

Under the existing Preventive Detention Act a person can be detained by a detention order which may be made even by a Commissioner of Police who, naturally, not knowing the fact of the case, will rely upon the reports of subordinate police officers like sub-inspectors. Under the Act, once a man is arrested, within five days the grounds of detention must be furnished to him and within twelve days Government must confirm the detention. It may be said that there are so many safeguards—the very fact that the grounds of detention should be furnished to the detainee, the very fact that the Government confirms that order, the fact that the Advisory Board takes cognizance of it within thirty days. I submit respectfully that all these safeguards, one and all of them, are completely illusory.

What is the sense in saying that the Government confirms it, when we know that the majority of the orders are made at the instance of the Government? Will they say they will not confirm their own order? Is that a safeguard?

Then again, it has been said that the matter is referred to the Board. But what material has the Board got? The grounds are such that the Board cannot go into the truth of the allegations. That is the first point. Even when the preventive detention order is made, section 3 of the Act lays down "if the Government or an officer is satisfied....". "Satisfied" means subjective satisfaction. Law courts have pronounced that it is a question of subjective satisfaction of that particular officer. If for instance the officer gives a ground like this, that Mr. A has grown a beard so that he could conceal a revolver behind it, even that cannot be challenged in a court of law. To such a ridiculous extent jurisprudence has been reduced. The High Court even has certain-

ly no power to judge on merits, if the hon. Minister today says that Mr. A or myself, intended to murder police officers. These are the common grounds which are alleged. I cannot bring any defence that I did not intend to do it. The High Court will say, "We have no right to go into whether you really intended to murder police officers or did not". So what is the use of saying that there is the safeguard of the Advisory Board or the safeguard of the court of law?

Let it be known also that before the Advisory Board, as my hon. friend Shri Dange just now pointed out, nobody can ask anything to any complainant making an allegation, face to face. He is not brought there. Behind the back of the detainee the evidence is recorded. I do not even know who is it that has given this information that I am designing the murders of police officers. Therefore, to say that the Advisory Board is a safeguard is merely to make a mockery of administration of justice.

Also, let us to see what are the wide, extraordinary powers given under this particular Act. In the first place, let it be known that this is applicable to the whole of India and partially to Kashmir. If it is a question of the Defence of India, then the Act applies; if it is in relation with foreign powers, the Act applies; if it is the security of India, the Act applies; if it is the security of the State, the Act applies. I have not been able to understand the difference between the security of India and the security of the State, because the State here means India. Then, maintenance of public order. Under this anything can be brought. Even if secondary teachers hold a conference to press for better conditions of living, this law can be applied; the Preventive Detention law can be applied to them. Why? The Police can say, "Your conference is likely to create public disorder." Maintenance of public order has nowhere been defined. It is such a vast subject. Maintenance of public order is such a vast

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subject that any act, however innocent, can be brought within the purview of its mischief. This point is in my mind. I shall refer to it at the end of my speech and I shall emphasise it. The Act is all-embracing, territorially it is all embracing, the safeguards that are mentioned there are completely illusory.

It might interest this House to know how actually the Act is being implemented. I shall give an instance which I personally know. I filed habeas corpus application in the Bombay High Court on behalf of two detainees. One was a mill worker and the other was a student. The Police Commissioner, I think it was the Police Commissioner or some high officer from the police department, swore to certain facts, that these people were conspiring to murder police officers. But, it so happened that on the facts so far as the student was concerned, on the top, the name of the mill hand was mentioned and on the facts so far as the mill worker was concerned, on the top the name of the student was mentioned. What I desire to point out is, a Police Commissioner who swears an affidavit does not even stop to consider whether the facts of one man are wrongly tacked on to the affidavit of the other. On that ground and on the ground that the Police Commissioner acted outside his jurisdiction, purely technical grounds, I was able to obtain the release of these persons.

What I am trying to point out is this. When people talk of a responsible person like the Police Commissioner passing the order or when they talk of the State confirming the detention order, what precaution do these authorities take? Were it not for the accident that wrong allegations were made against wrong names, which would not have occurred if these people had applied their minds to the facts of the case, what might have been the result? Were it not for that accident, the man would

have lingered in the jail. I ask the House, if these are the facts, if the Police Commissioner in his affidavit makes such false statements—I do not say that he deliberately makes them; it is a mistake; he has not the time to look into it, is it still a matter of subjective satisfaction? If the Police Commissioner applies his mind to the facts of the case, the High Court is completely helpless. This is what is happening. After all, who will make the order? It is a petty officer who starts the whole proceedings.

Let us understand the full significance of what is being done here. It means that nobody's liberty is safe. It is not as if only in cases of violence it will be applied. It is wrong to say, as the hon. Home Minister put it, that we cannot permit a few, a microscopic minority to threaten the peaceful existence of the nation. Not that. Even in matters unconnected with violence, the Act may be applied. I cannot even hold a conference. If the Police Commissioner thinks that my conference is going to create a disturbance, I cannot hold the most innocent type of conference. Therefore, what I want the people to appreciate is that the Act is not confined to murder or this and that grave offence, but the entire activity of the human being is subjected to preventive detention legislation.

I desire to take this House back 38 years when, in this country the Rowlatt Act was enacted. In 1919, the Rowlatt Act was enacted. The whole country was thrown into convulsion then. But when compared to the Preventive Detention Act, I say that the Rowlatt Act was an innocent statute. I will tell you why. The Rowlatt Act was intended to suppress revolutionary murders, that was an Act intended to suppress anarchy. It was not made applicable to the whole of India, as the Preventive Detention Act is made applicable. It was made applicable only to scheduled areas or declared areas, and then only if the Government said that anarchical crimes were prevalent to

such an extent that it made normal administration of justice impossible.

Therefore, the difference is, in that case, in the scheduled areas, the Act was made applicable; but in this case, the whole country, as if there is anarchical crime in the whole of the country. Only scheduled offences were mentioned, only in respect of certain sections of the Penal Code, the Rowlatt Act was applied. Here, for anything under the Sun, Preventive Detention Act applies! May I point out also, in the Rowlatt Act, a regular trial was provided. It is true that there were no jurors there. But a trial by three High Court Judges was held. The man was not kept under detention without trial.

Even though there were such redeeming features, what was the criticism of that Act. I took them from the Hansards of the Imperial Legislative Council. The hon. Vithal-bhai 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."

That was a criticism of the Rowlatt Act which is far milder than the Preventive Detention Act.

Dr. Sunrendra Nath Banerjee said that the provisions constitute a peril to the sacred rights of personal liberty. How much more is this a peril to the sacred rights of personal liberty, I ask. Mr. 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 of justice."

Then, Pandit Madan Mohan Malaviya said:

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

The procedure alone was altered but the right of trial was not taken away under the Rowlatt Act. Yet, today, preventive detention measures, in times of peace enacts these unheard of things.

In England, in 1940, when France fell, when the incidents at Dunkirk were happening, when, at any moment there was peril of an invasion of the island itself, when espionage was rampant on such a large scale, in Britain, there was no Preventive Detention Act. It could have been justified then. I would have justified it if our country was threatened by external aggression. What has happened? In peaceful times, if this Government and the Governments of the State cannot take care of 100 persons who are confined, if the police is so helpless and ineffective that it cannot restrain the revolutionary or anarchical or violent activities of only 100 men, I say you are not a worthy Government that should be in power. You must get out; you do not know how to administer the law.

Mr. Deputy-Speaker: Am I?

Shri Naushir Bharucha: I beg your pardon; I mean the Government. I tell this Government that this Government does not know how to administer the law.

In Bombay State alone, we pay Rs. 10 crores for the police administration. I believe, the entire police administration of the country costs Rs. 150 crores with other measures. If with the expenditure of this sum, the Government cannot prevent 100 men from resorting to some anarchical activities, I say, the administration of the country deserves to be scrapped completely. I ask this House . . .

**An Hon. Member: Introduce anarchy**

**Shri Naushir Bharucha:** My friend says, introduce anarchy. We have not repealed the Indian Penal Code; we have not repealed the Criminal Procedure Code. Can anybody point out to me any offence under the Preventive Detention Act which cannot be brought under the Penal Code?

**Pandit Thakur Das Bhargava (Hisar):** In spite of these Acts, offences are being committed and yet repeal of these acts is not being urged.

**Shri Naushir Bharucha:** If offences are committed, that is an argument for strengthening and for having a more efficient police force. What is the use of saying, in spite of these Acts, offences are being committed? Offences are being committed daily. Therefore, is that a ground for taking away the right of trial of the people, or is that a ground for having a more efficient police administration? If I had a choice to elect between two evils, whether I would have the Rowlatt Act or the Preventive Detention Act, with folded hands I would appeal to them; please give me the Rowlatt Act.

**श्री प्र० सि० लहसल (जजगौर) :**  
उपस्थित महोदय, यह जो प्रीवेंटिव डिटेन ऐक्ट की मियाद को तीन वर्ष के लिये और बढ़ाने का बिल आया है, उस पर मैं अपने विचार रखना चाहता हूँ ।

अब हमें यह देखना चाहिये कि हमारे इस देश में जिसकी कि जनसंख्या करीब ३८ करोड़ के है वहाँ पर १-११-५६ से ३०-९-५७ तक कितने आदमी डिटेन में थे और कितनों के मामले में विचार किया गया है, यह आपको स्टेटमेंट को पढ़ने से पता चल सकता है ।  
Number of cases in which detention orders were made during the period 1-11-56 to 30-9-57 with a view to preventing persons from acting in any manner prejudicial to the defence of

India the relations of India with a foreign Power or the security of India.

इस बिल को पढ़ने के बाद आप देखेंगे कि इसमें जिन प्रदेशों का उल्लेख किया गया है उस उल्लेख के मुताबिक करीब करीब हमारे यहाँ पर

Number of persons detained during the eleven months including those already in detention on 31-10-56 was 43.

अब उसके साथ ही साथ हमें यह भी देखना पड़ेगा कि  
These persons include seven persons; one in Bihar, 8 in Bombay, 2 in Punjab, one West Bengal and one Tripura 56.

इन सारी चीजों को देखने के बाद हमारे माननीय सदस्य ने जो यह कहा कि यह जो हमारे एंडवाइजरी बोर्ड्स है यह भीकरी है, तो मैं उनमें इसमें सहमत नहीं हूँ । आखिर जो एंडवाइजरी बोर्ड्स है उनमें हाईकोर्ट के जजेज हैं और जजेज बैठ कर फैसला करते हैं और इसका निर्णय करने हैं कि अमुक आदमी को डिटेन किया जाय अथवा नहीं और यदि वह यह समझते हैं कि उस आदमी को डिटेन न किया जाय तो उसको डिटेन नहीं किया जाता है ।

इसके प्रतिरिक्त यदि विरोधी पक्ष के माननीय सदस्यों का यह खयाल हो कि यह प्रीवेंटिव डिटेन ऐक्ट कांग्रेस के प्रतिरिक्त विभिन्न राजनैतिक दलों को जैसे साम्यवादी दल, प्रजा समाजवादी दल, हिन्दु महासभा, राष्ट्रीय स्वयंसेवक संघ या जन संघ आदि को दबाने के लिये बनाया रखा जा रहा है, तो मैं कहूँगा कि उसका खयाल करना ठीक नहीं है । वह कानून तो वास्तव में ऐसे अनमोल एलिमेंट्स की चैक में रखने के लिये रखा जा रहा है जो कि हमारे देश और समाज की प्रगति के मार्ग

में बाधक सिद्ध हो रहे हैं। आज असाध्यबश हमारे देश में घराजक तत्त्व विद्यमान हैं और अभी बोड़े विन हुये जब हमारी एक रेलगाड़ी पटरी से उलट गई क्योंकि फ्रिश प्लेट निकाल दी गई थी। इसके अतिरिक्त मैं आपसे पूछना चाहूंगा कि हम में से कौन ऐसा है जो यह बर्दाश्त करेगा कि जो संविधान हमने बनाया है उसको जलाया जाय और हमारे उस नेशनल फ्लैग का जिसके नीचे कि हम सब लोगों ने कंधे में कंधा मिला कर आजादी की लड़ाई लड़ी और कुर्बानियां दी, उसका सरेआम अपमान किया जाय और उसको जलाया जाय। जब हमारे सामने ऐसी परिस्थितियां पेश हों तो अगर सरकार इस डिटेन्शन ऐक्ट की मियाद तीन वर्ष के बढ़ाने के लिये आगे आये तो मैं समझता हूं कि इसमें कोई भी शक बात नहीं है।

पहले पहल यह बिल १९५० में लाया गया था और आज सन् १९५७ में वह काफी रहोबदल हो कर हमारे सामने पेश है और मैं समझता हूं कि सन् १९५० में जो इसका रूप था वह आज के सन् १९५७ के बिल की अपेक्षा ज्यादा खतरनाक था। इसके अलावा हमारा जो क्रिमिनल प्रोसीज्योर ऐक्ट है उसमें भी काफी रहोबदल किया जा चुका है। मैं कोई बकील तो हूं नहीं कि कोई एक दावे के साथ किमी चीज को कहूं लेकिन यह मैंने अक्सर बाहर सुना है कि चूंकि क्रिमिनल प्रोसीज्योर ऐक्ट इतना बदल दिया गया है, इसलिये प्रीवेंटिव डिटेन्शन ऐक्ट को कायम रखना जरूरी हो गया है। इसके अलावा ट्राएल करने के काम में भी सबदीनी हो गई है। आज हमारी रेलवे में जो सैबोटेज होता है और ऐसे लोग जो हमें काम करने नहीं देना चाहते, जो कि विधान सभाओं में जा करके बहों पर अवरोध करना चाहते हैं और काम को रोक देना चाहते हैं और मारपीट करना चाहते हैं, ऐसे खतराती लोगों को रोकने के लिये

हमें इस प्रीवेंटिव डिटेन्शन ऐक्ट की अभी आगे के लिये जरूरत है।

उपाध्यक्ष महोदय, मैं आपका ध्यान स्टेटमेंट नम्बर, ३ की ओर दिलाना चाहता हूं Number of cases in which detention orders were made during the period 1-11-56 to 30-9-57 with a view to preventing persons from acting in any manner prejudicial to the security of the State or the maintenance of public order. के बारे में है और मैं आपसे पूछना चाहता हूं कि हमारे मध्य प्रदेश में जहां कि डकैतों को हारबर किया जाता है वहां इस कानून के बगैर कैसे डील किया जाय और अगर ऐसे उपद्रवी और असामाजिक लोगों को डिटेन न करें तो यह कहां तक मुनासिब होगा? हमारे पास इतना अच्छा कोई दूसरा कानून नहीं है जिसके मातहत हम उनको डिटेन कर सकें।

हमारे माननीय सदस्य श्री नौशीर मरूचा ने कहा कि रौलेट ऐक्ट के जमाने में ऐक्ज्यूज्ड का ट्राएल होता था और उन्होंने रौलेट ऐक्ट के सम्बन्ध में पुरानी इम्पीरियल लेजिस्लेटिव कौंसिल में जो उस समय के सदस्यों ने जिनमें मैं कि आज बहुत से इस लोक में नहीं हैं, उनके उस समय प्रकट किये गये विचारों को जो अपनी स्पीच में कोट किया, मैं उनको मान्यता देता हूं लेकिन मैं अपने माननीय सदस्य से यह कहना चाहूंगा कि वे जरा आज की परिस्थिति का मुसाहिजा करें कि देश में क्या हालत हो रही है। हमारे मध्यप्रदेश में डाकुओं को आश्रय दिया जा रहा है और उनको घरों में शरण दी जा रही है और जिलों में उपद्रव हो रहे हैं और ऐसी हालत में सरकार के पास इसके सिवाय और कोई बारा नहीं रह जाता कि वह इस सिचुएशन

[श्री ध० सि० सहगल]

का सफलतापूर्वक सामना करने के लिये इस प्रिवेंटिव डिटेन्शन ऐक्ट की विषय ३ साल और बढ़ाने के लिये हाउस से कहे और मैं समझता हूँ कि हालात ऐसे हैं जिनकी कि वजह से हमें सरकार को इसकी मियाद बढ़ाने की मजूरी देनी चाहिये ।

हमें यह भी देखना चाहिये कि यह डिटेन्शन के केसेज जो रैप्यू होते हैं उनकी तादाद कितनी है और उनमें से कितने छूटते हैं और कितनी को डिटेन किया जाता है । Review of the detention cases by the Advisory Board and releases and confirmation of detention order by High Court, Supreme Court and State Government from 1-11-56 to 30-9-57 उस में आप पायेंगे कि Number of persons ordered to be released by the Advisory Board was इसके साथ ही साथ No of cases in which detention orders were upheld by the Advisory Board was 127 जब ३८ करोड़ की मरदमशुमारी में यदि १२७ आदमी डिटेन कर लिये गये तो मैं नहीं समझता कि कोई बहुत बड़ा पहाड़ टूट पड़ा । यह सरकार जो डेमोक्रेसी पर देश को आगे ले जाना चाहती है उसको मजबूत करना हमारा सब का कर्तव्य है और उसके रास्ते में कोई रुकावट न डाल सके और शरावती लोग उपद्रव आदि न कर सकें, उनको रोकने के लिये हम सरकार के हाथ में यह कानून देकर हम कोई गलत काम नहीं कर रहे हैं ।

इस सदन के माननीय सदस्यों को इन सारी चीजों पर और करना चाहिये । मैं मानता हूँ कि सन् १९५० में जब यह

कानून लाया गया था उस वक़्त इसमें खामियां थी लेकिन धीरे धीरे हम इस कानून में से वे खामियां निकालते गये हैं और ऐक्ज्यूज के केसेज को रैप्यू किया जाता है और ऐडवाइजरी बोर्ड्स उनके केसेज को ऐग्नामिन करते हैं और उसके बाद ही उनको डिटेन किया जाता है । मैं नहीं समझता कि ऐसी हालत में कैसे हमारे भाइयों का यह खयाल है कि इस कानून को घागे बढ़ाना ठीक नहीं है । मैं तो समझता हूँ कि हमारे विरोध के माननीय सदस्यों ने जब इस पर बहस आरम्भ हो रही थी तो चूँकि वे उसको वाजिब नहीं समझते हैं, इसलिए वे सदन से उठ कर बाहर चले गये । जब वह हमारी सभा में पार्टनर बन कर आये हैं, और कन्धे में कन्धा मिलाइ कर बर्क करना चाहते हैं हमारे कांस्टिट्यूशन को, तो जिन लोगों ने मद्रास में इस कांस्टिट्यूशन को जलाया, उन को उनकी निन्दा करनी चाहिये थी । वह उन्होंने नहीं की है । जिन लोगों ने, जिन माननीय सदस्यों ने, इस कांस्टिट्यूशन की घोष की है, उन का घोष लेने के कारण यह कर्तव्य हो जाता है कि जिन लोगों ने झंडे को जलाया, कांस्टिट्यूशन को जलाया, वे उनकी सानत मसामत करे । मैं आपने माननीय सदस्यों के लिये यह बात किसी नुरी नियत से नहीं कहता, मैं तो केवल प्रार्थना के तौर पर कहना चाहता हूँ कि वे इन सारी चीजों पर गौर करें, और विचार करके देखें कि इसके लिये उनको क्या करना है ।

इन शब्दों के साथ जो प्रिवेंटिव डिटेन्शन ऐक्ट को तीन वर्ष के लिये बढ़ाने का विधेयक लाया गया है, मैं उसका समर्थन करता हूँ ।

Shri Hem Barua: Sir, I oppose this Bill from A to Z. I was listening to the arguments advanced by the hon.



Home Minister, but somehow or other I am yet to be convinced of the necessity of continuing this Bill for another three years. At the same time to me this Bill appears as a most sinister paradox.

When the late lamented Sardar Patel advanced arguments in favour of introducing a legislation like this, he told this House about the probable menace to the security of this country. He held out instances of violence. He held out the Communist bogey as an argument for enacting this piece of legislation. He spoke in a very sentimental way about the sacrifices and sufferings of our people in order to win freedom. But Sir, whatever the conditions of that time, that Bill was introduced in a hot haste, within a month of the inauguration of the Republic. And when that Bill was introduced in hot haste, whether conditions justified or not, I do not want to throw my memory into back glance. But, this is also true that he argued in this House that this is going to be only a temporary arrangement, a temporary measure. The Government was in the habit of dreaming of bugbears in moonlight. The Government was in the habit of talking of communists and wanted this legislation. Then, if they want to continue this legislation on the very same argument I would put it in this way. McCarthyism is dead in the land of its birth. Why try to resurrect it in the land of democracy and the land where there is a possibility of free flow of ideas. Sardar Patel argued that this is an emergent measure. After that, when Rajagopalachari came, he also argued that this is only a temporary measure. Dr. Kaji also argued in the same way. But it is a pity to say that this is a temporary measure, after so much of argument by so many Home Ministers, it is going to be a permanent feature of our Legislation.

I would like to quote what Mr. Nehru said in 1936 about pieces of legislation like this:

"A Government that has to rely on the Criminal Law Amendment

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

This is what our Prime Minister said in 1936. But it is a sad commentary of things to see that the Government over which he presides today appears to us as Chengiz Khan that tries to demolish and destroy civil liberties.

These are arguments advanced by our Home Minister. He speaks about the instances in Ramanathapuram and of Dravida Khazgam and stray cases of espionage and all that. What about Ramanathapuram? I want to ask him point-blank wherefrom these two contending parties in Ramanathapuram got such a huge quantity of arms and ammunitions? I doubt very much it was at the connivance of the State Government. It was because of the connivance of the State Government at least because of the connivances of some of the ministers in that Government, that both the contending parties got such huge quantities of arms and ammunitions.

Shri B. S. Murthy (Kakinada—Reserved—Sch. Castes): On a point of order, Sir, I would like to know wherefrom this material has been supplied to the hon. Member. Did he go there or has he any reliable information? Both the parties are not Harijans. It is very unfortunate that the hon. Member is trying to say about supply of arms and ammunitions.

Mr. Deputy-Speaker: It might be a good interruption but there is no point of order involved in it.

Shri Hem Barua: When I say like that, I have support from a leading newspaper of this country. Nobody can challenge that *Amrit Bazar Patrika* of Calcutta is not a leading

[Shri Hem Barua].

newspaper of this country. I quote from that paper. Things might not have taken such an ugly turn had the Madras Government taken timely notice of the deteriorating relations between Thevars and Harijans. That leading article is captioned as "Disgraceful". There they tell point-blank that both the contending parties made use of huge arms and ammunition. Wherefrom did these people get arms?

Mr. Deputy-Speaker: It is not necessary what appears in a paper must be correct. Hon. Members should have something more to rely upon. It is not very fair to lay the whole blame on the State Government that the State Government supplied arms. If the Editor of some paper gives a free flight to his imagination, it is not proper that an Hon. Member should take it up here because the speeches here must be based on facts which are either within our knowledge or at least we have reasons to believe that they must be correct. Simply because it is a leading article of some newspaper it is not sufficient justification. Hon. Member need not labour on this point now.

Shri Hem Barua: On a point of clarification I did not suggest that the State Government supplied this quantity of arms and ammunition to the contending parties. I say the State Government allowed the situation to deteriorate. That is one point. Another thing is I want to know wherefrom these people got such a huge quantity of arms and ammunition. Therefore, I do not want to apportion blame on any party whatsoever, not on the Government even. I am sorry this got into controversy. I did not have any dirty intentions in my mind, and I hope, Mr. Murthy will excuse me. This was unintentional.

Another thing was espionage. The General Council of the National Conference of Kashmir has adopted

a resolution to the effect that organisations officially sponsored in Pakistan, like the one led by the former Major General Akbar Khan which take resort to this sort of bomb explosions, are directly or indirectly responsible for bomb explosions in our country. My contention is this: Why is it that our normal state machinery is not capable of punishing these people who are engaged in creating chaos and anarchy in this country. The normal State machinery should be enough to put out these cases, and to allow the normal course of law to operate instead of having an action like this that goes directly against the civil liberties of our people. I know this Bill could have been rather welcome if there had been a national emergency such as a war in this country. But conditions as they are today do not warrant a Bill like this or a perpetuation of this Bill at all,—not even for a single day.

Now, the Home Minister spoke about England. He referred to England. I would also give an instance from the history of England in modern times of Regulation 18B adopted during the Last World War. This regulation gave the Secretary of State the right to detain a person without trial believed to be of hostile origin. This power was given to the Secretary of State not because a man has actually committed some crime, but there is a suspicion that a man might commit a certain crime or certain things against the State and that is why this power was given to the Secretary of State during the last world war.

15 hrs.

Lord Atkin has declared in a memorable judgment about this sort of power in England thus. He says:

"In this country, amid the clash of arms, the laws are not silent. They may be changed,

but they speak the same language in war as in peace. It has always been one of the pillars of freedom, one of the principles of liberty for which we are now fighting, that the judges are no respecters of persons and stand between the subject and any attempted encroachment on his liberty by the executive, alert to see that any coercive action is justified in law. In this case I have listened to arguments which might have been addressed acceptably to the Court of King's Benches in the time of Charles I. I protest even if I do it alone, against a strained construction put on words with the effect of giving an uncontrollable power of imprisonment to the Minister."

Our Home Minister in the morning when he introduced the Bill rather argued about England. But, even in England there is no such thing. England does not have a written Constitution as we have. We have a written Constitution and the written Constitution has guaranteed certain freedoms. But during the last few years we have never been able to realise fully or squarely the freedoms granted by the Constitution. On the other hand, there have been serious attempts on the part of Government to violate even the fundamental provisions of the Constitution. Therefore, we can have no analogy with England. Possibly, England is the only country in the world that has succeeded in actualising the freedoms granted by the unwritten Constitution.

It is a fact that Parliament has sovereign powers. It has sovereign powers to legislate. At the same time, Parliament has certain obligations and responsibilities to the people. The representatives of the people, who are elected to the sovereign forum of the Nation, do not have the moral right to legislate against people's interests, the people who have elected them to this House. But, that

is what we are doing. We are legislating against the interests of the people, against their own liberty, against their own individuality. That is what we are doing today or rather what are going to do.

I want to ask the Government point-blank: 'Do the Government anticipate any insurrection on the Indian soil today? Do the Government anticipate any revolution on the Indian soil today? Do the Government anticipate any revolt on the Indian soil today? If the Government do not anticipate any revolution on the Indian soil today or if the Government are not anticipating any resurrection today on the Indian soil, I do not see any meaning, any sense in trying to perpetuate this black piece of legislation.

The Home Minister was relying too much on the Constitution and he said that the Constitution has provided detention without trial and he quoted article 22. But, then, the Home Minister forgets that the Constitution provides other liberties too. The Constitution provides the liberty to the Government to take away the liberty of the individual. At the same time, the Constitution provides so many things to ensure the liberty of the individual. Are we paying any heed to them or any attention to them? If the Government wants to rely on that particular aspect of the Constitution, I would say that it is easier to tolerate the despotism or the tyranny of a despot—he may be an enlightened despot—than the despotism of democracy which is something very difficult to tolerate or face squarely.

I want to say that if you concede that individual liberty, or the liberty of the individual is a sacred trust, if you consider that the law of the jungle must not be allowed to precede the rule of law, this Bill is an unjustified Bill and this Bill must be opposed tooth and nail. What we find in this Bill is a slaughter-house,

[Sri Hem Barua].

a slaughter-house peering and peeping out of this Bill, a slaughter-house of the civil liberties of the individual. The civil liberties of the citizens are butchered. This is what I want to say. Instead of granting civil liberties, there is a deliberate attempt through this piece of legislation to throttle civil liberties, to smother civil liberties and to break civil liberties.

I just remember a story of Confucius. As he was passing through a graveyard, he saw an old woman weeping there. He enquired of her, why she was weeping like that in a lonely place. She said she was weeping because her father-in-law was killed by a tiger and because her husband was killed by a tiger and her son too, so she said she was weeping by the graveyard. When Confucius asked her again why she was weeping by the graveyard, she said it was because there was no oppressive Government there. Now, that was the argument or reason given by that old woman. Confucius turned to his compatriots and said that an oppressive Government is worse than a tiger.

15-57 hrs.

[PANDIT THAKUR DAS BHARGAVA  
in the Chair]

This is the very instance which we can apply to our Government as well. The argument that there were 11,000 people detained in 1950 and now the number is only 205 does not hold water. That can be no argument for robbing people of their civil liberties or depriving them of their civil liberties. I do not see any argument here.

What about us? We are condemning all. We are very serious about the position of Indians in other countries, in foreign lands. We argue about the conditions of Indians in Ceylon; we argue about the conditions of Indians in South Africa and we argue about their conditions in so many other

lands. What about the conditions of Indians in our own country? We are reducing them and putting them into an iron cage and putting them under fetters. This is what we are doing. When we do this, when we rob them and deprive them of their civil liberties and when we reduce them to mere automata by the Government machinery, we do not have the right to argue about the conditions of Indians in foreign countries. If we argue so in this way, I would say that we are suffering from a moral perversion. We are in a hysteria; what about that hysteria? This hysteria has come from the graveyard of Charles I to us, that continued upto the revolt of 1688 in England. And that is the sort of hysteria we are suffering from, a sort of hysteria superimposed on the people by the Government.

At the same time there is an argument that this Act is liberally used and that this Act is used in a judicious manner. That may be. But that does not justify the existence of the Act itself. This Act is to me like an inscription on a sword. But the fact is that the sword exists and whenever the sword exists, it may rush out and slash anybody.

Now that the very fact that this Act exists, the very fact that this piece of legislation exists shows that it can be used in ways that are not very much commendable and cannot be commendable at all. For six weeks a man can be spirited away under the orders of the District Magistrate. That is the provision that this Act has made, and this is how people argued or this is how the Home Minister argued, namely, when you find an example of 11,000 people having been imprisoned and kept in detention in 1950, there are only 205 in detention today, and that this shows that the Act is used in a very judicious way. But then, my argument is this. Why should the Act exist at

all? If the conditions are normal, if the Government does not anticipate an insurrection or a revolution in this country, why should the Government—and why is it that the Government is trying to—insist on this piece of black Act and perpetuate it for another three years? Already a period of seven years is over. Now, they seek to extend it by another period of three years. I would say that it is a sort of moral guilt on the part of the Government.

In this case, I would like to quote Judge Hand, a jurist of international eminence. He says that if we have to super-impose a Bill like this and deprive the people of the civil liberties, it is better not to have liberty at all! Instead of creating an atmosphere of terror and an atmosphere of war and an atmosphere of fear, let us try to create an atmosphere of peace and goodwill. This is what he says. And if in that attempt to create that atmosphere, some people escape, let them escape. If the normal machinery of the Constitution fails to take cognizance of them, then, we would say, they should escape than have a black legislation like this.

I will conclude by quoting what Judge Hand has said:

"Risk for risk, for myself I had rather take my chance, that some traitors will escape detection than spread abroad a spirit of general suspicion and distrust, which accept rumour and gossip in place of undismayed and in intimidated inquiry".

This is what Hand says and I think it applies very creditably to our country as well. Instead of having this black legislation, instead of trying to rob our people of civil liberty, instead of flouting the provisions of the Constitution and even the fundamental rights, let us create an atmosphere of peace and goodwill; let us have an atmosphere of social mobility rather than of coercion and black

deeds soiled with the sufferings of our people.

साक्षात् अखिल राज : (पटियाला):

महापति महोदय, आज आपके सामने सवाल यह है कि प्रिवेंटिव डेटेंशन ऐक्ट की जिन्दगी को तीन सालों के लिए बढ़ाया जाए। इसके इतिहास का वर्णन करते हुए यह भी कहा गया कि किस तौर पर सरदार पटेल ने जब इस बीज का क्या किया कि इस ऐक्ट की जरूरत है तो वह दो दिन और दो रात तक सोये नहीं थे। किसी की आजादी के हक को लेने की प्रैक्टिस इतनी थी कि बाकई सरदार पटेल का परेक्षण होना उनके सामने ज्ञान था। अब भी पन्त जी ने अपनी स्पीच में यह बात कही कि मैं तो इस बात का स्वादिष्टानन्द हूँ कि ज्यादा से से ज्यादा लोगों को आजादी दूँ और जो रेस्ट्रिक्शन हों उनको कम करूँ। आज मुझे खुशी होती है जब कि मैं यहाँ विंडसर प्लेस में, मुस्क के अन्दर देहाती और शहरों में देखता हूँ कि कम्युनिस्ट पार्टी के अड़े लगे हुए हैं, दफ्तर खड़े हुए हैं। यह खुशी की बात है कि आज हमारी स्वराज्य गवर्नमेंट के अन्दर तमाम पार्टियों को काम करने की आजादी है और हमारे होम मिनिस्टर साहब, पन्त जी, बजा तौर पर फरद कर सकते हैं कि जो कम्युनिस्ट पार्टी अन्लाफुल थी वह आज लाफुल है और अपनी ऐक्टिविटीज को करी ध्यान कर रही है। जिस ऐक्ट के निहाय से काफी रेस्ट्रिक्शन लगाए जा सकते हैं, उसकी तहत भी उनको पूरी आजादी है।

लेकिन देखने की बात यह है, जैसी अभी दलील भी दी गई, कि आज जो एक्स्टेंशन किया जा रहा है तीन वर्ष के लिए, प्राया उसमें किसी तरीक़े की जरूरत है या नहीं, या उसको बैसे ही लागू कर देना चाहिए। मैं समझता हूँ कि इस हाउस के अन्दर बहुत से ऐसे आदमी हैं जो समझते हैं कि इस ऐक्ट की जरूरत है। इसमें कोई शक व शुबह नहीं है।

[लाला अश्वित राम]

खास तौर पर जब हम देखते हैं कि बम चलते हैं, बम किसने रखे और कहाँ रखे, यह बातें छोड़ दी जाएं, एस्पेयानेज चलता है। सरकार भी समझती है कश्मीर के अन्दर जो हालत है। पाकिस्तान के आदमी, उसी शकल के, उन्हीं तरह की पगड़ी वाले, वहाँ फिरते हैं। उनको पकड़ने की जरूरत है। तो यह बात माकूल पड़ती है कि ऐसा ऐक्ट हो। यह जरूर देखना होगा कि हम कहीं सबाब करते करते, नेकी करते करते, गवर्नमेंट को मजबूत करने करते ला एंड आर्डर को मजबूत करने करते कहीं ला एंड आर्डर को फेल तो नहीं करने। कहीं नेक काम करने में धराई तो पैदा नहीं होती। अगर फिगर्स को देखा जाए तो १०,००० से कम होने होने कोई २०० लोग रह गए। यह हमारे काम की निशानी है और खुशी की बात है। लेकिन मेरा ख्याल है कि हासकि पत जी आज इस हालत में है कि यह ऐनाउंस करे कि सिर्फ २०० या २५० ही आदमी रह गए, लेकिन अगर इस ऐक्ट पर जरा और एक्टिविटी में असल किया जाता तो बजाय २०० के १०० आदमी ही रह जाते। और यह कहा जा सकता कि आज इतने दिनों के अन्दर १०,००० से कम हो कर १०० आदमी ही रह गए हैं। इन फिगर्स के कम होने में हम समझ सकते हैं कि गवर्नमेंट का मकसद अच्छा है और वह चाहती है कि लोग आजादी महसूस करें, साथ ही गवर्नमेंट को भी मजबूत किया जाए। लेकिन मुझे डर इस बात का है कि जब ला को जरा भी उन्टा करना जाता है तो उसका नतीजा भी उन्टा निकलता है। मामूली बात है कि जो आदमी गलती करना है उसे डिटेन्शन में रखा जाए, लेकिन जब ला को मिसयूज किया जाता है तो उन्टा नतीजा निकलता है। एक छोटी सी बात देखिए। अकाली तहरीक चलने के बाद मास्टर तारा सिंह को पकड़ लिया गया मास्टर तारा सिंह जेल में थे। उस बला गवर्नमेंट ने यह कहा कि उनको वहाँ से तब्दील किया जाए। जब मास्टर तारा सिंह के पास

लोग गए तो उनको बुलार बढ़ा हुआ था। मास्टर जी ने कहा : मुझे बुलार है, ऐसी हालत में मुझे तब्दील न किया जाए, लेकिन कहा गया कि नहीं, बहुत नजदीक ले जाना है। क्या हुआ कि उनको उन्हीं बुलार की हालत में अमृतसर से गुडगावा ले जाया गया, और उसकी वजह से उनकी हड्डियों में तकलीफ है। यह बात जरूर है कि गवर्नमेंट को डर है कि प्रिजन में को तब्दील करें, उन्हें जिस जेल में चाहे ले जाए, लेकिन इस कानून को बदलने का ढग भी तो कुछ होना चाहिए। मास्टर जी को बीमारी की हालत में ले जाना गलत था, जिसका नतीजा गलत ही निकला। जो अकाली भाई थे उनको इसमें आग लग गई और तहरीक इतनी बढ़ गई कि शांति में नहीं रही। गलत तरीके से काम करने में यही होना है। मैं मांगे मुक्त की बात तो नहीं कह सकता लेकिन पंजाब के अन्दर छ महीने में जो तहरीक चल रही है, और बड़े जोर में चल रही है, कहा जाना है कि वह खत्म होगी, लेकिन खत्म होना की कोई बात नहीं है। हजार हड़ हजार आदमी जेल में जाते हैं। लेकिन मेरा ख्याल है कि अगर इस प्राब्लेम को प्रान्टर तरीके से हेंडल किया जाता तो मामला इतना नहीं बढ़ता। आज कहा जा रहा है कि जबदस्ती पंजाबी न पढ़ाई जाए, जबदस्ती हिन्दी न पढ़ाई जाए। मैं चाहता हूँ कि सबको हिन्दी पढ़ाई जाए, लेकिन साथ में यह भी चाहता हूँ कि जबदस्ती हिन्दी न पढ़ाई जाए। डोन्ट फोर्स हिन्दी इम्पलू बेयर थोट्स। उनका ऐसा ख्याल है। हिन्दी रक्षा समिति कहती है जबदस्ती हिन्दी भी न पढ़ाई जाए और जबदस्ती गुजराती भी न पढ़ाई जाए। मैं उनसे इतना कह नहीं करता। मैं समझता हूँ कि हिन्दी और गुजराती दोनों ही पढ़नी चाहिए। लेकिन जो अपनी बात कहे क्या उसको पकड़ा जाए? आज यह देखने की बात है। अगर कोई कोर्ट में जाए और कोर्ट का काम बन्द करदे,

जो बेइक पकड़ लो। लेकिन बेइक भर में जो नारे लगाते हैं हम जबर्दस्ती हिन्दी नहीं पढ़ेंगे, हम जबर्दस्ती गुरुमुखी नहीं पढ़ेंगे, उन पर पाबन्दी लगाना जरूरी नहीं है। इसलिए मैं समझता हूं कि पंजाब में जो गलतियां हुई हैं, उनमें जो आपका भ्रष्टाचार भक्तसद है कि लोग हिन्दी और गुरुमुखी दोनों पढ़ें, वह हल नहीं हो रहा है, उम्मेद उम्मान बढ़ रही है। पहले तो बात गहरी तक ही थी लेकिन अब यह बात गांवों में भी पहुंच गयी है। मान लीजिये कि यहां पर कोई आदमी जेल में बन्द हो और पन्नी जी या पंडित जी कहें कि वह बीमार है और उसे खून की जरूरत है, और अगर कोई आदमी जिसको डाक्टर इजाजत दे उस बीमार के लिये अपना खून दे देना है तो मैं कानून के खिलाफ क्या बात है? लेकिन पंजाब में घोर प्रकाश नाम के एक शम्भू को इसी बिना पर डिटेन कर लिया गया कि उस ने एक कैदी को अपना खून दिया। अब बतलाइये कि यह कौन सा जुर्म है।

**एक भारतीय सदस्य :** प्रेम ।

**श्रीलाला अश्विनी राम :** इस में गेम की बात नहीं है। मैं यह नहीं कहना कि गवर्नमेंट अपना काम न करे लेकिन उसका ढंग ठीक होना चाहिये। अब मास्टर ताग सिंह को जो बुधवार की हानन में एक जगह से दूसरी जगह ले जाया गया तो क्या यह पन्नी जी के कहने से या जवाहरलाल जी के कहने से किया गया? लेकिन इसमें गड़बड़ मच गयी और हजारों अकालियों की एक कम्युनिटी गवर्नमेंट के खिलाफ बन गयी। आज जो गलतियां हो रही हैं उनका नतीजा यह है कि पंजाब में एक कम्युनिटी जनसंघ बन गयी। जो लोग कल तक कांग्रेस कैम्प में थे आज आपके खिलाफ हो गये। उन्होंने गवर्नमेंट में जो पार्टी है उसके साथ देश के लिये कुर्बानियां की, लेकिन आज इन गलतियों के कारण वे आपके खिलाफ बन गये।

आप देखें कि प्रोफेसर भगवान दास हैं। मैं उनको जानता हूं कि वे बड़े सच्चे और त्यागी हैं और नान बायलेंट हैं। वे प्रिंसिपल हैं और लेक्चररी में एक्स्पेरिमेंट करते हैं। जो उनको जानता है वह उनके खिलाफ कोई बात नहीं कह सकता। इसी तरह से एक मेरे क्लास फेलो है श्री मेलाराम जो ४०० ए० बी० स्कूल के प्रिंसिपल हैं जो कहते थे कि जो आदमी हिन्दू और सिखों में नाइनिफाकी पैदा करना है वह गुनहगार है। उनका दावा था कि जो ग्रन्थ साहब की इज्जत नहीं करता वह गुनहगार है, वे कहते थे कि हम ऐसा नहीं होने देंगे। इस कानून में उनको डिटेन किया गया। ऐसा करने में लोगों के अन्दर खज्जा न फैले तो क्या हो? आज उस को कोई कंट्रोल नहीं कर सकता। आज गवर्नमेंट की तरफ से अपनी निकासी जाती है कि यह बीज कंट्रोल में आवे, पार्लियामेंट के १५० मेम्बर अपनी निकासी ले रहे हैं लेकिन कोई मुनता नहीं। कारण यही है कि वहां पर इस डिटेन एक्ट का मिमिडिंग हुआ है।

पंत जी ने कहा कि एक भी इस्टेम बतलाओ। यहां तो कई इस्टेम हैं। हमें यकीन है कि अगर यह केस पंत जी के सामने या होम मिनिस्ट्री के सामने आता कि एक आदमी ने एक कैदी को अपना खून दे दिया है तो यकीनन उस आदमी को डिटेन न किया जाता।

**एक भारतीय सदस्य :** छोड़ दिया गया।

**श्रीलाला अश्विनी राम :** बड़ी खुशी की बात है। लेकिन मेरी दरखास्त है उसे पहले पकड़ा ही क्यों गया। पकड़ने के बाद उसे एडवाइजरी बोर्ड ने छोड़ा।

**एक भारतीय सदस्य :** स्टेट गवर्नमेंट ने ही छोड़ा था।

**श्रीलाला अश्विनी राम :** स्टेट गवर्नमेंट ने ही छोड़ा होगा लेकिन जितने समय उसे जेल में रहना पड़ा उसके लिये कौन जिम्मेवार है?

श्री० रत्नबीर सिंह (रोहतक) जो धादमी दूसरे केसेज में गिरफ्तार होते हैं और जेल में कुछ समय रहने के बाद रिहा हो जाते हैं उसमें किस की गलती है ?

साभा अध्यक्ष राम : लेकिन इस डिटेन्शन के काम के लिये बहुत ग्रहणियात की जरूरत है। सरकार पटेल ने कहा था कि उनकी यह बिल लाने के पहले कई रात नींद नहीं आयी थी।

यह कहा जा रहा है कि इस ऐक्ट को तीन साल के लिये और बढ़ा दिया जाये। स्पीकर साहब ने भी कहा कि अगर इसमें अमेंडमेंट करना है तो बाद में किया जा सकता है, अभी तो ३१ सितम्बर आ रही है। लेकिन सरकार को यह तो सोचना चाहिये कि आज जो इसका मिसएप्लीकेशन हो रहा है उसको किस तरह से दूर किया जाये। मैं कहता हूँ कि आज के हालात में इसकी जरूरत है लेकिन अगर आप चाहते हैं कि इसका मिम्यूज न हो तो आपको इसके लिये इन्तिजाम करना चाहिये। इस सिलसिले में मैं तीन बार सजेसन देता हूँ।

पहली बात तो यह है कि जब किसी को डिटेन करना हो तो एक दिन के अन्दर इस बात का मेट्रल गवर्नमेंट में एप्रोपेट ले लेना चाहिये कि इस धादमी को डिटेन किया जाये या नहीं। यह इसलिये जरूरी है कि सरकार की बदनामी न हो। इन गलतियों की वजह से पंजाब में एक कम्युनिटी की कम्युनिटी गवर्नमेंट के खिलाफ हो गयी है। इसलिये पहली बात तो यह है कि किसी धादमी को डिटेन करने से पहले मेन्ट्रल गवर्नमेंट को मामला रेफर कर लिया जाना चाहिये।

दूसरा मुद्दा यह है कि आज लोगों को इस बात की शिकायत है कि उनको प्राउन्ड्स डिटेन्शन के पांच दिन बाद दिये जाते हैं। किसी को पकड़ने के पहले आप उसके खिलाफ जो प्राउन्ड्स हैं उनको इकट्ठा करें। यह ठीक नहीं है कि पहले उसे पकड़ लें और बाद

में प्राउन्ड इकट्ठा करें। यह तो ऐसा हुआ कि मैं किसी को बगैर यह जाने हुए कि यह बीमार है दबा दे दूँ। इसलिये मेरा दूसरा मुद्दा यह है कि किसी धादमी को डिटेन करने से पहले उसके प्राउन्ड इकट्ठा कर लेने चाहिये और डिटेन करते ही उसको वे प्राउन्ड दे दिये जाने चाहिये।

तीसरी बात कनफर्मेशन की है। गवर्नमेंट अभी १२ दिन में कनफर्म करती है। इससे गवर्नमेंट की बदनामी होती है। यह काम सात दिन में होना चाहिये, अभी कांग्रेस सरकार का सब जगह बोलबाला है। लाखों धादमी उसकी इज्जत करते हैं। लेकिन अगर इस तरह से होता रहा तो उसकी बदनामी होगी और जो लोग आज उसके दोस्त हैं वे उसके दुश्मन हो जायेंगे। इसलिये मेरा कहना यह है कि सिर्फ जस्टिस करना ही काफी नहीं है यह जाहिर भी होना चाहिये कि जस्टिस की जा रही है।

आज एडवाइजरी बोर्ड का ३० दिन में ममला भजा जाता है। आप एक धादमी को पकड़ लेते हैं तो वह इस तरह से एक दो तीन महीने तक बाहर नहीं निकल सकता। मेरा मुद्दा यह है कि जब आप को यकीन हो जाये तो आप उस धादमी के बारे में मेन्ट्रल गवर्नमेंट में मजबूरी से लें और फिर तीस दिन के बजाय क्यो न सारा मेट्रीरियल दस दिन में ही एडवाइजरी बोर्ड के पास भेज दिया जाये।

एक आजीवनी सबब यह काम तो स्टेट गवर्नमेंट करती है।

साभा अध्यक्ष राम : स्टेट गवर्नमेंट ही करे लेकिन ३० दिन के बजाय १५ दिन में क्यो न सारा मेट्रीरियल बोर्ड के पास भेज दे।

श्री० रत्नबीर सिंह : और कोई काम जो स्टेट गवर्नमेंट के पास है नहीं।

साभा अध्यक्ष राम : और काम को छोड़ दे तो कोई बर्ब नही। इस बिलमें जो एडिटर



साहब तथ्यादीक नहीं रखते उनके सहायक साहब हैं। और यह खुशी की बात है। तो मेरी बरबसास्त यह है कि किसी आदमी को डिटेन करने से पहले स्टेट गवर्नमेंट को सेट्रल गवर्नमेंट से एपीमेंट ले लेना चाहिये, उसे डिटेन करने के फौरन ही बाद वाउन्स दे देने चाहिये, फौरन कनफर्म करना चाहिये और जितनी जल्दी हो सके एडवाइजरी बोर्ड के पास मटीरियल भेज दिया जाये। अगर किसी आदमी को तीन तीन और छः छः महीने जेल में रखा जाता है और बाद में रिहा कर दिया जाता है तो इस बीच में उसका कारोबार नष्ट हो जाता है और उसे बहुत दिक्कत और परेशानी होती है।

भाज पंजाब के अन्दर ११२ आदमी पकड़े गये। उनमें से ७० या ८० को एडवाइजरी बोर्ड, हाई कोर्ट या सुप्रीम कोर्ट ने छोड़ दिया। यह इस बात का सबूत है कि डिटेन एक्ट का ठीक तौर पर इस्तेमाल नहीं हो रहा।

श्री बजरंग सिंह : मिसयूज हुआ।

शाला अर्चित राम : यह तो मैं नहीं कहूंगा क्योंकि मैं कांग्रेस का आदमी हूँ। लेकिन मैं यह कहूंगा कि हमारे इन्फेल्स में कम अहतिघात बरती गयी। तो ११२ में से ७० या ८० आदमी रिहा हो जाते हैं। तो देखिये कि कितनी गमनी हुई। अगर यह गमनी न होती तो, प्राक्स में इनका बावना न मचता। इस गसती की वजह से इन आदमियों की गिरफ्तारी की वजह से सरकार की बदनामी भी हुई और फिर भी उनका रिहा करना पड़ा। अगर अहतिघात बरती जाये तो यह बात क्यों हो। आप इस तरह से काग क्यो न करे जिससे आप की जड़ें मजबूत हो।

मैं अब आप को हाईकोर्ट के एक फैसले से कुछ पढ़ कर सुनाना चाहता हूँ। उसमें कहा गया है :

"That it cannot be assumed as a matter of course that the detaining authority exercised its mind in an

intelligent manner in regard to the cases against the detainee and inasmuch as did not do so, it cannot be said to have acted in law honestly."

यह क्या बात है। हमारा हाई कोर्ट हमारी गवर्नमेंट के मुंह पर थप्पड़ लगाया करती है। यह फैसला सारी पब्लिक पढ़ सकती है। यह तो नहीं है कि यह होम मिनिस्टर या प्राइम मिनिस्टर की जेब में रहेगा।

श्री० रणबीर सिंह : ज़मींदारी एवालिशन के लिये भी हाईकोर्ट ने ऐसा ही फैसला दिया था। फिर उसे सरकार ने कास्टीट्यूशन का पार्ट बना दिया था और हाईकोर्ट के परब्यू से बाहर कर लिया था।

Mr. Chairman: There should be no running commentary. If any hon. Member wants to say anything, let him wait till his chance comes.

शाला अर्चित राम : जो हमारे चौधरी साहब कहते हैं वह अच्छा है। मैं तो चाहता हूँ कि ऐसा मौका ही क्यों पाये। अगर हम ठीक ढंग से और मुनासिब तरीके से काम करे जिससे सबका एपीमेंट हो तो हाईकोर्ट को ऐसा कहन की जरूरत ही क्यों हो?

हाईकोर्ट ने पंजाब गवर्नमेंट के खिलाफ स्ट्रिकचम पास करने हुए जो कहा है उसको मैं कोट करना चाहता हूँ :

"In this case I have not been able to discover even one solid reason which I can say is free from extraneous construction. In the circumstances of this case I find that both the reasons and grounds are vague, foreign and extraneous to the purpose of the Act."

अब जहां तक इस प्रीवेंटिव डिटेन एक्ट की जरूरत का सवाल है मैं इस बात को मानता हूँ कि एडमिनिस्ट्रेशन को इस ला की जरूरत है लेकिन जैसा मैंने पहले बतलाया कि स्टेट गवर्नमेंट्स इस ला का ठीक तौर पर जसे उम्क इस्तेमाल करना चाहिये, नहीं

[ लाला अशित राम ]

करती है, और अपनी गलती की वजह से लाखों आदमियों को अपने खिलाफ कर लेती है। यह कोई प्रकल्पदी की बात नहीं है कि जो कल तक आप के दोस्त थे उनको आप ऐसी गलत हरकत में अपना मुखातिफ बना ले। इसलिये मैं बहुत सजीदगी में आपको यह अपनी अभ्युक्त सलाह देना चाहता हूँ कि इस बिल का पूरा पूरा इन्जाम होना चाहिये कि इसका गलत और इसप्रकार एप्लीकेशन न हो। यह बिल मुझे इसमें कोई शक नहीं कि बहुत जल्दी पास हो जायेगा और मैं भी आप के साथ खड़ा होकर इस पक्ष में बात दूँगा लेकिन मैं इतना आप से जरूर बिनती करूँगा कि आप जल्दी में जल्दी इस में मंजूर कर दें इस के अन्दर जो खामिया हैं उन का निकाल दें। मैं चाहता हूँ कि इस प्रीवेंटिव डिटेन्शन एक्ट के सिलसिले में पहली चीज ता यह होनी चाहिये कि एग्जिमेन्ट से डिटेन्शन हो और जो डिटेन्ट हो उस की ग्राउन्ड्स आफ डिटेन्शन का कन्फरमेंशन सात दिन के अन्दर अन्दर हो जाये। एडवाइजरी बोर्ड का डिटेन्शन का तमाम मॉटीवियन १०-१५ दिन के अन्दर अन्दर दे दिया जाय। अगर इन चीजों का मटेनैन्स रहते हुए एक मओशन बिल लाया जाय ता मैं समझता हूँ कि बहुत सारा मसला हल हो जायेगा और सभी आप के साथ होंगे।

**Shri Sadhan Gupta:** Sir, this House was entitled to substantial arguments to justify the extension of so unusual a measure. But we must confess that the Home Minister has been less than fair to the House. We should have had arguments even in spite of the fact that this measure, or measures of this kind have been in existence in the country without interruption for years today. Even then the measure must be said to be an unusual measure and we should have been given reasons, firstly, why it is necessary to extend these measures at all and why it is necessary to extend this for three years.

Attempts have been made to give us some reasons. It may not have been deliberately done, but we must maintain that it has been a fraud upon the House. I say it may not have been deliberately done, but there is no doubt about it that the reasons advanced are a fraud upon the House all along the line.

The principal reasons advanced have been three: first of all, that apparently the authors of the Constitution have desired that this law should remain, secondly, that the situation of the country warrants it, and, thirdly that the safeguards against abuses are such that there is no harm in its extensions.

As regards this arguments about the authors of the Constitution on the basis of the *ipse dixit* of the authors of the Constitution, may I point out that our Constitution has no authors as such this Constitution had been framed by a basically reactionary group who had, nevertheless, to make concessions to the growing forces of progress and therefore we have progressive elements as well as reactionary elements inside the Constitution itself. And as far as the respect for the Constitution is concerned, they are no better than ourselves. We respect the gains that have been achieved by the progressive elements in the country through the incorporation of the Fundamental Rights, and they heartily disrespect them. Within one year of the Constitution the fundamental right of freedom of speech had been modified. And so, Sir, we also oppose the fundamental right of preventive detention which has been incorporated in the Constitution. And we do not have any respect for the *shruti* quoted by the Home Minister that because the authors of the Constitution have said so, therefore the extension is justified.

And even taking the Constitution at its face value, on the matter of preventive detention is there any warrant

in the Constitution to say that you shall keep the Preventive Detention Act alive until 1960? The Constitution provided preventive detention apparently for the purpose of emergencies. Even then we do not like some of the provisions there. But even accepting that, they only provided it as an emergency. What is the emergency for which the Preventive Detention Act is being sought to be extended?

Now, the Home Minister had tried to justify it on the ground of emergencies. From his reference to the *shrutis* he raised the alarms and the emergencies, "well, there is the attempted Brahma hathya in Madras, the Hindi agitation in Punjab, the threat from Pakistan, there are so many other threats, therefore it is necessary".

It has been shown by many of my colleagues who have preceded me that preventive detention has not prevented those acts which needed to be prevented and, indeed, it is not going to prevent them. Because, as I shall show, basically the Act is not intended to be used for the purpose of preventing real pernicious influences in the country. It has not prevented, for instance, the bomb outrages in Delhi or the nefarious activities of Pakistan agents in Kashmir. Therefore, the Act is not going to prevent any of those things.

We have no sympathy with the kind of things mentioned by the Home Minister, the kind of things happening in Madras or in the Punjab. But what we ask him is, do these things make the situation in the country so abnormal that we should perpetuate or continue a measure which the national movements has always dubbed as a black measure. What is the abnormal situation? In any country suddenly some circumstances may arise, some flare-ups may take place, some riots may take place. Can we really say that today the situation in the country is such that a riot is taking place and unless

we have such a law in our hands we stand the risk of the whole country being disrupted? Is that the situation? What is the situation today? A normal situation—normal in its peacefulness and normal in the possibility of certain flareups. In that case have we not powers to deal with it, adequate powers? The Home Minister has been a lawyer. He knows the formidable array of powers that is conferred by the Penal Code.

One of the grounds given in the statistics of preventive detention is preaching violence and so forth. Can't we stop the preaching of violence by the Penal Code? There are so many sections dealing with violence. Can't we utilise them, and effectively, stop people from doing so by convicting them of offences when they preach violence? Besides, are there not provisions in the Criminal Procedure Code, sections 107, 108, 109, 110? Could they not be used?

It was the obligation of the Home Minister to convince us that these powers were inadequate, that these powers were tried but had been found wanting, and therefore some extra powers are necessary, some abnormal powers are necessary. Has he done that? He has taken it in a cavalier fashion. He has taken for granted that it is just a normal measure, and it can just be foisted upon the country by a speech which is unconvincing. Has he given us anything to show that these powers which the law grants to the authorities is insufficient for the purpose of preventing crimes, for the purpose of keeping a normal situation on hand? Crimes exist in every society. Hideous murders take place in England or America for example. They do not have the Preventive Detention Act.

He refers to safeguard, the judicial review, the requirement of giving grounds and so on. What is the use of requirement of giving grounds. It only means that you should have sufficient ingenuity to formulate grounds

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which will be accepted by courts of law as legitimate grounds for detention. You cannot challenge the grounds. There may not be any truth in the grounds. Yet, you cannot challenge them. For example, if I were to formulate a ground against the Home Minister that at 12 o'clock today he was conspiring in America to bring in America soldiers into India, that would be a good ground for detention. He could not have pleaded, I was in Parliament, because, the court would at once say, you may have been in Parliament at that time, but Shri Sadhan Gupta has ample evidence before him and he is satisfied on that evidence. How is that a safeguard.

Then, the less said about this safeguard. It is absolute hoodwinking of the people. What is the judicial review? Only we have a High Court Judge on the Advisory Board: nothing else. What does he have? He has the evidence of witnesses in absentia. In my absence, they condemn me. I have no right to be defended by a lawyer. I have no right to cross-examine this witness. The materials before the Advisory Board come from the most corrupt of our people, police informers. Under these circumstances, we are expected to believe that it is a very salutary safeguard: decision of the Advisory Board based on materials supplied by police officers.

He has made much of the fact that we have no respect for law and order, we have no respect for the constable's authority, and that the constable's word is taken as the law in many other countries. Are the police of our country just the sort of the police of other countries? I know there may be very good police officials. I know quite a few who are very good. But, there is no denying the fact that the majority of the police and the police administration is still steeped in the traditions of the British regime, which is an ugly tradition, which does not entitle them to the respect of our people. It is this kind of police officials

who supply materials and I have no right to controvert them. Is that a judicial safeguard?

Lastly, we have a topay turvey logic. They want us to extend it for three years. He has given us figures to show that the number of detainees is going down. In 1950, it was 10,000; in 1951, 7,000 and so on. Then, it has decreased. Yet, it is strange that when it was 10,000, the Act was wanted only for one year. They have gone on extending for one year. When it is 205, they want it for three years. Therefore, there is no justification, there is no warrant in the situation in the country which is normal and there are ample powers under the Criminal Procedure Code and the Indian Penal Code and other laws to prevent untoward happenings. There is no logic in asking an extension for three years.

What is the real reason? The reason is apparent from the past applications of the Act. It has been applied mostly to impose their will on the people. The Home Minister said that it is designed to prevent a microscopic minority from interfering with the civil liberties of millions. What is our experience? Our experience is that it has always been a microscopic minority which has sought to impose its will on millions through the Preventive Detention Act. I would challenge the Home Minister to deny it.

In Bombay, it was imposed. The Preventive Detention Act was freely utilised in order to crush the agitation for Samyuktha Maharashtra and Maha Gujarat. What happened? Was it the case of a microscopic minority who were subjected to this oppression or was it the case of a majority which was subjected to this oppression? If there is any doubt, one of the leaders of the Samyuktha Maharashtra movement, my leader comrade S. A. Dange who was sub-

jected to preventive detention was returned to this Parliament by the maximum number of votes that any one in India has polled today.

There is no doubt that when the criminal law loudly proclaims innocence, when the right to exercise fundamental rights solidly stands behind the person, at that time, the Preventive Detention Act comes in handy. We had the merger movement in West Bengal. The entire State was there behind the movement. Every activity was stopped without the least violence. Yet, the Preventive Detention Act was let loose. They had to withdraw in the face of the resistance of the people. But, they had perpetrated untold miseries. In the Tramway fares movement, the same thing happened. They had to accept that the rise in the tram fares was unjustified. Yet, the Preventive Detention Act was resorted to crush the movement. They did not succeed. No Preventive Detention Act will succeed in crushing the movement. That is what they tried to do.

In this way, whenever a working class organisation or a trade union goes on strike, this black measure is let loose against them. On the 5th and 6th of January, 1956, the bankmen went on strike in West Bengal in response to a call by an All-India organisation. That strike was entirely peaceful. Yet, the Preventive Detention Act was used with a view to breaking that strike. They did not succeed in breaking it. But, it was used. It is this purpose that is hidden behind the alarming difficulty and the grounds preaching violence and other reasons which have been given in the statistics to justify detention. These things should not mislead. These statements are not facts. I can say with the fullest responsibility that these statements are not facts. These statements are fabrications. It is just the *ipso dixit* of the authority.

There is no way of verifying the truth of these statements. Therefore,

I oppose this measure. I oppose on account of the likelihood—did I say likelihood? It is a certainty of the abuse of this measure in every part of the country. Above all, I oppose because it is a shame to our country. I want to proclaim to the world that the spirit of our country in this matter is not represented by the power hungry, power mad coterie bent upon curbing every democratic threat to their power, to the imposition of their will on the unwilling millions or to the continuation of sanctity of exploitation of the vested interests on whose bounty they depend for maintenance of their power. I would proclaim to the world that even on the other side, may be, there are many who conscientiously object to this measure. As a matter of fact, every honest man should object to this measure. It struck down irrespective of all parties. Of course, we have borne the brunt of it because we have consistently championed the cause of the people, but even when Congress men have sought to do it, the measure has come down on them. I have known the strike of the Amrita Bazar Patrika when many workers of the INTUC were locked up under the Preventive Detention Act though they were as innocent as lambs. Therefore, the only thing that the Preventive Detention Act has served is to crush down the champions of the people irrespective of the party to which they belong.

I therefore want to proclaim to the whole country that the Government have no guts to say that they want this measure for the purpose of their ulterior motives, and are only hoodwinking us by creating a false sense of alarm and are trying to get a permanent measure through the expediency of temporary extensions.

Lastly, I would repeat a statement which the hon. Members on the other side of the House will not fail to remember; I would repeat the statement that a Government which seeks to rule by these laws has no moral right to exist. I hope the hon. Mem-

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bers on the other side, including the Treasury Benches, know where the statement came from and when.

Shri Nathwani (Sorath): The only issue before the House is to consider whether there are exceptional circumstances to justify the continuance of this measure.

In the morning we heard the hon. Home Minister and he gave us the various reasons, and narrated at length the situation as it exists today in the country. He referred to the troubles which Pakistan is creating for us in Kashmir. There are also the border disturbances. He also referred to the position in the South. Again he referred to the Hindi agitation in U P and especially in the Punjab. I do believe that if there were justifying circumstances in 1953 and 1954 for continuing this Act, there are today as strong if not stronger reasons for continuing this measure.

In this connection reference is being made to the position as it exists in other civilised countries. Well, we have always tried to meet that argument by referring to the situation in our country. I would like to repeat that ours is a vast country containing a very large number of people with varying stages of political, social and economic development but further than that there is this reason that democracy is in its infancy in our State. Old ideas and habits die hard. People have not taken to the extent we would like to democratic ways and manners of functioning, nor has our sense of national solidarity been achieved to that extent that feelings or prejudices of caste, race, religion or State cannot create even temporarily disturbances among them. Bearing all these facts in mind we have to examine the proposal.

I heard the leader of the Communist Party waxing eloquent. Of course, he brought in the question of the bilingual State of Bombay. He also referred, why be called names, to the

then Chief Minister of Bombay. Perhaps he could not help doing it, but the points he was trying to make were: firstly that the existing circumstances show that the Preventive Detention Act is not necessary; if in spite of this Act there were such disturbances, there is no justification for the existence of this Act. He seemed to suggest that the logic of his argument was irrefutable. I disagree. Even assuming that what he says is true, it is an argument regarding the proper or more frequent use of the Preventive Detention Act not being made by the State authorities, and it is not an argument against the continuance of the Act.

He asked why no use was made of this Act to put down these disturbances, but the answer was provided by himself when he began to refer to the situation as it developed in Bombay. When he referred to Bombay, he said that on the eve of the declaration of the decision by the Congress Working Committee in January 1956, many persons were arrested under the Preventive Detention Act. I could not quite follow his argument because at an earlier stage he seemed to suggest that the Act was not being used or was not capable of being used and therefore there was no justification for it but when in Bombay this Act was used, and, if my understanding is correct, as many as 35 persons were taken into custody under the Preventive Detention Act he complained of it. This seems to be a strange logic.

Then he developed his second point. He said "You are passing this Act not with a view to protect the millions of people from violence, but you are seeking to impose your decision or will on certain people". He refers to the people of Maharashtra, and he goes on to say "You are trying to impose your decision on the majority of the people there". I fail to understand what he means by the majority of the people.

The decision to form a bilingual State was taken by the First Lok Sabha, by the representatives of the people at that time here in this House. You know that we discussed the question of reorganisation of States for several months on end, and the representatives from the other States, barring, of course, the Members of the Communist Party, felt that the issue was of national importance, that the future of Bombay required their participation in the discussion and decision. Therefore, they approached first the representatives of Gujarat and Maharashtra and told them in effect:— "Look here, you have been trying to discuss this question. We have heard you at great length. In our opinion it seems that you should continue together as a bilingual State." That was the decision taken, and even the verdict of the people has endorsed this decision.

I have not been able to understand why we are being told that we are trying to impose our decision on the majority of the people. Here is Parliament and here the Congress Party has been returned, the party which took the decision at that time. In the State of Bombay the Congress has been returned in a majority, not merely from one unit namely from Gujarat or Maharashtra but from both the areas: from Gujarati-speaking areas as well as Marathi-speaking areas the Congress has been returned to power. It is in a majority. But they say that from Maharashtra proper the Congress did not get a majority. True, but will they try to equate a part with the whole of it? What is the feeling of the friends from Marathwada and Vidarbha when these people speak in the name of Maharashtrians? I do not know. Sir, I do not like to refer to the circumstances or the situation which prevailed in Bombay. But, I must not leave unanswered the charges which were made by Mr. Dange. He said there was firing and so on, but he did not refer to the systematic plan to terrorise the people as well as the Government of Bombay in submitting to the decision of Samyukta

Maharashtra with the city of Bombay. Of course, he asked for a judicial enquiry, but he did not mention a word about the sufferings of the minority community there. He did not refer to arson, violence and looting which shook that great city for one week. The police were the target of attacks; public properties were the target of attack, looting was rampant and but for the firm stand taken by the Government the whole city of Bombay would have plunged in chaos. If the Chief Minister remained calm and cool and tried to restore peace and law and order the friends opposite should not grumble about it. No government worth its name could have tolerated the things which you witnessed there. They were bound to protect the lives and the properties of the inhabitants.

16 hrs.

Sir, I feel, that I should also say a word about Prime Minister's recent visit to Pratapggarh. I would say only this that the insinuation that he went there to rehabilitate himself or to continue the imposition of the bilingual State is unjustified. He seems to suggest that because of this he withdrew his allegation or his version about Shivaji's certain exploits. It was not so. All of us know that he withdrew his certain remarks as far back as fifteen years. It was not on this occasion, with a view merely to placate or to ingratiate himself, that he said, "well, what I have stated is not true and that the facts are different; they are brought to my knowledge." This was the version that was sought to be placed by the leader of the Communist Party.

Sir, I feel that the way this axe has been used shows that no misuse or abuse has taken place. It may be here and there that proper grounds may not have been given; it may be there was an error of judgment. May be, in some cases, even assuming for the sake of argument, a real wrong was sought to be done to an individual, but I do maintain that there are important safeguards in the Act itself.

[Shri Nathwani]

Of course, they do not go as far as many Members on the opposite side would like.

Shri Goray (Poona): What about your own Members.

Shri Nathwani: I adhere to my view. Mr. Sadhan Chandra Gupta says that the protection of advisory committee was illusory. I beg to differ strongly from his views. He gave an instance that if a particular detainee were to challenge and say that at a particular time, on a particular date, he was not present at a particular place, he had no way or means of satisfying the authority. It is not so. Do you think that a person who has been a Judge of the High Court, who has been trained in that tradition, will not listen to him? Has he no right to defend himself? I can understand if only executive officers were to preside or remain present at the Advisory Board. But, once you grant that an impartial person, an independent person of the rank and position of the High Court Judge is to preside over the deliberations of the Advisory Committee, then it is no use saying that such a protection is merely illusory.

Sir, I would say one thing more with regard to extension. It is proposed to continue the Act for another three years. Looking to the circumstances which prevailed in the country, looking to the temper and training of the people and the transition through which we are passing, it seems reasonable. But in the past we have followed the precedent of bringing the matter before the House by way of moving a resolution. I do wish that that precedent should also be continued hereafter.

Lastly, I join those who say that we do not like that there should exist a statute like this on our Statute Book. But what is the remedy? Instead of shedding crocodile tears here, if Members of all the parties were to give their co-operation in instilling

and developing democratic traditions and ways, and thereby to educate the people in getting their wrongs redressed by peaceful and democratic methods a situation would soon arise where the Government may not like to equip itself with these wide powers.

In the end I would appeal to friends over there that instead of indulging in very eloquent speeches here they should see that while championing the cause of the people they take good care to direct themselves on proper, sound democratic lines.

Shrimati Renuka Ray (Malda): Mr. Chairman, Sir, I have been listening to some of the speeches on this Bill with great deal of interest. It is quite true that India has given to herself a Constitution whose very basis is the freedom of the individual and the freedom of expression and that this has been guaranteed through courts of law in our fundamental rights. And in this country today we still have to have a Preventive Detention Act and have to continue it. Yet it is regrettable. But, however regrettable it may be, we must be realistic. Conditions obtain in this country that make it a necessary to have such an Act at the present time.

Now, as I was listening to some of the speeches I was a little bit amused and also rather gratified to find that those who do not lay any store on personal freedom, the individual's freedom of expression, who do not believe in a system—or at least who do not claim to believe in a system—or a Constitution whose basis should be the personal liberty of the individual, they are the biggest claimants in favour of the withdrawal of this small measure.

Shrimati Renu Chakravarty (Basirhat): Oh, small measure!

Shrimati Renuka Ray: I shall be very grateful if the hon. Member opposite would allow me to proceed.



She can have her say later. This is a comparatively small measure for it does not transport people to unknown places. It does not by any means believe in stifling freedom of expression which is not turned into a licence. I feel that, perhaps, working under the Constitution of India, learning to understand and appreciate the Congress objectives gradually, certain persons are getting wedded to it and that may be one of the reasons why they have spoken about this. I give them the benefit of the doubt.

There are others also who have spoken about it and I do think that it is necessary to analyse this in a dispassionate way. What has happened actually? We know that this Preventive Detention Act as it is operating today is given the closest scrutiny. It is said by some Members that these Advisory Boards are illusory and not Boards at all. But they are not sincere because we can see from the statistical information supplied to us that in 38 cases the Advisory Boards have released the persons whom the executive Government had sent up for preventive detention.

**An hon. Member:** After how many months?

**Shrimati Benuka Ray:** Anyway, what is the position in India today? Is it possible to do without this Act? Can the law courts cope with it as they do in the U.K. and in countries where democracy has been there for some time. Let us look into this and acknowledge the fact that being one of the youngest democracies, perhaps, we do not yet understand the full implications of what parliamentary democracy means.

We know about the ballet box; we have utilised it, but have not yet fully understood its significance. Sometimes passions are aroused by certain persons and they are not necessarily political persons—and these passions are parochial, communal, caste and various other kinds. Perhaps, if action were taken in time to stop this, to stop those who provoke others, we

would not have had to see many things that have happened, many untoward incidents would have been prevented.

I would rather say to the Government that in spite of the fact that you have this Act, I do not understand why it was not utilised in the recent case in Madras so that many horrors need not have taken place. I would say that to the Government but I would not ask them to repeal this Act because it has got its use. I would ask the Government why it was not used in a proper manner; why it was not used where black-marketing and other evils are making the food position difficult. Why it is not used against them who black market in cement and other necessities or profiteer unduly? I would say that this Act must be used in the proper way much more than it is being used. Of course, misuse should not be allowed. It should not be misdirected.

I think the record of the Central Government and the State Governments shows that they have not misapplied it. It may have happened in one or two cases. But, immediately it has come to the notice of the higher authorities such things have not been allowed to go on.

It may have happened that somebody here or there was not treated exactly as he should be. But these Advisory Boards are there to see that the State Governments and the Central Government act cautiously. In spite of that, if even one single case is there where it goes wrong, I would beg of the hon. Home Minister—and the State Governments also—to take extreme care to see that nobody who ought not to be deprived of his liberty even for a day comes under the operation of this Act. But, I would not say that conditions are there in this country as to do away with this Act because this is the only way in which they could take action where they should take action.

Shri Dange has mentioned this morning something about the fact that

[Shrimati Renuka Ray]

they did not take action in Madras and why they did not. I also say that they should have taken action. But that is not an argument to do away with this Act; on the other hand, it is an argument for retaining it. That the Government have not utilised it on an important occasion is no argument for its withdrawal.

I would like to say another thing. There are some persons who have sarcastically said, 'Why don't you have this Act for all time; if you are keen about it, why should you come up time and again?'. I would say that it is a very good thing that the Government comes up with it time and again. It is necessary because it is Parliament which must decide at a given moment whether there is any necessity for this Act or not. It is necessary for Government to come to the Lok Sabha again and again and not to have an Act for all time, as has been mentioned by some.

As I said at the beginning, we see circumstances exist in the country where passions are aroused so easily over the language issue, over parochial issues, over casteism and so many other things. When those conditions do not obtain, when we have learnt that liberty does not mean licence, when we have understood the basis of parliamentary democracy, then the time will come when it will no longer be necessary to have an Act such as the Preventive Detention Act.

While I support the Bill for the present, I would again appeal to the Government to be very careful. I know their record has been good. But, it can be better still. There should not be any single instance where the Act is in any way misused. If there is, it must be investigated by the Advisory Boards and by the Central and State Governments at the highest levels.

I feel that in spite of the criticism that has been levelled against it, in spite of the fact that it has been called a black Bill, circumstances as they are

in India today, swayed as we are by various kinds of passion, which tend to wreck the very things we stand for. We shall have to keep this Act until conditions change.

Why cannot courts of law deal with these things? The courts of law can deal with these when they become facts, when there is evidence. When they deal with these things, they perhaps deal with those persons who are provoked by others and those others remain in the background. If we are to nip something in the bud, if we are to see that peace and tranquility is there for all citizens whether they belong to the majority or the minority, then, we have to have this Act.

I would like to say something to my hon. friend Shri T. K. Chaudhuri; but he is not in the house now. I would ask him to search his heart. Does he really believe that Congress and the Government that derives its power from it, intend this Act or any other Act to be something to be used against the free expression of opinion, political or otherwise? Does he not appreciate that when he was in imprisonment under a medieval colonial power and when he was a candidate for elections, it was the Congress party in West Bengal that decided that it would not oppose his candidature because it wanted him to have fair play? We have had two elections in a decade. During these two elections, is it not a fact that some of those who wanted to stand for elections, even though they had at one time been addicted to violence, have been released, so that they can come forward to the people and let the people judge for themselves in whose hands they will give the power to fashion the destiny of the country. Have there not been equal chances in whatever party, big or small, in this country so that real democracy may work? Is that not the objective with which the Congress and this Government have been working all through these ten years of freedom? Can they deny this? Can

they really believe that this Preventive Detention Bill is meant as a measure to stifle democracy? It is not meant to be such a measure. It is a measure to stifle intimidation, to stop violence, to stop terrorism of the people by small groups. It is not meant against the free expression of opinion in any manner and form as long as it does not provoke violence and bloodshed.

When we are aware of this, I think that we should judge the act dispassionately. We should judge it objectively. We should not be just led away by the fact that it sounds bad. True it had a bad sound once, a stigma attached to it because at one time this Preventive Detention Act was used by the alien rulers to stifle freedom in the country. But it is not the purpose of this Act today. It is quite otherwise now. If those friends who are opposing it would study it from this angle, I am sure that the opposition what they are putting forward today to the Bill would be withdrawn.

With these words, I support this Bill, with an appeal to the Government to be always careful, to always scrutinise it to see that it is never used against freedom or to stifle freedom in any way. We must see that freedom is guaranteed to the majority as well as to the minority. Freedom of expression and freedom of assembly—these are the basis of democracy. But we must see to it that this freedom in any way. We must see that this freedom does not become a weapon in the hands of some small groups, to break the larger freedom of the people of our country.

Shri Mahanty (Dhenkanal): I think all Opposition Members will be allowed to speak. We would like to know whether any of us will have any chance to speak on the Bill.

Mr. Chairman: It is the rule—and the hon. Member knows it and he has been sufficiently long in the Parliament—that whoever catches the eye of the Chair is called. That rule is

not going to be departed from in the case of any Member or any person whatsoever.

Shri Braj Raj Singh: All points of view and opinions are required on this Bill.

Mr. Chairman: This is the first principle of selection of speakers by the Chair: That every party, every State and every Member, where possible, should be given a chance.

The Minister of State in the Ministry of Home Affairs (Shri Datar): Mr. Chairman, Sir, while I was listening very intently this morning to the speech of the hon. Leader of the Communist Party in India, I was wondering why he spent all his time only on two or three subjects one of which was absolutely irrelevant. You will find that the Preventive Detention Act has been devised for meeting situations arising out of different sets of facts and I would request this House to note that in section 3, a number of circumstances have been mentioned. Under these circumstances, the propriety or the need of this Bill cannot be solely ascertained by making reference to only one or two objects and not all.

In fact, I felt it was more a political speech solely meant against the Congress. So far as that is concerned, I may say that all that he stated was first with respect to the Samyukta Maharashtra movement. I can understand that to some extent there were a few detentions in connection with that movement. But I could not understand for the life of me how the Pratapgarh affair or the function could be brought into this debate at all. There was no detention so far as the great function connected with the Chatrapathi was concerned. In these circumstances, would we be entirely wrong if we were to point out that this occasion was made use of by my hon. friend only for political purposes?

I would point out here, even in that respect, that we have an effective answer. The hon. Member stated that it

[Shri Datar]

was the Congress Party that desired to consolidate its position by means of the use of this Act. There is a complete lie so far as this particular assertion is concerned. May I point out to this House that the Congress had a majority even in the Constituent Assembly. It was open to the Congress Party, the largest party then in the Constituent Assembly, to have permanently placed on the statute-book the law regarding preventive detention. When article 21 was under consideration, all that was done was this. The fundamental rights were duly declared and specified. When the Congress had been in power since 1946, they thought that under certain circumstances, at least, we were likely to have recourse to what can be called a preventive detention. That was why, in the Constituent Assembly itself, a direct provision has been made, that a law of preventive detention might be passed by Parliament. That is the reason why the matter was left there on 26th January, 1950, when we inaugurated the new Constitution.

But ironically enough, within one month, the first Home Minister of India had to come before Parliament with an enactment, because the situation was a critical one. Therefore, after passing a number of sleepless nights, as he very clearly pointed out—he stated that the conditions in India were not sufficiently developed so far as democracy was concerned and that was the reason why he had to bring a Bill—the late Shri Vallabhbhai Patel had to come to Parliament and ask for the passage of a preventive detention law for one year.

You will understand that all along, the ruling party has always been acting in an extremely modest and restrained spirit. That is what I am pointing out. It was open to us then, in 1950 itself, to have placed on the statute-book for all time to come the Prevention Detention Act. But it was not done.

Afterwards, it would be found that on three occasions we came before

the Parliament, and on each occasion, we asked only for a short period. In this connection, may I make reference to what we did in January, 1952? You are aware that the first general elections were going to be held then, and this Act was going to expire. Then all that we did was, we wanted the deliberate and well-considered opinion of the first Parliament of India, elected according to adult franchise. Therefore, all that the then Congress Government asked for was only a six months' duration. Then the matter was debated, if I mistake not, for weeks together and ultimately this House came to the conclusion that an extension was necessary.

Thus you will find that though extensions have been granted when the previous Bills were under consideration, what the Government did was, they liberalised the provisions of the whole Act. Therefore, it would be entirely wrong to say that the Congress wants to consolidate its power by means of such Acts. The Congress power is being swelled, not by these Acts, not by illegitimate means, but by the stronghold of the masses. Let the other parties understand. For some time, here or there, there might be aberrations at election time. But they are not for all time to come, please understand this quite correctly. On account of certain absolutely wrong motions of the type of propaganda that was carried on, we do not lose to a certain extent, as some parties seem to think. So far as the hold of the Congress is concerned, it has remained absolutely the same and during the second general elections to Parliament our majority has increased.

Under these circumstances, what is the correct view. Have we or have we not the backing of the country? Understand that we are not taking advantage of this great majority only for the purpose of bringing in certain laws. This is a law which naturally is unpalatable, which we do not necessarily like. But, after all, we have

to take into account also the conditions and, therefore, there ought to be a concession to the realities of the situation. Government have to cover against such contingencies.

If it is found that there are certain conditions which don't admit of a matter being taken up before a court—there are certain inherent difficulties which I shall point out very early—should the interests of the society be allowed to be sacrificed for the sake of a theoretical insistence on public rights. Please understand quite rightly that the Congress party has reckoned the consequence of insistence of this measure and in spite of that, the Congress party has been asking for its extension though it is quite unpalatable. It is perfectly open to the other parties to misrepresent our views and exploit us, as they are doing.

But we have taken a risk in the interest of the security of India, in the interest of the nourishment of the tender plant of democracy that has to be developed. May I also point out that in other countries also similar resort had to be had? Take the case of Ireland for example. Ireland became an independent democracy as early as 1922. But, after some time, they found that there were conditions which could not be effectively dealt with by recourse to normal law. Therefore, in 1939, they had to pass a similar law. We have got such laws in other countries also.

Now I would point out to this House that whatever is being done, is done solely with the interests of India and not for any party or any other purpose at all. Now, had the party interest reigned supreme with us, then naturally we would have placed it once for all in the statute book and we would have avoided this constant bickering discussion.

Parliament had opportunity to discuss it in connection with the various extensions of this Act. Then, we promised to lay on the Table every year what was being done under the Preventive Detention Act, and almost

every year after 1954 there have been discussions and debates. In all these cases, whatever we have done have been endorsed fully by this hon. House. Under these circumstances, it is absolutely futile to say that the Government tries to consolidate its power and the nation is not behind it. The nation is behind us because we are working on very important developmental schemes. The tender democracy is trying to work in as effective a manner as possible. While this work is being carried on, if there are impediments that are created here and there, more consciously than unconsciously, then Government have to step in and Government has to take action.

Now, may I point out to this House how the number of detainees has been constantly dwindling. We can come to our conclusion from this dwindling number. In 1950, when in February this particular Act was passed and brought into force, there were as many as 10,962 detainees. In 1951 the figure came almost to one-third. The figure was 2,316 as against 10,962 in the first year. Thereafter, in 1952 we had 1,116, and in 1953 it was 931. Then, from the figures that I have got here, I may say that from 1-10-54 to 31-12-55, that is, not only for one year but one year and 3 months, the total figure was 489. Thereafter, from 1-1-56 to 30th November 1956 the number was 200. From 1-11-56 to 30th September 1957 we had only 292. Thus, you will find that so far as the number of detainees is concerned, it is gradually falling low and in some cases it is falling low almost by a very steep leap down—from 10,000 we have come to 292.

Even with regard to these figures, may I point out to this House that in all these cases, whenever detention takes place, they are to be sent to the Advisory Board. So far as the Advisory Board is concerned, I am going to point out what the judges of the Supreme Court and the High Court have said about it. They have said that it is equal to a judicial body. That is what you have to understand

[Shri Datar]

Now, my hon. friend, Mr. Dange, made light of what he called "the Anglo-Saxon jurisprudence". Now the Anglo-Saxon jurisprudence is one on which we have based our Constitution to a large extent. Our system of laws is also based on that. My hon. friend has absolutely no love for Anglo-Saxon jurisprudence. He has brought it only for the purpose of making an untenable argument out of it. We are following the Anglo-Saxon jurisprudence. But it has to be understood that there are interests or welfare of the State, which have to be above the interests or rights of the individual. Therefore it is that the Judges of the Supreme Court and the High Court have pointed out that in all these cases where the matter has been placed before an advisory body, if the advisory body has come to a particular conclusion, then they would not entertain a writ under article 232 of the Constitution. They have definitely stated that in all these cases it is to be treated as a judicial body. In fact, an argument was advanced that a man has no right of making a representation or getting his particular case proved and the High Courts have pointed out that in all such cases, it is open to the party to have the matter publicly heard now that they have been given the right of personal appearance. Under these circumstances, it is entirely wrong to contend, as some hon. Members have stated, that this particular right of appearance before the advisory board is only of an illusory nature. It is not of an illusory nature at all.

Then, may I point out that we are bound by law whenever a person has been detained and that the matter has to go before the advisory board. So far as this body is concerned, all the materials are supplied to them. They are persons who, either were High Court Judges or, are competent to be High Court Judges. So it is a judicial tribunal. And, as I have stated, they have differed or departed from the views of the State Governments only

in a few number of cases. I have got the figures here which show that in about 72 per cent of cases detention orders have been confirmed and only in 28 per cent of the cases have they been reversed.

May I point out in this connection certain figures, so far as Bombay was concerned?

In respect of Bombay it was true there was some agitation and unfortunately the Bombay State had to pass through a turmoil which was brought about by certain elements. I would not make a reference to any particular body or party. But the whole thing was an unfortunate affair, and it was Bombay's fortune. I repeat, that at that time our Shri Morarji Desai was the Chief Minister there. (Interruption.) My dear friends opposite have a grouse because he was not only a successful Chief Minister but an effective Chief Minister. We require men of his type for carrying on our State administration. Even with Shri Morarji Desai, on whom our opponents have showered the choicest abuses in an absolutely undeserved manner, there were in the whole of Bombay only 94 detentions. Please follow my figures. In the whole of Bombay, with the orgy of trouble through which unfortunately that State had to pass, there were only 94 detentions. Out of these 94, 51 were from greater Bombay, twenty-nine from Ahmedabad and fourteen from the rest of the then Bombay State.

Out of these, may I point out to the hon. Member in all humility that in 70 cases the orders were confirmed by the Advisory Council and only in 24 cases were these detainees ordered to be released?

Take the case of Punjab also. So far as the Punjab is concerned, there the number is not very large. We are aware that in Punjab unfortunately an agitation based on language

is going on. I am not going to enter into the merits of the case. But I am going to point out here that the Punjab Government, in spite of the very delicate situation that has unfortunately been created there, had had recourse only to the ordinary law in the largest number of cases. The figures were, roughly, on 24-11-57 there were about 7,995 persons arrested—seven thousand, mind. And how many were detentions?—we are not concerned with other arrests. Only twenty-five.

So far as Madras is concerned, in spite of the Ramnad district affair, there is only one detention, of the leader of that particular party, Shri Muthuramalinga Thevar, an hon. Member of this House I am not going to say anything further on that, because the case has been going on and he has been prosecuted under certain sections of the Indian Penal Code. That is the reason why I would not like to go into that case.

My hon. friend Shrimati Renuka Ray rightly asked the question as to whether we were properly or adequately making use of this particular Act. There is much force in what she contended, because if the Act is on the statute-book, then naturally the State Governments have to use it, and there might be certain difficulties. But may I point out to this House that it is not used against parties or against persons who belong to a different political party? The figures are eloquent. Even the Communist Party of India, their number is very small. (Interruption). Let hon. Members understand me. Merely because a detainee belongs to a political party, it does not mean that he is sacrosanct. The State Governments have not detained any person because he belongs to a particular party, (An Hon. Member: How many Congressmen?) but because there are certain other circumstances which bring him within the clutches of the law.

In spite of this may I point out that the number is extremely small?

Had we any vendetta against any party we would have made larger detentions and arrests, but that is not our point. (An Hon. Member: Try it). In spite of the criticism, provocative criticism that my hon. friends are indulging in, we are keeping our heads absolutely cool, because it is our duty to carry on the administration. We have got the burden or the responsibility or the privilege, as you call it, of carrying on the administration of this great country. My hon. friends can criticise here as they like, to their heart's content, and they need not even be present here when I am replying to some of those criticisms. That is the extent of, what I may call, want of responsibility. Therefore, you can criticise this particular matter as you like.

Then something was stated about the High Courts and the Supreme Court. So far as the High Courts and the Supreme Court are concerned I have got before me figures from 1-10-55 up to date, for the last two years. And in the numerous cases that were taken up before the High Courts, in how many cases were the detainees released? That is what I wish to point out to this House.

So far as the period from 1-10-55 to 31-12-55 is concerned, there was only one detainee who was released by the High Court. (An Hon. Member: Because the High Court is helpless). In the next period from 1-1-56 to 31-3-56 there were seven releases. This period, 1-1-56 to 31-3-56 is the period during which unfortunately a lot of trouble took place in Bombay. May I point out the figures? The releases by the High Courts and the Supreme Court, in all, were only seven detainees.

Let the matter be understood very clearly. We are being charged with something which we have not done. And I have got the break-up of the figure seven. It is Bombay 1, Delhi 5 and Rajasthan 1.

[Shri Datar].

Take the next period, 1-4-56 to 21-10-56. There were in all 17 releases, out of which Madhya Pradesh had 11 releases and Rajasthan six.

And, lastly, the most recent period, 1-11-56 to 30-9-57. There were only two cases. One was from the Allahabad High Court and the other was from the Bihar High Court.

Under these circumstances, from 1-10-55 to date, that is 30-9-57, that means during a period of two years, there were releases by the High Courts of 33 persons, and by the Supreme Court of only one person.

Shri A. K. Gopalan: May I have a clarification. Does the High Court go into the grounds of detention?

Shri Datar: My hon. friend or his party made an argument that High Courts have released detenues, and in fact Shri Dange stated that the moment the High Court was going to release the detenu we released him *suo motu*. Whatever it is, I am not going to enter into the constitutional aspect of the reference to the High Court. My hon. friends know more of such references, because it is they who set the machinery in motion and they take the consequences. But I am making an argument out of this. In the numerous cases that these detenues or the supporters of these detenues had taken to the High Courts, they have succeeded only in respect of a small number of thirty-seven. Does it show that the High Courts and the Supreme Court are not with us, especially in matters where they go before them?

Under these circumstances, I am afraid this is not the case and it is necessary to go further into this point. May I point out, what the Parliament has done was considered by the Supreme Court also and they have put it in an objective and detached manner far better than what we can do. They say:

"The object of the Preventive Detention Act was, no doubt, preventive, and not punitive detention. But, from this, it is erroneous to infer that the past penal acts of the would be detenu cannot be taken into account in finding out his likely course of action in the future. As a matter of fact, it is largely from the past activities of a person that his behaviour in the future can be inferred. The normal process of investigation and trial according to the Code of Criminal Procedure may be found to be ineffective and inadequate."

That is the reason why we have had recourse to this.

May I point out, Sir, that there are numerous anti-social elements in this country? It is not necessary for me to mention all of them. There are goondas. The definition of a goonda is extremely easy. My hon. friend Shri S. A. Dange did not know what a goonda was. Goondas are those who are anti-social persons, who have to be either proceeded against or they carry on their activities behind the scene. That is cowardly. It is true there are such persons, there are leaders of certain parties also, who would not face the dock, who would not come into the open, but who carry on activities behind. Under these circumstances, if, for example, in a particular case, there is a leader or misleader who is going to foment a particular violent agitation, would it not be proper, in the interests of the security of India to put him behind the bars by way of detention and thereby save lives of a number of persons and properties of large value? That is the object.

This is prevention: preventing anti-social acts, preventing the performance of certain things which run counter to the highest interests of the State. The underlying object of the Preventive Detention Act is prevention of certain acts. If, for example, we have certain facts before us,



sometimes, it may be difficult to prove them in a court of law. So far as much proof is concerned, we are governed by the provisions of the Indian Evidence Act, and the Code of Criminal Procedure. If, for example, there is apprehended danger to society, apprehended danger to public tranquillity or public order, can it not and should it not be prevented by putting these people behind the bars to save society?

As the courts have pointed out, there are two points. One is, fundamental rights have to be safeguarded. For the first time, the Constitution gave fundamental rights to the people. Even so, in the interests of public order, in the interests of the State, certain restrictions were laid down and in dealing with them, they also pointed out that there might be dangers. When the Preventive Detention Act was devised, Parliament gave powers to the executive and the executive had to be given power for meeting such a situation. We are not out of the wood at all. There are reactionary people, highly anti-social elements. There are persons who say that they carry on parliamentary activities, but sometimes secretly they carry on things which are not in the highest interests of the nation at all. Under these circumstances, Government have to be cautious, Government have got to take care of the lives and properties of 37 crores of Indians. In this large number, if, sometimes, you have to take away here and there the rights of an individual, naturally, you have to accept this position. After all, the interests of society are larger than the interests of individuals. If, for example, as we have done in this case, such a small number have to be detained, I am confident that even this Parliament, like this previous Parliament would agree. You would agree that there are conditions in India even now where things are not what they ought to be. After all, for different considerations, not necessarily of legitimate propriety, but for different considerations, we carry on activities, not necessarily in

the interests of the country, but either of ourselves or of our party or certain other anti-social welfare or other things. Under these circumstances, the law of the land has to be strict.

My hon. friend Shri Naushir Bharucha, in a highly theoretical manner quoted Surendra Nath Banerjee, Pandit Malaviya and a number of other friends. It is not necessary at all. We are following in substance what they have done. Sardar Patel and other leaders who are of the same order.

An Hon. Member: Nehru.

Shri Datar: Yes; Shri Jawaharlal Nehru is also one of the greatest leaders as my hon. friend will agree. Even my hon. friend Shri S. A. Dange had to admit indirectly that he is a great man, a man of international status. If, for example, such great people desire that in the interests of India, under exceptional circumstances, you require a preventive law, Parliament ought to understand the implications of the realities of the situation and arm us with powers. Powers have been given to the States.

I may point out that certain safeguards, in the interests of the freedom of the individual have been laid down. They are fairly onerous. They are not so easy or light as, perhaps, some hon. Members think. They are not illusory. They are substantial. Therefore, on the one hand, the executive have been given powers to act in certain circumstances, provided this Preventive Detention Act can come into operation. That is one thing.

On the other hand, by way of corrective, it has been stated that in all these cases, the executive has to pass through a rigorous examination. If both the sides are properly understood, there will be no difficulty. For example, we do not want to make political capital out of this issue. I am confident that in their heart of hearts, my hon. friends opposite would realise

[Shri Datar].

that this Act has been conceived of and its extension asked for in the interests of India and not in the interests of any party at all.

श्री ब्रज राज सिंह : समापति महोदय, राज्य गृह मंत्री महोदय ने बहुत ही जोरदार शब्दों में यह दिखाने की कोशिश की कि निवारक निरोध कानून हिन्दुस्तान के लिये बहुत ही आवश्यक है। वे उन शब्दों के लिये कोई प्रतिष्ठा नहीं देना चाहते, उन का धावर नहीं करना चाहते जो इस सदन में इस कानून को पेश करते हुए स्वर्गीय बल्लभ भाई पटेल ने पेश किये थे। वे यह भी नहीं देखना चाहते कि जब दस हजार भादमियों को बन्द किया गया उस वक्त यह कानून एक साल के लिये जरूरी था, और उस के बाद जब डा० काटजू ने गृह मंत्री की हैसियत से इस कानून को तीन साल के लिये रखा था तो उन्होंने यह बजह दी थी कि क्योंकि इस पार्लियामेंट के सत्र होने में अभी दो साल हैं और इस के सत्र होते ही आम चुनाव होंगे, इसलिये इस कानून को तीन साल के लिये बढ़ा दिया जाये। आज यह नहीं बतलाया गया कि इस कानून को तीन साल के लिये क्यों बढ़ाया जा रहा है। कहते हैं कि अब यह समझा गया है कि इस कानून द्वारा जो शक्ति मिली है उस का जारी रखना आवश्यक होगा इसलिये तीन साल के लिये इसे बढ़ा दिया जाये। आन्तरिक कोई बजह होनी चाहिये कि इस को तीन साल के लिये क्यों बढ़ा दिया जाय।

कहते हैं कि आम कानून से शासन का काम नहीं चलाया जा सकता। अगर ऐसा

है तो हमेशा के लिये इस कानून को बना दीजिये। यह क्या जरूरी है कि एक, दो या तीन साल के लिये लाया जाये और फिर घाघे यहां था कर कहें कि आम कानून से काम नहीं चलता है।

इस कानून को चम्बल नदी के दोनों किनारों पर दो तरह से चलाया जाता है। यह देखा गया है कि मध्य प्रदेश में जो कि चम्बल के दक्षिण में है इस कानून के अन्तर्गत एक साल में ४२ भादमियों को डाकुओं को प्रश्रय देने के जुर्म में नजरबन्द किया गया। रिपोर्ट से भी यह साबित होता है। लेकिन चम्बल के उत्तर में, उत्तर प्रदेश के अगारा जिले में, जहां कि दस्युराज मान सिंह रहता था, डाकुओं को प्रश्रय देने के जुर्म में ताजीरात हिन्द की दफा २१६ के अन्तर्गत मुकदमे चलाये गये और इस तरह उस चीज को कटोख किया गया। तो यह को, बजह नहीं है कि साधारण कानून से काम नहीं चलता इस लिये इस कानून को बढ़ाया जाये।

Mr. Chairman: I believe the hon. Member is likely to take long-time to finish his speech.

Shri Braj Singh: Yes.

Mr. Chairman: The House will then stand adjourned till 11 A.M. to morrow.

17 hrs.

The Lok Sabha then adjourned at Eleven of the Clock on Tuesday the 10th December, 1957.